

UNIVERSITI TEKNOLOGI MARA

**A STUDY ON LEGAL AND ETHICAL
BASIS FOR MEDICAL APOLOGY IN
MALAYSIA**

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Thesis submitted in fulfilment of the requirements for
the degree of

**Master of Medical Ethics and Medical
Jurisprudence**

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AUTHOR'S DECLARATION

I declare that the work in this thesis was carried out in accordance with the regulations of Universiti Teknologi MARA. It is original and is the result of my own work, unless otherwise indicated or acknowledged as referenced work. This thesis has not been submitted to any other academic institution or non-academic institution for any degree or qualification.

I, hereby, acknowledge that I have been supplied with the Academic Rules and Regulations for Post Graduate, Universiti Teknologi MARA, regulating the conduct of my study and research.

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ABSTRACT

When things go wrong during medical procedure, patients expect an explanation from medical practitioner of what happened. Patients have their rights to full disclosure following a medical error which it is also therapeutic in relieving their anxiety. A disclosure followed by an apology would most probably bring positive outcome towards the disclosure process. An apology also help to preserve the relationship which has been deteriorate between the medical practitioner and patient. However, in certain circumstances an apology made could be misinterpreted by the patient when it is made at a wrong time without properly well prepared. As a result, the apology made was used against medical practitioner as evidence of admission of fault in court. Thus, most of medical practitioners fear to make an apology due to possible medical litigation. This has put medical practitioner in dilemma whether or not to make apology when things go wrong. In relation towards this issue, several jurisdictions like Canada, United States and Australia have enacted legislation on apology. The purpose of this apology laws is to provide protection towards those people who wish to convey the expression of sympathy through apology. In contrast towards Malaysia legal system, there was no specific legislation to protect medical practitioner in making apology. Thus it raises a question whether a specific legislation is required like other jurisdiction in order to provide protection toward apology from being used as evidence in legal proceedings. This paper will discuss to what extend does apology is an admissible evidence in determining liability and the best way to implement medical apology according to Malaysia context.

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