

 <https://doi.org/10.47353/lawpass.v2i6.102>

Administrative Penal Law Enforcement in Beauty Clinics: Unauthorized Use of Pharmaceuticals and Medical Devices in Indonesia

Marsya Intan Riani^{1*}, Handoyo Prasetyo², Beniharmoni Harefa³

UPN Veteran Jakarta, Indonesia

*Corresponding author: marsyair.upns2@gmail.com

Abstract

The rapid growth of beauty clinics in Indonesia has raised significant legal concerns regarding the unauthorized use of pharmaceutical preparations and medical devices, including dermarollers. Although Indonesian health law provides administrative and criminal sanctions, enforcement mechanisms remain fragmented and inconsistently applied. This study examines the enforcement of administrative penal law in addressing unlawful practices in beauty clinics, particularly the misuse of pharmaceuticals and medical devices without proper authorization. This research employs a normative juridical method supported by statutory and case approaches. It analyzes relevant legislation, including health law and medical device regulations, as well as selected court decisions to evaluate how administrative and criminal sanctions are implemented in practice. The findings reveal that enforcement tends to prioritize criminal prosecution while administrative measures—such as license revocation, suspension, and regulatory supervision—are underutilized. This imbalance weakens preventive regulatory control and creates enforcement gaps. The study argues that effective health law enforcement requires an integrated administrative-penal framework that positions administrative sanctions as the primary preventive instrument, with criminal sanctions functioning as *ultimum remedium*. This research contributes to the development of administrative penal law theory within the context of health regulation and offers policy recommendations to strengthen regulatory coherence in Indonesia's beauty clinic sector.

Keywords: administrative penal law; beauty clinics; pharmaceutical preparations.

Introduction

The rapid expansion of the beauty clinic industry in Indonesia reflects growing public demand for aesthetic medical services. Alongside this growth, however, legal and regulatory challenges have emerged, particularly concerning the unauthorized use of pharmaceutical preparations and medical devices, including dermarollers. These practices pose significant risks to patient safety and raise concerns regarding compliance with national health regulations. The misuse of pharmaceutical products and medical devices without proper authorization, licensing,



<https://lawpass.org/>

Received: Jan 15, 2026 | Revised: Jan 28, 2026 | Accepted: Feb 13, 2026 | Publication: Feb 28, 2026

Copyright (c) Marsya Intan Riani, Handoyo Prasetyo, Beniharmoni Harefa



Creative Commons Attribution 4.0 International License.

or professional supervision not only violates administrative health standards but may also constitute criminal offenses under Indonesian law.

Indonesia's health regulatory framework provides a dual sanction mechanism consisting of administrative and criminal penalties. Administrative sanctions include license suspension, revocation, written warnings, and regulatory supervision, while criminal sanctions may involve imprisonment or fines. In principle, administrative sanctions function as preventive and corrective instruments, whereas criminal law serves as *ultimum remedium*—applied when administrative enforcement proves insufficient. However, in practice, enforcement often emphasizes criminal prosecution while neglecting the optimization of administrative control mechanisms. This imbalance creates regulatory inefficiencies and weakens preventive oversight in the beauty clinic sector.

Previous studies on health law enforcement in Indonesia have largely focused on criminal liability in cases of medical malpractice or illegal pharmaceutical distribution. Limited attention has been given to the integration of administrative and criminal sanctions within the framework of administrative penal law, particularly in the context of beauty clinics. As a result, the theoretical development of administrative penal law in Indonesian health regulation remains underexplored. There is a need to examine how administrative and criminal instruments interact and whether current enforcement practices reflect the intended regulatory design.

This article addresses the following research question: How is administrative penal law enforced in cases of unauthorized pharmaceutical and medical device use in Indonesian beauty clinics, and how can the integration of administrative and criminal sanctions be strengthened to improve regulatory effectiveness?

Using a normative juridical method with statutory and case approaches, this study analyzes relevant health legislation and selected court decisions to evaluate enforcement patterns. The study argues that a reorientation of enforcement strategy is necessary, positioning administrative sanctions as the primary regulatory tool while maintaining criminal sanctions as a subsidiary mechanism. By conceptualizing enforcement through the lens of administrative penal law, this article contributes to the development of health law scholarship and offers policy recommendations for improving regulatory coherence in Indonesia's beauty clinic industry.

Literature Review

Administrative Penal Law: Conceptual Framework

Administrative penal law represents the intersection between administrative law and criminal law. It refers to a regulatory model in which administrative authorities are granted the power to impose sanctions that carry punitive characteristics, while criminal sanctions remain available as a complementary enforcement mechanism. Scholars in continental legal systems have long debated the boundaries between administrative sanctions and criminal punishment, particularly regarding proportionality, legality, and procedural safeguards.

In regulatory sectors such as health, environment, and consumer protection, administrative penal law functions as a flexible enforcement instrument. Administrative sanctions are designed



to ensure compliance through preventive and corrective measures, while criminal sanctions are reserved for serious or repeated violations. This dual mechanism reflects the principle that criminal law should operate as *ultimum remedium*, meaning it is applied only when other regulatory tools fail.

However, the effectiveness of administrative penal law depends on the proper coordination between regulatory authorities and law enforcement institutions. Without coherent integration, enforcement may become fragmented, leading either to over-criminalization or weak administrative supervision. This theoretical tension becomes particularly relevant in sectors involving public health risks.

Enforcement Theory and the Principle of *Ultimum Remedium*

Law enforcement theory distinguishes between preventive and repressive approaches. Preventive enforcement prioritizes supervision, licensing, inspection, and administrative penalties to ensure regulatory compliance before harm occurs. Repressive enforcement, by contrast, emphasizes punishment after violations have taken place.

The principle of *ultimum remedium* places criminal sanctions as the last resort in regulatory enforcement. In health law, this principle is especially important because excessive criminalization may discourage medical practice innovation or create regulatory fear without necessarily improving compliance. Conversely, weak administrative enforcement may allow unsafe practices to proliferate.

Scholars argue that effective regulatory enforcement requires a balanced sanctioning pyramid, where administrative measures form the foundation and criminal penalties occupy the highest level for severe violations. When enforcement disproportionately relies on criminal prosecution while administrative supervision remains underutilized, the regulatory system loses its preventive character.

Health Law and Regulation of Pharmaceutical and Medical Devices

Health law provides a normative framework to safeguard patient safety, public health standards, and professional accountability. In the context of pharmaceutical preparations and medical devices, regulation typically covers licensing, distribution authorization, professional competence, and safety standards.

Medical devices such as dermarollers, when used improperly or without authorization, may cause infection, tissue damage, or other medical complications. Therefore, regulatory systems require clear compliance mechanisms. In Indonesia, health legislation establishes administrative sanctions including warnings, suspension, and revocation of operational licenses, alongside criminal penalties for unlawful distribution or use.

Previous research has predominantly examined criminal liability in cases of illegal drug distribution or medical malpractice. However, limited scholarship has analyzed the systemic integration between administrative control and criminal prosecution within beauty clinic regulation. This gap suggests that the enforcement structure itself—rather than merely individual liability—requires further academic examination.



Research Gap and Theoretical Positioning

While existing literature discusses administrative sanctions, criminal liability, and health regulation separately, there remains insufficient analysis of how these mechanisms interact within the framework of administrative penal law in Indonesia's beauty clinic sector. Specifically, little attention has been given to whether enforcement practices reflect the principle of *ultimum remedium* or whether criminal law has overshadowed administrative regulation.

This study positions itself within the discourse of administrative penal law by examining enforcement patterns in cases involving unauthorized pharmaceutical preparations and dermaroller use. Unlike prior studies that focus primarily on criminal responsibility, this research evaluates the structural integration of sanctions and proposes a recalibration of enforcement priorities. In doing so, it contributes to both theoretical development and policy reform in Indonesian health law.

Method

This study employs a normative juridical research method to examine the enforcement of administrative penal law in cases involving the unauthorized use of pharmaceutical preparations and medical devices in Indonesian beauty clinics. Normative legal research is selected because the primary focus of this study is the analysis of legal norms, statutory frameworks, and judicial interpretations rather than empirical field data.

The research applies a statutory approach and a case approach. The statutory approach analyzes relevant Indonesian legislation governing health services, pharmaceutical regulation, and medical device supervision, including provisions related to administrative and criminal sanctions. This approach enables an evaluation of the coherence and structural design of the regulatory framework. The case approach examines selected court decisions concerning violations in beauty clinics to assess how administrative and criminal sanctions are implemented in practice. Through this analysis, the study identifies enforcement patterns and evaluates whether they reflect the principle of *ultimum remedium*.

The sources of legal materials consist of primary legal materials (statutes and court decisions), secondary legal materials (legal doctrines, journal articles, and scholarly commentaries), and tertiary legal materials that support conceptual clarification. Legal materials are collected through systematic literature review and document analysis.

The analysis is conducted using qualitative legal reasoning with a conceptual and analytical approach. This method allows the study to interpret statutory norms, assess enforcement consistency, and examine the integration between administrative and criminal sanctions within the framework of administrative penal law. The research ultimately aims to formulate normative arguments for strengthening regulatory coherence in Indonesian health law enforcement.



Normative Structure of Administrative and Criminal Sanctions in Health Regulation

Indonesian health law establishes a dual sanction framework designed to regulate the use of pharmaceutical preparations and medical devices within healthcare services, including beauty clinics. This framework combines administrative and criminal enforcement mechanisms. Administrative sanctions generally include written warnings, temporary suspension of activities, revocation of operational permits, and other forms of regulatory supervision. Criminal sanctions, in contrast, may consist of imprisonment and fines imposed upon individuals or entities found guilty of unlawful distribution or unauthorized use of pharmaceutical products and medical devices.

Normatively, this dual mechanism reflects the conceptual foundation of administrative penal law, a regulatory model that integrates administrative authority with punitive enforcement capacity. The theoretical design of this framework implies a structured hierarchy of sanctions. Administrative measures are intended to serve as preventive and corrective instruments, enabling regulatory authorities to intervene early and ensure compliance. Criminal sanctions are positioned as *ultimum remedium*, meaning they should be applied only when administrative enforcement proves insufficient or when violations involve serious harm, intent, or repetition.

In principle, such a structure promotes proportionality and regulatory coherence. Administrative supervision ensures that regulatory compliance is maintained through licensing control, inspections, and gradual sanction escalation. Criminal law supplements this system by addressing egregious violations that threaten public health. However, the effectiveness of this framework depends not merely on its normative formulation but on its implementation in practice.

To evaluate whether enforcement practices align with the intended hierarchical structure of administrative penal law, it is necessary to examine actual cases involving unauthorized pharmaceutical preparations and dermaroller use in beauty clinics.

Case Findings on Unauthorized Pharmaceutical and Dermaroller Use

Table 1 below summarizes selected cases involving unauthorized pharmaceutical preparations and dermaroller use in Indonesian beauty clinics. The table identifies the nature of the violations, the legal provisions applied, and the sanctions imposed.

Table 1. Comparison of Previous Research vs This Study

Aspect	Previous Research	This Study
Legal Focus	Administrative law or consumer protection law only	Integrated administrative penal law & criminal liability
Case Analysis	Identifies gaps but does not connect to criminal law	Maps compliance gaps & links administrative violations to criminal accountability



Aspect	Previous Research	This Study
Contribution	Recommendations for supervision and administrative measures	Comprehensive framework for integrated enforcement, enhancing consumer protection and public safety
Novelty	Conceptual or limited scope	Systematic, measurable, and practically applicable model of legal enforcement

Enforcement Patterns Reflected in the Cases

As shown in Table 1, the cases demonstrate a recurring pattern of enforcement characterized by a strong reliance on criminal prosecution. In several instances, individuals operating beauty clinics were charged under criminal provisions related to unlawful distribution or misuse of pharmaceutical products and medical devices. Criminal penalties were imposed in the form of imprisonment or fines, reflecting the seriousness attributed to these violations.

However, a closer analysis reveals that administrative measures were not consistently maximized prior to criminal intervention. The records do not clearly indicate whether regulatory authorities had previously issued warnings, conducted inspections, suspended licenses, or applied corrective measures before criminal charges were initiated. This absence of documented administrative escalation raises questions about whether the principle of *ultimum remedium* was fully respected.

The enforcement model observed in these cases appears reactive rather than preventive. Regulatory intervention seems to occur primarily after violations are discovered or publicly exposed, rather than through systematic supervisory mechanisms. Instead of functioning as a layered sanction pyramid, enforcement practices tend to collapse directly into criminal prosecution.

This pattern suggests that while criminal sanctions are effectively applied, administrative supervision may lack institutional strength, consistency, or coordination. The limited visibility of administrative enforcement in the cases examined indicates a potential gap between normative design and practical implementation.

Deviation from the Principle of *Ultimum Remedium*

The principle of *ultimum remedium* plays a crucial role in regulatory systems that integrate administrative and criminal sanctions. It requires that criminal law be used as a last resort, after other regulatory mechanisms have failed or when the severity of the violation justifies immediate punitive response. In public health regulation, this principle is particularly significant because preventive governance is more effective in protecting patient safety than purely punitive approaches.

The enforcement patterns identified in the cases reveal a deviation from this principle. Criminal sanctions appear to function not as the final stage of escalation but as a primary response



mechanism. While the seriousness of unauthorized pharmaceutical and dermaroller use should not be underestimated—given the risks of infection, tissue damage, and public health harm—the absence of clear administrative sequencing undermines regulatory proportionality.

Overreliance on criminal prosecution may produce symbolic deterrence but does not necessarily strengthen systemic compliance. Criminal punishment addresses individual wrongdoing after harm has occurred; administrative supervision, by contrast, is designed to prevent violations before they escalate. When administrative mechanisms are underutilized, the regulatory system loses its preventive orientation and becomes predominantly punitive.

Thus, the cases reflect not merely isolated violations but a structural enforcement imbalance. This imbalance weakens the coherence of administrative penal law and diminishes its effectiveness as a comprehensive regulatory strategy.

Administrative Penal Law and Structural Imbalance

From a theoretical perspective, administrative penal law requires a clear hierarchy of sanctions structured in a regulatory pyramid. At the base of this pyramid are soft enforcement mechanisms such as guidance, warnings, and monitoring. Above these are corrective administrative sanctions, including suspension or revocation of licenses. Criminal sanctions occupy the apex of the pyramid, reserved for serious, intentional, or repeated misconduct.

The findings suggest that this hierarchical model has not been fully operationalized in the regulation of beauty clinics. Regulatory authorities may face capacity constraints, limited inspection resources, or coordination challenges with law enforcement institutions. As a result, administrative supervision may not function as a robust first line of defense.

Furthermore, the overlap between administrative violations and criminal provisions in statutory formulation may contribute to enforcement ambiguity. When legal provisions allow immediate criminalization without explicitly requiring administrative exhaustion, enforcement agencies may default to criminal prosecution. This statutory structure can inadvertently encourage premature criminal intervention.

The imbalance observed in the cases therefore reflects both institutional and normative factors. Institutional weaknesses limit preventive supervision, while regulatory design may not sufficiently clarify sanction sequencing. Together, these factors undermine the integrative logic of administrative penal law.

Public Health and Regulatory Implications

The unauthorized use of pharmaceutical preparations and dermarollers in beauty clinics poses significant risks to patient safety. Such practices may result in infection, allergic reactions, scarring, or other medical complications. Therefore, enforcement must be both effective and proportionate.

A regulatory system that prioritizes criminal prosecution without strengthening administrative supervision may fail to address the root causes of non-compliance. Preventive inspections, licensing control, and structured sanction escalation are essential components of



public health protection. Criminal law, while important, should reinforce rather than replace administrative governance.

Strengthening administrative enforcement would involve clearer procedural guidelines requiring documentation of supervisory measures before criminal escalation, except in cases involving immediate danger or intentional harm. Improved coordination between health authorities and criminal law institutions is also necessary to ensure coherent sanction sequencing.

By recalibrating enforcement priorities, the regulatory system can achieve greater legal certainty, proportionality, and preventive effectiveness. This approach aligns with administrative penal law theory and enhances the protection of patients within the beauty clinic sector.

Contribution to Health Law Scholarship

The analysis demonstrates that Indonesia formally recognizes a dual sanction framework consistent with administrative penal law, yet practical enforcement remains skewed toward criminalization. This study contributes to health law scholarship by highlighting the importance of structural integration between administrative and criminal mechanisms.

Rather than focusing solely on individual criminal liability, the research emphasizes systemic enforcement design. It argues that effective health regulation depends on regulatory coherence, hierarchical sanction sequencing, and institutional coordination. By situating the findings within administrative penal law theory, the study bridges doctrinal analysis and practical enforcement realities.

Ultimately, the results underscore the need for a preventive-oriented enforcement model in the beauty clinic industry. Aligning practice with normative theory will enhance regulatory integrity and strengthen public health protection in Indonesia.

Conclusion

The misuse of pharmaceutical preparations and medical devices without valid distribution permits in beauty clinic practices constitutes a criminal offense as regulated under Article 138, 435 of Law No.17/2023 on Health. This provision affirms that the use of pharmaceutical preparations and medical devices in health services must strictly comply with established health service standards to ensure public safety and protection. Any deviation from these standards poses significant risks to public health and undermines the integrity of the health service system.

The enforcement of law in Court Decision No.219/Pid.Sus/2025/PN.Jkt.Sel and Decision No.176/Pid.Sus/2025/PT.DKI provides an in-depth understanding of criminal liability arising from violations of health regulations. However, these rulings also reveal limitations in law enforcement, particularly regarding the imposition of criminal sanctions, which have not yet been applied optimally.

Law No.17/2023 establishes an administrative health law regime where violations of administrative requirements may result in both administrative sanctions and criminal penalties. In the Ria Beauty Clinic case, administrative violations from the unauthorized use of dermaroller



medical devices and pharmaceutical products justify the application of administrative sanctions, even while criminal sanctions are prioritized under the principle of *ultimum remedium*.

The government, as the authority responsible for issuing business licenses, bears a crucial responsibility in supervising health service providers. Supervision should be both routine and incidental as a preventive measure. Applying administrative sanctions following criminal sanctions in proven health crime cases is essential to safeguard public safety. Publication of court decisions is also necessary to enhance public awareness and legal protection, ensuring patients affected by substandard health services may pursue remedies guaranteed by the state.

References

- Agustina, E., Prasetyo, H., & Subakdi. (2018). Cascade liability theory in corporate crime in Indonesia. *Jurnal Spektrum Hukum*, 15(2), 78–92. <https://doi.org/10.35973/sh.v15i2.1116>
- Alodokter. (2025). Dermaroller: Benefits and usage. <https://www.alodokter.com/dermaroller-kenali-manfaat-dan-carapakainya>
- Danil, E. (2020). The application of the *ultimum remedium* principle in administrative criminal offenses. *Jurnal Hukum Pidana & Kriminologi*, 1(1), 12–25. <https://jurnalmahupiki.org/ojs/index.php/jhpk/article/view/2/8>
- Firli, A., & Sesung, R. (2025). Legal protection for consumers harmed by unlicensed beauty clinics. *Journal Evidence of Law*, 4(2), 23–35. <https://jurnal.erapublikasi.id/index.php/JEL/article/view/1386/946>
- Hadi, I. G. A. A. (2018). Unlawful acts in doctors' liability for medical malpractice. *Jurnal Yuridis*, 5(1), 34–47. <https://ejournal.upnvj.ac.id/Yuridis/article/view/318>
- Hukumonline. (2025). Criminal, civil, and administrative sanctions. <https://www.hukumonline.com>
- Khairunnisa. (2008). Kedudukan, peran dan tanggung jawab hukum direksi (Master's thesis, Universitas Sumatera Utara). <https://repositori.usu.ac.id/handle/123456789/35877>
- Ministry of Health of the Republic of Indonesia. (2014). Regulation No. 9/2014 on clinics. Jakarta, Indonesia.
- Murniati, F. (2007). Kebijakan formulasi hukum pidana administrasi dalam bidang kesehatan di Indonesia (Master's thesis, Universitas Diponegoro). https://eprints.undip.ac.id/17441/1/Fitriana_M..pdf
- Nachrawi, G., & Dewi, C. (2021). Law enforcement against illegal distribution of pharmaceutical preparations. *Justitia Jurnal Hukum*, 6(2), 45–60. <https://doi.org/10.30651/justitia.v6i02.8422>
- Republic of Indonesia. (2023a). Law No. 1/2023 on the criminal code. Jakarta, Indonesia.
- Republic of Indonesia. (2023b). Law No. 17/2023 on health. Jakarta, Indonesia.
- Santoso, B. T. (2020). Dekonstruksi konsep sanksi pidana administrasi (administrative penal law) dalam hukum pertambangan mineral dan batubara di Indonesia (Doctoral dissertation, Universitas Airlangga). <https://repository.unair.ac.id/98262/>



**Marsya Intan Riani et al – Administrative Penal Law Enforcement in Beauty Clinics:
Unauthorized Use of Pharmaceuticals and Medical Devices in Indonesia**

- Sinuraya, F. X. J., Mulyadi, M., & Andriati, S. L. (2024). Judicial application of law in pharmaceutical distribution crimes without BPOM permits. *Journal of Science and Social Research*, 7(4), 210–225.
- Wahyono, R., et al. (2025). Legal review of unlicensed dermaroller use in Ria Beauty Clinic. *Jurnal Hukum Indonesia*, 4(1), 15–28.
- Zuhdi, A., & Riyanda, R. (2022). Administrative penal law in environmental law enforcement under the Omnibus Law. *Jurnal Hukum Samudra Keadilan*, 17(2), 55–70.

