

Legal Responsibility of Midwives in Handling Deliveries in Karyamulya Village

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ABSTRACT

Midwifery services are health services provided by midwives, focusing on women's health, especially mothers and babies, from pre-pregnancy to *postpartum* care. Midwives are required to offer services based on responsibility, accountability, and competence, adhering to professional standards and legal regulations. Their authority is regulated by law, allowing them to provide maternal and childcare, reproductive health, and family planning, but medical procedures may only be performed with written delegation from a doctor, except in emergencies or areas lacking doctors. If a midwife commits *malpractice* or acts outside their authority, resulting in harm, they may be subject to civil, criminal, or administrative sanctions. Patients have the right to seek accountability through legal action for negligence or error, and midwives may also face ethical sanctions under the professional code of ethics. Legal responsibility can extend to doctors and health institutions if delegation of authority is not properly documented or supervised, following the principle of *vicarious liability*. Disputes arising from midwifery services can be resolved through mediation, arbitration, or the courts; compensation may be required for proven losses.

Keywords: legal responsibility, midwives, efforts to save mothers and babies

INTRODUCTION

In the realm of health care, the existence of a Midwife Registration Certificate (STRB) or its equivalent can be used as an indicator that a midwifery assistant has met the requirements and qualifications set by the competent authority. The absence of an STRB in a midwifery assistant can have an impact on the quality of midwifery services provided. The STRB is proof that the midwifery assistant has passed the eligibility test and is declared competent in midwifery practice. Without an STRB, it is difficult to assess the extent to which the individual's competence meets the standards (Herlambang dkk, 2019; Santa Lussia Yunica, 2021; Sumiati et al., 2018).

In addition, STRBs also reflect aspects of ethics and professional responsibility. By having an STRB, a midwife demonstrates a commitment to the ethical standards and professional behavior set by the relevant institution. The STRB provides assurance to patients that the midwifery assistant has undergone the training and evaluation process

necessary to provide safe and reliable care (Farelya & Nurrobikha, 2018; Raya, 2019; Riyanti, 2019; R. P. Sari et al., 2020).

On the other hand, the STRB also provides a basis for legality in midwifery practice. Without an STRB, a midwifery assistant is not officially recognized by the relevant health institutions. However, it is important to realize that the quality of midwifery services is not only determined by the STRB, but also by work experience, additional training, ethics in service, and communication skills. Therefore, while the STRB is an important indicator, it is not the only benchmark in determining the quality of midwifery care.

The right to health care, including for mothers and children, is a basic right as stipulated in Article 28H of the 1945 Constitution of the Republic of Indonesia, which affirms that every individual has the right to live in physical and mental prosperity, and to obtain a decent and healthy living environment, including health care. Furthermore, Article 34 paragraph (3) states that the state is obliged to provide adequate health care facilities and public services. The affirmation of the right to health care is also in line with the 1948 Universal Declaration of Human Rights, which states that health is a basic human right (Annisa et al., 2022; Ardianingsih & Ilmiani, 2020; Burhanudin, 2018; Riofuku, 2023). In addition, various international conventions that have been ratified by Indonesia, such as Law No. 7 of 1984 concerning the ratification of the Convention on the Elimination of All Forms of Discrimination against Women and the results of the 1995 Beijing Conference, also strengthen this position. This is also in line with the mandate of Article 173 in Law No. 36/2009 on Health (Alfarizi & Maharani, 2022; Lestarina, 2019; Siregar & Halim Bin Ahmad, 2017; Wirabrata & Darma, 2018).

The quality of medical services, including midwifery practice, is very important to maintain and improve so that the community as service users get optimal service according to applicable standards (Aswita et al., 2023; F. Sari, 2017; varney, 2022). Basically, service is a form of assistance in meeting the needs of other individuals, which must provide satisfaction according to the expectations of midwifery service users and remain within the corridors of authority owned by midwives. This is important considering that issues related to reproductive health in Indonesia still face major challenges, namely the high maternal and infant mortality rates. Midwives play an important role in reducing these mortality rates, so they must carry out their duties professionally based on established professional standards, competencies, and ethics. Research shows that inhumane practices can lead to morbidity and mortality. The behavior of ignoring patient safety, violating authority for personal interests, is a form of inhumane practice that still occurs in Indonesia, although it is rarely revealed in scientific writings.

Referring to Permenkes RI No. 28/2017 concerning Licenses and Implementation of Midwife Practice, it is stated that in carrying out their profession, a midwife is required to have an STRB and SIPB (Midwife Practice License). STRB is legal evidence that the midwife has obtained a certificate of competence in accordance with applicable regulations, while SIPB is a practice license issued by the local government.

In certain cases, such as what happened in the midwife practice of Mrs. K, SST, where her assistant who had just graduated from DIII Midwifery and did not yet have an STRB assisted in the delivery process, then complications occurred in the form of bleeding until the patient died before reaching the hospital. Although the midwife stated that the handling was in accordance with the procedure and the family did not sue legally, from a legal perspective, the action violated Article 3 paragraph 1 of Permenkes No. 28 of 2017.

The current phenomenon of malpractice not only reflects a lack of prudence on the part of midwives, but also points to weak adherence to medical standards, professional ethics, and respect for patient rights. Cases such as assistants who do not have STRBs yet handle deliveries are violations of the principles of prudence and professionalism. On the other hand, there are still many health workers who strive to provide the best service for patients, including in midwifery practice, which makes this issue important to study in depth.

Previous studies have explored the role of certifications and legal protections in healthcare, with a focus on the medical profession's standards. For instance, Kurniawan (2021) highlights that the lack of a Midwife Registration Certificate (STRB) leads to uncertainties regarding the competence of healthcare practitioners. However, Kurniawan's research focuses more on the administrative barriers to certification and less on its direct impact on patient outcomes. Similarly, Farelya & Nurrobikha (2018) explore the importance of certification in ensuring ethical behavior and professional responsibility in healthcare. While their study provides valuable insights into the broader ethical framework, it does not address the specific role of legal protections or malpractice in midwifery, a gap that this study seeks to fill.

This study aims to assess the legal responsibilities of midwives practicing without an STRB and explore the implications of such practices on patient safety and legal accountability. The findings will contribute to improving midwifery practices, enhancing regulatory frameworks for healthcare workers, and ensuring the protection of both patients and practitioners. This research will also inform policy recommendations to strengthen certification requirements and improve the legal framework around midwifery practices in Indonesia.

RESEARCH METHOD

This research is empirical legal research. The type of data used in this research consists of primary data and secondary data.

- 1) Primary data is data obtained from respondents using a list of questions such as interviews and direct observations on the object of research.
- 2) Secondary Data
Secondary data is data obtained from the results of literature studies that will be carried out by reading legal materials related to the topic of discussion or the problem being studied, which consists of primary legal materials, secondary legal materials,

tertiary legal materials, as well as other literature such as books, magazines, and so on.

In a study including legal research, data collection is the most important phase in the research process. From the data obtained, we get a clear picture of the object to be studied, thus helping us to draw a conclusion from the data and get closer to the truth or reality of each conclusion that will be presented. In this study, data was obtained in two ways, namely:

1) Literature Study

This study was conducted to find theories, norms, and laws and regulations as well as the results and other thoughts related to the problem under study.

2) Field Study

This study is used to collect data and information directly from the field by using direct interviews with related parties and direct observation in the field.

All data obtained both primary and secondary were analyzed descriptively qualitatively and given a description of each variable. This qualitative analysis method was chosen so that the normative symptoms considered could be analyzed from various aspects in depth and integrated between one another. Then it can be interpreted with the interpretation method known in legal science, where this juridical interpretation can answer all legal issues raised in the thesis completely.

RESULT AND DISCUSSION

Forms of Midwife Malpractice in Handling Childbirth in Karyamulya Village, Cirebon City

According to Radinda and Nurhafifah (2021), most cases of medical malpractice that occur in the field are classified into the category of juridical malpractice, such as errors in diagnosis, wrong prescription, and negligence in the health service process. This view is also in line with the opinion of Achmad (2023), who stated that the settlement of medical malpractice cases should begin with a deliberative approach. If the deliberation efforts do not result in mutual agreement, then the settlement can be continued through the medical profession institution or the court. A similar opinion was expressed by Daeng et al. (2023), who mentioned that there are two paths in handling malpractice cases, namely through litigation (court) and nonlitigation. For the nonlitigation route, the settlement can be carried out through a process of dialogue or consensus in a family manner.

In practice, a midwife has the authority that has been stipulated in the Regulation of the Minister of Health of the Republic of Indonesia Number 28 of 2017 related to the license and implementation of midwife practice. The authority includes health services for mothers, children, as well as services related to women's reproductive health and family planning programs. In addition, midwives are also required to comply with the

professional code of ethics formulated by professional organizations as a guideline in carrying out midwifery practice.

In general, midwifery services carried out in the Kesambi District area, Cirebon City have been running in accordance with professional standards and midwifery ethics. However, when serious complications such as bleeding or comorbidities arise during pregnancy, rapid and appropriate further medical treatment is needed. In one case of labor, there was bleeding after the birth of the baby. Unfortunately, the medical response to the condition was not carried out quickly, and actions were found that deviated from the standard of care that should have been applied.

Based on the results of research conducted by the author at the Kesambi Health Center, Cirebon City, by distributing questionnaires to midwives at the Puskesmas, the results are presented in table 1.

Table 1. Distribution of Midwives' Knowledge about Malpractice in Kesambi District, Cirebon City

No	Knowledge of Midwives	Frequency	Percentage (%)
1	Good	5	50
2	Enough	3	30
3	Less	2	20
	Total	10	100%

Based on the data obtained from Table 1, it is known that most of the midwives assigned to the Kesambi Health Center, Cirebon City have an understanding of the possibility of malpractice in the process of service and care for patients carried out by midwives. Based on the researcher's interpretation of the results of the questionnaire, it can be concluded that the potential for malpractice by midwives is real and possible.

The Chairperson of the Indonesian Midwives Association (IBI) of Kesambi Subdistrict also said that the practice of malpractice by midwives is not a foreign thing in the community. One simple example is when a midwife runs a midwifery practice but at the same time serves general patients, which is actually the authority of general practitioners. Such practices directly contradict the provisions in the Minister of Health Regulation (Permenkes) Number 28 of 2017 concerning Licenses and Implementation of Midwife Practices. The regulation explains that the scope of services that may be performed by midwives is limited to examining pregnant women and family health consultations. For example, the use of Ultrasonography (USG) is not included in the services that can be provided by midwives, because these actions should be the responsibility of obstetricians and gynecologists.

Cases of medical malpractice by midwives can be found in various health care facilities, such as hospitals, health centers, and maternity homes. One form of malpractice that often occurs is when midwives do not provide timely services, or even show different treatment to patients based on their economic background. This phenomenon sometimes triggers a tendency for midwives to prioritize patients who are financially well-off, compared to those who come from underprivileged families.

One form of malpractice that is also often found is the late treatment of mothers in labor, which then causes negative impacts on the patient's condition. These include postpartum hemorrhage and psychological trauma felt by patients and families due to inadequate services. Therefore, every health care facility, whether it is a hospital, health center, or independent practice, should only employ midwives who have a Registration Certificate (STR) and subsequently obtain a Midwife Registration Certificate (STRB), in accordance with applicable legal provisions.

Delays in medical decisions and actions often worsen the patient's condition. One of the contributing factors is the family's slow consent to refer the patient, mainly due to concerns about high costs at the referral hospital, which is a burden for families with limited economic conditions. This is part of the reality of malpractice cases that occur in midwifery care practices in the community:

Identity of the victim

Husband's Name: Mr. H, 39 years old, private employee

Wife's name: NY C, 30 years old, private employee

Helper's name : Midwife R, 25 years old

On August 15, 2023, a patient named Mrs. C who was 30 years old underwent a delivery process at the Melati Clinic located in Karyamulya Village, Kesambi District, Cirebon City. At that time, the delivery was handled by Midwife R, who was newly recruited by Midwife K and did not yet have a Registration Certificate (STR) or Midwife Registration Certificate (STRB). Because the conditions at the Polindes were unfavorable-there was no midwife on duty-and the delivery was sudden, Midwife R ended up handling the delivery. The birth process went without problems, but after the placenta was delivered, Mrs. C experienced severe bleeding that required immediate referral to the hospital. Despite referral efforts, unfortunately Mrs. C passed away due to blood loss before arriving at the hospital.

The family accepted this event gracefully. However, this case was later brought to the attention of the Indonesian Midwives Association (IBI), which took over the handling of the case because it was deemed that there was a violation of the provisions contained in the Regulation of the Minister of Health of the Republic of Indonesia Number 28 of 2017 concerning Licenses and Implementation of Midwifery Practice.

The case was resolved internally at the regional level based on the decision of the Health Office with number 188.4/62.2/KPTS/414.103.1/2023. The settlement was carried out through the Maternal Perinatal Audit (AMP) process carried out by the Health Office together with IBI Cirebon City. The results of the audit decided that Midwife K's license to practice was revoked, while Midwife R was subject to coaching sanctions. During the coaching period, Midwife R was not allowed to apply for an STRB until the coaching was completed by IBI. In addition, the victim's family also received compensation or compensation from the Cirebon City Health Center. The decision not to bring this case to the District Court was based on the fact that efforts had been made to save the patient's life, and the family had expressed their sincere acceptance of the incident.

Effective communication is a crucial factor in the process of making quick and appropriate decisions. Midwives who are able to convey information clearly and in a language that is easily understood by patients and families will be very helpful, especially in emergency situations. Level of education and economic background also affect the patient's ability to understand medical explanations. Patients with low education tend to

have difficulty in understanding medical conditions explained by health workers, and cost issues are often an obstacle when referral action is needed (Soekanto, 2018).

When discussing legal aspects in the health sector, especially midwifery, it is necessary to understand that law can be viewed in three guiding dimensions. First, law as a form of social power that is morally or socially binding, giving rise to imperatives. Second, law in its formal form in the form of legal structures and rules, which in practice become a written foundation. In this context, midwifery law falls into the second category - namely as a system of legal rules and structures that are an integral part of the national legal system of the Republic of Indonesia. Midwifery law includes written provisions, customs, jurisprudence, and scientific doctrine. The object of focus in health law, including midwifery, is health services and care as a whole.

Midwife's Responsibility for Childbirth Services

Legal responsibility for midwives arises when in carrying out their independent practice, they violate the social norms prevailing in the community, thus contradicting the professional oath taken during midwifery education graduation, in which they promise to provide safe and standardized services to the community. In the context of professional ethics, this responsibility relates to independent practice that deviates from the duty of care or violates the midwifery code of ethics.

When there is an agreement or agreement between the midwife and the patient to provide delivery assistance with the expectation that it will take place properly, but in reality the midwife fails to fulfill her obligations, then this situation can be categorized as a default. Such default can cause harm to the patient, for which the patient has the right to claim compensation. The patient's right to compensation is not only based on the law of engagement in the Civil Code, but also based on the provisions in Law No. 28 of 2017 concerning Midwifery Practice Permits and Implementation, specifically Article 58 which states that "Every person has the right to claim compensation against a person, health worker who causes losses due to errors or negligence in the health services they receive."

Patients can also file a lawsuit on the basis of unlawful acts by referring to the Health Law and the Civil Code (KUHPerdota). Unlawful acts include actions that not only contravene laws and regulations, but also violate the rights of others, conflict with legal obligations, are not in accordance with the norms of decency, and are not in line with the principles of decency and prudence in social life. Losses that can be claimed through this mechanism include both material and immaterial losses, as well as claims in the context of default.

If midwifery practice carried out independently results in harm to the patient due to negligence or serious errors, such as causing disability or even death, then the midwife may be subject to criminal liability. Article 360 of the Criminal Code stipulates that negligence that causes serious injury is punishable by a maximum imprisonment of five years or confinement of up to one year. If the negligence causes death, it can be charged with Article 359 of the Criminal Code which states the maximum criminal penalty of five years in prison or one year of confinement. Meanwhile, Article 194 of Law No. 28/2017 emphasizes that deliberate acts against pregnant women that cause serious harm are subject to a maximum prison sentence of ten years and a fine of up to one billion rupiah.

If after an evaluation it is found that the midwife acted outside the limits of authority or contrary to ethical and legal standards, then she can also be subject to administrative responsibility. Administrative sanctions can be in the form of verbal or written warnings, temporary suspension of practice licenses, to permanent revocation of practice licenses determined by the Head of the Health Office at the district or city level.

In carrying out midwifery services, midwives are fully responsible for all decisions and actions they take. However, errors or omissions in practice still often occur and can harm patients. In this context, the midwife's actions can be classified as malpractice. For its resolution, the Indonesian Midwives Association (IBI) has the authority to impose sanctions in accordance with the applicable provisions in the organization. If the malpractice case falls into the realm of civil law, the settlement can be done through two approaches, namely through litigation (court) or non-litigation (alternative dispute resolution). If litigation is chosen, then the lawsuit is filed with the District Court where the incident took place. However, if a non-litigation approach is chosen, then the patient and midwife seek an amicable solution through deliberation, taking into account the interests of both parties.

Conversely, if the midwife's actions fall into the category of criminal malpractice, then the settlement can only be done through the litigation process. This is different from civil cases whose purpose is to emphasize peaceful settlement between health workers and patients.

In the Indonesian legal system, midwives are included in the group of health workers as specified in Article 11 Paragraph 1 letter d of Law Number 36 Year 2014 concerning Health Workers. The group also includes medical personnel, clinical psychology, nursing, pharmacy, and public health.

In terms of civil law, the responsibility of midwives who make mistakes in their practice (malpractice) arises because of the contractual relationship between midwives and patients. Meanwhile, from the aspect of criminal law, criminal responsibility can be imposed on midwives if they are proven to have taken actions that exceed the limits of professional standards, especially if these actions do not have the consent of the patient. Negligence that is not accompanied by patient consent can be the basis for suspecting a criminal offense.

The concept of unlawful act (*onrechtmatige daad*) as regulated in the Civil Code, precisely in Book III on obligations, states that the act gives rise to legal obligations (obligations) for the perpetrator. This means that if someone acts in a way that is prohibited by law, then the law automatically obliges that person to be responsible for the consequences. In legal science, there are three forms of unlawful acts, namely acts due to intent, due to negligence, and because they are contrary to legal obligations or social norms. Article 1367 of the Civil Code also states that a person is liable not only for damages arising from his own actions, but also for damages caused by other people who are under his responsibility, or by objects under his supervision.

Article 1367 of the Civil Code (KUHPerdata) classifies three groups of parties who have a legal obligation to bear the consequences of the actions of others that cause harm to third parties, namely:

- a. Parents or guardians, who are responsible for the actions of children who are minors and live with them, if they still exercise power as parents or guardians over the child.

- b. Employers or parties who give assignments to others, where liability is given for losses caused by their workers, servants, or subordinates during performing the duties for which the assigned work is responsible.
- c. Teachers or work leaders, i.e. schoolteachers and master craftsmen who are liable for damages caused by students or craftsmen under their supervision during the time of such supervision.

There are several fundamental differences between the responsibilities contained in Article 1365 and those contained in Article 1367 paragraph (3) of the Civil Code, namely:

- a. Under Article 1365, liability only arises if the subordinate is considered part of the perpetrating organ, whereas Article 1367 allows direct liability to be applied as long as there is a working relationship or superior-subordinate relationship (*ondergeschiktheid*).
- b. Liability under Article 1367 paragraph (3) requires direct fault by the subordinate, whereas under Article 1365, liability may be imposed without the need to trace the fault of a specific individual, especially if the perpetrator is a legal entity.
- c. In the context of Article 1367 paragraph (3), liability for the willful or negligent acts of a subordinate may be negotiated or waived by agreement, but this is not the case under Article 1365, where any attempt to waive liability from one's own fault (whether individual or legal entity) will be deemed invalid or null and void.
- d. If there is fault or contribution on the part of the victim, the victim will be liable for the same. If there is fault or contribution on the part of the victim in the incident, then under Article 1367 paragraph (3) the perpetrator's liability can be reduced. However, in Article 1365, limitation of liability is only possible if the loss occurs due to negligence, not as a result of intentional acts.

In the system of binding law, default is defined as a form of failure to fulfill obligations by one party in a contractual relationship (the debtor), which occurs due to an element of fault on the part of that party. This fault can be categorized into two main forms:

- a. Willfulness, where the failure to perform the obligation has been the intention or something known and desired by the debtor.
- b. Negligence, which is a condition when a person is actually aware of the possibility of adverse consequences, but does not take action to prevent it, which then leads to losses for other parties.

The incurrance of compensation is a legal consequence of the tort of default, as regulated in Book III of the Civil Code (KUHPerdata). In the context of therapeutic relationships, lawsuits based on default can be filed if health workers, both individuals and institutions such as hospitals, have stated their ability to provide health services to patients, but in fact do not fulfill these obligations without valid reasons or force majeure. When a default occurs, the client or patient is automatically harmed and thus has the right to file a claim for compensation for the losses he or she has suffered.

The midwifery profession is part of health workers who have special expertise in providing services to mothers, babies, and children. One important aspect of midwifery services is referral, which is the process of transferring responsibility for medical treatment from one health care facility to another facility that is more complete or has higher competence. This referral process is important, especially when there are

emergency conditions or complications that cannot be handled by the initial facility due to limited resources of medical personnel or facilities (Isfandyarie, Anny, 2019).

In practice, independent midwives who make referrals are legally responsible for these actions. In accordance with the provisions in Law Number 17 of 2023 concerning Health, midwives have the right to obtain legal protection while carrying out their duties professionally, according to applicable service standards and procedures. This regulation includes aspects of legal responsibility, provisions of the code of ethics, and consequences in the form of ethical sanctions in the event of a violation.

In the practice of referral, midwives are obliged to comply with legal provisions and professional codes of ethics, including the obligation to refer patients to appropriate hospitals to handle emergency conditions to save mothers and babies. In addition to legal obligations, the implementation of referrals is also influenced by social and cultural factors that develop in the community. Therefore, legal responsibility in the referral process must not only be in accordance with statutory norms but also consider local socio-cultural dynamics.

If an independent practicing midwife violates legal provisions in carrying out referral duties, then she can be subject to sanctions based on the professional code of ethics. In addition, forms of legal responsibility can also arise from various legal systems, such as civil law, criminal law, and administrative law. Article 62 paragraph (1) of Law No. 17 of 2023 emphasizes that health workers have the obligation to refer patients to personnel or service facilities that have higher capacity if the patient's condition exceeds their authority or competence.

Thus, based on these provisions, independent practicing midwives are legally responsible for making referrals when the patient's condition is beyond their ability and authority. This action aims to ensure the patient gets the best service and prevent possible complications that can endanger the lives of mothers and babies. From the results of the study of regulations and literature references, it can be concluded that the legal responsibility of midwives in the referral process is divided into two main forms, namely:

- 1) Legal liability for failure or negligence in the referral process. In this context, midwives can be held accountable through various legal channels, including civil, criminal, and administrative. Civilly, midwives can be sued if their actions or omissions cause harm to the patient or their family. This loss can be material - such as the cost of treatment, recovery, and care - as well as immaterial, such as suffering, pain, or permanent disability. On the other hand, if the midwife's actions fulfill the elements of a criminal offense, such as negligence that results in fatalities (e.g. death or serious injury), then she can be subject to criminal sanctions. Meanwhile, in the administrative realm, midwives are potentially subject to sanctions in the form of reprimands, written warnings, and revocation of practice licenses if proven to have violated legal provisions in the implementation of referrals.
- 2) Legal responsibility for not making referrals. In situations where midwives are supposed to make referrals but do not carry them out, the form of responsibility that arises is in the administrative aspect. In this case, sanctions that can be imposed include warnings, official warnings, or revocation of practice licenses, according to the level of violation that occurred.

In addition to these forms of liability, it is important to understand that there are various factors that influence the legal responsibility of midwives in the context of

referrals. These factors are divided into two categories, namely internal factors and external factors:

Internal factors are aspects that originate from the midwife's personal self that affect the extent to which she can carry out her legal responsibilities. These factors include:

- 1) Competence, namely the level of mastery of knowledge, skills, and professional attitudes in accordance with midwifery professional standards.
- 2) Professional attitudes, namely values demonstrated through empathy, moral responsibility, and concern for patients.
- 3) Responsible behavior, in this case referring to the efforts and seriousness of midwives in carrying out their duties and responsibilities according to their maximum authority.

External factors are external conditions that influence the implementation of the legal responsibilities of midwives in making referrals. External factors include:

- 1) Referral system, the extent to which the system is clearly designed and implemented, structured and effective. A poor system can hinder the success of referrals.
- 2) Health facilities, the availability of health service facilities and infrastructure that meet the standards. Mismatches between facilities and standards can complicate the referral process.
- 3) Environment, the socio-cultural and geographical conditions of the surrounding community that may support or hinder efforts to provide optimal health services.

A midwife is a professional health worker who is authorized to organize midwifery services. In carrying out their duties, midwives have legal responsibilities to patients, society, professional organizations, and the state. The legal basis for this responsibility is contained in Law Number 36 of 2009 concerning Health, Law Number 4 of 2019 concerning Midwifery, and Minister of Health Regulation Number 28 of 2017 concerning Licenses and Implementation of Midwife Practice.

In the implementation of patient referrals, the responsibilities of midwives can be categorized into two, namely professional responsibility and moral responsibility. The forms of professional responsibility include: 1) Evaluating the patient's condition thoroughly and based on facts, taking into account physical, psychological, social, and economic aspects. 2) Pay attention to the wishes and needs of the patient before making a referral decision. 3) Conveying detailed and open information to patients regarding their health condition, reasons for referral, and further actions such as diagnosis, prognosis, and subsequent management. 4) Ensure that patients have received services according to their needs before referral, both in the form of emergency, outpatient, and inpatient services.

In addition to professional responsibilities, midwives also have moral responsibilities that must be upheld, including: 1) Being wise and responsible in making referral decisions. 2) Maintain the confidentiality of the patient's condition. 3) Make referrals as soon as possible to prevent the risk of complications.

Midwives have the right to legal protection in carrying out their midwifery practice. This legal protection is regulated in Law Number 28 of 2017 concerning Licenses and Implementation of Midwifery Practice, and Minister of Health Regulation Number 28 of 2017 concerning Licenses and Implementation of Midwife Practice.

Based on these laws and regulations, the legal protection of midwives in referring patients includes: 1) Midwives are entitled to legal protection as long as they carry out midwifery practice in accordance with professional standards, service standards, and

standard operating procedures. 2) Midwives cannot be held legally liable if in making patient referrals it is in accordance with the Legal Responsibility of Independent Practice Midwives in Obstetric Emergency Referral Cases JSIM: Vol 5 No 5 (2024) 854 professional standards, service standards, and standard operating procedures. 3) Midwives can request legal protection to the midwife professional organization or to the government. The responsibility of midwives in referring patients is a form of midwife responsibility to provide the best service for patients.

Midwives must assess the patient's condition comprehensively and objectively and consider the patient's needs and wishes. In addition, midwives must also provide clear and complete information to patients and ensure that patients have received services that are appropriate to their needs before being referred. Midwives have the right to obtain legal protection in carrying out their midwifery practice. This legal protection can be in the form of repressive legal protection and preventive legal protection.

Legal arrangements for independent practicing midwives in carrying out referrals as an effort to save mothers and babies include: 1) Legal arrangements for independent practicing midwives. Independent practicing midwives are health workers who work independently and have different legal responsibilities from midwives who work in health institutions. Legal arrangements for independent practicing midwives include regulations relating to legal responsibilities, codes of ethics, and ethical sanctions. 2) Referral as an effort to save mothers and babies. Referral is one of the tasks that must be carried out by independent practicing midwives in carrying out health services. Referral as an effort to save mothers and babies is a very important task to maintain the health of mothers and babies. 3) Socio-cultural factors. In carrying out efforts to save mothers and babies, independent practicing midwives are influenced by socio-cultural factors outside the law. For example, geographical conditions, infrastructure, and local culture can affect patient referral to the hospital. 4) Implementation of legal responsibility, Implementation of legal responsibility of independent practice midwives in carrying out referrals as an effort to save mothers and babies must be adjusted to the provisions of laws and regulations and codes of ethics. 5) Ethical sanctions. If an independent practical midwife does not make referrals as an effort to save mothers and babies in accordance with the provisions of the law and code of ethics, then she can get ethical sanctions. These sanctions can be in the form of administrative sanctions, criminal sanctions, or other sanctions in accordance with the provisions of laws and regulations.

Legal arrangements regarding patient referrals by independent practicing midwives are regulated in Law Number 17 of 2023 concerning Health. Article 62 paragraph (1) of the Law states that health workers in carrying out their practice are obliged to refer patients to other health workers or health service facilities that are more capable if the patient's condition is beyond their authority and competence. This article emphasizes that independent practicing midwives are obliged to refer patients to other health workers or more capable health service facilities if the patient's condition is beyond their authority and competence. This aims to provide the best midwifery services for patients and prevent complications that can threaten the safety of mothers and babies.

CONCLUSION

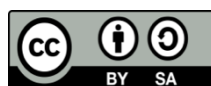
The resolution of medical malpractice cases involving midwives should ideally begin with deliberation between the parties, progressing to mediation by professional institutions or, if necessary, legal proceedings in court. Midwives are obligated to strictly

adhere to professional standards, standard operating procedures (*SPO*), and the professional code of ethics, as any deviation leading to patient harm may result in legal liability. Patients harmed by malpractice have the right to seek compensation, typically through tort-based civil lawsuits, which offer broader legal remedies but can be complex to prove. To mitigate legal risks and enhance patient safety, it is essential to mandate regular training and updates for midwives on current legal standards and ethical practices. Furthermore, increasing patient awareness about their legal rights can foster greater transparency and accountability within healthcare. For future research, it is recommended to explore the effectiveness of ongoing legal and ethical education for midwives in reducing malpractice incidents and to assess patient understanding of their rights in medical settings.

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