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## Legal Implications of Violating Healthcare Service Standards for BPJS Patients: A Juridical Study

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## Abstract

Legal protection for Social Security Administration Agency (*Badan Penyelenggaraan Jaminan Sosial*/BPJS) participants in cases of violations of healthcare service standards remains a critical issue. This study purpose to analyze the effectiveness of civil, criminal, and administrative legal mechanisms in providing repressive legal protection for Social Security Administration Agency patients in cases of medical negligence. Using a normative juridical approach, the research examines three civil court decisions from 2019–2023 that explicitly involve BPJS patients and complements this with an analysis of relevant criminal and administrative regulations, including the role of the Indonesian Medical Disciplinary Honor Council. The study reviews the Civil Code, the Criminal Code, Law Number 17 of 2023 on Health, and Law Number 29 of 2004 on Medical Practice. The results show that all three lawsuits filed by BPJS patients were rejected or declared inadmissible due to procedural defects, error in persona, or the high burden of proof for medical negligence. Criminal liability under Articles 359–360 of the Criminal Code is applied selectively, while MKDKI sanctions function predominantly in a preventive rather than corrective manner. It is concluded that legal protection for BPJS participants remains largely normative and ineffective in practice, requiring reforms to evidentiary standards and accountability mechanisms.

## Keywords

Accountability, BPJS Patients, Healthcare, Juridical Study, Legal Protection, Liability.

## 1. Introduction

Healthcare is a fundamental right of every citizen, as affirmed in Article 28H paragraph (1) of the 1945 Constitution, which guarantees the right to welfare, including access to adequate medical services (Nuraeni & Sihombing, 2024). This right is reinforced through the National Health Insurance (*Jaminan Kesehatan Nasional/JKN*) program administered by the Social Security Administration Agency (*Badan Penyelenggaraan Jaminan Sosial/BPJS*) as regulated by Law Number 24 of 2011. Through this system, all citizens, especially vulnerable groups, are expected to have access to health services of a quality that meets the specified standards. However, in practice, disputes often arise due to alleged violations of medical service standards that are detrimental to BPJS participants (Quintarti et al., 2025).

Provisions regarding medical service standards are strictly regulated in Law Number 17 of 2023 concerning Health and Minister of Health Regulation Number 30 of 2019 concerning Minimum Service Standards. These regulations emphasize the responsibility of hospitals and health workers to provide services in accordance with the principles of professionalism. Violations of these provisions may be categorized as alleged malpractice or unlawful acts as referred to in Article 1365 of the Civil Code. In this context, BPJS patients have a legal basis to file a claim for compensation through the courts if they suffer losses as a result of medical actions that do not meet service standards (Nurvidyaning et al., 2025).

Although legal norms guaranteeing protection exist, judicial practice shows a different reality. Several court decisions in malpractice cases involving BPJS patients show that lawsuits are more often rejected or declared inadmissible for procedural reasons, such as error in persona or defective power of attorney. Even in cases that clearly caused physical harm, judges still rejected the lawsuits on the grounds that the patients could not prove negligence convincingly. This shows a gap between normative legal protection and repressive legal protection in court (Azzahra & Mufidi, 2021).

From a theoretical perspective, this condition is in line with the distinction between preventive and repressive legal protection. Health regulations and service standards clearly provide preventive protection, but repressive protection through the judicial system is still difficult for patients to access (Hadjon et al., 2024). In addition, judicial practice in Indonesia tends to apply fault-based liability, which requires patients to prove negligence, rather than applying strict liability, which is more favorable to victims. This situation places BPJS patients in a weak position due to limited access to medical records and expert witnesses (Winarsih et al., 2024).

A clear research gap emerges from the predominance of normative studies on legal protection for BPJS patients that emphasize regulatory frameworks without examining how these protections function within judicial practice, particularly through court decisions in medical dispute cases. The urgency lies in the growing number of malpractice allegations involving BPJS participants and the empirical evidence that lawsuits are frequently rejected due to procedural defects and the difficulty of proving negligence, exposing a significant mismatch between normative guarantees and repressive legal protection through litigation (Azzahra & Mufidi, 2021). This situation highlights the need to reassess evidentiary standards and liability models to address the structural disadvantages faced by patients, including limited access to medical records and expert testimony.

This study aims to analyze the effectiveness of civil, criminal, and administrative legal mechanisms in providing repressive legal protection for BPJS patients in cases of medical negligence, to identify structural challenges in judicial practice, and to formulate recommendations for improving access to justice and enforcement of patient rights. This study seeks to examine the general patterns in court decisions involving BPJS participants in medical negligence cases, assess the effectiveness of

civil litigation in providing remedies, and identify the civil law implications arising from these rulings. It also explores how criminal law addresses medical negligence and evaluates the role of administrative legal mechanisms, particularly the Indonesian Medical Disciplinary Honorary Council (*Majelis Kehormatan Disiplin Kedokteran Indonesia*/MKDKI), in ensuring accountability and legal protection for BPJS patients.

This research contributes by providing a juridical analysis grounded in actual court rulings to identify key factors undermining legal protection in practice and by proposing recommendations to strengthen evidentiary mechanisms and integrate MKDKI findings into judicial processes, thereby enhancing the effectiveness and accountability of patient rights protection. This study is expected to provide a deeper understanding of the effectiveness of legal protection for BPJS participants in the context of health services.

## **2. Methods**

The normative legal approach method was applied in this study, which was conducted in three stages (Vranken, 2010). This research employed a normative juridical research design, commonly used for analyzing written legal norms and court decisions to evaluate the effectiveness of law enforcement within judicial practice. This design was chosen because it allows a systematic examination of the legal norms governing health services and the judicial reasoning applied by courts when resolving disputes involving social security administration agency participants. The approach provides analytical tools to assess discrepancies between normative legal guarantees and their implementation, particularly in cases of alleged violations of healthcare service standards.

First, a case approach was taken by examining court decisions related to health service disputes involving social security administration agency participants in order to understand the application of law in practice. Second, a legislative approach was taken by reviewing the relevant legal framework, including Law Number 40 of 2004 concerning the National Social Security System, Law Number 17 of 2023 concerning Health, Presidential Regulation Number 82 of 2018 concerning Health Insurance as amended by Presidential Regulation Number 64 of 2020, Law Number 24 of 2011 concerning the Implementation of social security administration agency, Government Regulation Number 82 of 2018 concerning Health Insurance, and Minister of Health Regulation Number 30 of 2019 regulating Minimum Service Standards. Third, a conceptual approach was used by referring to the concept of legal protection presented by Hadjon (2024), who raised the importance of protecting individual rights from arbitrary actions by authorities, and used the theory of legal responsibility to assess the obligations of health care facilities towards social security administration agency patients (Shukla, 2023).

Data analysis was conducted qualitatively through legal reasoning and interpretation (hermeneutic and syllogistic analysis) to explore how legal norms are translated into judicial decisions, the evidentiary requirements applied, and the factors contributing to lawsuit rejection. Through this method, the study aims to provide a comprehensive description of the real functioning of legal protection for social security administration agency patients and to offer well-grounded recommendations for reform.

## **3. Results and Discussion**

### **3.1. General Patterns in Court Decisions**

Based on a review of the five court decisions listed in Table 1, a general pattern emerged whereby the majority of malpractice lawsuits filed by patients ended in dismissal or were declared inadmissible. Of the five cases reviewed, four were

dismissed at the district court level without entering into substantive examination. Judges more often granted exceptions or deemed the lawsuits procedurally flawed, thereby preventing the cases from being examined further. Only one case proceeded to the Supreme Court and resulted in a ruling that found an unlawful act.

**Table 1.** Violations of Health Service Standards for BPJS Patients

No	Case Identification	Subject of Dispute	Judge's Legal Considerations	Court Decision
1	Tangerang District Court Decision Number 1324/Pdt.G/2021	Civil lawsuit related to alleged malpractice during a caesarean section at Buah Hati Ciputat Hospital; the patient suffered paralysis after the operation.	The panel of judges found formal defects in the filing of the lawsuit (the power of attorney was deemed invalid) and insufficient evidence of malpractice. There was no proven negligence on the part of the doctor.	The lawsuit was deemed ineligible for further processing; the claim was dismissed, and all legal costs were borne by the plaintiff.
2	Cikarang District Court Decision Number 120/Pdt.G/2019	Malpractice lawsuit regarding orthopedic surgery: shoulder injury caused by several medical procedures performed by a specialist at Bekasi Regional General Hospital, resulting in paralysis of the arm and loss of function.	The injury and medical procedures were acknowledged, but the judge ruled that the plaintiff failed to prove negligence on the part of the doctor as the burden of proof lies with the plaintiff.	The entire lawsuit was dismissed; the plaintiff was ordered to pay the litigation costs.
3	Kepanjen District Court Decision Number 63/Pdt.G/2021 (2021)	PMH lawsuit: the patient underwent a myoma operation at Wava Husada Hospital, but her uterus was removed without written consent ( <i>informed consent</i> ).	The court accepted the objection filed by the defendant and ruled that the lawsuit could not be processed further due to error in persona (the defendant was not the correct legal subject).	The lawsuit was declared <i>niet-ontvankelijk verklaard</i> "inadmissible"; the costs of the proceedings were borne by the plaintiff.

Tangerang District Court Decision Number 1324/Pdt.G/2021 originated from a case filed by YL, a social security administration agency participant who suffered paralysis after undergoing a caesarean section at Buah Hati Ciputat Hospital. The plaintiff sought liability from a number of specialist doctors and the hospital based on Article 1365 of the Civil Code concerning unlawful acts and Article 56 of Law Number 17 of 2023, which regulates the obligations of health workers in providing services in accordance with professional standards. In the lawsuit, YL seeks compensation for permanent damages allegedly caused by medical negligence. This

case illustrates the efforts of social security administration agency participants to obtain substantial legal protection through the judicial system.

However, the panel of judges accepted the defendants' exception on the grounds that the plaintiff's legal counsel did not have legal authority and that there was an error in persona as stipulated in Article 118 of the HIR. The substance of the alleged malpractice was never examined, and the lawsuit was declared "inadmissible (*niet ontvankelijk verklaard*)". In addition, the plaintiff was ordered to pay court costs of IDR 4,234,000, which further aggravated his situation. This decision confirms the dominance of procedural considerations over substantive justice, thereby disregarding the right to health as stipulated in Article 28H paragraph (1) of the 1945 Constitution, and reflects a broader judicial trend where formalities often impede access to justice for vulnerable claimants (Hadjon et al., 2024).

The Cikarang District Court Decision Number 120/Pdt.G/2019 originated from a case filed by TF, a social security administration agency participant who experienced paralysis in his arm after undergoing a series of shoulder surgeries at the Bekasi Regional General Hospital. He filed a lawsuit alleging negligence on the part of the orthopedic doctor based on Article 1365 of the Civil Code concerning unlawful acts and Article 52 of Law Number 29 of 2004 concerning Medical Practice, which regulates the obligation of doctors to practice their profession in accordance with competency standards (Nuraeni & Sihombing, 2024). In his lawsuit, TF sought compensation for the physical injuries he suffered.

Although the judges acknowledged the existence of physical injuries, they argued that medical negligence had not been proven conclusively. The burden of proof was entirely placed on the patient in accordance with Article 1865 of the Civil Code, which requires the party asserting a right to prove it. The difficulty of presenting expert witnesses and limited access to medical records protected by Article 46 of Law Number 29 of 2004 further weakened the plaintiff's position. Ultimately, the entire lawsuit was dismissed, and Taufik was ordered to pay court costs of IDR 2,936,000. This ruling demonstrates how the fault-based liability system places Social Security Administration agency patients in a very weak position in medical disputes, a challenge also highlighted in studies examining the structural barriers to justice in healthcare litigation (Praja et al., 2024).

Kepanjen District Court Decision Number 63/Pdt.G/2021 was filed by WTS, a BPJS patient who underwent a myoma operation at Wava Husada Hospital. She sued the hospital and two specialist doctors because her uterus was removed without written consent (informed consent). The lawsuit was based on Article 45 of Law Number 29 of 2004 in conjunction with Minister of Health Regulation Number 290 of 2008 concerning Medical Treatment Consent, which requires patient consent, as well as Article 1365 of the Civil Code concerning unlawful acts (Irawati et al., 2020).

The judge dismissed the lawsuit on the grounds of error in persona, stating that the defendant was not the appropriate legal subject as stipulated in Article 123 of the HIR. As a result, even though the issue of informed consent was clearly regulated, the court did not address the substance of the lawsuit. The verdict stated that the lawsuit was inadmissible and the plaintiff was ordered to pay court costs of IDR 662,000. This case demonstrates the weakness of repressive legal protection, as violations of medical service standards were not examined due to procedural obstacles (Hadjon et al., 2024). In malpractice cases filed by BPJS patients, judges generally focus on procedural issues. Tangerang, Sleman, and Kepanjen District Courts rejected lawsuits due to defects in the power of attorney, error in persona, or misidentification of the legal subject, in line with Article 118 of the HIR, which deems incorrectly named defendants ineligible for examination (*niet ontvankelijk verklaard*). Consequently, alleged violations of medical service standards under Article 56 of Law Number 17 of 2023 cannot be substantively examined in court.

Beyond procedural obstacles, judges emphasize the burden of proof under Article 1365 of the Civil Code, requiring evidence of fault (*schuld*), loss, and causality. BPJS patients face difficulty meeting this burden due to restricted access to medical records under Article 46 of Law Number 29 of 2004 in conjunction with Article 79 of Law Number 17 of 2023. Novriansyah et al. (2021) note that civil malpractice is an unlawful act, but lawsuit success depends on presenting medical expert evidence. For instance, in the Cikarang District Court, even though physical harm was proven, the lawsuit was dismissed because negligence could not be conclusively established.

The issue of informed consent is a critical aspect in medical malpractice. Article 45 of Law Number 29 of 2004 on Medical Practice, together with Minister of Health Regulation Number 290 of 2008, requires written consent after patients receive complete information. In the Surabaya cassation case, the Supreme Court emphasized that the absence of informed consent constitutes an unlawful act, aligning with Irawati et al. (2020), who note that informed consent serves as preventive legal protection. While implied consent may apply in emergencies, outside such situations, lack of written consent violates patient rights. Many malpractice cases also fail due to errors in identifying the correct legal party. Article 123 of the HIR requires lawsuits to target legally valid entities, yet patients often sue hospitals as institutions, although legally, healthcare providers are distinct entities or foundations. This misidentification prevents judges from examining the case's merits. Azzahra and Mufidi (2021) stress that hospital liability spans criminal, administrative, and civil aspects, making correct legal subject identification crucial.

Judicial considerations reveal a dominance of formalistic, fault-based liability systems, requiring patients to prove medical personnel's fault, unlike strict liability, which offers stronger patient protection. Hadjon et al. (2024) argue that legal protection should combine preventive and repressive dimensions; however, in BPJS patient disputes, repressive protection is rarely effective. Auliya and Suminar (2024) note that BPJS patient losses often stem from limited resources and negligence, yet litigation rarely yields compensation. Nevertheless, the Surabaya precedent indicates potential for progressive legal protection when fundamental rights, such as informed consent, are violated. All three BPJS-related cases ended in rejection or were deemed inadmissible due to formal defects (errors in persona, invalid power of attorney) or failure to prove negligence. No BPJS patient case has won substantively in court, confirming that repressive legal protection remains normative and ineffective, leaving the right to compensation under Article 1365 of the Civil Code and Article 56 of Law Number 17 of 2023 unimplemented in practice.

### 3.2. Legal Impact of Civil Litigation

Normatively, Article 28H paragraph (1) of the 1945 Constitution guarantees the right to health, which is further elaborated in Law Number 17 of 2023 concerning Health, Law Number 24 of 2011 concerning the Social Security Administration Agency, and Government Regulation Number 82 of 2018 concerning Health Insurance. However, judicial implementation shows a significant gap. In Tangerang District Court Decision Number 1324/Pdt.G/2021. This supports Hadjon et al. (2024) analysis that legal protection in regulations is more preventive than repressive. Auliya and Suminar (2024) also report a similar pattern, in which losses suffered by social security administration agency patients rarely result in compensation because hospitals often argue that they have limited facilities or social security administration agency regulations to avoid responsibility.

The burden of proof as stipulated in Article 1365 of the Civil Code is a serious obstacle. In the Cikarang District Court Decision Number 120/Pdt.G/2019, even though the patient successfully demonstrated physical injury, the court rejected the lawsuit because medical negligence was not proven conclusively. This situation is in line with the findings of Fitria et al. (2024), which highlight the limited understanding of social security administration agency patients, especially the

elderly, regarding referral procedures and legal mechanisms. The obstacles are further compounded by the limited access to medical records as stipulated in Article 46 of Law Number 29 of 2004 in conjunction with Article 79 of Law Number 17 of 2023, which practically makes it impossible for patients to meet the burden of proof.

Ministry of Health Regulation Number 30 of 2019 on Minimum Service Standards requires health facilities to meet service indicators, but violations are rarely addressed through repressive measures. For example, Kepanjen District Court Decision Number 63/Pdt.G/2021 dismissed a lawsuit despite alleged obstetric service violations by the hospital and medical personnel, indicating that legal protection remains dominated by preventive measures. Supardi et al. (2020) found that pharmaceutical service standards in pharmacies are still suboptimal, reflecting a gap between norms and reality. Azzahra and Mufidi (2021) note that hospital responsibility spans criminal, administrative, and civil aspects, yet BPJS patients rarely succeed due to weak bargaining positions. Irawati et al. (2020) emphasize strengthening informed consent as a preventive mechanism, since repressive judicial protection rarely ensures substantive justice.

Court decisions show that BPJS patient protection is mostly preventive, as Hadjon et al. (2024) distinguish between preventive and repressive legal measures. While Law Number 17 of 2023 and Minister of Health Regulation Number 30 of 2019 set service standards, repressive protection remains weak, evidenced by rejected lawsuits in Tangerang and Sleman due to procedural issues. From a liability perspective, Indonesian courts generally apply fault-based liability, requiring patients to prove medical negligence under Article 1365 of the Civil Code (Lemke, 2025). This places BPJS patients in a vulnerable position, as proving negligence requires access to medical records and expert testimony, which are often difficult to obtain. Strict liability, which does not require proof of fault, would be more favorable to patients but has not been consistently applied, leaving legal protection uneven.

### **3.3. Civil Law Implications**

The civil legal implications of violating health service standards for social security administration agency patients are essentially rooted in the concept of unlawful acts as stated in Article 1365 of the Civil Code, which states that any act that violates the law and causes harm to another party is subject to compensation. In the context of healthcare services, both doctors and hospitals can be held liable if they are proven to be negligent or if their actions deviate from professional and operational standards. This norm is reinforced by Article 56 of Law Number 17 of 2023 on Health, which requires medical personnel and health facilities to provide safe, quality services that meet standards (Nurvidyaning et al., 2025). Legally, this regulatory framework clearly provides opportunities for social security administration agency patients who have suffered losses to seek compensation through civil litigation.

However, an analysis of five court decisions between 2020 and 2023 shows that this opportunity almost always fails in practice. In Tangerang District Court Decision Number 1324/Pdt.G/2021, Yuliantika's lawsuit, who suffered paralysis after a caesarean section, was rejected on formal grounds, namely a defect in the power of attorney and error in persona. A similar case occurred in the Cikarang District Court Decision Number. 120/Pdt.G/2019, in which the judge rejected the lawsuit even though the plaintiff was paralyzed, on the grounds that the doctor's negligence was not proven conclusively. Difficulties in proving negligence were also evident in Kepanjen District Court Decision Number 63/Pdt.G/2021, which ended with *niet ontvankelijk verklaard* due to the defendant's procedural errors or defects.

The difficulty of proving civil medical cases can be explained through the theory of fault liability, whereby patients as plaintiffs bear the burden of proving the negligence of doctors or hospitals. Article 163 of the HIR affirms the principle of *Actori incumbit probatio*, which means "whoever submits an argument or claims a

right is obliged to prove it.” This principle affirms that the burden of proof lies with the plaintiff who claims a violation or loss, not with the defendant. For social security administration agency patients, this obligation is very burdensome because access to medical records is restricted by Article 46 of Law Number 29 of 2004 concerning Medical Practice, which is reaffirmed in Article 79 of Law Number 17 of 2023. As a result, patients often lack sufficient evidence to prove negligence, even when physical harm is clearly present. This creates a gap between patients’ normative rights guaranteed by law and the reality of judicial protection.

Novriansyah et al. (2021) assert that medical malpractice in civil law is classified as an unlawful act, but the success of a lawsuit depends heavily on the patient’s ability to present evidence of negligence. Auliya and Suminar (2024) also found that BPJS patients often suffer losses due to limited facilities or negligence, but civil lawsuits rarely result in compensation because the burden of proof is too heavy. Praja et al. (2024) add another dimension, namely the limited understanding of patients regarding referral procedures and legal mechanisms, which causes many patients to fail to access litigation effectively. Meanwhile, Irawati et al. (2021) emphasize that informed consent is an important legal instrument for preventing disputes and providing preventive protection, although its implementation in practice remains weak.

Thus, the analyzed decisions show that the civil legal impact of violations of health service standards against social security administration agency patients is very limited. Civil lawsuits filed by patients almost always end in rejection or are declared inadmissible due to formal defects and the heavy burden of proof. As a result, the right to compensation as stipulated in Article 1365 of the Civil Code is rarely realized in practice, with the Surabaya cassation case being the only exception. This pattern shows that the civil outcome is the loss of patient access to compensation for health losses, even though the normative framework promises such protection. Civil litigation, as the main avenue for resolving medical disputes, actually has a chilling effect on patients: lawsuits prove ineffective, legal costs add to the burden, and hospitals are relatively protected from financial accountability, a phenomenon also observed in broader studies of healthcare dispute resolution in Indonesia (Sriwidodo et al., 2025).

### **3.4. Criminal Legal Impact**

Normatively, criminal charges for violations of health service standards are available under Articles 359 and 360 of the Criminal Code concerning negligence resulting in death or serious injury, as well as specific provisions in the Medical Practice Act, particularly Article 51 letter (a) in conjunction with Article 79 letter (c) of Law Number 29 of 2004, which requires services to be provided in accordance with standard operating procedures. Recent studies emphasize the need for clarity on the distinction between “professional error” and “criminal negligence” so that not every medical complication is criminalized, while ensuring that actual deviations from standards are not left unaccounted for (Nuraeni & Sihombing, 2024). In this framework, the locus of criminal proof lies not only in the consequences, but also in deviations from standards, adequacy of competence, quality of informed consent, and the causal chain linking the action to the harmful consequences. Given the high standard of proof in criminal cases, medical criminal prosecutions are generally less common than civil or administrative cases. In the context of a social security administration agency, technical obstacles (access to evidence, expert witnesses) and a preference for ethical-administrative resolutions mean that criminal proceedings are applied selectively.

Supreme Court Decision Number 233 K/Pid.Sus/2021 sets an important precedent, whereby deviations from standards are deemed punishable by criminal sanctions (Wijaya, 2022). In this case, a general practitioner performed a high-risk procedure without the necessary specialist competence, failed to obtain written

informed consent, and caused serious injury to the patient. The Supreme Court imposed criminal sanctions, emphasizing the violation of professional standards (Law Number 29 of 2004) in conjunction with the element of causality. The chain of evidence combined medical records, expert testimony, and administrative-disciplinary findings, including the Indonesian Medical Ethics Honorary Council (*Majelis Kehormatan Etik Kedokteran/MKEK*) reports and license revocation, which reinforced the inference of negligence. Constructively, the Supreme Court operationalized the *lex specialis* provisions in the health sector to interpret professional violations as criminal negligence when the deviation from standards is clear, and the consequences are severe. This fills a gap that is often not addressed by civil compensation or administrative sanctions alone.

Common practice still favors non-criminal proceedings even in alleged negligence cases. For example, East Jakarta District Court Decision Number 182/Pdt.G/2016 ended with the civil lawsuit dismissed. Analysis highlights the need for clearer parameters for medical negligence, including due care, competence, and clinical documentation, to prevent blurring between civil, disciplinary, and criminal liability (Tinggogoy et al., 2023). Studies also confirm that Articles 359–360 of the Criminal Code remain the primary tool when patients die or suffer permanent disability, while sectoral laws assess professional propriety. Thus, the absence of criminal cases involving BPJS patients reflects litigation strategies and evidentiary constraints rather than the irrelevance of criminal norms (Dwike et al., 2024). In extreme cases, Decision Number 233 of 2021 shows the criminal route is viable if the evidence is strong.

Informed consent serves as a critical nexus of evidence. Lack of written consent in high-risk procedures can indicate negligence in both civil and criminal contexts. At the policy level, studies recommend that “administrative-disciplinary-criminal” mechanisms operate sequentially and reinforce each other rather than negate one another (Nuraeni & Sihombing, 2024). For BPJS patients, Paramartha et al. (2021) argue that victims of permanent injury require an effective pathway: civil for compensation, administrative for service correction, and criminal for gross negligence, ensuring protection extends beyond normative guarantees. Additionally, research on corporate criminal liability in BPJS fraud cases emphasizes the institutional dimension: hospitals can be held liable if systemic practices harm participants (Batubara et al., 2020). This perspective is critical when service negligence is linked to institutional governance rather than individual actions.

In its application, the research suggests a matrix of criminal reference indicators, clear deviations from standards (inadequate competence, procedures without informed consent, or violations of SOPs), serious consequences (death or serious injury), and consistent expert evidence linking the action to the consequences. When these three indicators are met, criminal proceedings provide a deterrent effect and affirm patient rights, while complementing administrative sanctions and civil lawsuits that often stall. For social security administration agency cases, the availability of medical records, clinical audits, and risk management documents is key, requiring coordination with the MKDKI, health agencies, and social security administration agency on health Kesehatan to ensure the chain of evidence. Ultimately, the legal impact of criminal proceedings is selective yet strategic: not a default response to every medical dispute, but a firm instrument when violations of standards have crossed the threshold of serious negligence.

Conceptually, this analysis does not negate previous findings that civil proceedings are more dominant but ineffective; rather, it complements them. Supreme Court Decision Number 233 of 2021 and recent studies describe scenarios in which “violations of standards of negligence with serious consequences” can meet the threshold for criminal liability, including in cases involving corporate entities. This offers an agenda for research and advocacy: clarifying medical forensic

guidelines, strengthening informed consent documentation protocols, and integrating ethical-administrative findings into criminal evidence. In this way, the architecture of patient protection, including social security administration agency participants, becomes multi-layered, preventive (standards and education), corrective (administrative/disciplinary), compensatory (civil), and, under certain conditions, proportional and evidence-based criminal enforcement (Haryanto et al., 2025).

### 3.5. Administrative Legal Impact

The administrative legal consequences of violations of health service standards are essentially enforced through professional bodies and executive agencies, not by the general courts. Pursuant to Article 66(1) of Law Number 29 of 2004 on Medical Practice, complaints regarding alleged disciplinary violations by doctors and dentists are resolved through the Indonesian Medical Disciplinary Honorary Council (*Majelis Kehormatan Disiplin Kedokteran Indonesia*/MKDKI). This institution has the authority to impose administrative sanctions, including written warnings, recommendations for the suspension or revocation of Registration Certificates (*Surat Tanda Registrasi*/STR) and Practice Licenses (*Surat Izin Praktik*/SIP), and the obligation to undergo retraining. Estrada (2024) emphasized that administrative sanctions are final within the scope of disciplinary law, although this does not preclude the possibility of civil lawsuits or criminal charges if more serious negligence is proven.

In practice, administrative sanctions are more commonly used than criminal or civil sanctions. Miharja (2020) notes that administrative violations, although often considered “minor,” can result in severe sanctions such as revocation of a doctor’s or hospital’s license. This process reflects a predominantly preventive dimension of protection, with the main objective of improving service standards and preventing recurrence. Atmoko (2022) explains that dispute resolution through the MKDKI follows a semi-formal adjudication procedure, in which patient complaints are examined with the involvement of experts, and decisions are issued in writing, although public access to these decisions is still limited.

In addition to its disciplinary function, MKDKI decisions also carry weight as evidence in civil and criminal cases. Lathoif and Budiarsih (2024) emphasize that MKDKI decisions can be treated as valid documentary evidence because they are produced through a legitimate legal process. This strengthens the position of patients in judicial disputes, which are often hampered by limited access to medical records. On the other hand, the lack of public transparency regarding MKDKI decisions has drawn criticism. Wibiansyah et al. (2020) found that most cases handled by the MKDKI between 2014 and 2018 took one to two years to reach a final decision, and that these decisions were not always accessible to the public.

The normative issue that remains is related to the optional nature of the MKDKI forum. Ardi et al. (2023) criticize the use of the word “may” in Article 66 paragraph (1) of the Medical Practice Law, which indicates that examination through the MKDKI is not a mandatory prerequisite for pursuing other litigation channels. Ideally, the MKDKI functions as an initial forum to determine whether a medical action deviates from professional standards. By strengthening the legal authority of MKDKI decisions, both civil and criminal cases can proceed more effectively because they are based on clear disciplinary findings. For social security administration agency patients, this position is crucial because it provides initial access to justice without the heavy burden of proof as in general courts, while also allowing the use of MKDKI decisions to strengthen compensation claims and criminal liability (Sriwidodo et al., 2025).

#### **4. Conclusion**

This study shows that violations of health service standards against social security administration agency patients have complex legal implications in three main areas. First, civil implications, where patients file lawsuits on the basis of unlawful acts (Article 1365 of the Civil Code). Of the three decisions analyzed, the three lawsuits were rejected due to formal obstacles and the burden of proof. Second, criminal implications, although there are provisions in Articles 359-360 of the Criminal Code and Article 51 in conjunction with Article 79 of Law Number 29/2004 on Medical Practice, their application is selective and rarely used in cases involving social security administration agency patients. Supreme Court Precedent Number 233 K/Pid.Sus/2021 confirms that lack of competence and informed consent can be subject to criminal sanctions, but this practice is still exceptional. As a result, the deterrent effect on medical personnel and health institutions has not been optimal. Third, the administrative impact is evident in the authority of the MKDKI and health authorities to impose sanctions such as reprimands, suspensions, revocation of practice licenses, or mandatory retraining. This mechanism is used more frequently than civil or criminal litigation, but the limited publication of decisions and lack of integration with the litigation process make it ineffective as a basis for restoring patients' rights.

The study highlights that although preventive legal protections for social security administration agency patients are well-regulated, repressive protection through litigation remains weak due to procedural obstacles, a high evidentiary burden, and restricted access to medical records and expert testimony. The research is limited by its normative juridical design and reliance on a small set of court decisions, which restricts generalizability and excludes empirical perspectives from patients, health facilities, and MKDKI. Future studies should integrate socio-legal or empirical methods, such as interviews or surveys, to capture real-world experiences and institutional challenges, and consider comparative analyses with legal systems that apply strict liability or shifted burdens of proof to enhance patient protection and strengthen accountability mechanisms.

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***Data Disclosure Statement***

The data that support the findings of this study are available from the corresponding author upon reasonable request.



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