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Private Hospitals' Liability for Anesthetic Negligence with Implications for Vicarious Liability and Legal Immunity of the Medical Profession

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Abstract: The principle of vicarious liability holds employers or healthcare institutions accountable for the negligence of medical personnel under their supervision. In the context of private hospitals, this becomes crucial when an anesthesiologist's negligence has the potential to cause serious harm to patients. This study examines the liability of private hospitals for anesthesia negligence, as well as the implications of vicarious liability and the legal immunity of the medical profession, using a normative and conceptual juridical approach. This study examines Law Number 17 of 2023 concerning Health, Articles 1365 and 1367 of the Civil Code, and Articles 359 and 360 of the Criminal Code. The study indicates that private hospitals can be held civilly liable if it is proven that they have an employment relationship or supervision with an anesthesiologist, even if the medical procedure is performed individually. Legal protection for the medical profession applies only as long as the physician acts in accordance with professional standards and medical procedures, thus not providing absolute protection against gross negligence. This study recommends strengthening employment contracts, standard operating procedures for anesthesia, and internal hospital oversight systems to minimize the risk of legal disputes and improve patient protection.

Keywords: Vicarious Liability, Private Hospital, Anesthesiologist Negligence, Legal Immunity

INTRODUCTION

Medical negligence cases continue to attract public and healthcare practitioners' attention due to their often-fatal consequences (Yen et al., 2022). In the field of anesthesia, even minor errors in dosage, monitoring, or device installation can lead to serious injury or death (Kurniawan & Pratiwi, 2025). Victims' families face profound trauma, the burden of ongoing medical costs, and legal uncertainty, prolonging the emotional recovery process (Prasetyo et al., 2023). Medical personnel involved also endure professional stigma and psychological burdens following the incident, which impact the performance and well-being

of the care team (Bani & Anggiani, 2024). This phenomenon demands serious attention from hospital management, regulators, and the public to ensure patient safety remains a priority.

Patient safety depends on interprofessional coordination, the availability of appropriate medical devices, and the consistent implementation of operational procedures (Keumalasari et al., 2021). Process inconsistencies, poor communication between team members, or a lack of post-anesthesia monitoring can increase the risk of preventable errors. As service providers, hospitals have a managerial responsibility to create a safe work environment, from recruitment and training to a transparent incident reporting system (Widjaja & Sijabat, 2025). When systems are weak, malpractice incidents tend to be less a result of individual errors than a symptom of structural problems. Remedial efforts must target the root causes to minimize the impact on patients.

Clarity of roles and obligations in the relationship between hospitals and physicians is crucial to avoid confusion when incidents occur. Hospitals that implement clear contracts, practice schedules, and supervisory mechanisms will more easily demonstrate the preventative measures they have taken. Conversely, unclear working relationships—for example, differences in status between permanent employees, contractors, and external consultants—tend to make it difficult to determine who is responsible for procedural failures (Takwa, 2025). This clarity is not merely an administrative issue, but the foundation for creating a culture of accountability in healthcare settings. Patients also need certainty about who is providing services and who can be held accountable if their rights are violated.

Anesthesia practice involves dynamic technical interactions and clinical decisions, making team oversight and system protection key. Easily accessible standard protocols and regular simulation exercises can help reduce the number of incidents related to human error (Pratama & Pambayun, 2024). Good documentation, from informed consent and preoperative notes to intraoperative monitoring, facilitates the evaluation of incident causes and the improvement process (Hasibuan et al., 2023). Hospital policies that encourage transparency and learning from incidents will create a climate that minimizes the recurrence of similar errors (Ratanto et al., 2023). The role of management is not simply to enforce rules but also to establish quality routines that become part of the daily work culture.

The concept of vicarious liability emerged in response to the need to place institutional responsibility when clinical practice is carried out within an organizational framework (Mambrasar et al., 2024). This concept helps explain how service providers can play a role in redressing patient harm, particularly when failures stem from oversight, policy, or coaching (Mihardja et al., 2020). This approach does not necessarily eliminate individual responsibility for healthcare workers; rather, it adds a layer of accountability that links organizational decisions to clinical outcomes. Debates over the application of this concept often concern the nature of the employment relationship, institutional controls, and evidence mechanisms. A clear conceptual understanding is essential for designing internal hospital policies that protect patients while being fair to healthcare workers.

Legal immunity within the medical profession is often perceived as a form of protection for medical personnel, preventing them from being quickly entangled in legal proceedings while carrying out their duties (Bramantyo & Putra, 2024). This protection is intended to allow professionals to make clinical decisions without undue fear of litigation, as long as such actions are based on recognized professional standards. In reality, such immunity is not an unlimited guarantee; cases demonstrating gross negligence, ethical violations, or abuse of authority can still result in legal and disciplinary consequences (Zulfikri & Ricky, 2021). Striking the balance between allowing for professional autonomy and upholding accountability is a key challenge for policymakers. Hospitals need to understand the scope of this protection to develop appropriate defense and prevention mechanisms.

The relationship between institutional and individual responsibility often overlaps when responding to medical incidents. When errors arise from system failures, such as outdated SOPs or inadequate recovery equipment, the role of the institution should be considered. Meanwhile, clinical decisions that clearly deviate from professional standards still require personal accountability from the perpetrator (Widjaja & Sijabat, 2025). Clear separation of duties, risk-based supervision mechanisms, and effective communication channels can help identify the root cause. A comprehensive approach will direct improvement efforts at the appropriate level: systemic or individual. This approach also strengthens public trust in medical services.

Legal responsibility in the healthcare sector is not a single entity; civil, criminal, and administrative aspects operate in parallel but have different objectives (Ujianto & Wijaya, 2020). Civil liability focuses on redressing the victim's losses through compensation, while criminal liability assesses elements of culpability that have the potential to harm the community or warrant punishment (Matippanna, 2022). Administrative and professional sanctions serve to maintain ethical standards and practice competence through disciplinary action (Siregar, Fahmi, & Triana, 2024). Understanding this distinction is crucial for hospitals when developing risk mitigation policies, including insurance, claims management, and internal evaluation procedures. Coordination between internal legal units and professional bodies will facilitate a proportionate response when an incident occurs.

Medical negligence, or negligence, has clinically and procedurally identifiable elements: a duty of care, a breach of the standard of care, a causal relationship between the breach and the harm, and the harm itself (Rokayah & Widjaja, 2022). Assessing these elements often requires independent expert opinion to determine whether the action complies with professional standards. These standards can be derived from clinical guidelines, consensus practices, or widely recognized institutional protocols. Complete and accurate medical documentation serves as crucial evidence in charting the chronology of medical procedures. Therefore, strengthening a culture of documentation and evidence-based training is an effective preventative strategy.

The scope of legal protection for medical personnel depends on adherence to professional standards, adherence to institutional protocols, and integrity in clinical decision-making (Widjaja, Sijabat, & Dhanudibroto, 2025). This type of protection allows physicians to act professionally without unfounded fear, but does not preclude liability if gross negligence is proven. Internal hospital mechanisms, such as peer review, quality committees, and clinical risk services, play a crucial role in analyzing incidents and formulating corrective actions. A preventative approach that prioritizes education, communication, and system improvement will be more effective in reducing the frequency of legal disputes than relying solely on post-incident defense. The primary focus remains on protecting patients while maintaining the integrity of medical practice.

METHOD

This research uses a normative juridical method combining two main approaches: the statute approach and the conceptual approach. The statute approach is used to examine and analyze the provisions of positive law that regulate the responsibilities of hospitals and medical personnel, particularly as stipulated in Law Number 17 of 2023 concerning Health, Articles 1365 and 1367 of the Civil Code, and Articles 359 and 360 of the Criminal Code. Through this approach, the research explores the structure of norms, legal principles, and hierarchical relationships between regulations that form the basis for regulating vicarious liability and the limits of legal immunity for the medical profession. The conceptual approach is used to examine the legal principles that develop in the theory of legal responsibility, both in the civil law and common law systems, to find a more complete understanding of how the

concept of hospital liability and protection of the medical profession is applied fairly and proportionally. The research data sources were obtained from primary, secondary, and tertiary legal materials, such as legislation, scientific literature, legal journals, and relevant court decisions. The analysis was conducted qualitatively by describing and interpreting applicable legal norms and then linking them to modern legal liability theories and principles. This dual approach provides a comprehensive foundation for understanding the application of the principle of vicarious liability and the limits of the medical profession's legal immunity in cases of anesthetic negligence in private hospitals.

RESULT AND DISCUSSION

Legal Basis for Hospital and Medical Personnel Liability

Law Number 17 of 2023 concerning Health provides a strong normative framework for affirming the responsibilities of hospitals and medical personnel. Article 173, paragraph (1) states that healthcare facilities are required to provide quality services and prioritize patient safety. This provision demonstrates that hospitals not only serve as providers of healthcare facilities but also have a legal obligation to ensure the quality and safety of all medical procedures within their environment. Patient safety is not merely an ethical issue but an integral part of the legal obligations of healthcare institutions, which can be held accountable for negligence.

Article 274 of the Health Law explicitly stipulates the obligation of medical and healthcare personnel to provide services in accordance with professional standards, service standards, standard operating procedures, and professional ethics. This provision serves as the basis for distinguishing between the personal responsibility of medical personnel and the responsibility of the institution. If medical personnel perform their duties according to these standards, legal responsibility can shift to the institution where they work if there are proven weaknesses in the oversight system. It illustrates the balance between protecting medical personnel and protecting patient rights.

Article 273 grants medical and healthcare personnel the right to legal protection as long as they practice in accordance with professional standards, standard operating procedures, and professional ethics. This norm emphasizes that legal protection is not absolute, but conditional. When an anesthesiologist acts outside professional standards or commits gross negligence that results in serious consequences, the right to legal protection no longer applies. This regulation defines the boundary between professional immunity and legal liability resulting from actual, legally provable errors.

Article 276 regulates the patient's right to receive services in accordance with medical needs, professional standards, and quality care. This right serves as the starting point for the legal liability of medical personnel and hospitals if the services provided do not meet standards and result in harm. Hospitals are obligated to ensure that all anesthesia procedures are performed according to safe procedures and accompanied by valid informed consent. The patient's right to information and quality care is an inseparable legal principle from the professional obligations of medical personnel.

Article 438 of the Health Law provides criminal grounds for leaders of healthcare facilities or medical personnel who fail to provide first aid to patients in emergencies. This provision emphasizes the criminal dimension of the responsibility of the medical profession and hospital management. If negligence in providing medical care results in death or disability, the penalties imposed are more severe. This norm emphasizes that the obligation to provide medical care is not only moral but also a positive legal obligation that carries criminal consequences for violators.

Article 440 clarifies the criminal liability of medical personnel in cases of negligence that result in serious injury or death of a patient. Paragraph (1) establishes the penalty for

medical personnel whose negligence results in serious injury, while paragraph (2) regulates the penalty if such negligence results in death. This provision is relevant to cases of anesthetic negligence because the anesthesia process is high-risk and requires precision and adherence to standards. Positive law assesses negligence not solely based on the outcome but also on objectively demonstrable professional carelessness.

Civil liability for medical negligence is outlined in the Civil Code, specifically Article 1365, which states that any unlawful act that causes harm to another person requires the perpetrator to compensate for that loss. This article serves as the basis for lawsuits against medical actions that cause harm due to negligence. In medical practice, the element of "unlawful acts" includes violations of professional standards, ethics, or legal obligations that medical personnel are expected to adhere to. When an anesthesiologist's actions result in harm and are proven to be substandard, the hospital, as an institution, may be held jointly and severally liable based on the existing working relationship or supervisory authority.

Article 1367 of the Civil Code expands the concept of legal responsibility through the principle that a person is not only responsible for their own actions but also for the actions of others under their control. In the context of an employment relationship, an employer or manager can be held responsible for the actions of subordinates committed in the course of performing their duties. The application of this article provides the legal basis for the principle of vicarious liability for hospitals as employers of medical personnel. Hospitals that regulate the schedule, work systems, and supervision of anesthesiologists are deemed to have control over the actions taken during medical duties, thus assuming legal responsibility if negligence is proven to harm a patient.

The Criminal Code provides another dimension to the responsibility of medical personnel, particularly through Article 359, which states that anyone who, through negligence, causes the death of another person can be punished with a maximum of five years' imprisonment or a maximum of one year's imprisonment. This provision is relevant to cases of medical negligence that result in the death of a patient. Although medical procedures carry risks, the law still requires professional care in accordance with medical standards. Anesthesiologists who fail to calculate the risk of a dose or fail to monitor a patient's condition can be deemed legally negligent if the consequences are fatal. Article 360 of the Indonesian Criminal Code regulates negligence resulting in serious or minor injuries. This provision fills the gap in criminal liability when negligence does not result in death but still causes serious suffering to the patient. In medical practice, the application of this article requires proof that the doctor's actions failed to meet reasonable professional standards of care. Criminal liability for medical personnel is not automatic; rather, it requires proof of fault, a causal relationship, and a clear consequence of the negligence.

The Indonesian Code of Medical Ethics (KODEKI) serves as a moral and professional guideline for all medical personnel in carrying out their duties. Principles such as respecting human dignity, upholding integrity, and providing services based on knowledge and conscience form the basis of professional ethical responsibility. Every doctor is obliged to comply with the KODEKI and professional standards established by professional organizations such as the Indonesian Medical Association (IDI). Violations of ethical provisions can be grounds for disciplinary investigation and even influence legal judgment if the violations implicate patient safety.

The Indonesian Medical Disciplinary Honorary Council (MKDKI) has the authority to assess and impose sanctions on medical personnel suspected of violating professional discipline. This institution plays a crucial role in upholding professional accountability and providing legal certainty for both patients and doctors. The Indonesian Medical Association (MKDKI) assesses professional aspects, not criminal ones. However, its findings are often used as references in legal proceedings when ethical or disciplinary violations result in

patient harm. This system demonstrates that Indonesian medical law has established a multi-layered accountability framework encompassing ethical, disciplinary, and legal aspects to maintain a balance between the protection of medical personnel and patient safety.

Analysis of the Application of Vicarious Liability and Legal Immunity in Anesthetic Negligence

The practice of anesthesiology is a high-risk medical field because it involves vital patient functions during medical procedures. Anesthesia errors can occur due to human error, equipment failure, or violations of standard operating procedures. Common types of negligence include administering the wrong anesthetic dose, using equipment without proper testing, and failing to monitor the patient's vital signs. These negligence actions not only result in medical consequences such as respiratory distress or death, but also have legal implications for the physician and the hospital institution. In practice, every anesthetic incident must be analyzed forensically and legally to determine the most responsible party, in accordance with the principle of due care in the medical profession.

The legal relationship between a private hospital and anesthesiologists is a key factor in determining legal liability. Hospitals can employ anesthesiologists as permanent employees, contract workers, or partners, and this relationship will influence the application of the vicarious liability principle. Under Article 193 of Law Number 17 of 2023 concerning Health, hospitals are legally responsible for all losses arising from the negligence of healthcare workers working under their supervision or in an employment relationship with the hospital. This means that when an anesthesiologist commits a medical error while on duty, the hospital cannot escape legal responsibility, especially if it is proven that supervision or service systems were not operating according to standards. This principle emphasizes that institutional responsibility is not merely administrative but also has criminal and civil consequences.

Hospitals have a legal obligation to ensure that all medical personnel practicing within their environment comply with professional standards and standard operating procedures (SOPs). Internal oversight through quality control systems, medical committees, and clinical audits constitutes a managerial responsibility that must be fulfilled. If a hospital fails to maintain oversight, such as allowing anesthesia practice without verifying the physician's competency or without proper maintenance of medical equipment, then responsibility rests not only with the individual perpetrator but also with the institution that facilitated the negligence. Failure to create a safe service system can be categorized as systemic negligence. Based on Article 189 of the Health Law, every hospital is obliged to implement good governance, including patient safety and upholding the professional ethics of medical personnel.

The personal responsibility of anesthesiologists is bound by the principle of *lex artis ad hoc*, which is the obligation to perform medical procedures in accordance with recognized professional standards and competencies. Anesthesiologists are required to conduct pre-anesthetic evaluations, monitor patients during procedures, and take corrective action if the patient's condition worsens. Any deviation from these standards can be categorized as medical negligence, which can give rise to personal legal liability. Article 274 (a) of Law Number 17 of 2023 concerning Health stipulates that medical personnel are required to practice in accordance with professional service standards. Violations of these provisions can nullify the profession's legal protection, especially if there is evidence of gross negligence or disregard for patient safety procedures.

The medical profession's legal immunity is limited and not absolute. Law Number 17 of 2023 stipulates that medical personnel receive legal protection while carrying out their duties in accordance with professional standards and standard operating procedures. This protection

is lost if there is evidence of a gross violation of professional ethics or if medical procedures are performed without the informed consent of the patient or their family. Legal protection also does not apply to medical personnel who perform actions beyond their competence or without proper supervision. This provision aligns with Article 306 of the 2023 Health Law, which stipulates that violations of professional standards can be grounds for administrative, disciplinary, and even criminal sanctions.

Comparative studies show that in countries such as the United Kingdom and the United States, the principle of respondeat superior has become an important foundation in the system of legal liability in the medical field. This principle stems from the Anglo-Saxon legal tradition, which asserts that employers must bear legal responsibility for the actions of their subordinates (employees) committed in the performance of official duties or within the scope of their employment. In hospital practice, this principle means that healthcare institutions can be held directly liable for the negligence of medical personnel working under their supervision and within their organizational structure, even when the hospital does not directly perform medical procedures on patients.

The concept of respondeat superior is applied broadly in the United States, encompassing a wide range of medical malpractice cases, including negligent anesthesia, misdiagnosis, or improper surgical procedures. Hospitals are deemed to have an inherent obligation to ensure that the medical personnel employed or permitted to practice under their license meet professional standards, are properly trained, and are properly supervised. If the hospital is found to have been negligent in its supervision or failed to ensure the standard of care, the court can determine vicarious liability without requiring direct proof of managerial misconduct.

Meanwhile, in the United Kingdom, the concept of vicarious liability, rooted in respondeat superior, is also applied to ensure fairness to patients and efficiency in dispute resolution. English courts, in several decisions, such as *Lister v. Hesley Hall Ltd* [2001] and *Cox v. Ministry of Justice* [2016], have emphasized that institutional liability can be imposed when there is a "sufficiently close" relationship between the perpetrator and the institution, and the act was committed in the course of carrying out duties assigned by the institution. This approach shifts the focus of responsibility from the individual medical personnel to the hospital's oversight and governance system. The application of this principle demonstrates a paradigm shift from individual responsibility to systemic responsibility, where hospitals are viewed not only as workplaces but also as legal entities obligated to create a safe work environment, adhere to strict operational standards, and implement effective oversight procedures. Thus, patients who suffer losses due to anesthesia negligence have more certain access to recovery through lawsuits against the institution, without having to face the difficulty of proving the fault against individual physicians.

This concept of respondeat superior provides inspiration for the Indonesian legal system in strengthening the application of the principle of vicarious liability in the healthcare sector. Although Indonesia is rooted in a civil law system, the principles of derivative liability can be adapted to clarify the limits and legal basis of hospital liability for medical personnel under their supervision. Such an approach has the potential to increase the accountability of medical institutions while strengthening legal protection for patients without violating the rights of the medical profession.

The application of vicarious liability in private hospitals requires a reformulation of the employment contract between the doctor and the institution. The contract must clearly define the doctor's legal status, professional responsibilities, and mechanisms for monitoring and reporting adverse events. Hospitals need to strengthen their medical personnel credentialing and recredentialing systems, focusing not only on the legality of their practice permits but also on regular monitoring of their professional performance. This strengthening can protect

hospitals from claims of systemic negligence and provide a stronger legal basis for protecting medical personnel acting in good faith.

Internal oversight systems should prioritize improving patient safety. Medical and quality committees should function independently to assess each anesthesia incident from ethical, medical, and legal perspectives. A no-blame incident reporting mechanism can foster transparency and collective learning within the hospital environment. Regular evaluation of anesthesia standard operating procedures (SOPs) and the use of more advanced patient monitoring technology will minimize the risk of negligence. Failure to update these systems could be considered a violation of Article 173 of the 2023 Health Law, which requires healthcare facilities to meet safety and quality standards.

Strengthening legal protection for medical personnel also needs to be balanced with proportionate professional responsibility. Every anesthetic procedure must be supported by complete documentation, from pre-anesthesia to post-operative records, to serve as objective evidence in legal dispute resolution. Internal medical audit systems and healthcare mediation can be effective means of resolving disputes without resorting to lengthy litigation. These efforts also strike a balance between the patient's right to justice and the doctor's right to legal protection.

Preventing legal disputes in the field of anesthesia requires a multidisciplinary approach that encompasses legal, ethical, and healthcare management aspects. Private hospitals should prioritize the establishment of risk management units and malpractice insurance as part of their clinical governance systems. Integrating medical audit, mediation, and incident reporting mechanisms will strengthen transparency and reduce the potential for lawsuits. Health policy reforms that emphasize the principles of institutional accountability and professional responsibility will be a crucial foundation for creating a fair, ethical, and patient-safety-oriented healthcare system.

CONCLUSION

Private hospitals have inherent legal responsibility for the actions of medical personnel working under their coordination and supervision, including anesthesiologists. The principle of vicarious liability underpins this responsibility, particularly if there is evidence of an employment relationship, supervision, or direct instruction from the hospital regarding the implementation of medical procedures that result in patient harm. Anesthesiologists remain personally responsible for their actions, but hospitals cannot completely absolve themselves of legal liability if negligence occurs within the service system for which they are institutionally responsible. Legal immunity for the medical profession can only be enforced if medical procedures are performed in accordance with professional standards, standard operating procedures, and the medical code of ethics. Violations of these standards erode legal protection and can result in civil and criminal consequences. Therefore, the system of liability in medical services requires a balance between legal protection for medical personnel and ensuring the safety of patients as recipients of services.

Strengthening private hospital governance is necessary through the implementation of regulations of Law Number 17 of 2023 concerning Health, which explicitly regulates the obligations of healthcare facilities to ensure patient quality and safety. A multi-layered medical oversight system, regular clinical audits, and transparent accountability mechanisms must be integrated into hospital management to prevent the recurrence of cases of anesthetic negligence. Legal education for medical personnel is also crucial to improve understanding of the limits of professional responsibility and the scope of legal immunity, ensuring that all medical procedures are carried out carefully, ethically, and in accordance with procedures. Proportional implementation of the principle of vicarious liability, coupled with legal

guidance and professional oversight, will strengthen the accountability of healthcare institutions while maintaining public trust in Indonesia's medical care system.

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