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Criminal Policy Reform for Medical Personnel in Indonesia's New Criminal Code: Legal Protection and Implementation Challenges

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Abstract

This study examines changes in criminal policy concerning medical personnel under Indonesia's new Criminal Code Law Number 1 of 2023, focusing on legal protection and implementation challenges. The research is motivated by the rising number of medical malpractice cases in Indonesia, totalling 51 cases between 2023 and 2025, highlighting medical practitioners' vulnerability to criminal liability. The study aims to analyze the scope of legal protection for medical professionals under the new Criminal Code and identify practical challenges in enforcing these regulations. A normative-juridical approach is applied, supported by empirical data from malpractice cases and court decisions involving medical personnel. Findings show that the new Criminal Code clarifies distinctions between medical negligence and inherent medical risk through specific provisions (Articles 344-346, 422-475), offering protection to practitioners who act in good faith and follow professional standards. Nonetheless, implementation challenges persist, including public misconceptions of medical risks, limited accountability mechanisms, and overlapping legal regulations. In conclusion, while the new Criminal Code advances the balance between patient rights and medical professional protection, effective law enforcement requires stronger integration with health regulations and professional disciplinary systems.

Keywords

Criminal Code, Criminal Policy, Legal Protection, Medical Malpractice, Medical Negligence.

1. Introduction

Indonesia is a country based on law, as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (Muzakkir, 2020). After the proclamation of independence, on August 17, 1945, Indonesia implemented criminal law and enforced the Criminal Code (Amalia et al., 2025). The development of Indonesia's social and legal system led to the replacement of the old Criminal Code with the New Criminal Code (Law Number 1 of 2023). This new code consists of two main books: general provisions and criminal acts, and introduces a significant reform through the adoption of a restorative justice paradigm. Restorative justice emphasizes repairing relationships between victims, offenders, and society, promoting participatory and inclusive justice. It provides offenders the opportunity to take responsibility, make amends, and reintegrate socially.

The New Criminal Code also responds to advances in information technology and the increasing complexity of modern crimes, reflecting a legal system that is more adaptive to social dynamics and capable of providing effective protection (Butt & Lindsey, 2020; Suseno et al., 2025; Amalia et al., 2025). As the new foundation of national criminal law, it affects various criminal provisions, including those related to medical practice. Health workers are required not only to maintain professional competence but also to uphold ethical standards, while the complexity of healthcare services simultaneously increases the potential for violations that may result in criminal liability (Supraba et al., 2025).

The regulatory gap in Indonesia's health law highlights the need for effective and fair legal reforms to protect the public while ensuring legal certainty for medical professionals (Daeng et al., 2023). Under the old Criminal Code, legal protection for medical personnel was limited and nonspecific, often exposing them to criminalization despite acting within professional standards and in good faith. The government responded by revising the Criminal Code to recognize medical risk, strengthen legal safeguards for health workers, and position the medical profession as a humanitarian vocation deserving proportional legal treatment. Malpractice incidents further emphasize the urgency of reform. Between 2023 and 2025, Indonesia recorded 51 malpractice cases, 24 of which resulted in death, with 13 deaths occurring in 2025 alone. Other reported outcomes included infections or complications (10 cases), procedural or administrative errors (8 cases), severe injuries or disabilities (7 cases), and cases involving dissatisfaction or disputes over medical information (2 cases) (Wirasena & Arta, 2022; Ulya & Akbar, 2025).

Medical malpractice cases in Indonesia arise from various factors, including medical negligence or actions below professional standards such as inadequate caution and noncompliance with Standard Operating Procedures (SOPs) and insufficient patient explanation or lack of informed consent (Mahardika, 2022; Yunita, 2025; Siregar, 2025; Widjaja, 2025). Procedural or administrative errors and the heavy workload of medical personnel also contribute to malpractice incidents (Ulya & Akbar, 2023). The rise in malpractice cases reflects systemic vulnerabilities in healthcare services and legal protection mechanisms. These cases also reveal weaknesses in supervision and professional accountability, which often harm patients. A key challenge is distinguishing between professional malpractice and unavoidable medical risks, a boundary that is frequently blurred in practice (Dananjawa et al., 2019; Rahmayanti et al., 2024; Satria, 2024).

The increase in malpractice reports has raised concerns about the growing criminalization of medical errors, some of which stem from structural weaknesses rather than intentional wrongdoing. In many instances, reports of malpractice appear to be attempts at criminalizing healthcare workers, driven by limited public understanding of patient rights, fear of legal consequences among practitioners, and ineffective dispute-resolution mechanisms (Nasser, 2013; Eddy, 2019). Furthermore,

the old Criminal Code posed several issues, including excessive criminalization of medical personnel, weak sanctions for pharmaceutical offenses, and outdated provisions that failed to align with developments in medical technology (Indra & Fikri, 2024).

Studies on criminal policy toward medical personnel under the New Criminal Code are extensive. Thahir and Thongat (2025) analyze medical crimes, professional liability, and the protection of both patients and medical staff by comparing pre- and post-reform regulations. Their research examines patient rights, the role of professional ethics, and its relationship to criminal liability in medical practice. They find that Indonesian regulations already encompass key patient rights and professional responsibilities through laws and ethical codes. However, to ensure justice for harmed patients and legal certainty for medical personnel, further reform is needed particularly clearer definitions of criminal medical acts (negligence, causation, and intent), greater consistency in enforcement, and more explicit regulatory provisions.

Methangkool and Brook (2025) examine the ethical and conceptual implications of criminalizing medical errors, contrasting Western medical systems with legal and organizational contexts in Indonesia and other countries. They argue that while criminal law such as gross negligence manslaughter may be justified in severe cases, its indiscriminate use can produce more harm than benefit. Improving patient safety therefore requires fostering a non-punitive safety culture that prioritizes system-based risk reduction, adequate staffing, proper training, effective supervision, and error-reporting mechanisms without automatic criminal sanctions. Clear regulatory definitions of “gross negligence” are also essential to prevent ambiguity and ensure fairness.

Research in Indonesia on the Criminal Code and medical malpractice shows persistent regulatory ambiguity, particularly within Law Number 29 of 2004 on Medical Practice, which outlines doctors' rights and obligations but provides no clear procedures for investigating or prosecuting malpractice allegations. As a result, law enforcement relies heavily on the Criminal Procedure Code, creating inconsistencies with medical contexts and leading to complex, often inconclusive legal processes. Studies also find that current malpractice policies lack substantive justice, offer insufficient legal protection for physicians, and impose overly punitive sanctions without considering systemic factors contributing to medical errors. These weaknesses indicate that Indonesia's malpractice framework is still misaligned with fairness, clarity, and the need for procedural safeguards (Sutarno & Maryati, 2021; Mustafa & Darmawan, 2024; Kurniawan & Chandra, 2024).

This study offers novelty by conducting a comparative analysis of specific provisions in the new Criminal Code that affect medical professionals, supported by empirical data on malpractice reports in Indonesia, thereby bridging the gap between normative legal studies and real-world cases. The research also proposes a policy framework that integrates professional protection, victim justice, and patient safety through options such as offense reformulation, clearer standards of proof, and non-criminal mechanisms. Recent data indicate a significant rise in malpractice reports and cases involving medical personnel in criminal and administrative processes, raising concerns about excessive criminalization of clinical errors or system-driven failures. At the same time, victims and families demand fair access to justice, highlighting the need for balanced legal protections and clearer norms. Therefore, this study aims to analyze legal protections for medical professionals against criminalization under the new Criminal Code and assess key implementation challenges for medical practitioners.

2. Methods

This study employs a juridical-normative approach by examining the substantive provisions of the new Criminal Code (Law Number 1 of 2023), the Health Law, and a range of relevant judicial decisions to understand how criminal liability for medical professionals is formulated within Indonesia's current legal framework. The normative analysis focuses on the interpretation of criminal elements such as negligence, causation, and intent embedded in the revised Criminal Code, while also assessing how these provisions intersect with sector-specific regulations governing medical practice. To bridge the gap between legal doctrine and real-world application, the study incorporates empirical elements through content analysis of news reports and documented case studies. These include cases in which nurses, physicians, and other healthcare workers have been designated as criminal suspects, as well as incidents involving illegal aesthetic clinics and unlicensed medical procedures. Such cases provide concrete evidence of evolving law-enforcement practices, particularly regarding how investigative bodies apply criminal provisions to alleged malpractice or professional misconduct.

By combining doctrinal legal research with empirical observations, this study aims to illustrate how the new Criminal Code may shape the future of medical criminalization in Indonesia. The integration of case-based data demonstrates a growing trend in which medical errors, administrative shortcomings, or systemic failures within healthcare facilities increasingly lead to criminal investigations. This methodological design allows the research to capture not only the theoretical implications of the new Criminal Code but also its practical impact on healthcare workers, patient protection mechanisms, and the broader enforcement climate in the health sector. Through this hybrid approach, the study provides a comprehensive foundation for evaluating whether Indonesia's legal reforms align with principles of justice, professional protection, and patient safety.

3. Results and Discussion

3.1. Differences between Old and New Criminal Codes for Medical Personnel

Updates to Indonesia's Criminal Code commenced with the approval of the Draft Criminal Code (RKUHP) in 2019, following extensive deliberations that began in the early 2000s and intensified between 2000 and 2015. The RKUHP was formally enacted on September 25, 2019, signifying the replacement of the Criminal Code inherited from the Dutch colonial era of 1918. Nevertheless, several newly introduced provisions are scheduled to take effect in 2025. Among the revised provisions are articles specifically related to medical practice, which were amended to enhance legal certainty and protection for medical professionals. Medical personnel frequently operate in complex and high-risk situations, particularly during emergency care, where rapid clinical decision-making is required and may expose both patients and practitioners to potential risks. Moreover, medical professionals often face substantial pressure from patients' families, increasing the likelihood of disputes and legal exposure. The renewal of these legal provisions is therefore intended to provide assurance that medical professionals acting in accordance with established professional standards, medical ethics, and without intent or negligence will not be subject to unwarranted criminal liability. At the same time, the updated Criminal Code also safeguards patients and their families by clarifying accountability mechanisms in cases of proven medical negligence or error, thereby ensuring access to legal remedies for losses incurred (Dewangga et al., 2025).

Professional ethics constitute the moral foundation of healthcare services, while criminal law functions as a protective instrument to uphold patient rights and public interest. Law Number 17 of 2023 seeks to harmonize these two dimensions by

emphasizing legal protection for healthcare workers who adhere to professional standards, while also establishing a tiered mechanism for resolving violations, ranging from ethical and disciplinary proceedings to criminal sanctions (Supraba et al., 2025). Through these reforms, the new Criminal Code aims to maintain public trust in the medical profession while ensuring justice for patients who are victims of malpractice. The revised provisions further seek to clarify the legal definitions of “error” and “negligence” within medical practice, thereby preventing the excessive criminalization of medical professionals acting in good faith. These legal adjustments are aligned with existing professional and ethical regulations issued by organizations such as the Indonesian Medical Association (*Ikatan Dokter Indonesia/IDI*) and specialist medical associations, which emphasize patient autonomy, informed consent, and evidence-based medical decision-making. Several amended articles relevant to medical practice are summarized in Table 1.

Table 1. Changes to Articles of the Old and New Criminal Code

| Aspect | Old Criminal Code | New Criminal Code | Information |
|---|---|--|--|
| Gross negligence by health workers | Article 359 – general negligence that has the potential to cause serious injury or death. Article 360 – negligence causing death | Article 474, paragraph 3 of the New Criminal Code (gross negligence and focusing on health professionals). Article 475, paragraph 1 – Negligence causing death and focusing on health professionals | Negligence provisions are more specific and updated in the new Criminal Code according to modern standards. |
| Articles related to abortion by medical personnel | Article 349 of the Old Criminal Code (regulation of abortion by doctors, midwives, and pharmacists) | Article 465 of the new Criminal Code (regulation of abortion by medical personnel) | The New Criminal Code accommodates abortion provisions with more detailed exceptions, for example, medical emergencies or sexual violence. |
| Trapping of health workers | Article 55, paragraph 1 of the old Criminal Code (regulations regarding joint perpetrators) | The principle is the same but the legal subjects are expanded in the New Criminal Code | In the new Criminal Code, perpetrators can be individuals or corporations in certain contexts. |

Based on Table 1 above, we can see that the new Criminal Code provides more detailed regulations for medical personnel. This is done to accommodate changes in medical technology, which, of course, also pose different risks for each action taken. This aligns with the opinion of Haryadi et al. (2025), who stated that legal protection for medical personnel is crucial to ensure a sense of security, work comfort, and legal certainty for healthcare workers in carrying out their duties optimally and in accordance with professional ethical standards. The previous Criminal Code demonstrated weak implementation of legal protection for healthcare workers. Many cases demonstrate that healthcare workers are the most vulnerable parties when medical disputes arise, even though legal negligence may not necessarily occur. The lack of legal assistance, the medical personnel’s lack of understanding of their legal rights, and weak regulatory protection at the institutional level exacerbate this situation. The implementation of the new Criminal Code provides a

legal umbrella not only for healthcare workers but also for patients and their families.

3.2. Distinguishing Medical Malpractice from Medical Risk

Public understanding and even the interpretation within several law enforcement institutions often remains unclear regarding what constitutes medical malpractice versus a medical risk. Malpractice refers to a professional error (negligence or deviation from professional standards), including failure to exercise proper care, procedural deviations, or other acts that cause harm to patients. In contrast, medical risk refers to the possibility of complications or adverse outcomes that may occur even when medical procedures are performed correctly, according to applicable standards and protocols; these outcomes involve inherent uncertainty and do not constitute a doctor's fault if proper procedures were followed (Basyarudin, 2021).

Given the rise of malpractice allegations in Indonesia, the government seeks to balance the rights of patients and medical personnel through reforms introduced in the new Criminal Code (Law Number 1 of 2023). Notably, Article 344 states: Every person who carries out an act to help someone in good faith that results in injury or death shall not be punished. This provision affirms the state's commitment to offering legal protection to medical personnel who act in good faith, adhere to professional standards, follow SOPs and medical procedures, and obtain valid informed consent from patients.

Informed consent, or consent to medical treatment, as defined in Article 1 of the Minister of Health Regulation Number 290 of 2008 on Medical Action Consent, refers to approval given by a patient or their family. The concept of informed consent was developed to shift the doctor-patient relationship from a paternalistic model to a collaborative partnership based on mutual agreement. In civil law, informed consent is linked to two legal foundations, *ius contractus*, which governs agreements or contracts between parties, including their formation, obligations, dispute resolution, and legal consequences in cases of breach; and *ius delicto*, which regulates unlawful acts, defining legal wrongdoing, sanctions, causality principles, and liability for violations of legal norms (Sofyan, 2017). Informed consent holds essential significance in medical procedures because it is a mandatory requirement. It must be provided in written form and signed by the patient prior to undergoing any medical intervention, as it is closely related to documentation within the patient's medical record (Ikhsan & Christianto, 2022).

Doctors are generally considered to know what is best for their patients, reflecting the ethical principle of beneficence, which prioritizes actions intended for the patient's well-being. Legally, the doctor-patient relationship is known as a therapeutic transaction, beginning with anamnesis, followed by physical examination, diagnosis, and the determination of appropriate medical treatment. Before any procedure is performed, the patient must provide informed consent. According to the Indonesian Minister of Health Regulation Number 585 of 1989, informed consent is approval given by the patient or their family based on a clear explanation of the medical procedure. This information must be provided regardless of whether the patient requests it, and all medical actions require prior consent. If a procedure is conducted without such consent, the doctor may face administrative sanctions, including revocation of their practice license. Informed consent is also closely connected to human rights, and its legal basis in Indonesia is firmly established in the Health Law (Law Number 36 of 2009), Government Regulation Number 32 of 1996 on Health Workers, the Medical Practice Law (Law Number 29 of 2004), and the Consumer Protection Law (Law Number 8 of 1999). Today, informed consent is a mandatory requirement in medical practice as written approval for any medical intervention (Ikhsan & Christianto, 2022).

In the Indonesian Medical Code of Ethics, doctors who provide medical assistance are required to follow professional standards as guidelines for proper practice.

Adherence to these standards helps prevent harm and reduces the risk of legal claims arising from perceived negligence. Medical negligence generally occurs when a doctor fails to follow standard operating procedures, professional standards, or established medical protocols, often due to insufficient knowledge of the patient's condition or inadequate mastery of medical science (Widjaja, 2025). Such violations are viewed as ethical breaches that may result in patient harm, including disability or death. By contrast, medical risk refers to adverse outcomes that may occur even when procedures are performed correctly according to professional standards. The following Table 2 provides a comparison between medical risk and medical negligence.

Table 2. Risk Medical and Negligence Medical

| No. | Risk Medical | Negligence Medical |
|-----|---|--|
| 1. | Unforeseeable and unintentional | Violates ethics, morals, and professional discipline |
| 2. | No element of error or fault | Contrary to with law |
| 3. | In accordance with professional standards and ethics | Deviates from established medical professional standards |
| 4. | Cannot be blamed, prevented, or anticipated in advance | Results from lack of knowledge, outdated professional knowledge, or failure to apply commonly accepted valid medical knowledge |
| 5. | The doctor has been careful, serious, and utilized all knowledge, skills, and experience | Involves neglect, carelessness, lack of carefulness, indifference, disregard for patient safety, or striking errors |
| 6. | Possible risks are minimized through preventive measures | |
| 7. | Therapy begins when abnormalities are identified, and consultation with a specialist is conducted | |

The explanation in Table 2 shows that the main benchmark for distinguishing medical risk from medical negligence is compliance with standard operating procedures, professional standards, and assessments from the medical profession. Nadeak (2024) affirms that the establishment of the Assembly of Professional Discipline (*Majelis Disiplin Profesi/MDP*) as mandated by Law Number 17 of 2023 on Health replaces the role of the Honorary Council of Indonesian Medical Discipline (*Majelis Kehormatan Disiplin Kedokteran Indonesia/MKDKI*) in overseeing medical professionalism. The assembly of professional discipline expands disciplinary authority to all health professions and ensures a fair preliminary evaluation before any criminal health-law process proceeds. Effective coordination between the assembly of professional disciplines and law enforcement agencies is essential to maintain procedural correctness and avoid overlap with the Criminal Procedure Code. By providing professional evaluations based on clear standards, the assembly of professional discipline helps prevent disproportionate criminalization of medical personnel. Its implementation is expected to strengthen legal protection, ensure procedural justice, and contribute to improving the quality of healthcare services.

3.3. Legal Framework and Challenges in Case Resolution

Nadeak (2024) affirms that the establishment of the Assembly of Professional Discipline (*Majelis Disiplin Profesi/MDP*) as mandated by Law Number 17 of 2023 on Health replaces the role of the Honorary Council of Indonesian Medical Discipline (*Majelis Kehormatan Disiplin Kedokteran Indonesia/MKDKI*) in overseeing medical professionalism. The assembly of professional discipline expands disciplinary authority to all health professions and ensures a fair preliminary

evaluation before any criminal health-law process proceeds. Effective coordination between the assembly of professional disciplines and law enforcement agencies is essential to maintain procedural correctness and avoid overlap with the Criminal Procedure Code. By providing professional evaluations based on clear standards, the assembly of professional discipline helps prevent disproportionate criminalization of medical personnel. Its implementation is expected to strengthen legal protection, ensure procedural justice, and contribute to improving the quality of healthcare services.

Articles 359–360 of the Criminal Code regulate acts that cause injury, serious injury, or death when such consequences occur without intent and arise from negligence (*culpa*). These provisions require the fulfillment of several essential elements, namely negligent conduct, the existence of a specific act, the occurrence of harm in the form of injury, serious injury, or death, and a causal relationship between the act and the resulting harm. When compared with Article 338 of the Criminal Code, which governs intentional homicide (*dolus*), it can be observed that the elements of a concrete act, harmful consequences, and causality are largely similar. The fundamental distinction lies in the mental element, as Article 359 is based on a lack of due care, whereas Article 338 involves deliberate intent to cause death. In this context, legal protection for medical professionals is further reinforced by Article 345 of the Criminal Code, which provides that medical actions or treatments resulting in injury or death shall not be subject to criminal punishment if they are performed in accordance with professional standards and standard operating procedures, carried out in good faith for the benefit of the patient, and based on informed consent from the patient or the patient's family (Ikhsan & Christianto, 2022).

Criminal provisions for health workers differ between Law Number 36 of 2014 and Law Number 17 of 2023. Article 84 of Law Number 36 of 2014 imposes penalties of up to five years' imprisonment for gross negligence, while Article 440 of Law Number 17 of 2023 provides more detailed and specific sanctions, including imprisonment and fines. These updates aim to ensure that medical personnel are not easily criminalized by patients' families for alleged malpractice, particularly when an adverse outcome is actually a medical risk, not professional negligence. Medical risk refers to adverse effects that may occur as a consequence of medical procedures, even when performed carefully and in full compliance with professional standards. When doctors act diligently and according to established medical protocols, they cannot be held criminally liable. Examples of acceptable medical risks include minor risks with low probability and severity, such as drug side effects, bleeding, or infection during surgery, as well as high-risk procedures that must be performed because they are the only available or life-saving option, especially in emergency conditions (Sofyan, 2017).

Medical error, unlike medical risk, refers to a mistake that occurs during the medical care process, which results in or has the potential to result in patient injury. A medical error includes the failure to properly carry out a planned action or the use of an incorrect plan to achieve the intended outcome. Such errors may occur either because an inappropriate action is taken or because an action that should have been taken is omitted. Medical error, or medical negligence, is the failure of a physician to act with the level of care that a reasonably careful and competent physician would exercise under similar circumstances, thereby causing harm to the patient or their family. In determining negligence, considerations include whether the physician fulfilled their professional duties, whether there was a dereliction of duty, whether damage occurred, and whether there is direct causation between the physician's conduct and the resulting harm (Sofyan, 2017).

Article 346 of the New Criminal Code states: "Anyone who intentionally performs a medical or health-related action without consent as referred to in Article

345 letter c shall be punished with imprisonment of up to one year or a Category III fine." This provision demonstrates that medical practitioners may be criminally prosecuted if they perform medical procedures without the patient's consent. Thus, the New Criminal Code not only provides legal protection for medical professionals but also safeguards patients' rights (Widjaja, 2025). Furthermore, if a medical professional is proven to have committed negligence resulting in serious injury, Article 422 of the New Criminal Code stipulates that they may be sentenced to a maximum of two years' imprisonment or a Category IV fine. If the negligence results in death, Article 423 provides that the medical professional may face up to five years' imprisonment or a Category V fine. However, in its application, these provisions must still be interpreted in conjunction with the articles that provide legal protection for medical practitioners, namely Articles 344–346.

Article 599 of the New Criminal Code affirms that a person cannot be punished without the presence of fault (*dolus or culpa*). This strengthens the principle of "no crime without error" (*geen straf zonder schuld*). It means that medical personnel can only be convicted if intentional misconduct or negligence is proven. This policy is expected to provide legal certainty for medical professionals in carrying out their duties, serving as a preventive measure against unwarranted criminalization while promoting higher standards of medical services and transparency toward patients (Basyarudin, 2021).

Informed consent plays a pivotal role in medical practice, as it establishes a clear legal and ethical foundation when a physician has adequately disclosed potential risks and the patient has voluntarily agreed to the proposed medical intervention. Under such circumstances, complications that arise, provided they are not the result of negligence, may serve as evidence that malpractice has not occurred. The New Indonesian Criminal Code offers broader legal protection and clearer regulatory guidance concerning criminal acts involving medical practitioners, encompassing negligence, malpractice, abuse of authority, and violations of patient rights (Suseno et al., 2025). At the same time, these provisions require medical personnel to exercise heightened diligence, comply strictly with professional standards and medical procedures, and uphold professional integrity as well as patient confidentiality. The updated Criminal Code introduces substantive legal reforms that directly affect medical professionals by clarifying the scope of criminal liability related to malpractice and negligence within the context of lawful and ethical medical practice.

The Assembly of Professional Discipline faces significant challenges in addressing the criminalization of medical personnel, which must be examined through the lens of statutory regulations, professional ethics, and professionalism. Criminalization often arises when medical practitioners are perceived as negligent or unethical, resulting in public harm, and if a violation of the code of ethics is proven, the assembly of professional discipline may impose disciplinary sanctions such as warnings, suspension, or the revocation of a practice license. However, the assembly of professional discipline encounters major obstacles, including the difficulty of distinguishing medical negligence from medical crime, which requires a complex and lengthy evaluation; challenges in proving criminal acts and establishing intent or gross negligence; and media framing that worsens public perception of healthcare providers. Therefore, the assembly of professional discipline must act cautiously during investigations and decision-making to uphold justice and proportionality, avoid undue involvement in criminal processes, maintain independence, resist external pressure, and ensure that sanctions imposed are appropriate and proportional to the violations committed (Nadeak, 2024).

4. Conclusion

Based on the analysis of criminal policy changes in the new Criminal Code (Law Number 1 of 2023), it can be concluded that the updated provisions offer a more

adaptive and humanistic direction for regulating the medical profession. The new Code clearly distinguishes medical negligence from medical risk and affirms that healthcare workers are legal subjects entitled to protection as long as medical actions are performed according to professional standards, operational procedures, and good faith. It also introduces more detailed regulations to accommodate advancements in medical technology, which inherently bring varying levels of risk. Compared to the previous Criminal Code, which provided weak legal safeguards, the new framework strengthens protection for both medical personnel and patients. However, its implementation faces several challenges. Proving medical negligence remains difficult due to the complexity of medical conditions, differing expert opinions, lengthy causality assessments, and incomplete documentation. The Medical Discipline Assembly also encounters obstacles in distinguishing ethical violations from actions that fulfil criminal elements, requiring careful and proportional evaluations to maintain independence and avoid excessive criminalisation.

Articles such as 344–346 and 422–475 illustrate the state's effort to balance patient rights with the protection of healthcare workers. Yet, practical barriers persist, including limited public understanding of medical risks, weak professional accountability systems, overlapping regulations, and suboptimal coordination among law enforcement and disciplinary institutions. Although the new Criminal Code represents significant progress toward a more protective and substantively just criminal law system, further institutional strengthening, regulatory harmonization, and legal socialization are required to ensure effective implementation.

This study contributes to the development of criminal and health law by emphasizing the need for a balanced approach between law enforcement and protection for medical professionals. Future improvements should include derivative regulations, technical guidelines, and enhanced capacity of law enforcement and professional bodies so that the implementation of the new Criminal Code aligns with the principles of restorative justice. With these improvements, medical personnel can perform their duties humanely and confidently, while patients' rights remain fully protected under fair and just legal principles.

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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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