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Reconstruction of medical malpractice policy in the Indonesian legal system based on justice value

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Abstract
Malpractice is one of the crimes that often occur in Indonesia, whether committed by hospitals or doctors. The settlement of medical disputes between doctors and patients has been regulated in Article 50 of Law no. 29 of 2004 concerning Medical Practice, which has not accommodated the need for protection for doctors because in the practice of handling cases of suspected malpractice by investigators, of course, will use procedures according to the Criminal Procedure Code as a reference. This is because Law no. 29 of 2004 concerning Medical Practice does not regulate the procedure if there is an allegation that a doctor has violated the articles in the law. This study consists of 3 (three) problem formulations including the reasons for the formulation of medical malpractice policies in the Indonesian legal system that is not based on the value of justice, the weaknesses of malpractice policy formulations in the Indonesian legal system, and the reconstruction of medical malpractice policy formulations in the values-based Indonesian legal system. Justice. This study uses a constructivism paradigm with approach *sociological juridical* to solve research problems by examining secondary data and primary data by finding the legal reality experienced in the field as well as qualitative descriptive methods and data processing using analytical descriptive. Based on the findings of this dissertation research, several facts and inputs were found, namely, in practice, the handling of suspected malpractice cases by police investigators will of course use the procedures or procedures in the Criminal Procedure Code as a reference, this is because the Medical Practice Act does not regulate how the procedure is carried out if there are allegations of doctors violating articles in the Medical Practice Act. Weaknesses in incompleteness and lack of clarity regarding the formulation of malpractice and its strict sanctions, as well as deflection towards unlawful acts. so it is necessary to reconstruct the law in Law no. 29 of 2004 concerning Medical Practice, namely the definition of malpractice contained in Article 1 paragraph (1) and paragraph (2) and Article 50 regarding the procedure for resolving cases of suspected malpractice and Article 66 regarding the requirements for reporting suspected malpractice.

Keywords: reconstruction, policy, doctor, malpractice, justice value

Introduction

Malpractice is one of the problems that often occur in the medical world. Doctors in carrying out their medical duties which are full of risks, sometimes cannot avoid mistakes/omissions or mistakes. Because it is possible for the patient being treated to become disabled and even die after being treated, even though the doctor has carried out his duties following professional standards or *Standard Operating Procedures* (SOP) and/or service standards carrying out his profession can burden legal responsibility and this is known as malpractice. (*malpractice)* medical. Malpractice cases are criminal acts that often occur in Indonesia. Malpractice is an act of professional staff that is contrary to SOP, codes of ethics, and applicable laws, whether intentional or due to negligence resulting in loss or death to other people (Sibarani, 2017) [1].

The use of the term "Medical Malpractice" itself for legal circles in Indonesia is still a matter of debate. Until now, medical law in Indonesia has not been able to be formulated independently so that the boundaries regarding malpractice have not been formulated, so that the content of the definition and boundaries of medical malpractice is not uniform depending on which side people view it. Law Number 29 of 2004 concerning Medical Practice also does not contain provisions for medical malpractice. article 1 explained that medical practice is a series of activities carried out by doctors and dentists for patients in carrying out health efforts. Article 66 paragraph (1) contains a sentence that leads to a doctor's practice error, namely "everyone who knows or whose interests have been harmed by the actions of a doctor or dentist in carrying out medical practice can make a written complaint to the chairman of the Indonesian Medical Discipline Honorary Council".

Malpractice that can cause consequences or harm to patients, is associated with a change in the views of the community specifically for patients, which then ultimately culminates in the emergence of demands from the community, especially patients, for criminal liability, namely actions that can be punished. Punishments can be imposed on perpetrators of acts that violate the law or are contrary to existing norms in society, where a person

can be held criminally responsible and imposed sanctions or penalties if the person can prove his guilt by the doctrine which states: *Geen Straf Zonder Schuld* (no punishment without guilt), of course, this has brought developments that require thought in the legal field, and this can be seen by the existence of Law no. 29 of 2004 concerning Medical Practice and Law no. 36 of 2009 concerning Health (Nurdin, 2015) [2].

To determine whether a doctor has committed a crime in carrying out his profession, law enforcement officers, both the police (police), prosecutors (public prosecutors), and courts (judges) need a prior understanding of the basic principles of medical science and the principles of Indonesian medical practice. or at least involve an expert witness in the field of medicine (medical expert), so that it is not easy to determine as a perpetrator of a crime against a doctor in carrying out his medical practice.

An example of a malpractice case experienced by Ningrum Santi was harmed by Hermina Pandanaran Hospital due to a *Caesarean section* after entering the operating room, he was told that his wife was in a coma due to heart failure, "he explained. At that time, his wife and child who had been born were taken to the *ICU*. The next day Jevry's child died. While his wife was in a coma and underwent treatment in the *ICU* for two months. "After realizing his wife had decreased memory and motor skills. His body condition was like shrinking, Ningrum fell into a coma after being injected with anesthesia. According to information, Ningrum had experienced heart failure for 15 minutes. "Temporary information from the hospital is that the patient's body condition cannot receive anesthesia,". Not only that, the baby who was born to his client has turned blue. A day later the baby died. "The baby died a day later," he said. Furthermore, mediation has been carried out seven times between Hermina Pandanaran and Hermina Jakarta. However, the mediation has no common ground. "Hospitals only convey normative responsibility for health,". Because there was no common ground, the client reported himself to the management to the Central Java Police in June 2020 under the number B/1079/VII/Ditreskrimsus. The case is currently being handled by the Ditreskrimsus Polda Central Java. "Currently, the process is examining the complainant and the reported party," he said.

Tlogorejo Hospital Semarang in 2020 was also reported to have committed malpractice against Samuel Reven (26) who was suspected of being a victim of malpractice in COVID-19 after the victim died. The chronology of the case malpractice, initially when he entered the Telogorejo Hospital, was asked to wait a few hours before getting a room to undergo the treatment process at the hospital. Then the house clerk asked Samuel Reven to fill out a form if he wanted to get a room immediately. However, the family refused to fill in because they suspected malpractice. In the end, the form had to be signed so that Samuel could immediately get a room.

After being tested for Samuel was COVID-19, immediately placed in an isolation room for four days. During the treatment, Orange was declared dead, he said, Samuel was negative for COVID-19 based on two swab tests and a chest X-ray of the lungs. Even Samuel's funeral process in Jakarta did not go through the protocol COVID-19. When the family took care of the cost of treatment at the hospital, he was shocked by the hospital's statement. All costs are zeroed, no fees are charged by the hospital. Finally, Samuel Reven's family reported Telogorejo Hospital to the police on suspicion of malpractice that killed the couple's son, Raplan Sianturi and Erni Marsaulina. The management of Telogorejo Hospital through the Marketing Director, Grace Rutyana, who confirmed via text message stated that they had carried out the best treatment and medical treatment by the standard of treatment for the deceased. All chronology, processes, and medical procedures have been explained proportionally and correctly according to professional organization standards to the family.

Doctors who have carried out their duties by professional standards, service standards, and standard operating procedures are entitled to legal protection. In carrying out medical practice, doctors must fulfill *Informed Consent* and Medical Records as evidence that can free doctors from all lawsuits in the event of an alleged medical crime. There are several reasons for the waiver of punishment to free doctors from lawsuits, namely medical risks, medical accidents, *contribution negligence, Respectable minority rules & error of (in) judgment, Volenti non-fit iniura or assumption of risk, and Res Ipsa Loquitur*.

The relationship that occurs between doctors and patients in the implementation of medical practice is known as a legal relationship. The legal relationship is an engagement and the engagement is born from an agreement, so the legal relationship between a doctor and a patient arises from the existence of a "therapeutic" agreement. A “therapeutic” agreement (transaction) is an agreement between a doctor and a patient, in the form of a legal relationship that creates rights and obligations for both parties. The object of this agreement is in the form of efforts or therapy for the healing of patients (Nasution, 2009) [6].

Medical service standards are guidelines that must be obeyed by doctors in carrying out the medical practice. Meanwhile, what is meant by service level is the level of service with the standard of personnel and equipment by the capabilities provided. This is as regulated in the Regulation of the Minister of Health of the Republic of Indonesia Number 1438/MENKES/PER/IX/2010 concerning Health Service Standards. The purpose of health service standards is to provide guarantees for patients to be able to obtain medical services based on scientific values in accordance with the patient's medical needs and improve the quality of medical services provided by doctors and dentists (Bawono, 2020) [3].

Legal protection for the medical profession is a juridical preventive effort for everyone to suspect, complain, report, and sue doctors on suspicion of committing medical crimes. Doctors may make mistakes and/or omissions in carrying out their medical profession so that they can be legally held accountable, whether civil, criminal, or state administration, but do not let doctors be punished without making mistakes. Therefore, according to the author, the formulation of the elements of a medical crime relating to when a doctor can be reported, sued, and convicted and when not, is not only based on the fulfillment of the formulation of a crime as

described in Article 66 paragraph (3) Law no. 29 of 2004 concerning Medical Practice. This is because the fulfillment of these elements cannot necessarily be linked to accountability between formal and material unlawful acts.

The above fact is one of the unavoidable facts that doctors are vulnerable to legal proceedings without seeing the real problem. The statement that needs to be stated here is whether the medical service error has occurred in medical malpractice or is it the other way around that the doctor has worked following the applicable procedures while being unable to treat the patient until he is cured.

Therefore, it is necessary to reconstruct the law in Article 1 paragraph (1) of Law no. 29 of 2004 concerning Medical Practice which is related to more specifically the definition of malpractice, and Article 50 of Law no. 29 of 2004 concerning Medical Practices which relates to settlement procedures so that harmonization occurs between victims and health workers.

Based on this background, it is necessary to conduct a further discussion on "Reconstruction of Medical Malpractice Policy Formulation in the Indonesian Legal System Based on Justice Values". Therefore, the authors raised the following 2 (two) main issues, namely:

1. Why is the formulation of medical malpractice policies in the current Indonesian legal system not based on the value of justice?
2. What are the weaknesses of the medical malpractice policy in the Indonesian legal system?
3. How is the reconstruction of the medical malpractice policy formulation in the Indonesian legal system based on the value of justice?

Method of Research

This study uses a constructivist legal research paradigm approach. The constructivism paradigm in the social sciences is a critique of the positivist paradigm. According to the constructivist paradigm of social reality that is observed by one person cannot be generalized to everyone, as positivists usually do.

This research uses descriptive-analytical research. Analytical descriptive research is a type of descriptive research that seeks to describe and find answers on a fundamental basis regarding cause and effect by analyzing the factors that cause the occurrence or emergence of a certain phenomenon or event.

The approach method in this research uses a method (*socio-legal approach).* The sociological juridical approach (*socio-legal approach*) is intended to study and examine the interrelationships associated in real with other social variables (Soekanto, 1984) [4].

Sources of data used include Primary Data and Secondary Data. Primary data is data obtained from field observations and interviews with informants. While Secondary Data is data consisting of:

1. Primary legal materials are binding legal materials in the form of applicable laws and regulations and have something to do with the issues discussed, among others in the form of Legislation relating to the practice of medicine and health.
2. Secondary legal materials are legal materials that explain primary legal materials.
3. Tertiary legal materials are legal materials that provide further information on primary legal materials and secondary legal materials.

Research related to the socio-legal approach, namely research that analyzes problems is carried out by combining legal materials (which are secondary data) with primary data obtained in the field. Supported by secondary legal materials, in the form of writings by experts and legal policies.

Research Result and Discussion

The Reasons for the Medical Malpractice Policy in the Indonesian Legal System that is not based on the Value of Justice

A doctor who commits a malpractice act that results in loss or death of a person can be sued under criminal law if an element of negligence or intent is found. The principle of *Geen Straf Zonder Schuld* (no crime without guilt) in criminal law is the applicable law in the Criminal Code (KUHP).

Explicitly, the Criminal Code does not specifically explain the meaning of intentional. In this case, intentionality is defined as a prohibited act, which is carried out as a result of the action. This theory focuses on what the perpetrator knows about the consequences of his actions. Negligence is a form of error that is not intentional, but is also not something that happens by chance. If there is a negligence, there is no malicious intent from the perpetrator. Negligence in carrying out medical actions causes patient dissatisfaction with doctors in carrying out treatment efforts in accordance with the medical profession. This negligence causes harm to the patient. Thus, a doctor can be prosecuted on the basis of negligence, thus causing losses (Purwadi, 2017) [5].

There is no policy on malpractice that is clearly written in the Criminal Code and the Medical Practice Act, therefore it is difficult to explain whether malpractice is a crime or not. There is no specific regulation regarding medical malpractice and the Criminal Code, so that it is difficult to solve problems related to malpractice. The legal grounds used by patients to sue a doctor or health facility are based on the following articles.

A. Law No. 36 of 2009 concerning Health

1. Article 58 paragraph (1) states that everyone has the right to claim compensation for a person, health worker, and/or health provider or for negligence in the health service he/she receives.

2. Article 58 paragraph (3) states that the provisions regarding the procedure for filing a claim as referred to in paragraph (1) are regulated by the provisions of the legislation.

B. Law No. 29 of 2004 concerning Medical Practice

1. Article 66 paragraph (1) stipulates that any person who knows or whose interests have been harmed by the actions of a doctor or dentist in carrying out medical practice can make a written complaint to the Chairperson of the Indonesian Medical Discipline Honorary Council.
2. Article 66 paragraph (3) stipulates that the complaint as referred to in paragraph (1) and paragraph (2) does not eliminate the right of everyone to report an alleged criminal act to the competent authority and/or to file a civil claim against the court.

C. Criminal Code

1. Article 359 of the Criminal Code explains that anyone due to negligence causes the death of another person, is threatened with a maximum imprisonment of five years or a maximum of one year.
2. Article 360 paragraph (1) stipulates that whoever because of his mistake (negligence) causes a person to be seriously injured, is threatened with a maximum imprisonment of one year.
3. Article 360 paragraph (2) stipulates that whoever due to his/her fault (negligence) causes another person to be seriously injured in such a way as to result in an impediment, carrying out job duties or searching for a certain period, is threatened with a maximum imprisonment of six months or a maximum fine of four thousand five hundred rupiah.
4. Article 361 which stipulates that if the crime described in this chapter is committed in the course of carrying out a job or a search, the penalty is added to one third and the guilty may be deprived of the right to carry out a search in which the crime was committed, and the judge may be deprived of his right to carry out a search in which the crime was committed. crime and the judge may order that the verdict be announced.

d. Civil Code

1. Article 1365 stipulates that every unlawful act that causes harm to another person obliges the person who caused the loss to be wrong, to compensate for the loss.
2. Article 1366 stipulates that every person is caused by his actions, but also for losses caused by negligence or carelessness.
3. Article 1367 stipulates that a person is not only responsible for losses caused by his actions, but also for losses caused by the actions of people who are his dependents or caused by goods under his control.
4. Article 1370 stipulates that in the case of death intentionally or due to someone's carelessness, an abandoned wife or child, child or parent of the victim who usually earns a living from the victim's work has the right to claim compensation, which must be assessed according to a position. and wealth of both parties, as well as according to the circumstances.
5. Article 1371 which stipulates that the cause of injury or disability of a limb intentionally or due to carelessness gives the victim the right to in addition to compensation for the costs of losses caused by the injury or disability, this compensation is also assessed according to the position and wealth of both parties, and according to circumstances.

An example of a malpractice case experienced by Ningrum Santi was harmed by Hermina Pandanaran Hospital Semarang due to a *Caesarean section* which resulted in the death of her child and the baby's mother in a coma due to heart failure. The family reported the incident to the Central Java Police for the alleged malpractice.

The Criminal Code regulates acts that cause other people serious injury or death which are carried out unintentionally formulated in Article 359 and Article 360. The elements of Article 359 and Article 360 are as follows:

1. There is an element of negligence (culpa).
2. There is a certain form of action.
3. There is a causal relationship between the form of the act and the result of the other person's death [Nasution, 2009] [6].

Similarly, if we compare the medical risk with medical malpractice. Both medical risk and medical malpractice contain elements 2,3 and 4, namely, there are certain forms of actions committed by doctors against patients, these actions both result in serious injuries or the death of other people there is a casual relationship. However, there is one element that differs from medical risk with medical practice, namely, in medical risk an element of negligence is found, while in medical malpractice there is an element of negligence.

In addition, specifically in health services, negligence is also associated with services that do not meet (below) professional standards (medical service standards) which in practice also need to be used to distinguish between medical risk and medical malpractice. If the patient has carried out procedures according to medical service standards, but the patient ends up being seriously injured or dying, this is a medical risk. while for patients who are seriously injured or die as a result of doctors performing services below medical standards, then this means medical malpractice occurs.

Based on the concept of *informed consent* that arises based on the relationship between doctors and patients, an agreement is established and each party, both those who provide services and those who receive services, have rights and obligations that must be respected. This means that on the one hand, the doctor should make a diagnosis, treatment, and what medical action will be taken against him. Two parties signed the surgical agreement, namely the patient and the doctor who represented the hospital (Isfandyarie, 2005) [7].

Concerning the responsibility of the hospital for errors/omissions made by doctors to patients, the hospital is responsible for legal problems committed by doctors, because doctors are hospital health workers. This is following Article 46 of Law no. 44 of 2009 concerning Hospitals which states that "Hospitals are legally responsible for all losses caused by negligence committed by health workers in hospitals".

Errors made by doctors at the hospital are the responsibility of the hospital. This applies to the District Hospital is a government hospital and doctors working a doctor *in* or physician remains. Based on this, the doctor works for and on behalf of the hospital, so that if there is a claim from the patient for a mistake made by the doctor, the hospital is responsible for the actions of the doctor, and any compensation suffered by the patient is the responsibility of the party. hospital. This is following Article 46 of Law no. 44 of 2009 concerning Hospitals (Kurniawati, 2021) [8]

The Weaknesses of the Medical Malpractice Policy in the Indonesian Legal System

a. Weaknesses in Legislation

Based on several expert opinions, medical malpractice can be defined as a medical action that does not meet the standards set by the profession, either intentionally, due to negligence, inability, or for the personal interest of medical personnel, which causes damage or loss to the health of the patient's life. None of the provisions in the legal policy in the health sector regulates the definition and legal sanctions for medical malpractice, this can be described in the following regulations:

1. Law No. 36 of 2009 concerning Health (UUK);
2. Law No. 29 of 2004 concerning Medical Practice (UUPK);
3. Law No. 44 of 2009 concerning Hospitals;
4. Minister of Health Regulation No. 269 of 2008 concerning Medical Records (PMK-RM);
5. Minister of Health Regulation No. 290 of 2008 concerning Approval of Medical Actions.

This lack of complete understanding of malpractice and its sanctions can lead to doubts in law enforcement regarding cases of medical action that cause harm to the patient's health or livelihood.

The provisions of the health law only contain articles that provide obligations and prohibitions on carrying out medical actions by doctors, health workers, and hospitals, accompanied by sanctions, as follows:

1. Article 51 of Law no. 29 of 2004 concerning Medical Practice which regulates the obligations of doctors and dentists.
2. Article 66 of Law no. 29 of 2004 concerning Medical Practice gives the right to anyone who knows or whose interests have been harmed by the actions of a doctor or dentist in carrying out medical practice can complain to the Chairperson of the Indonesian Medical Discipline Honorary Council, to the police if there is an alleged criminal act, as well as compensation for damages to the court.
3. Articles 73, 74, 77, and 78 of the Medical Practice Law apply to people who are not doctors who intentionally use identity in the form of a title or other form or method that gives the impression to the public as if a doctor already has a SIP or STR (Surat Permit) Practice or Registration Certificate).
4. Article 79 and Article 80 of the Medical Practice Law apply to doctors/dentists, hospitals that violate several administrative requirements for health services.
5. Article 29 of Law no. 36 of 2009 concerning Health (UUK) stipulates that in the case of a health worker suspected of having committed negligence, this must be resolved first through mediation.
6. Article 45 of the Health Law prohibits people from developing technology and/or technological products that can affect and bring bad risks to public health.
7. The provisions of Article 56 of the Health Law regulate the patient's right to refuse the help that will be given.
8. Article 58 of the Health Law gives the patient the right to claim compensation for a person, health worker, and/or health care provider who causes losses due to errors or omissions in the health services they receive, with some exceptions.
9. Article 190 of the Health Law provides imprisonment and fines for hospitals and/or medical personnel who intentionally do not provide first aid to patients in an emergency.
10. Article 201 of the Health Law regulates the weighting of criminal sanctions and additional administrative sanctions if the violator of the prohibition in Articles 190, 191, 192, Articles 196-200 is a corporation.

Based on some of the provisions of the legislation above, there are several weaknesses in the provisions regarding malpractice in medical practice. Therefore, according to Satjipto Rahardjo's opinion, the law needs to be replaced with a new law that better meets the needs of the community, which is called progressive law.

b. Weaknesses in the Legal Implementation System

1. Efforts to overcome this malpractice action can be carried out by all parties involved, such as the Honorary Council for Medical Ethics (MKEK) the Indonesian Doctors Association (IDI) the Indonesian Dentist Association (PGDI), or the Indonesian Medical Discipline Honorary Council (MKDI), who is in charge of determining whether or not there is an error or negligence of doctors or health workers in carrying out their professional responsibilities. As well as the police as law enforcers in charge of investigating and investigating all criminal acts by the criminal procedure law and other statutory regulations.
2. At first glance, the imposition of Article 359 or 360 of the Criminal Code in cases of medical malpractice resulting in the death of the patient or the patient experiencing injuries appears to have been appropriate. Both the elements of negligence and the resulting consequences in the form of death or injuries have all been fulfilled. However, in practice, law enforcement officers often misunderstand the element of negligence. The element of negligence is often seen and measured from a juridical point of view, even though it should be seen and assessed from a medical point of view.
3. Weaknesses in the form of community views regarding the meaning of malpractice are community more focused on the final condition of the patient and less consider the procedures and actions that have been carried out by doctors based on moral values and medical standards. On the other hand, in the principle of medical ethics, the assessment of actions as medical malpractice is carried out objectively. Poor conditions after treatment or surgery cannot be concluded due to medical errors (Rahardjo, 2008) [9].

The condition that worsens after the treatment is carried out needs to be seen whether there has been an error in the management procedure that is not following medical standards for the case, such as inappropriate drugs, inappropriate doses, and side effects of drugs due to inadequate patient history. However, the public's view of what is meant by malpractice experience is more an expression of dissatisfaction with health services. People do not understand the illness and the procedure for the action or treatment that has been carried out.

Patient and community dissatisfaction with the services provided by doctors and hospitals will always exist. Some literature shows that there are always differences in patient expectations of doctors with what should be done based on medical service standards. What's more, medical procedures require scientific before various invasive, diagnostic, medical, surgical, and various other treatments, which are often not understood by the public.

Barriers in the socio-cultural community still view the presence and existence of the judiciary as the executor of judicial power that is still needed in a state of law because of its role as a *pressure valve* for all violations of law, public order, and violations of public order. The judiciary is still expected to play a role as a body that functions to enforce the truth and enforce justice (Harahap, 1997) [10].

Reconstruction of the Medical Malpractice Policy Formulation in the Indonesian Legal System

Based on the various problems that exist, it is necessary to reconstruct the law in Law Number 29 of 2004 concerning Medical Practice, the amended provisions are Article 1, Article 50, Article 66 paragraph (1), (2), and (3) so that the provisions become

Article 1

1. Medical practice is a series of activities carried out by doctors and dentists for patients in carrying out health efforts.
2. Medical malpractice is a series of activities carried out by doctors and dentists against patients in carrying out health efforts that are not in accordance with professional standards and standard operating procedures.

Article 50

Doctors or dentists in carrying out medical practice have the right to obtain legal protection, obtain legal immunity, or the right to immunity from criminal charges, from civil liability as long as they carry out health efforts according to professional standards and operational procedures based on the decision of the Medical Ethics Honorary Council or the Indonesian Doctors Association or the Indonesian Dentist Association or the local Indonesian Medical Discipline Honorary Council;

Article 66

1. Anyone who knows or whose interests have been harmed by the actions of a doctor or dentist in carrying out medical practice can submit a written complaint to the Honorary Council for Medical Ethics or the Indonesian Doctors Association or the Indonesian Dentist Association or the Indonesian Medical Discipline Honorary Council local.
2. Complaints must at least contain:

a. the identity of the complainant;
b. the name and address of the doctor's or dentist's practice and the time the procedure was performed; and
c. reason for complaint.

3. The complaints as referred to in paragraphs (1) and (2) do not eliminate the right of everyone to report an alleged criminal act to the competent authorities and/or to file a claim for civil damage provided that the alleged criminal act and/or civil loss must first be reported. examined and decided by the Honorary Council for Medical Ethics or the Indonesian Doctors Association or the Indonesian Dentist Association (PGDI) or

the local Indonesian Medical Discipline Honorary Council with a decision stating that the defendant was guilty of violating the professional discipline of a doctor or dentist who contains intentional (*dolus/opzet*) or real/serious negligence (*culpa lata*) and/or causes civil losses

Conclusion

1. The implementation of medical malpractice policies in the Indonesian legal system is currently not based on the value of justice because in practice handling cases of alleged malpractice by police investigators will of course use the procedures or procedures in the Criminal Procedure Code as a reference, this is because Law no. 29 of 2004 concerning Medical Practice does not regulate the procedure if there is an allegation that a doctor has violated the articles in the law.
2. Weaknesses in health law policies so that they cannot prevent and overcome malpractice optimally, namely the lack of completeness and lack of clarity regarding the formulation of malpractice and its strict sanctions, as well as deflection towards unlawful acts.
3. It is necessary to reconstruct the law in Law Number 29 of 2004 concerning Medical Practice, the amended provisions are Article 1, Article 50, Article 66 paragraphs (1), (2), and (3)

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