



## Legal Analysis of Criminal Liability of Physicians in Diagnostic Errors

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### Abstract

**Introduction:** Diagnostic errors represent a critical intersection between medical practice and criminal law, challenging the boundaries of professional judgment and legal accountability. In Indonesia, the legal framework balancing a physician's professional autonomy with patient protection remains highly contested, particularly regarding when a medical misstep transitions from a civil error or ethical breach into criminal negligence. **Methods:** This study employs a normative legal research method (*metode penelitian yuridis normatif*), analyzing statutory frameworks, medical jurisprudence, and authoritative legal doctrines to evaluate the parameters of criminal liability. **Results:** The findings indicate that criminal liability for a diagnostic error cannot be automatically applied; it strictly requires the presence of gross negligence (*culpa lata*) that violates established medical standards, directly resulting in severe injury or death. Minor errors or misdiagnoses resulting from atypical disease presentations are shielded by the principle of medical judgment, provided the physician followed standard diagnostic protocols. **Discussion:** The discussion synthesizes statutory provisions with judicial

precedents, evaluating the *mens rea* (guilty mind) required for criminal convictions. It contrasts ethical misconduct with criminal negligence and highlights a persistent research gap in defining clear objective criteria for *culpa lata* in complex medical procedures. **Conclusions:** This study concludes that a clear, standardized legal boundary is essential to prevent defensive medicine while upholding patient rights. It recommends the establishment of specialized medical-legal panels to provide objective assessments before criminal charges are pursued.

**Keywords:** Criminal Liability, Diagnostic Errors, Medical Negligence, Normative Jurisprudence, Physician Accountability.

### Introduction

The intersection of medical practice and criminal law presents one of the most complex challenges in modern jurisprudence, particularly regarding the determination of criminal liability for diagnostic errors. Medical diagnostics is inherently an inexact science, deeply dependent on evolving scientific knowledge, technological limitations, and the unique biological variations of individual patients. However, when a diagnostic error results in severe injury, prolonged illness, or the untimely death of a patient, the legal system must intervene to determine whether the misdiagnosis constitutes an unavoidable medical mishap or a punishable criminal offense. In the Indonesian legal context, this balance is precariously maintained between protecting patient rights and ensuring that physicians can practice without the constant, paralyzing fear of criminalization. The primary problem arises from the vague legislative boundaries that separate an excusable error in professional judgment from criminal negligence (*culpa lata*). Consequently, the research questions guiding this study ask what specific legal parameters define a diagnostic error as a criminal act under Indonesian law, and how current jurisprudence distinguishes between medical risks, ethical breaches, and criminal liability. The primary objective of this research is to analyze the statutory frameworks and judicial interpretations governing medical misdiagnoses to establish a clearer boundary for criminal prosecution. By doing so, this study offers significant theoretical benefits by enriching medical law literature and practical benefits by providing clear guidelines for legal practitioners, medical

professionals, and judicial authorities during malpractice investigations. The underlying hypothesis posits that a diagnostic error only triggers criminal liability when a physician demonstrably deviates from established medical standard operating procedures, exhibiting a reckless disregard for patient safety that transcends a mere error in judgment. The research gap in existing literature lies in the lack of precise, objective criteria used by courts to define gross negligence specifically within the diagnostic phase, as most studies focus generally on surgical or treatment errors. Therefore, the novelty of this paper rests on its targeted analysis of the pre-treatment diagnostic timeline, offering a distinct legal framework to evaluate cognitive and procedural medical errors under normative Indonesian criminal law.

### Methods

This study utilizes a normative legal research method (*metode penelitian yuridis normatif*), which focuses on the analysis of library materials and secondary data as the primary basis for investigation. This legal research approach examines law as an internal system of options, principles, expressions, and concepts, specifically analyzing the consistency and application of statutory legislation regarding medical practices and criminal accountability. The statutory approach (*pendekatan perundang-undangan*) is employed to scrutinize relevant Indonesian laws, including the Criminal Code (*Kitab Undang-Undang Hukum Pidana*), the Medical Practice Law, and Health Legislation, ensuring a comprehensive assessment of how positive law regulates professional negligence. Additionally, a conceptual approach (*pendekatan konseptual*) is integrated to dissect the fundamental legal doctrines of *mens rea*, *actus reus*, and *culpa lata* within the medical realm, moving beyond text-based analysis to understand the philosophical underpinnings of criminal liability. The data sources consist entirely of secondary legal materials, categorized into primary legal materials comprising binding legislation and judicial verdicts, secondary legal materials including textbooks, law journals, and legal dictionaries, and tertiary legal materials such as encyclopedias and official reports. These compiled materials are subjected to qualitative normative analysis, meaning the legal texts and doctrines are interpreted logically, systematically, and contextually

to formulate clear legal arguments and conclusions without the use of statistical or empirical data.

### Results

The normative analysis reveals that under the Indonesian legal system, a diagnostic error committed by a physician does not automatically generate criminal liability. Criminal accountability in medical law is strictly bound by the principles of criminal fault, requiring the concurrent fulfillment of both *actus reus* (the prohibited physical act or omission) and *mens rea* (the guilty mind, which in medical negligence manifests as *culpa* or negligence). The current legislative framework establishes that for a physician to be held criminally liable under provisions such as Article 359 or 360 of the Indonesian Criminal Code, the diagnostic error must stem from gross negligence (*culpa lata*) rather than ordinary negligence (*culpa levis*) or an unavoidable medical risk. The research demonstrates that the legal standard used to measure this negligence is the deviation from the Medical Service Standards (*Standar Pelayanan Medis*) and Standard Operating Procedures (*Standar Prosedur Operasional*). If a physician diligently follows these established diagnostic protocols—including thorough history-taking, comprehensive physical examinations, and appropriate diagnostic testing—but still arrives at an incorrect diagnosis due to atypical symptoms or deceptive disease presentations, the action is categorized as an excusable professional error shielded by the medical judgment rule. Conversely, if the misdiagnosis results from an omission of fundamental diagnostic steps, such as failing to order critical tests or ignoring obvious vital signs, the legal shield of professional judgment is stripped away, exposing the physician to criminal prosecution for severe bodily harm or death caused by negligence.

### Discussion

The deeper legal implications of these findings require an extensive review of how criminal jurisprudence interacts with the specific realities of the medical profession. In criminal law, liability hinges upon the concept of negligence (*culpa*), which is generally divided into conscious negligence (*luxuria*) and unconscious negligence (*neglegentia*). In the context of a diagnostic error, unconscious negligence occurs when a physician fails to foresee a diagnostic outcome that a reasonably competent

peer in the same specialty would have foreseen, while conscious negligence involves recognizing a risk in the diagnostic path but wrongfully assuming it will not materialize. Extensive literature reviews indicate that courts globally, and within Indonesia, struggle to draw a bright line between these forms of *culpa* and ordinary civil errors. A critical literature review reveals that the doctrine of *culpa lata* requires a degree of carelessness so gross that it amounts to a reckless disregard for human life and safety. In assessing a diagnostic error, the prosecution must prove that the physician's conduct fell far below the standard expected of an ordinary, prudent doctor possessing the same level of training. The literature emphasizes that a diagnostic error is often a cognitive error rather than a physical slip; it involves misinterpreting data, premature closure of diagnostic possibilities, or confirmation bias. Normative legal theory dictates that cognitive errors should rarely be criminalized because they lack the element of willful disregard or reckless indifference that characterizes true criminality.

Furthermore, the discussion must address the vital role of expert medical committees or honorary councils of medical ethics (*Majelis Kehormatan Disiplin Kedokteran Indonesia*) in defining the standard of care before judicial processing. Legal scholars argue that because judges and prosecutors lack specialized medical training, they cannot independently determine whether a diagnostic deviation constitutes *culpa lata*. The literature shows a consensus that the standard of care is dynamic and highly dependent on the available resources at the time of diagnosis, meaning a physician practicing in a remote rural clinic with limited diagnostic equipment cannot be held to the same standard as a specialist in a fully equipped tertiary hospital. The research gap highlighted in the introduction becomes evident here, as current statutes fail to explicitly detail how resource limitations modify the definition of *culpa lata* in diagnostic failures. This ambiguity often leads to over-criminalization or defensive medicine, where physicians order excessive, unnecessary diagnostic tests solely to protect themselves from criminal liability rather than to benefit the patient. Therefore, the literature underscores that criminal liability must remain an exceptional measure of last resort, reserved exclusively for

instances where the diagnostic process was abandoned entirely or conducted with systemic, egregious defiance of basic medical protocols.

### Conclusion

This study concludes that criminal liability for a physician in the event of a diagnostic error cannot be presumed solely based on an adverse medical outcome. Under normative Indonesian law, criminal culpability requires strict proof of gross negligence (*culpa lata*) where the physician drastically deviated from established Medical Service Standards and Standard Operating Procedures, thereby fulfilling the *mens rea* of criminal negligence. Ordinary diagnostic errors, resulting from cognitive biases or atypical clinical presentations despite adherence to standard protocols, constitute medical risks or civil matters rather than criminal acts. To resolve these ambiguities, it is highly recommended that the legislature enact explicit provisions within health laws that clearly define the objective thresholds of *culpa lata* in medical diagnostics. Additionally, law enforcement agencies must mandate that all reports of medical misdiagnosis undergo a rigorous preliminary review by specialized medical-legal panels before advancing to criminal investigation, thereby protecting the integrity of the medical profession while safeguarding patient rights against genuine criminal recklessness.

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