

Challenges and Compliance in Reconstructive and Aesthetic Surgery: A Case Study at H. Adam Malik General Hospital Medan in Review of Indonesian Health Regulations

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Abstract

This study analyzes the challenges and compliance in reconstructive and aesthetic surgery practices at H. Adam Malik General Hospital Medan based on Law Number 17 of 2023 concerning Health. The main focus of this study is medical consent (informed consent), professional standards, and the risk of malpractice faced by medical personnel. Article 293 of the Health Law regulates the obligation to obtain valid consent from patients before performing medical procedures, while Article 440 provides sanctions for medical personnel who are proven to have committed malpractice. In aesthetic surgery practices, patient expectations are often unrealistic, so medical consent and providing adequate information are essential to protect patient rights. This study found that compliance with health regulations and professional ethical standards is key to reducing the risk of malpractice and future lawsuits.

Keywords: *Reconstructive surgery, aesthetic surgery, malpractice*

INTRODUCTION

In this modern era, reconstructive and aesthetic surgery have become increasingly popular fields, not only by people in developed countries but also in Indonesia. Reconstructive surgery is a branch of plastic surgery that aims to repair or restore the function of body parts that have been deformed due to trauma, infection, birth defects, or other diseases such as cancer. Meanwhile, aesthetic surgery focuses on improving the physical appearance of someone who is medically healthy, but feels dissatisfied with their appearance. Both types of surgery have an important role, both from a medical and psychological aspect for the patient. (Dachban, Sidi, and Saragih 2023)

RSUP H. Adam Malik Medan, as one of the main referral hospitals in North Sumatra, plays a vital role in providing reconstructive and aesthetic surgery services. As a hospital with adequate medical facilities and expertise, RSUP H. Adam Malik handles various reconstructive surgery cases, especially for patients who have experienced serious trauma or must undergo reconstruction after cancer surgery. On the other hand, the demand for aesthetic surgery services is also increasing along with social and economic developments in Indonesia, where people are increasingly open to procedures aimed at improving their appearance.

However, the practice of reconstructive and aesthetic surgery is not free from various legal challenges and compliance with applicable health regulations in Indonesia. Law Number 17 of 2023 concerning Health is the main legal framework that regulates health services, including reconstructive and aesthetic surgery. This law covers various aspects, ranging from medical consent (informed consent), medical procedure standards, to legal sanctions for medical personnel who fail to comply with established standards. In the context of reconstructive and aesthetic surgery, two main issues that often arise are medical consent and the potential for medical malpractice. (RAMADANI 2016)

Informed consent is one of the most crucial issues in medical practice, especially in elective aesthetic surgery (not medically necessary). Article 59 of Law No. 17 of 2023 emphasizes that every medical action must be based on the patient's consent after the patient has received adequate information regarding the procedure, risks, benefits, and alternatives. In aesthetic surgery, patients often have very high expectations regarding the results of the operation, so it is very important for doctors to provide clear and realistic information. If the information provided is inadequate or the patient feels deceived by the results of the operation, this can lead to lawsuits. (Wahyuddin and Sidi, nd)

In reconstructive surgery, even though the medical indications are clearer, there are still significant risks associated with postoperative complications. The surgeon must ensure that the patient understands these risks and gives informed consent before undergoing surgery. In addition, because reconstructive surgery often involves complex cases, such as facial or limb reconstruction, the risk of medical malpractice is also increased. If the procedure is not performed according to established medical standards, the patient may suffer serious injuries that can trigger lawsuits.

In addition, aesthetic surgery also presents ethical and legal dilemmas, especially related to the purpose of the procedure. Law No. 17 of 2023 emphasizes that all medical actions must aim to improve the health of the patient. However, aesthetic surgery is often performed without clear medical indications and solely for aesthetic reasons. This raises questions about whether aesthetic surgery is fully in accordance with the ethical principles and health regulations applicable in Indonesia.

Another challenge is the potential for malpractice in reconstructive and aesthetic surgery. According to Article 440 of Law No. 17 of 2023, medical personnel who fail to comply with established standard operating procedures or fail to provide care in accordance with professional standards may be subject to administrative sanctions or even criminal charges. Medical malpractice can occur if a doctor fails to anticipate complications that may arise after surgery or if an error occurs in the implementation of a medical procedure. (Sustainable 2023)

Article 440

- (1) Any medical worker or health worker who is negligent and results in serious injury to a patient shall be punished with a maximum imprisonment of 3 (three) years, or a maximum fine of Rp. 250,000,000.00 (two hundred and fifty million rupiah).*
- (2) If the negligence as referred to in paragraph (1) results in death, every Medical Personnel or Health Personnel shall be punished with a maximum imprisonment of 5 (five) years or a maximum fine of IDR 500,000,000.00 (five hundred million rupiah).*

The case study at RSUP H. Adam Malik Medan is very important because this hospital is a referral center that handles many patients with reconstructive surgery needs, while also serving the increasing demand for aesthetic surgery. Along with the increasing volume of cases, there is also a greater risk of medical complications and challenges in meeting applicable legal and ethical standards. In recent years, cases of lawsuits related to aesthetic surgery have increased in Indonesia, and this reflects the need for stricter supervision of the surgical practice, both in terms of compliance with health regulations and aspects of medical ethics.

Therefore, this study will explore the legal challenges faced by medical personnel at RSUP H. Adam Malik Medan in implementing reconstructive and aesthetic surgery, and assess the extent of hospital and medical personnel compliance with applicable health regulations, especially in the context of Law No. 17 of 2023 concerning Health. The focus of this study will also cover the issue of medical consent, the risk of malpractice, and how hospitals manage the legal and ethical aspects of aesthetic and reconstructive surgery services. (Sembiring and Sidi 2024)

From the background that has been explained, several main problems can be identified that are the focus of this study. What is the level of compliance of medical personnel at H. Adam Malik General Hospital Medan with health regulations stipulated in Law No. 17 of 2023 concerning reconstructive and aesthetic surgery? And what are the legal and ethical challenges faced by medical personnel in carrying out reconstructive and aesthetic surgical procedures at H. Adam Malik General Hospital Medan, especially related to medical consent and the risk of malpractice?

This study will examine hospital compliance with the standards set out in Law No. 17 of 2023 and how medical personnel ensure that patients fully understand the risks and benefits of the surgical procedures they will undergo. In addition, this study will examine the challenges faced by doctors in maintaining professional standards amidst increasing patient expectations, as well as the legal risks that arise if medical complications occur.

This study is very important because reconstructive and aesthetic surgery are very sensitive and often high-risk medical procedures. The increasing demand for aesthetic surgery poses greater legal risks, especially if the results of the surgery do not meet patient expectations or if serious complications occur. On the other hand, reconstructive surgery, which often involves complex cases, also has a high potential risk of malpractice if not performed according to established standards. RSUP H. Adam Malik Medan, as one of the leading teaching hospitals in Indonesia, has a great responsibility to ensure that all surgical procedures, both reconstructive and aesthetic, are performed in accordance with applicable legal and ethical standards. Therefore, this study is expected to provide an important contribution in evaluating the level of compliance with health regulations and identifying the challenges faced by hospitals in providing safe and legally compliant surgical services.

METHOD

This research uses a normative legal approach with an analytical descriptive method. (Meher, Sidi, and Risdawati 2023) The data used are primary legal materials, such as Law No. 17 of 2023 concerning Health and regulations of the Minister of Health, as well as secondary legal materials in the form of relevant scientific journals, books, and articles. The data will be analyzed qualitatively to evaluate compliance and legal challenges in the practice of reconstructive and aesthetic surgery at RSUP H. Adam Malik Medan.

RESULTS AND DISCUSSION

First Discussion: Legal Challenges in Reconstructive and Aesthetic Surgery in Indonesia

Reconstructive and aesthetic surgery are two types of medical procedures that are increasingly popular among Indonesian people. Reconstructive surgery focuses on restoring body function and shape due to trauma, disease, or congenital abnormalities, while aesthetic surgery is more oriented towards improving cosmetic appearance. Both procedures have significant risks, both medically and legally, especially related to compliance with health regulations in force in Indonesia. Law Number 17 of 2023 concerning Health is the legal basis that regulates the implementation of medical procedures, including reconstructive and aesthetic surgery, where medical approval (informed consent) and professional standards are important points that must be met by health workers. (Sidi 2020)

Article 293 of Law No. 17 of 2023 stipulates that every medical action must be based on the patient's consent given after obtaining a complete explanation of the purpose, benefits, risks, and alternative actions available. Informed consent or medical consent is the right given to patients to understand and agree to the medical procedures to be performed. In the context of reconstructive and aesthetic surgery, this medical consent is very important considering the risks that can arise from the procedures performed.

Article 293

- (1) Every individual Health Service action carried out by Medical Personnel and Health Personnel must obtain approval.
- (2) Consent as referred to in paragraph (1) is given after the patient has received adequate explanation.
- (3) The explanation as referred to in paragraph (2) at least includes:
 - a. diagnosis;
 - b. indication;
 - c. Health Service actions taken and their objectives;
 - d. risks and complications that may occur;
 - e. alternative actions and their risks;
 - f. risks if action is not taken; And
 - g. prognosis after receiving action.
- (4) The approval referred to in paragraph (1) may be given in writing or verbally.
- (5) Written consent as referred to in paragraph (4) must be obtained before carrying out invasive and/or high-risk actions.
- (6) Consent to the actions referred to in paragraph (4) and paragraph (5) is given by the patient concerned.
- (7) In the event that the patient concerned as referred to in paragraph (6) is not capable of giving consent, consent for the action may be given by a representative.
- (8) Written consent to carry out Health Service actions as referred to in paragraphs (1) to (7) is signed by the Patient or a representative and witnessed by a Medical Personnel or Health Personnel.
- (9) In the case of a patient's condition as referred to in paragraph (6) being incompetent and requiring emergency action, but there is no party who can be asked for approval, no approval for the action is required.
- (10) Actions as meant on paragraph (9) carried out based on the best interests of the patient as decided by the medical personnel or health workers who provide services to the patient.
- (10) The actions referred to in paragraph (10) shall be informed to the Patient after the Patient is competent or a representative is present.
- (11) Provisions regarding the procedures for approving actions by Medical Personnel and Health Personnel as referred to in paragraphs (1) to (11) are regulated by Ministerial Regulation.

In aesthetic surgery, the risk of complications is often overlooked by patients because they are more focused on the desired results. This poses a challenge for surgeons, who must ensure that patients clearly understand that not all aesthetic surgeries produce perfect results, and that there is a risk of complications such as infection, wounds that are difficult to heal, or even more severe deformities. Article 293 of the Health Law provides a legal obligation for doctors to provide clear and complete information to patients before performing the procedure. Doctors who fail to fulfill this obligation may face legal action on the grounds of violating patient rights. (Rahmadsyah and Sidi 2023)

John Stuart Mill's "duty of information" theory states that doctors have a legal obligation to provide adequate information to patients before performing a medical procedure. This means that in any surgical procedure, especially elective aesthetic surgery, doctors must provide accurate information about the risks and benefits of the procedure. Failure to fulfill this obligation can result in a doctor being sued for malpractice, especially if the patient feels physically or psychologically harmed by unexplained post-operative complications.

Reconstructive surgery, on the other hand, is generally based on clear medical indications. However, medical consent remains an important element that must be met, because these procedures often involve higher risks than aesthetic surgery. For example, in the case of facial reconstruction after a serious accident, the risk of complications such as infection or tissue that cannot heal properly must be explained to the patient. If the doctor does not provide clear information about these risks, and the patient suffers losses due to the complications that arise, the patient has a legal basis to file a malpractice lawsuit. (Tanjung et al. 2023)

Informed consent is also important in maintaining transparency between doctors and patients. In medical practice, patients have the right to know what will happen to their bodies. Health Law No. 17 of 2023 provides strong legal protection for patients, and failure to provide valid consent can result in doctors facing both

criminal and civil charges. Article 293 explicitly states that violations of medical consent can be subject to administrative sanctions or even criminal sanctions if proven to cause serious harm.

Another challenge faced in the practice of reconstructive and aesthetic surgery is the implementation of strict professional and ethical standards. The Indonesian Medical Council (KKI) sets standards that must be followed by every doctor in providing medical services, including in aesthetic and reconstructive surgery. Law No. 17 of 2023 also stipulates that every medical procedure must be carried out in accordance with applicable standard operating procedures (SOPs). Violation of these SOPs can result in administrative sanctions or even lawsuits.(Fitrianto, Zarzani, and Simanjuntak 2021)

In legal theory, negligence is defined as the failure to provide care that meets the standards expected of a medical professional. In the context of aesthetic surgery, negligence can occur if the doctor fails to follow proper procedures, such as failing to take into account relevant medical factors or failing to monitor the patient's condition after surgery. If this negligence results in physical or mental harm to the patient, the doctor can be held legally liable.

In reconstructive surgery, professional standards are also very important, especially since these procedures are often more complex and high-risk. For example, breast reconstruction after mastectomy requires special expertise and very detailed procedures to ensure that the results of the operation not only restore physical function but also improve aesthetic appearance. If the surgeon does not comply with the established professional standards, the risk of post-operative complications increases, and this can lead to lawsuits.(Tanjung et al. 2023)

In the context of medical ethics, aesthetic surgery poses a greater challenge than reconstructive surgery, because the goal of aesthetic surgery is to improve appearance, not to restore function. In some cases, doctors may feel pressured by unrealistic patient expectations, especially if the patient wants a perfect result. This can lead doctors to perform operations that are not in accordance with the principles of medical ethics, where medical actions must always be carried out in the best interests of the patient.

The theory of utilitarianism proposed by Jeremy Bentham states that the right medical action is the action that provides the greatest benefit to the patient. In aesthetic surgery, doctors must consider whether the benefits expected by the patient are comparable to the risks that may arise. If a doctor performs surgery only for financial gain without considering the long-term impact on the patient's health, this can be considered a violation of medical ethics and can cause legal problems in the future.

Medical malpractice is one of the biggest risks in reconstructive and aesthetic surgery. Article 293 of Law No. 17 of 2023 stipulates that medical personnel who are proven to have committed malpractice can be subject to sanctions, including criminal and civil sanctions. In cases of aesthetic surgery, malpractice often occurs if the results of the operation do not meet the patient's expectations, or if complications occur that were not previously explained. In some cases, patients can file lawsuits against doctors or hospitals that are considered responsible for the losses suffered.(Yunanto and Helmi 2024)

The legal theory of strict liability states that a doctor can be held liable for harm caused to a patient, even if the harm occurred without any element of intent. In the context of aesthetic surgery, a doctor can be sued if the patient feels that the results of the surgery are not in accordance with the promises made by the doctor, or if medical complications occur due to negligence in the implementation of the surgery. Therefore, it is important for doctors to always document every step taken during the medical and surgical consent process, in order to protect themselves from potential lawsuits in the future.

Second Discussion: Challenges in Reconstructive and Aesthetic Surgery Malpractice in Indonesia Based on Law No. 17 of 2023 concerning Health

In addition to the challenges related to informed consent, the risk of malpractice is a very important legal aspect in reconstructive and aesthetic surgery practices. Law Number 17 of 2023 concerning Health strictly regulates the professional obligations of medical personnel in carrying out surgical procedures, and provides sanctions for actions that are considered malpractice. Articles 293 to 295 of Law Number 17 of 2023 provide clear guidelines regarding ethical standards and professionalism in medical procedures, as well as sanctions

that can be imposed on medical personnel who are proven to have violated these provisions. (Hasibuan, Sembiring, and Rafianti 2024)

Medical malpractice can be defined as the failure of a medical professional to meet the established health service standards, which then causes harm to the patient. Article 293 of Law No. 17 of 2023 explains that every medical procedure, whether aesthetic or reconstructive surgery, must be carried out in accordance with applicable standard operating procedures, and if there is negligence that causes harm to the patient, the doctor can be held legally responsible.

In reconstructive surgery, the risk of malpractice usually arises when the doctor fails to follow the correct procedure, for example in facial reconstruction after an accident or after cancer surgery. In aesthetic surgery, the risk of malpractice is higher because patients often have unrealistic expectations, and the results of the surgery do not always match their expectations. This condition triggers the potential for lawsuits if the patient feels that the procedure performed did not achieve the desired results, or if serious complications occur such as infection or more severe deformities.

The theory of strict liability in criminal law states that a professional, in this case a doctor, can be held liable for harm caused to a patient, even though the harm may not have been caused intentionally. In this context, it is important for aesthetic surgeons to always clearly inform patients about the risks involved, and to document the entire medical consent process to avoid being accused of malpractice later.

Law No. 17 of 2023 also emphasizes that professional standards in surgical procedures must be strictly adhered to by all medical personnel. Article 440 of the Health Law provides administrative to criminal sanctions for medical personnel who are proven to have committed negligence in carrying out procedures. These professional standards are determined by the Indonesian Medical Council (KKI) and are regulated in medical regulations that must be adhered to by all medical personnel in Indonesia.

In reconstructive surgery, this standard is crucial because the procedures performed are often complex and require high skill. For example, in breast reconstruction after mastectomy, the doctor must ensure that the transferred or repaired tissue will integrate well with the patient's body and will not cause further complications. If there is a failure in the healing process or infection, the patient has the right to file a lawsuit on the basis of negligence.

On the other hand, in aesthetic surgery, professional standards must also be strictly enforced, even though the procedure is elective. A doctor should not be tempted by a patient's excessive or unrealistic demands just because of financial gain. In this case, the doctor must refuse to perform surgery if it is considered that the procedure is unsafe or not in accordance with medical principles. This is important to maintain the integrity of the medical profession and protect the doctor from the risk of lawsuits in the future.

The theory of negligence is a legal basis often used in cases of medical malpractice. According to this theory, a doctor is considered negligent if he fails to meet the standard of care expected of a competent professional in a similar situation. If this negligence causes injury or loss to the patient, the doctor can be subject to both civil and criminal sanctions. In aesthetic surgery, the risk of negligence often arises when the doctor fails to take into account the patient's complete medical condition before surgery, or if the doctor does not closely monitor the patient's recovery process after surgery. Malpractice cases in aesthetic and reconstructive surgery are not uncommon, especially in large hospitals such as RSUP H. Adam Malik Medan which handles many patients with complex medical needs. As a regional referral center, this hospital has a great responsibility to ensure that all surgical procedures are carried out in accordance with applicable medical standards and regulations. (Pintabar, Rafianti, and Saragih 2024)

One of the challenges faced by the hospital is the increasing number of patients undergoing aesthetic surgery procedures. The increasing demand for aesthetic surgery services is often accompanied by high expectations from patients regarding the results of the surgery. In some cases, patients who are dissatisfied with the results of the surgery file lawsuits against doctors or hospitals. This creates a heavy legal burden for the hospital, especially if serious medical complications occur.

In the case of reconstructive surgery, another challenge is the complexity of the procedure. For example, in facial reconstruction surgery due to trauma, failure in the healing process or infection can be fatal. In this situation, RSUP H. Adam Malik must ensure that every surgeon performing the procedure has met all the

necessary qualifications and has complied with the established standard operating procedures (SOP). If there is an error in the implementation of the procedure or post-operative supervision, this can lead to a serious malpractice lawsuit.

Law No. 17 of 2023 provides legal protection for patients, but also places great responsibility on hospitals and medical personnel to ensure that the health services provided meet the highest standards. Article 440 of the Health Law stipulates that medical personnel who are proven to have committed malpractice, either due to negligence or intentional acts, can be subject to criminal and civil sanctions, depending on the level of loss suffered by the patient. Hospitals also have an obligation to monitor and evaluate the performance of surgeons periodically to prevent cases of malpractice.

To prevent malpractice in reconstructive and aesthetic surgery, several important steps must be taken by hospitals and medical personnel. First, ongoing training for surgeons must be conducted routinely to ensure that they are always up to date with the latest developments in surgical technology and best practices in the medical world. Second, complete documentation of all medical procedures, including medical consent and post-operative notes, must be maintained to protect doctors from potential lawsuits. (Anwar et al. 2021)

In addition, hospitals should also provide more comprehensive medical consultation services before surgery is performed. This consultation should involve a detailed explanation of the risks, benefits, and alternatives of the procedure, as well as ensuring that the patient fully understands the decision they are making. If the patient does not fully understand the procedure or has unrealistic expectations, the doctor should postpone the surgery until the patient is fully prepared to undergo the proposed medical treatment. In cases where there is a dispute between the patient and the doctor, medical mediation can be a solution to resolve the conflict peacefully without having to go through a long and expensive legal process. This mediation allows both parties to discuss openly and reach a mutually beneficial agreement without having to involve the courts.

CONCLUSION

This study shows that reconstructive and aesthetic surgery practices in Indonesia, especially at H. Adam Malik General Hospital Medan, are faced with a number of significant legal challenges. Based on Law Number 17 of 2023 concerning Health, aspects such as medical consent (informed consent), professional standards, and the risk of malpractice are the main focus in regulating medical procedures, both reconstructive and aesthetic. First, medical consent as regulated in Article 293 of the Health Law is a key element in protecting patient rights. Medical personnel are obliged to provide complete and clear information to patients regarding the goals, benefits, risks, and alternatives to medical procedures to be performed. Failure to provide valid medical consent can result in serious legal consequences for doctors and hospitals.

Second, the professional standards and medical ethics set by the Indonesian Medical Council are also a major challenge, especially in aesthetic surgery, where patient expectations are often unrealistic. Surgeons must always ensure that the actions taken are in accordance with SOPs and medical ethics, and not get caught up in commercial motivations that ignore medical principles. Third, the risk of malpractice in aesthetic and reconstructive surgery remains high, especially if doctors fail to meet professional standards or do not take the risks into account in depth. Article 440 of Law No. 17 of 2023 explicitly provides sanctions for medical personnel who are proven to have committed malpractice, both criminally and civilly. To reduce this risk, hospitals and doctors must maintain complete documentation and ensure that patients fully understand the procedures they will undergo.

As a mitigation measure, a medical mediation approach can be an effective solution in resolving disputes between patients and doctors, without having to go through a long legal process. On the other hand, increasing training and education for medical personnel at RSUP H. Adam Malik is very necessary to maintain compliance with health regulations and reduce the potential for malpractice claims. Thus, compliance with health regulations and professional standards is the main key in ensuring patient safety and protecting medical personnel from future legal risks.

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