

DECLARATION

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

I hereby declare that the undergraduate thesis which entitled “**THE URGENCY OF THE MEDICAL MALPRACTICE COURT FOR RESOLVING MEDICAL MALPRACTICE CASES IN INDONESIA**”, its content is my own original work and no portion of my thesis has been copyrighted previously unless properly referenced. On this statement, I am ready to bear the risk / any sanctions imposed to me in accordance with applicable regulations, if in the future found a breach of items above, I am willing to accept the sanctions.

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Yogyakarta, August 21th, 2016

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DEDICATION

This Undergraduate Thesis is dedicated to:

My Parents

Dwi Wati,. S.Pd. and Suharso., S.Pd.

My Sisters and Brothers

Woro Widyastuti, S.IP.

Vita Widayumurni, S.Farm., Apt.

Bayu Adhie Winarto

Oktavierik Tegar Nugraha Putra

and

Faculty of Law, Universitas Muhammadiyah Yogyakarta.

FOREWORD

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Lastly, the undergraduate thesis is not perfect, suggestions are always accepted. Hopefully, this thesis is useful for readers and for future research about similar topic or any related field.

Apriana Daru Prabowo Wati

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BIBLIOGRAPHY

LIST OF STATUTES

Kitab Undang-Undang Hukum Perdata (The Indonesian Civil Code)

Kitab Undang-Undang Hukum Pidana (The Indonesian Penal Code)

Undang-Undang No. 29 Tahun 2004 tentang Praktik Kedokteran (The Medical Practice Act 2004)

Undang-Undang No. 36 Tahun 2009 tentang Kesehatan (The Health Act 2009)

Undang-Undang No. 36 Tahun 2014 tentang Tenaga Kesehatan (The Healthcare Professionals Act 2014)

Undang-Undang No. 44 Tahun 2009 tentang Rumah Sakit (The Hospital Act 2009)

Undang-Undang No. 48 Tahun 2009 tentang Kekuasaan Kehakiman (The Judicial Power Act 2009)

Undang-Undang No. 8 Tahun 1999 tentang Perlindungan Konsumen (The Consumer Protection Act 1999)

LIST OF ABBREVIATIONS

- 4D : Duty of Care, Dereliction of the Duty, Direct Causation, Damage.
- IDI : *Ikatan Dokter Indonesia* (Indonesian Medical Association).
- LBH Kesehatan : *Lembaga Bantuan Hukum Kesehatan* (Legal Aid Institution in Health).
- MKDKI : *Majelis Kehormatan Disiplin Kedokteran Indonesia* (Medical Disciplinary Tribunal).
- MKEK : *Majelis Kehormatan Kode Etik Kedokteran* (Medical Ethic Tribunal).
- SIP : *Surat Izin Praktik* (Practicing License).
- STR : *Surat Tanda Registrasi* (Registration Letter).
- The MPA 2004 : The Medical Practice Act 2004.