

Aesthetic Surgery Complications: Medical Legal Responsibilities and Health Insurance Claims

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Abstract

Aesthetic surgery, as an elective medical procedure, has its own legal complexities, particularly when complications occur or results do not meet patient expectations. This study aims to analyze the regulations and limitations of physicians' legal liability in aesthetic surgery, as well as examine the role of informed consent and therapeutic agreements in legal liability. The research method uses a qualitative approach through a literature review of laws and regulations, legal doctrine, court decisions, and related literature. The results of the study indicate that complications are not necessarily categorized as malpractice if the procedure meets professional and service standards. Legal liability only arises if there is a breach of obligation, professional negligence, or failure to comply with the standard of care that causes harm. Informed consent and therapeutic agreements play a strategic role as the basis for legal relationships, protecting patient rights, and limiting physicians' liability for claims of dissatisfaction with results. It is concluded that the implementation of professional standards and proper documentation of consent are key to addressing the legal risks of aesthetic surgery.

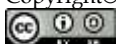
Keywords: Aesthetic surgery, health law, informed consent, legal liability, therapeutic agreement,

Abstrak

Bedah estetika, sebagai prosedur medis elektif, memiliki kompleksitas hukum tersendiri, terutama ketika terjadi komplikasi atau hasil tidak memenuhi harapan pasien. Studi ini bertujuan untuk menganalisis peraturan dan batasan tanggung jawab hukum dokter dalam bedah estetika, serta meneliti peran persetujuan informed consent dan perjanjian terapeutik dalam tanggung jawab hukum. Metode penelitian menggunakan pendekatan kualitatif melalui tinjauan literatur tentang hukum dan peraturan, doktrin hukum, keputusan pengadilan, dan literatur terkait. Hasil penelitian menunjukkan bahwa komplikasi tidak selalu dikategorikan sebagai malpraktik jika prosedur memenuhi standar profesional dan layanan. Tanggung jawab hukum hanya timbul jika ada pelanggaran kewajiban, kelalaian profesional, atau kegagalan untuk mematuhi standar perawatan yang menyebabkan kerugian. Persetujuan informed consent dan perjanjian terapeutik memainkan peran strategis sebagai dasar hubungan hukum, melindungi hak pasien, dan membatasi tanggung jawab dokter atas klaim ketidakpuasan terhadap hasil. Disimpulkan bahwa penerapan standar profesional dan dokumentasi persetujuan yang tepat merupakan kunci untuk mengatasi risiko hukum bedah estetika.

Kata kunci: Bedah estetika; tanggung jawab hukum; persetujuan informed consent; perjanjian terapeutik; hukum kesehatan

Introduction



Aesthetic surgery complications are a phenomenon that continues to increase in line with the trend of medical aesthetic actions in Indonesia and globally. Aesthetic medical procedures differ from general medical procedures because of their orientation that emphasizes more on the patient's expected aesthetic outcomes than on urgent medical needs. This difference raises legal challenges related to the limits of the doctor's responsibility if the expected results are not achieved or complications occur even though the procedure has been performed according to standards. This study is very important to clarify the boundaries of medical legal obligations in aesthetic practice and protect both parties, namely doctors and patients. Research shows that one in 500 aesthetic surgery patients has serious complications and requires re-intervention. The medical and psychological impact on patients raises legal questions about the responsibilities of medical parties and organizing institutions.

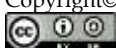
The regulation of the legal responsibility of doctors and hospitals in Indonesia is operationalized through the Medical Practice Law No. 29 of 2004 and the Hospital Law No. 44 of 2009 which was replaced by Law No. 17 of 2023 concerning Health which was passed on August 8, 2023. The law affirms the responsibility of health workers for errors or omissions that occur in the implementation of medical measures. This provision also applies to medical aesthetics where the doctor is responsible if the actions performed are not in accordance with the applicable professional standards and procedures. Inadequate medical provisions specific to aesthetics create a legal vacuum that encourages the need for clarity of accountability, especially when complications arise even though the procedure has been performed correctly.

The main legal problem in aesthetic surgery practice lies in proving the negligence or error of the doctor in the context of surgical complications. Complications can occur as medical risks that are not entirely avoidable, but from a legal perspective this is often equated with malpractice if there is no clear appreciation of the inherent risk elements of aesthetic actions. A normative juridical approach needs to be applied to analyze the factors that determine the limits of a doctor's legal responsibility, ranging from the obligation to provide complete information, obtain patient consent, and comply with applicable medical professional standards to the legal consequences that can arise if the element of negligence is met.

The contract between a doctor and a patient in the practice of medical aesthetics has an important role as the basis of the legal relationship. This contract must clearly state that a particular aesthetic outcome cannot be used as a guarantee due to its elective nature and varies between individuals. Ambiguity in the agreement can trigger an undue legal dispute if the patient feels that the outcome is not as expected. A good contract also helps manage patient expectations, reduces potential disputes, and clarifies the limits of a doctor's obligations within the applicable health legal framework.

The integration of the latest Legislation is crucial in this study to ensure the relevance of medical aesthetic law to the current development of medical practice. Law No. 17 of 2023 concerning Health strengthens the aspect of patient protection and affirms the responsibility of medical personnel. However, since there are no specific rules that explicitly govern medical aesthetics, the emphasis on contracts as the basis of legal relationships and an understanding of the risks and complications inherent in aesthetic actions became an important foundation in revising this study.

The study of aesthetic surgical complications and medical legal accountability is particularly relevant to create a balance between legal protection for doctors and patients' rights. A comprehensive explanation of risks, informed consent, professional standards, and



limits of legal liability can help reduce unrealistic disputes and strengthen the legal practice of aesthetic medicine based on the law and ethics of the profession.

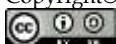
Informed consent is a key component of the doctor-patient relationship, especially for aesthetic surgery that is elective in nature. Article 276 of the Health Law letters a, b, and e and the Medical Ethics Code affirm the importance of providing complete information and understanding of risks. If information is not adequately conveyed, this can change the legal status from complication to malpractice. International studies show that the lack of *informed consent* is one of the main causes of aesthetic litigation and is believed to increase the chances of a lawsuit for damages.

The determination of medical negligence is based on general legal principles such as *duty of care*, *breach*, *causation*, and *damage*. Doctors and hospitals are obliged to follow professional standards, in legal capacities called "*duty*" and "*standard of care*". If there is a violation of the standard (*breach*) and it is proven to be a direct cause of the patient's loss (*causation*), then the right to compensation (*damage*) arises. Meta-analysis shows that more than 70% of aesthetic litigation cases are successfully filed if there is strong evidence of medical standards being ignored. The causation element is often a critical point in litigation, where the patient must prove that the loss (e.g. permanent disability) was directly caused by a violation of professional standards, rather than a natural factor or risk of the procedure.

This research is important because it investigates the gaps in legal and financial system responsibility related to aesthetic procedures in Indonesia's regulatory landscape. A thorough understanding of legal, financial, and professional aspects is expected to provide policy recommendations to improve hospital accountability, and protect patients. The formulation of the problem in this study focuses on the study of the regulation of the legal responsibility of doctors in the implementation of aesthetic surgery based on the provisions of laws and regulations in the health sector in Indonesia, as well as how the limits of legal responsibility are determined through the application of professional standards and medical service standards in the event of complications after surgical procedures. In addition, this study also examines the position of *informed consent* as an instrument of legal protection for doctors and patients, as well as the role of therapeutic agreements as the basis of contractual relationships in determining whether or not there is medical legal responsibility for cosmetic surgical complications whose results are not in accordance with patient expectations. The purpose of this study is to comprehensively analyze the regulation of medical legal responsibility based on the applicable health laws and regulations in Indonesia, as well as to examine the limitations of these responsibilities by referring to the application of professional standards and medical service standards in the context of complications in aesthetic surgical procedures.

Methods Research

The research method used in this study is a qualitative method with a literature review approach, which aims to analyze in depth legal norms, ethical principles, and medical practices relevant to the legal responsibility of hospitals and physicians towards complications in aesthetic surgery. The data collection technique was carried out through a systematic review of various positive legal sources in Indonesia, including Law Number 17 of 2023 concerning Health, the Civil Code, as well as implementing regulations and codes of ethics for the medical profession. In addition, this study enriched the analysis by examining court rulings, legal and medical journals, and international academic publications related to medical responsibility and legal protection of patients in the context of aesthetic procedures.



This approach is to construct legal arguments critically and in-depth, identify regulatory gaps, and formulate juridical and policy implications for the problems being studied.

Results and Discussion

Limits of Legal Liability of Physicians in Cosmetic Surgery Complications

Medical complications in aesthetic surgery are a complex legal issue because they must be distinguished from medical malpractice. Complications are risks inherent in medical procedures, including cosmetic surgery, that can occur even if the procedure has been performed according to operational standards. Within the framework of national law, the distinction between complications and malpractice is important to determine whether or not a doctor is legally liable for the losses suffered by the patient. This is in line with the study of health law that emphasizes the difference between inherent medical risks and violations of medical professional standards that result in patient losses.

Law Number 17 of 2023 concerning Health is the main legal basis that regulates health services in Indonesia, including the obligations of medical personnel in carrying out medical actions. This law combines the regulation of professional standards, service standards, and patient safety procedures that must be met by doctors when performing medical procedures. All medical measures, both therapeutic and aesthetic, must be carried out in fulfillment of these legal obligations so that doctors are not legally liable for complications that occur without negligence.

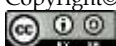
In addition to the Health Law, the principle of doctors' civil liability can also be traced in Article 1365 of the Civil Code (KUHPERdata) which states that every act that violates the law and brings harm to others requires the party who caused the loss to compensate for the loss. In the context of aesthetic surgery, elements such as unlawful acts, losses, causal relationships, and professional misconduct determine whether a complication can be seen as a clash of civil law norms.

Agreements between doctors and patients in the form of therapeutic contracts, including *informed consent*, acts as the foundation of legal relations that create contractual obligations. *Informed consent* It is more than just an administrative formality because legally it can be evidence that the patient has received an adequate explanation of the procedure, risks, complications, and alternative course of action. When complications occur and all risk information has been properly explained, the doctor's legal responsibility must be interpreted in the context of the patient's written consent to the risk.

Incompleteness or incorrectness in providing information prior to medical procedure magnifies the potential legal liability of doctors. Non-compliance with this obligation can turn complications that were originally normal medical risks into actions that can be sued based on the principle of unlawful acts or default. This shows that the legal protection of doctors is highly dependent on compliance with applicable laws, codes of ethics, and medical professional standards.

In Indonesian health law, there are also criminal consequences if a medical worker performs an act without the patient's consent. Medical acts without written consent can be seen as a violation of the law that gives rise to criminal liability if there is an element of intentionality or negligence that results in losses. This shows that the legal responsibility of doctors is not only limited to the civil realm but can also extend to the criminal realm depending on the facts and evidence available.

Doctors who perform aesthetic medical procedures should also pay attention *standard of care* namely the obligation to carry out services in accordance with the applicable



professional competencies and guidelines. If a doctor is proven to violate recognized standards of practice and cause complications, then the element of negligence can be fulfilled so as to open legal liability. *Standard of care* This is usually the benchmark in various medical dispute decisions.

Normative juridical studies affirm that medical negligence occurs when a doctor's actions are not in accordance with recognized professional standards, not just complications that are inherent risks in medical procedures. In legal practice, the court will assess whether the doctor has met professional standards and other legal obligations before determining whether or not there is legal liability for the complications caused.

The role of hospitals is also relevant in determining the legal responsibilities of doctors because these institutions are responsible for ensuring that all medical procedures are carried out according to applicable standards and procedures. If a hospital fails to provide proper facilities, supervision, or operational standards, the institution may also be held legally liable for complications that occur during aesthetic procedures.

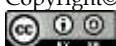
Contemporary health law studies emphasize the importance of a thorough understanding of the applicable legal norms so that doctors can minimize the risk of litigation without compromising the quality of medical services. This approach helps to understand the limits of a physician's legal obligation in cosmetic surgery complications, identifies factors that can be considered a violation of the law, and provides a basis for better policy recommendations within Indonesia's health law framework.

Informed Consent and Therapeutic Agreement in the Determination of Legal Responsibility for Aesthetic Surgery

Government Regulation (PP) Number 28 of 2024 emphasizes that every medical action must be preceded by the provision of accurate and transparent information. The implementation of informed consent in aesthetic surgery should not only be seen as an exculpatory clause that is formal. On the other hand, medical personnel and hospitals have an ethical and legal obligation to comprehensively document long-term risk explanations, given the potential complications that could trigger malpractice claims.

Regarding legal disputes, proving negligence or procedural errors is crucial. If a patient can demonstrate that the hospital or doctor did not act according to professional standards or failed to provide a full explanation of the risks, then legal liability may be imposed. As emphasized in the Decision of the Supreme Court of the Republic of Indonesia No. 3651 K/Pdt/2001, negligence in providing complete information before medical action can be considered a form of malpractice. The informed consent and medical record documentation system should be strengthened as the main legal evidence. In addition, the role of the Indonesian Medical Discipline Honorary Council (MKDKI) and consumer protection institutions is becoming increasingly important in mediation and enforcement of patient rights.

Informed consent is consent given by the patient after receiving a complete explanation of the medical procedure, benefits, risks, and other alternative measures. In the current health legal order, the obligation to obtain informed consent is officially regulated through Article 293 of Law Number 17 of 2023 concerning Health, which juridically replaces Article 45 of Law Number 29 of 2004 concerning Medical Practice. This latest regulation emphasizes that every medical procedure must obtain the patient's approval after the person concerned receives an adequate explanation, including diagnosis, purpose of action, risks, complications, and prognosis. This provision is in line with the mandate of Article 276 letter



d in the same law, which constructs the approval of medical measures not just an administrative formality, but an instrument of legal protection for medical personnel as well as the fulfillment of patients' autonomy rights to the integrity of their bodies. In aesthetic surgery, which is an elective action and does not involve saving lives directly, the provision of informed consent becomes more critical because the risks and expectations of outcomes are highly subjective. Therefore, hospitals and doctors are obliged to explain not only the procedure, but also the potential failure of aesthetic results and short-term and long-term medical complications.

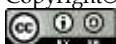
In contrast to curative medical procedures, aesthetic procedures are not driven by urgent medical needs, so patients tend to have high expectations of outcomes. According to a study by Di-Scala, most of the legal claims in aesthetic surgery cases arise not due to technical errors, but rather due to dissatisfaction with unexpected results due to inadequate communication between doctors and patients. Informed consent that is not only a written formality but is completely based on clear and documented communication is a must. If not done correctly, this can be the basis for a lawsuit for default or an unlawful act in a therapeutic agreement.

Therapeutic agreement is a form of legal relationship between doctor and patient born from the principle of consensualism, namely mutual consent as a condition for the validity of the agreement in Indonesian civil law. *Informed consent* being a special manifestation in the context of a therapeutic contract between the doctor and the patient for medical procedures, including aesthetic surgery, since through this document the patient shows conscious consent to the medical procedure to be performed and the risks inherent in it. This obligation is based on the principle of consensualism regulated in Article 1320 of the Civil Code regarding the conditions for the validity of the agreement.

Informed consent In Indonesian health law, an agreement is legally binding, not just an administrative procedure, because it is the basis for consensualism in the therapeutic agreement between the doctor and the patient. Through this agreement, both parties are expected to understand each other's rights and obligations before medical action is taken. Elemental incompleteness *informed consent* can affect the validity of the therapeutic agreement and open up the opportunity for lawsuits on the basis of unlawful acts. In addition, *informed consent* reflect on the patient's right to self-determination of medical choices consciously based on complete and clear information, particularly in aesthetic actions whose outcome is highly dependent on the patient's subjective expectations.

Based on Law Number 17 of 2023 concerning Health, the approval of medical measures must be based on a complete explanation of the diagnosis, risks, complications, alternative course of action, and consequences of the action. This provision explicitly requires that *informed consent* be given consciously, voluntarily, and based on adequate information, so that it cannot be forced on the patient. Absence or inaccuracy of explanation in the process *informed consent* can be seen as a violation of applicable health regulations.

Informed consent As part of a therapeutic agreement, it not only protects patients but also becomes a legal instrument that can mitigate the risk of lawsuits against doctors. When *informed consent* Carried out in accordance with legal and ethical standards, this document can be strong evidence that the patient has understood the conditions of aesthetic actions that are elective and varied, so that the doctor's legal responsibility for these aesthetic expectations is limited. In legal disputes, an adequate therapeutic agreement may direct the dispute to the realm of default based on the legal provisions of the agreement, or reject a claim of malpractice if the doctor has fulfilled the obligation to provide information and obtain legal consent from



the patient. This shows that the therapeutic agreement acts as a means of proof to assess whether the aesthetic action carried out has been a violation of the law or not.

Legality informed consent It is also related to legal protection for doctors. When consent has been given based on comprehensive information, doctors can demonstrate that the risk of complications has been communicated transparently, so civil lawsuits against doctors will be difficult to support if there is no evidence of the parties' failure to comply with the terms of the therapeutic contract. In addition, the provisions of criminal law are also relevant in the context of medical actions without *informed consent*. An act without consent can be viewed as an operation without legal consent, which in certain circumstances can qualify as a criminal act because it violates the patient's right to physical integrity and bodily autonomy. *Informed consent* not only emphasizing contractual relationships but also reducing the risk of criminal prosecution of doctors.

Completeness and clarity of clauses informed consent The therapeutic agreement should include explanations that are not only medically technical, but also include information regarding possible outcomes that vary and cannot be guaranteed. This is important because medical aesthetics differ from general therapeutic medical procedures; Aesthetics have a high subjective aspect so the therapeutic contract should reflect the expected limitations of outcomes and the risks that may occur. Some contemporary legal studies also emphasize that the implementation of *informed consent* The therapeutic agreement must be comprehensively understood, including the drafting of clear documents, effective communication between the doctor and the patient, and documentation that reflects the legitimate consent. These factors are the basis for assessing *legality informed consent* if a legal dispute arises later.

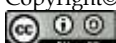
A good therapeutic agreement not only protects doctors from unfounded claims but also increases transparency and trust between doctors and patients. This shows that the *informed consent* as a legal instrument in therapeutic contracts, it is very strategic to limit the legal responsibility of doctors to aesthetic actions whose results are not in accordance with the patient's expectations.

Conclusion

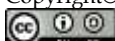
The legal responsibility of doctors in aesthetic surgery is basically limited and determined by compliance with professional standards and medical service standards in accordance with applicable laws and regulations. Medical complications do not automatically give rise to legal liability if the action has been carried out according to standards, while new liability arises if it is proven that there is negligence, violation of legal obligations, or non-conformity with *the standard of care* that causes patient losses. *Informed consent* and therapeutic agreements have an important position in determining medical legal responsibilities in aesthetic surgery. *Informed consent* is a legal obligation that proves the patient's conscious consent to the risks and limitations of the outcome of the action, so that the inconsistency of the results with the patient's expectations cannot be directly used as a basis for a lawsuit as long as the obligation to provide information has been fulfilled completely and legally.

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