



Criminal Liability for Defendants Who Commit Crimes in the Field of Medical Practice

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ARTICLE INFO

Article history:

Received 20 April 2024

Received in revised form 27
April 2024

Accepted 06 Juni 2024

ABSTRACT

Physicians and dentists knowingly practising medicine without a practice license are subject to penalties under Article 76 of Law Number 29 of 2004 concerning Medical Practice. These penalties can include up to three years in prison or a fine of up to IDR 100,000,000.00 (one hundred million rupiah). The defendant, Putri Regita Yuniar, was referred to as Putri Binti, the late Edward Sebastian, in Decision Number 598/Pid.Sus/2022/PN.Pdg. The problem is formulated as follows: First, based on Decision Number 598/Pid.Sus/2022/PN.Pdg, what factors does the court consider when rendering a criminal decision for offences in the medical practice area? Second, according to Decision Number 598/Pid.Sus/2022/PN.Pdg, what is the criminal liability of defendants who commit offences in the medical practice area? This research's specifications are descriptive. This thesis was written using a normative juridical method. This study exclusively employed secondary data sources. The collected data was given descriptively after undergoing qualitative analysis. The following conclusions can be drawn from the research and discussion: first, the judge's factors when rendering a criminal decision for criminal acts in the medical practice area are classified as non-juridical factors, which include the defendant's aggravating and mitigating circumstances, and juridical factors, which are based on information presented during the trial, including the public prosecutor's indictment, witness statements, and the defendant's statements. Second, the defendant Putri Regita Yuniar, also known as Putri Binti, the late Edward Sebastian, was condemned by Law Number 29 of 2004 concerning Medical Practice, Article 78 in connection with Article 73 paragraph (2).

Keyword:

Criminal Liability, Criminal act, Field of Medical Practice

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INTRODUCTION

As social beings, humans are constrained by laws that specify what they are and are not allowed to do while interacting with other humans and creatures. Ali (2002) defines law as a system of regulations or guidelines that specify what citizens are allowed and not allowed to do in their daily lives. Since laws are not isolated in society, they are inextricably linked to the lives of individuals. Law is frequently described as a social phenomenon, existing wherever society does (Dirdjosisworo, 2016).

Laws are necessary for society to function and engage with one another in interpersonal relationships. Since statute is the foundation for the norms of existence, it is essential for both small- and large-scale relations between states (Vago et al., 2017). The Criminal Procedure Code established a humanitarian, philosophical foundation that aligns with the values of just and civilized humanity. It is hoped that law enforcement officials who hold the position of law controller will apply their noble and virtuous nature to protect public order for the benefit of all parties involved. Law enforcement aims to maintain peace, security, and order in society by working to stop, identify, and punish legal infractions before they happen (Tyler et al., 2015).

Criminal law is a subset of general law that governs a community inside a state system. It provides guidelines or standards for prohibited behaviours and adds penalties for breaking these guidelines (Allen, 2013). These laws regulate criminal activity that goes against the public interest. The two categories of criminal law are crime and violation. It is favourably governed by Indonesian criminal law in the Criminal Code (KUHP). Book II regulates crimes, and Book III regulates offences. The crime of practising medicine is one type of offence that will be covered in this legal research. Every individual is entitled to the following: a

place to live, a decent and healthy living environment, prosperity both materially and spiritually, and access to health care as defined by Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Moreover, the Republic of Indonesia's 1945 Constitution, Article 34, paragraph (3), stipulates that the state supplies sufficient public and health service facilities. This demonstrates that the state must promote the health of the ill and preserve the well.

According to Article 1 point (1) of Law Number 36 of 2009 concerning Health, everyone has the right to health as long as they are in a state of physical, mental, spiritual, and social well-being that allows them to lead fulfilling social and economic lives. Health efforts are necessary to maintain and improve public health, as outlined in Article 1 point (11) of Law Number 36 of 2009 concerning Health. These efforts can be disease prevention, health improvement, disease treatment, or health restoration by the government or society. All activities, or series of activities, must be carried out in an integrated, sustainable manner. Initially aimed at curing disease, health sector development policies have evolved to include community-wide health development with comprehensive, integrated, and sustainable community participation. This includes: First, efforts to improve health (promotive), which refers to the community's ability to maintain and improve their health. People must be able to identify and fulfil their wants and objectives and adapt to and overcome their surroundings to reach the pinnacle of physical, mental, and social health. Secondly, preventive measures refer to the steps we take to ensure that health issues that could endanger ourselves and others don't arise in the future. Third, efforts to cure (curative) disease are medical actions to stop a disease from worsening while

receiving therapy. Fourth, attempts to recover from disease (rehabilitation) are an endeavour or set of actions directed at patients who have previously suffered from the disease to enable them to engage in social interactions regularly (Senjaya, 2017).

Doctors and dentists need to hold a medical practice license to practice medicine. Article 1 point (7) of Law Number 29 of 2004 concerning Medical Practice defines a doctor's practice permit as written documentation the government provides to physicians and dentists who plan to practice medicine after meeting the necessary qualifications. Physicians and dentists knowingly practising medicine without a practice license are subject to penalties under Article 76 of Law Number 29 of 2004 concerning Medical Practice. These penalties can include up to three years in prison or a fine of up to IDR 100,000,000.00 (one hundred million rupiah). The article was updated on June 19, 2007, by the Constitutional Court Judge Panel. Among other things, the Constitutional Court's decision No. 4/PUU-V/2007 states that Article 76 of Law Number 29 of 2004 concerning Medical Practice does not have binding legal force regarding the words "prison for a maximum of 3 (three) years." As a result, the maximum fine that can be imposed under Article 76 of Law Number 29 of 2004 concerning Medical Practice is IDR 100,000,000.00 (one hundred million rupiah). Therefore, the regulatory framework and application of medical practice are altered significantly by the Medical Practice Law, beginning upstream in education and ending downstream in health services and monitoring (Amir & Hanafiah, 2019).

The Republic of Indonesia's Number 2052/Menkes/Per/X/2011 Regulation of the Minister of Health about Practice Permits and Implementation of Medical Practice stipulates those physicians and

dentist with SIPs who offer medical services or offer professional consultation upon request from a health care facility in the context of the physician or dentist in question does not require a SIP at that site to provide medical services of a particular type that are not ongoing or have a set schedule. Still, they must notify the local district/city health service head of their intention to provide such services. Putri Regita Yuniar, also known as Putri Binti, the late Edward Sebastian, was the defendant in one of the cases. In this case, the defendant purposefully used tools, methods, or other techniques to provide services to the community that gave the impression that the person involved was a doctor and conducted practical activities as a doctor. Article 78, in conjunction with Article 73 paragraph (2) of Law Number 29 of 2004, concerns medical practice based on Decision Number 598 /Pid.Sus/2022/PN.Pdg occurred at Pregita Yuniar Beauty Studio, located at Jalan Gajah Mada No. 22 RT.04 RW. 01 Ex. Mount Callilun District. North Padang, Padang City, as a health worker with a permit. If the defendant is not licensed to engage in medical practice activities, their actions are regulated and punishable by crime. The Panel of Judges found the defendant guilty and fined Rp 5,000,000.00 (five million rupiah). The defendant would be imprisoned for one month if the payment was not paid (Senjaya, 2017).

LITERATURE REVIEW

The word "criminal" is derived from the Dutch word "straf," which can also mean "punishment." Since the word criminal is typically a translation of recht, it is more fitting than punishment. Crime is described as pain that is purposefully inflicted upon an individual or group of individuals by the state as a legal repercussion (sanction) for their conduct that has breached criminal law

prohibitions, which are expressly referred to as criminal acts (*strafbaar feit*) under this criminal law. Since "criminal" has a narrower definition than other terms, it must have a fundamental meaning that reflects its unique attributes. Similar to definitions in the social sciences, there are multiple expert interpretations of what constitutes crime depending on their perspectives.

Various definitions of crime proposed by multiple authorities consist of the following: According to Tadros (2016), a conventional definition of crime is suffering inflicted upon a person who intentionally breaks the law for it to be perceived as suffering. According to Langsted et al. (2019), a criminal or *straf* is defined in positive law as a particular kind of suffering inflicted on an offender by the state's designated authority, which is in charge of maintaining public order. This authority is exercised solely because the offender has broken a law that the state must enforce. According to Binder (2016), a crime is a form of suffering connected by criminal law to a transgression of social norms, and a judge determines guilt.

The word for the criminal act, *strafbaarfeit*, is derived from the Dutch word for the offence (Manthovani, 2021). Three terms make up *Strafbaarfeit*: *Straf* means criminal and law; *Baar* means can and may; and *Feit* indicates action, event, violation, and deed. Therefore, an act or a punishable incident is referred to as a *strafbaarfeit*. In contrast, a *delict* in other languages refers to an offence for which a person may face legal consequences (criminal). The Criminal Code (KUHP) defines a criminal act as "*strafbaarfeit*." However, the definition of "*strafbaarfeit*" is not explained in the Criminal Code. The term "offense" is frequently used in criminal law literature to refer to an act that is punishable by law (a criminal act), even though the legislator may use other terms when drafting a law, such as

"criminal incident," "criminal act," or "criminal action." An act forbidden and punishable by law, where the offender faces punishment or sanctions to uphold the rule of law and ensure the public interest in society, is considered a criminal act, regardless of whether intentional or accidental (Robinson, 2017).

The field of medical law in Indonesia is relatively nascent. The emergence of medical-legal concerns can be traced back to the 1980s when Dr. S, a doctor at a health facility in Pati, Central Java, faced prosecution. Before that, some instances could be categorized as medical law cases. Nevertheless, the doctor-patient interaction remained characterized by a hierarchical and paternalistic dynamic at that period. Moreover, these instances are relatively rare, with a significant time gap between each occurrence. In addition, law enforcement officers possess limited knowledge regarding medical legislation, which may result in ambiguity when dealing with situations.

Medical law is the fundamental or primary component of health legislation. Those who work as doctors and law enforcers should prioritize studying medical law. The law serves two crucial purposes: safeguarding individuals and ensuring legal predictability for people who engage in legal rights and responsibilities within their interactions with others. In Indonesia, the development of health law is closely tied to the changing nature of human life. It encompasses a wide range of legal connections in health services. Specifically, health law governs the interactions between doctors, hospitals, community health centers, other healthcare professionals, and patients. Health law is regulated to ensure the fulfilment of a fundamental right. In Indonesia, this regulation was established by enacting Law Number 23 of 1992, known as the Health Law, which has been updated by Law Number 36 of 2009.

RESEARCH METHODS

This research is characterized by its descriptive nature, meaning it systematically describes a specific situation. Specifically, it accurately examines the criminal liability of defendants who engage in criminal acts within medical practice, based on Decision Number 598/Pid.Sus/2022/PN.Pdg. The methodology employed in this thesis research is a normative juridical approach, namely a study that centers on scrutinizing the implementation of rules or norms in favourable legislation. The research employs a juridical methodology based on the legal principles outlined in Decision Number 598/Pid.Sus/2022/PN.Pdg.

This data collection technique involves gathering secondary data from various legal sources closely related to primary legal materials. This is done by studying statutory regulations, literature, and supporting documents that pertain to the research subject. The author employs qualitative data analysis in this research, specifically examining data that yields descriptive information in sentences rather than numerical values. This analysis examines legislative regulations, expert analysis, and the author's analysis. The purpose of this study was to analyze Decision Number 598/Pid.Sus/2022/PN.Pdg at the Padang District Court, focusing on the judge's rationale and legal responsibility for criminal offences related to medical practice.

RESULT

Chronology of Cases in Decision Number 598/Pid.Sus/2022/PN.Pdg

Starting from public information on Tuesday, January 18 2022, at around 15.00 WIT, witness Hanul Fauzi and colleagues from Sub-Directorate I of Indagsi Ditreskrimsus Polda West Sumatra came to the Pregita Yuniar Beauty Studio, which is located at Jalan Gajah Mada No. 22 RT.04 RW. 01 Ex. Mount Callilun

District. North Padang, Padang City, accompanied by the Head of the RW, Witness Dityk Syukri, 55. When he entered the beauty studio, Witness Hasnul Fauzi and his colleagues and Witness Dityk Syukri saw the Defendant, Putri Regita Yuniar, nicknamed Putri, assisted by her employee, namely Witness Febby Safitri, carrying out filtering activities. Nose and chin towards his client named Rara. After that, Witness Hasnul Fauzi and colleagues explained from Subdit I Indagsi Ditreskrimsus Polda West Sumatra and explained the aims and objectives of Witness Hasnul Fauzi and colleagues, namely asking about what practices were being carried out and asking for permission held by the Defendant Putri Regita Yuniar, nicknamed Putri, was carrying out this practice. At that time, Defendant Putri Regita Yuniar, nicknamed Putri, could not show the practice permit she had. After some time, the husband of Defendant Putri Regita Yuniar, nicknamed Putri, came, namely Witness Windi Fernandes; after that, Witness Hasnul Fauzi and his colleagues immediately carried out the practice. Search and find evidence.

The Defendant, Putri Regita Yuniar, is not a general practitioner or dentist. In her medical practice, she only acquires knowledge about medical equipment and performs injections on the materials she uses. This is because Defendant is currently enrolled Defendants course in Jakarta. The customer's method of payment for maintenance services at Studio Pregita Yuniar involves making a down payment through the following bank accounts: BCA account number 0322306804 under the name of Putri Regita Yuniar, BRI account number 548001012254537 under the name of Putri Regita Yuniar, and MANDIRI Bank account number 1110026719977 under the name of Putri Regita Yuniar. The defendant, Putri Regita Yuniar, Defendant as Putri, intentionally utilized tools,

techniques, or other methods to offer services to the public that created the false perception of being a doctor and engaging in professional activities similar to those of a licensed healthcare practitioner despite lacking the necessary medical license.

Demand for Decision Number 598/Pid.Sus/2022/PN.Pdg

The Public Prosecutor has filed a request for Decision Number 598/Pid.Sus/2022/PN.Pdg against the defendant Putri Regita Yuniar, also known as Putri Binti (late) Edward Sebastian. The defendant is accused of intentionally using tools, methods, or other means to provide services to the public, giving the impression that she is a doctor or dentist with the necessary registration or practice permit. This act is regulated and punishable under Article 78 in conjunction with Article 73, paragraph (2) of Law Number 29 of 2004 concerning Medical Practice. The Public Prosecutor is seeking a fine of IDR 10,000,000 (ten million rupiah), with a subsidiary punishment of 1 (one) month in prison. The Public Prosecutor prosecuted the defendant because they had done criminal conduct as defined in Article 78 in conjunction with Article 73 paragraph (2) of Law Number 29 of 2004 concerning Medical Practice. The defendant caused harm to the victim and associated parties, particularly doctors.

The Public Prosecutor's Argument regarding Decision Number 598/Pid.Sus/2022/PN.Pdg is based on the legal fact that the defendant, Putri Regita Yuniar, also known as Putri Binti, and the late Edward Sebastian, intentionally used tools, methods, or other means to provide services to the public at Pregita Yuniar Beauty Studio on Tuesday, January 18, 2022, at around 15:00 WIT. These actions created the false impression that they were qualified doctors or dentists with valid registration certificates or practice permits, which is prohibited under Article 73, paragraph (2) of the law.

Judge's Decision Decision Number 598/Pid.Sus/2022/PN.Pdg

The judge's decision, numbered 598/Pid.Sus/2022/PN.Pdg declares that the defendant, Putri Regita Yuniar, also known as Putri Binti, the deceased Edward Sebastian, has been legally and convincingly found guilty of violating Article 78 in conjunction with Article 73 paragraph (2) of Law Number 29 in 2004 regarding Medical Practice. The panel of judges has imposed a fine of IDR 5,000,000.00 (five million rupiah) on the defendant. The fine will be substituted with a one-month incarceration if it is not paid. Before prosecuting the defendant for a crime, it is essential to evaluate both the aggravating and mitigating factors related to the defendant. The defendant's actions posed a significant risk to the health of the individuals who utilize the medical practice. However, several factors may lessen the severity of the defendant's guilt. These include the defendant's courteous behaviour throughout the trial, admission of guilt, and genuine remorse for their actions.

Additionally, the defendant is the primary financial provider for their family and has a newborn child who relies on their breast milk. It is important to note that the defendant has no prior criminal record. Consequently, the defendant must bear the financial responsibility of covering the expenses associated with the court proceedings.

DISCUSSION

Judge's considerations in handing down criminal decisions for criminal acts in the field of medical practice based on Decision Number 598/Pid.Sus/2022/PN.Pdg

The judge's deliberation in rendering a criminal verdict for offences committed in medical practice, as outlined in Decision Number 598/Pid.Sus/2022/PN.Pdg elucidates that the judge must consider numerous factors due to the decision's

potential impact on public perception and the possibility of generating controversy. The following factors are taken into account:

Juridical Considerations

An indictment serves as the legal foundation for criminal proceedings, as it determines the scope of the trial. The charges presented in court serve as the foundation for the judge's deliberation. Witness testimony, defined by Article 1 point (27) of the Criminal Procedure Code, is evidence in a criminal case. It consists of statements made by a witness who personally heard, saw, and experienced a criminal incident and provides the reasons for their knowledge. Article 78, together with Article 73 paragraph (2), of Law Number 29 of 2004 regarding Medical Practice, as well as Law Number 8 of 1981 about Criminal Procedure Law and other applicable laws and regulations.

Non-Judicial Considerations

The severity of the crime to be imposed on the defendant is determined by non-legal factors (Wahyuni et al., 2023). Non-legal aspects center around the defendant's capacity to assume accountability, the positive and negative attributes of the defendant, and aggravating and mitigating elements. The criteria for the defendant's legal responsibility are as follows: the defendant must not have a mental disability or illness that impairs their mental faculties (as stated in Article 44 of the Criminal Code), the defendant must be at least 16 years old (as stated in Article 45 of the Criminal Code), and the defendant must not have been coerced into committing the act. The defendant's commission of criminal conduct was not based on the execution of legal mandates, as stipulated in Article 50 of the Criminal Code, but rather in violation of Article 47 of the same code. Regarding the assessment of aggravating and mitigating factors in the criminal case, the judge identified several mitigating

circumstances for the defendant. These include the defendant's respectful behaviour throughout the trial, the defendant's admission of guilt and remorse for their actions, the defendant's role as the primary caregiver for their two-month-old breastfeeding infant, and the fact that the defendant has no prior criminal record.

Considering the factors above, it is essential to note that the objective of punishment is not solely to seek revenge against the offender but rather to facilitate the defendant's personal growth and deter the commission of future crimes. The judge must maintain a professional demeanour when exercising their duties and authority to make judgments, particularly when establishing the appropriate sentencing, as the severity of the sentence will serve as an indicator of justice for the involved parties. When determining sentencing, judges are not only bound by legal rules but also have the discretion to decide on an appropriate punishment based on their sense of justice. To ensure the decision's credibility and significance, the judge must provide legal justifications for their ruling, fulfilling their societal obligation and establishing the decision's objective worth. When deciding a case, it is essential to consider relevant factors from both legal and non-legal perspectives.

The judge's legal basis for imposing imprisonment for criminal acts in medical practice is juridical consideration. This means that the judge's decision is based on factors revealed during the trial and determined by the law as necessary elements to be included in the decision. The judge's deliberations are grounded in the established rules and regulations outlined in Article 184 of the Criminal Procedure Code. The judge considers justifications, reasons for leniency, and grounds for dismissing charges while also considering societal notions of fairness in non-legal matters. Legally, a judge is prohibited from convicting a defendant of a

crime unless there are a minimum of two credible pieces of evidence, ensuring that the judge is confident that a crime has indeed taken place and that the defendant is responsible for it (as stated in Article 183 of the Criminal Procedure Code). Based on the aggravating and mitigating factors discussed earlier, the author believes that the sentence given to the defendant in the verdict aligns with the relevant rules and laws. However, it does not meet the defendant's personal preference—equitable treatment within a community.

Furthermore, it is essential to consider the underlying motivations that drive a perpetrator to engage in criminal behaviour inside the medical profession. According to the author, one of the contributing elements to the perpetrator's actions was the presence of an opportunity and support from relevant individuals, which enabled the defendant to carry out the crime successfully. The author can infer from Decision Number 598/Pid.Sus/2022/PN.Pdg that the Panel of Judges has conducted legal deliberations, specifically the judge's deliberations that are grounded on elements presented during the trial. At the same time, non-legal reasons are deemed essential and considered in non-legal deliberations.

Consequently, the defendant was ordered to pay an Rp fine—5,000,000.00 (five million rupiah). However, suppose the defendant fails to pay the fine. In that case, they will be incarcerated for 1 (one) month, as determined by the Panel of Judges, based on the defendant's admission of guilt during the trial. And feel remorse for his acts. Specifically, this is exemplified by how the Panel of Judges evaluates aggravating and mitigating considerations concerning the defendant while making a verdict concerning a criminal violation within the realm of medical practice. The defendant's acts posed a significant risk to public

health, which is an aggravating circumstance.

Therefore, based on the aggravating and mitigating factors in the defendant, as explained above, the author agrees with the Panel of Judges who think that the sentence imposed on the defendant, as stated in the verdict, fulfils a sense of justice.

Criminal Liability for Defendants Who Commit Crimes in the Field of Medical Practice Based on Decision Number 598/Pid.Sus/2022/PN.Pdg

Legal responsibility for individuals who commit offences within the realm of medical practice The defendant, Putri Regita Yuniar, also known as Putri Binti Alm Edward Sebastian, has been determined to be liable under the criminal law route outlined in Article 78 in conjunction with Article 73 paragraph (2) of Law Number 29 of 2004 concerning Medical Practice and Law Number 8 of 1981 concerning Criminal Procedure Law, as well as other applicable laws and regulations. The responsibility for handling criminal charges related to medical practice has been assigned to the Public Prosecutor. Therefore, the judiciary is responsible for receiving, reviewing, adjudicating, and managing all cases brought before it. To achieve the desired outcomes, it is crucial to establish law and justice as the executing entity. This entity must carry out its responsibilities fairly and impartially, ensuring that justice is administered as objectively as possible. This aligns with the provisions stated in Law Number 4 of 2004 and Law Number 48 of 2008 regarding the Judicial Power of the Republic of Indonesia.

About criminal liability in this case, the Panel of Judges at the Padang District Court affirmed that it is a deliberate imposition of suffering by the State on individuals who have been proven to have committed criminal acts in the field of medical practice and can be held

accountable. The perpetrator of criminal conduct in the medical profession must take criminal responsibility for carrying out a crime. Given the irrefutable and compelling evidence of the defendant's activities, it is imperative to pronounce the defendant guilty and impose a punishment that aligns with the severity of their guilt. Upon reviewing the Public Prosecutor's demands, the panel of judges issued Decision Number 598/Pid.Sus/2022/PN.Pdg, considering Article 78 in conjunction with Article 73 paragraph (2) of Law Number 29 of 2004 regarding Medical Practice and other relevant laws and regulations about this case.

Perpetrators of criminal acts in the sphere of medical practice are held legally liable and found guilty, as their actions contravene and violate established legal regulations, constituting an offence. An offence refers to illegal conduct that can result in criminal punishment. It involves wrongdoing done by an individual who is capable of being held accountable for their actions. This indicates a psychological connection between the perpetrator and the act, explicitly involving intentional deception by the perpetrator who presents themselves as a doctor or dentist with valid registration and practice permits while providing services to the community using alternative methods or techniques.

The author can conclude that in Decision Number 598/Pid.Sus/2022/PN.Pdg, the defendant Putri Regita Yuniar, also known as Putri Binti, the deceased Edward Sebastian, has provided sufficient evidence as outlined in Article 184 of the Criminal Procedure Code. This evidence includes witness statements, defendant statements, letters, and instructions. Furthermore, the case fulfils the requirements of Article 78 in conjunction with Article 73, paragraph (2) of Law Number 29 of 2004 concerning Medical Practice. Hence, the Panel of

Judges has decreed a criminal penalty of Rp. 5,000,000 fine (equivalent to five million rupiah) with the condition that failure to pay the fine will result in a one-month imprisonment for the defendant, Putri Regita Yuniar, also known as Putri Binti, the deceased Edward Sebastian.

CONCLUSION

The Factors Considered by the Judge for Determining the Sentence for Criminal Offenses in the Field of Medical Practice By Decision Number 598/Pid.Sus/2022/PN.Pdg, the judge has made juridical considerations based on factors presented during the trial and non-judicial considerations that pertain to relevant circumstances outside the scope of legal concerns. The judges consider the aggravating and mitigating elements when deciding about a criminal crime in the field of medical practice.

The criminal liability of defendants who commit criminal acts in the field of medical practice, as exemplified by the case of Putri Regita Yuniar, also known as Putri Binti, and the late Edward Sebastian, is addressed through the application of Article 78 in conjunction with Article 73 paragraph (2) of Law Number 29 of 2004 on Medical Practice, as well as Law Number 8 of 1981 on Criminal Procedure Law, and other pertinent legislation.

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