

ABSTRAK

PERTANGGUNGJAWABAN HUKUM DOKTER DAN RUMAH SAKIT ATAS KELALAIAN DALAM PELAKSANAAN OPERASI *CAESAR* (Studi Putusan Nomor: 1001 K/Pdt/2017)

Oleh

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Hubungan antara dokter, rumah sakit, dan pasien berpotensi menimbulkan sengketa hukum apabila terjadi kelalaian medis. Penelitian ini dilatarbelakangi oleh kasus meninggalnya pasien akibat pendarahan pasca operasi *caesar* yang diduga disebabkan oleh kelalaian dokter dan rumah sakit, sebagaimana diputus dalam Putusan Kasasi Mahkamah Agung Nomor 1001 K/Pdt/2017. Berdasarkan latar belakang tersebut, penelitian ini merumuskan tiga permasalahan, yaitu (1) bagaimana dasar pertimbangan hakim dalam menentukan indikator yuridis untuk membedakan risiko medis dan kelalaian medis, (2) bagaimana pertimbangan hakim agung dalam menilai unsur-unsur perbuatan melawan hukum, serta (3) bagaimana bentuk pertanggungjawaban dokter dan rumah sakit dalam Putusan Kasasi Mahkamah Agung Nomor 1001 K/Pdt/2017.

Penelitian ini menggunakan metode penelitian hukum normatif dengan mengkaji bahan hukum primer dan sekunder. Pendekatan yang digunakan meliputi pendekatan perundang-undangan (*statue approach*) dan pendekatan konseptual (*conseptual approach*) guna menganalisis norma hukum serta doktrin yang relevan dengan permasalahan yang diteliti.

Hasil pembahasan menunjukkan bahwa Hakim Mahkamah Agung menetapkan tiga indikator yuridis kelalaian medis, yakni operasi yang dilakukan tidak sesuai dengan standar operasional prosedur pelayanan kesehatan, bukan risiko medis yang inheren dalam tindakan pembedahan. Kemudian, unsur-unsur perbuatan melawan hukum berdasarkan Pasal 1365 KUHPerdara dinilai telah terpenuhi yang mengakibatkan meninggalnya pasien. Mahkamah Agung membatalkan putusan Pengadilan Tinggi Jakarta dan menjatuhkan pertanggungjawaban secara tanggung renteng (*solidaire aansprakelijkheid*) kepada dokter, rumah sakit, dan pemilik rumah sakit.

Kata Kunci: Kelalaian Medis, Operasi *Caesar*, Perbuatan Melawan Hukum, Hukum Kesehatan

ABSTRACT**LEGAL LIABILITY OF DOCTORS AND HOSPITALS FOR NEGLIGENCE
IN THE PERFORMANCE OF CESAREAN SECTIONS
(Study of Judgment Number: 1001 K/Pdt/2017)**

By

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The relationship between doctors, hospitals, and patients has the potential to lead to legal disputes in the event of medical negligence. This study is motivated by a case involving the death of a patient due to post-cesarean hemorrhage allegedly caused by the negligence of the doctor and the hospital, as decided in Supreme Court Cassation Decision No. 1001 K/Pdt/2017. Based on this background, this study formulates three research questions: (1) what are the judges' grounds for determining the legal indicators to distinguish between medical risk and medical negligence, (2) how the Supreme Court justices considered the elements of an unlawful act, and (3) what form of liability the doctor and hospital bear in Supreme Court Cassation Decision No. 1001 K/Pdt/2017.

This study employs a normative legal research method by examining primary and secondary legal sources. The approaches used include the statutory approach and the conceptual approach to analyze legal norms and doctrines relevant to the research problem.

*The findings of the deliberations indicate that the Supreme Court Justices established three legal indicators of medical negligence: namely, that the surgery was performed in violation of standard operating procedures for healthcare services, rather than due to medical risks inherent in the surgical procedure itself. Furthermore, the elements of an unlawful act under Article 1365 of the Civil Code were deemed to have been met, resulting in the patient's death. The Supreme Court overturned the Jakarta High Court's decision and held the doctor, the hospital, and the hospital owner jointly and severally liable (*solidaire aansprakelijkheid*).*

Keyword: Medical Malpractice, Cesarean Section, Unlawful Acts, Health Law