

## **KAJIAN YURIDIS VICARIOUS LIABILITY BERDASARKAN HUBUNGAN HUKUM RUMAH SAKIT DAN TENAGA MEDIS DALAM PELAYANAN PASIEN DI RUMAH SAKIT UNIVERSITAS ISLAM**

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### **INTISARI**

Penelitian ini mengkaji secara yuridis penerapan prinsip *vicarious liability* dalam konteks hubungan hukum antara Rumah Sakit dan tenaga medis terhadap pasien di Rumah Sakit Universitas Islam Indonesia (RS UII). Fokus kajian dalam penelitian ini adalah identifikasi bentuk dan mekanisme pertanggungjawaban hukum RS UII atas perbuatan melawan hukum (PMH) oleh tenaga medis, serta bagaimana prinsip *vicarious liability* diterapkan secara proporsional berdasarkan konstruksi hubungan hukum antara kedua belah pihak di RS UII dengan mempertimbangkan celah hukum pada Pasal 193 Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan.

Penelitian ini menggunakan pendekatan yuridis normatif-empiris. Pendekatan normatif dilakukan melalui telaah terhadap peraturan perundang-undangan yang relevan, seperti KUH Perdata dan Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan. Sementara pendekatan empiris ditempuh melalui wawancara dengan tenaga medis dan legal officer RS UII, yang dianalisis secara kualitatif untuk menggambarkan realisasi prinsip *vicarious liability* dalam struktur tanggung jawab rumah sakit.

Hasil penelitian menunjukkan bahwa RS UII telah menerapkan prinsip *vicarious liability* dalam sistem pertanggungjawaban hukum terhadap tenaga medis yang dibuktikan melalui rekam medis dan regulasi internal, seperti kontrak kerja, SOP, dan kebiasaan pelayanan medis lain, maupun melalui prosedur audit medis internal dan penyelesaian sengketa. Prinsip ini diterapkan tanpa membedakan status tenaga medis sebagai dokter tetap atau mitra, selama tindakan dilakukan dalam lingkup pelayanan institusional Rumah Sakit. Mekanisme pertanggungjawaban dijalankan melalui serangkaian prosedur preventif (proses kredensialing, regulasi SOP, PPK, CP), korektif (audit medis internal), dan represif (negosiasi, kompensasi, serta tindakan hukum jika diperlukan). Penerapan tanggung jawab tersebut mengacu pada asas hukum dalam Pasal 1367 KUH Perdata dan diperkuat dalam Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan.

**Kata kunci:** *vicarious liability*, rumah sakit, tenaga medis, hubungan terapeutik, pertanggungjawaban hukum

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## LEGAL STUDY OF VICARIOUS LIABILITY BASED ON THE LEGAL RELATIONSHIP BETWEEN HOSPITALS AND MEDICAL PERSONNEL IN PATIENT CARE AT UNIVERSITAS ISLAM INDONESIA HOSPITAL

### ABSTRACT

This research examines the juridical application of the principle of vicarious liability in the context of legal relations between hospitals and medical personnel against patients at the Universitas Islam Indonesia Hospital (UII Hospital). The focus of study in this research is the identification of the form and mechanism of legal liability of UII Hospital for unlawful acts (PMH) by medical personnel, as well as how the principle of vicarious liability is applied proportionally based on the construction of legal relations between the two parties in UII Hospital by considering the legal loopholes in Article 193 of Law Number 17 Year 2023 on Health.

This study employs a normative-empirical juridical approach. The normative approach was conducted through a review of relevant laws and regulations, such as the Civil Code and Law Number 17 Year 2023 on Health. While the empirical approach was carried out through qualitative interviews with medical personnel and legal officers at RS UII, which were then analyzed qualitatively to portray the institutional application of *vicarious liability* within the structure of hospital responsibility.

The results indicate that RS UII has applied the principle of *vicarious liability* in its legal accountability system toward medical personnel as evidenced through medical records, employment contracts, standard operating procedures (SOPs), and clinical protocols, as well as through internal audit mechanisms and dispute resolution processes. This principle is applied uniformly, without distinguishing between permanent staff and contractual partners, as long as the medical actions are performed within the institutional scope of the hospital. The accountability mechanism is carried out through a series of preventive (credentialing process, SOP regulation, PPK, CP), corrective (internal medical audit), and repressive (negotiation, compensation, and legal action if necessary) procedures. The implementation of such responsibility refers to the legal principles in Article 1367 of the Civil Code and is strengthened in Law No. 17 of 2023 on Health.

**Keywords:** *vicarious liability*, hospital, medical personnel, therapeutic relationship, legal accountability