

International Scientific Conference

# HEALTH IN ALL POLICIES 20 YEARS LATER

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Erasmus University Rotterdam, Erasmus School of Law



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Institute of Social Sciences  
Vojvodina Bar Association  
Erasmus University Rotterdam

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# HEALTH IN ALL POLICIES – 20 YEARS LATER

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## RETHINKING MEDICAL LIABILITY IN ELECTIVE COSMETIC SURGERY: LEGAL GAPS AND ETHICAL CHALLENGES

The increasing global prevalence of elective cosmetic procedures has reshaped traditional conceptions of medical liability in cosmetic surgery. This trend challenges established doctrines of professional responsibility. This expansion has occurred within a fragmented and inconsistent regulatory landscape, generating significant legal, ethical, and policy concerns, particularly with respect to physicians' duties to prioritize patient welfare and uphold both legal and professional standards of conduct. Elective cosmetic interventions carry significant risks of harm, with potentially serious consequences where procedures are performed by inadequately qualified practitioners or involve the use of unsafe or substandard products, thereby raising critical questions concerning breach of the duty of care and the applicable standard of professional conduct.

These challenges are further compounded by the fact that cosmetic procedures are primarily driven by patients' expectations rather than therapeutic necessity. As a result, the legal and ethical assessment of informed consent, the content of the physician's duty to disclose, and the determination of the appropriate standard of care assume particular significance. Within this context, physicians engaged in cosmetic procedures, including plastic surgeons, face a disproportionately high risk of litigation and formal complaints compared with other medical specialties. This elevated risk of legal liability has been attributed to a convergence of factors, including unrealistic patients' expectations, increasingly adversarial litigation practices, deficiencies in preoperative assessment, and substandard professional conduct by a minority of practitioners. Patient representatives and legal scholars further argue that the growing commoditisation of medicine, the endorsement of contested aesthetic norms, the euphemistic framing of outcomes,

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and departures from established informed consent procedures undermine fundamental principles of professional responsibility and heighten the risk of legal and ethical accountability.

This paper critically analyses the adequacy of the existing legal frameworks governing medical liability in elective cosmetic interventions, focusing on physicians' duty of care, standards of professional responsibility, and informed consent obligations, and assesses whether these frameworks sufficiently address the distinctive risks posed by elective, expectation-driven interventions. The analysis employs a doctrinal approach, drawing on legislation, case law, and ethical guidelines. This analysis highlights gaps in current liability frameworks and identifies areas where legal and ethical standards may need reform to adequately protect patients and clarify physicians' responsibilities.

**Keywords:** Elective cosmetic surgery, Medical liability, Informed consent, Duty of care, Ethical and professional responsibility