



LEGAL PROTECTION FOR DOCTORS AND PATIENTS IN HEALTH SERVICES IN INDONESIA

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ABSTRACT

The relationship between doctor and patient is a relationship based on the law. Practically, both doctor and patient have the same potential to experience loss or disadvantages due to one of the parties violate the obligations and rights. Treatment of disease that involves two parties – the health service provider and the patient should be protected by law. It is to embody the highest degree of health for the community in order to achieve a strong, healthy, and productive nation. The aim of this writing is to know all matters concerning the state regulation of relationship between doctor and patient, including each party's obligations and rights as well as legal protection for both doctor and patient. Method of this writing is qualitative descriptive by collecting data and information based on health laws in Indonesia, as well as literature research. Other source of data and information are from relevant writing such as scientific journal, thesis, books and other electronic media. Increasing public knowledge about the health of the increasing criticism and demands on health services provided by health providers, application and utilization of health law at this time is not maximized, this proved not their field or special sections health care law itself both in the hospital and health services other. The negative impact is still an element of discrimination among health professions, the incidence rate is still high malpractice as was the case recently occurred, the patient died in Jakarta Chiropractic Clinic and the rampant cases of trade in human organs. With the increasing incidence of malpractice so prevention is indispensable to the health law priority in health services in hospitals based on values of justice

Keywords: legal Protection, Health Service and Law, The Value of Justice

1. INTRODUCTION

Indonesia is recorded to have a population of 278.8 million in 2023 (Central Statistics Agency). Of that number, 186,336 people are registered as doctors and 34,165 people as dentists (SISDMK Directorate General of Health Workers 2023). If the number of doctors and dentists is combined and calculated as a percentage, then only 0.079% of the Indonesian population works as doctors and dentists, including specialist doctors. This means that there is only 1 doctor or dentist available to serve the health needs of every 1,260 Indonesians.

Health development aims to increase awareness to realize optimal health as one of the elements of general welfare as referred to in the Preamble to the 1945 Constitution of the Republic of Indonesia.

In health services, optimal health is a stage that is given in accordance with the best efforts that can be made so that the community gets services according to their needs and expectations. Therefore, the health services provided must not only be efficient but also safe. Moreover, if the action is carried out in a hospital

2. RESEARCH METHODE

This research is a qualitative research. Qualitative research is a research that politically intends to understand the phenomenon of what the research subject experiences, be it their behavior, perception, motivation or actions, and descriptively in the form of words and language, in a specific natural context and by utilizing various natural methods (Meleong, 2007:6). The research method used is the descriptive research method of literature review. The literature study method is a series of activities related to the method of collecting library data, reading and recording, and processing research materials (Zed, 2008:3). And also this research uses This research uses a normative juridical research type by analyzing positive legal sources. Normative juridical research can also be said to be a literature study because what is being studied is a statutory regulation and other written regulations. This research will use three types of approaches, namely the conceptual approach, legislation (statue approach) and, case approach).

3. RESULT AND ANALYSIS

Legal Relationship between Doctor and Patient

Law of the Republic of Indonesia Number 17 of 2023 concerning Health states that the state guarantees the right of every citizen to realize a good, healthy, and prosperous life physically and mentally, in order to achieve national goals. The guarantee of obtaining health which is the right of every Indonesian citizen creates a close relationship between the health service provider, in this case the doctor, and the recipient of health services, in this case the patient.

The doctor-patient relationship is defined as a consensual relationship where the patient consciously seeks help from a doctor regarding his health problems and where the

doctor consciously accepts him as a patient to be treated (QT, Inc v. Mayo Clinic Jacksonville, 2006 US Dist. LEXIS 33668, at *10 (ND Ill May 15, 2006)).

The legal relationship between a doctor and a patient can be in the form of a bond that arises from an agreement and can be in the form of an agreement that arises from a law (Rambe et al, 2024). An example of a legal relationship between a doctor and a patient that arises due to an agreement is when a patient comes to a doctor's practice, who offers health care services by putting up a name plate, meaning that the patient accepts the offer from the doctor, then a contract is formed that arises due to an agreement. The contract between a doctor and a patient that arises due to law, if the doctor voluntarily helps a person who has an accident when the doctor is passing by the place where the accident occurred. Without any order or request from anyone, the doctor is obliged to provide assistance until the person or his family can take care of it (Syarifuddin, 2022).

Legal Protection for Doctors and Patients

Legal protection is intended to provide protection for human rights that are harmed by others and this protection is given to the community so that they can enjoy the rights granted by law (Rambe, 2024). Legal protection includes various legal efforts provided by law enforcement officers to provide a sense of security, both mentally and physically from disturbances and threats from any party (Raharjo, 2000: 53).

Legal protection is an action or effort to protect the community from arbitrary actions by authorities that are not in accordance with the rule of law, to realize order and peace so that humans can enjoy their dignity as human beings (Setiono, 2004: 3).

Legal protection is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and/or victims, legal protection can be realized in various forms, such as through the provision of restitution, compensation, medical services, and legal assistance (Soekanto, 1984: 133).

Relationship between Patients, Health Workers, and Hospitals

The relationship between health workers and patients when viewed from a legal aspect is a relationship between legal subjects and legal subjects where this relationship is regulated by civil law rules (Rambe & Sihombing, 2024). Civil law rules contain guidelines/measures on how the parties in the relationship exercise their rights and obligations reciprocally, where the rights of health workers are the obligations of patients and vice versa, the rights of patients are the obligations of health workers (weblog.esaunggul, no year: 2). The legal subjects in the health law system are (M. Thalal and Hiswani, no year: 73).

The legal relationship between health workers (pharmacists, doctors, nurses, midwives and others) has become a topic of discussion after the issuance of this UUPK (Rambe et al, 2023). In detail, the UUPK provides regulations on rights and obligations, both for service providers and service users. Thus, it is necessary to conduct a study of service providers in the health sector, because the nature of services in the health sector is very technical and cannot be known by just anyone policy (Rambe et al, 2023).

Although there are professional standards, however, each individual (both the provider and recipient of services) has a specialty that causes a specialty in the (legal) relationship

between the health service provider and the service user, including the service provider in the hospital. Although the purpose of providing services is the same, namely trying to do the best possible action to cure the service user, it remains that each hospital and various service places have different service standards. However, the differences in service standards still cannot set aside and ignore the existence of a legal relationship (rights and obligations) between the provider and user of health services or between the state/government and its community (Syaiful Bakhri, 2016).

Therefore, in the legal aspect related to these rights and obligations, space is given by law so that if anyone violates it, they will receive legal sanctions. The actions of health service institutions/facilities that must be recorded in the patient's Medical Records are regarding the patient's identity, examination, treatment, actions and other services to the patient. So in the Medical Records it will also contain the type of patient and even the patient's family history of illness which is a reference for healing the patient's illness that is related to hereditary diseases, for example. So that means the patient's and the patient's family's secrets are in it. The secret belongs to the patient which is the contents of the file. Medical Records made by health workers who treat them, both outpatients and inpatients. Therefore, to protect the secret of the patient's illness, an obligation is also established to maintain the confidentiality of the contents of the medical record (Soeparjo Sujadi, 1994:60-61).

Lack of facilities and services

The availability of equipment, health workers, and medicines compared to the number of JKN participants is a problem in BPJS standardization, this is due to the unequal income of one region with another as the basis for fulfilling FKTP needs. According to Presidential Decree No. 82 of 2018, Article 67 paragraph (2) Health Facilities owned by the Central Government and Regional Governments that meet the requirements are required to cooperate with BPJS Health. (3) Private health facilities that meet the requirements can cooperate with BPJS Health. This certainly creates inequality between government health facilities and private health facilities. State-owned health facilities are required to cooperate with BPJS, while private facilities have the right to choose. In general, what happens is that many private health facilities do not cooperate with BPJS, this is due to the low amount of capitation funds, and the lack of availability of facilities to meet the feasibility test (Asnawi & Fajarwati, 2022).

4. CONCLUSION

The legal relationship between doctors and patients in the current era has adopted a mutual participation relationship system. This means that everything regarding the patient's condition must be communicated clearly and in detail. Even though the patient is in a position to seek medical help, the doctor has a legal obligation to provide enlightenment regarding the disease suffered and also the treatment and medication options that can be given to achieve better patient health. The patient is also under a legal obligation to be able to provide honest and reliable information, not to cover up the

condition and medical history so that the therapeutic relationship can take place properly. The legal relationship between a doctor and a patient begins when medical communication occurs until the signing of an informed consent between the doctor and the patient.

The community demands good health services from the hospital, on the other hand the government has not been able to provide services as expected due to limitations, except for private hospitals that are business-oriented, which can provide good health services. Health workers are expected to be able to have 5 roles, namely Care provider, Decision-maker, Communicator, Community Leader, and Manager who have adequate management capacity in providing quality health services.

Health is also a basic need and right for every citizen protected by the Constitution, therefore it is important to improve health services which are a long-term investment, to achieve a prosperous society. Hospitals as business organizations in the health sector have an important role in realizing optimal public health. Hospitals are institutions that play a vital role in maintaining public health, treating diseases, and improving the quality of life of patients. Therefore, it is very important to continue to support and develop hospitals so that they can provide the best health services to the community. Based on the Law, the government is obliged to provide quality service guarantees, the government with all its policies forms the Social Security Administering Body (BPJS), BPJS in the Health sector is a legal entity formed to organize a health insurance program. Cooperation between hospitals and BPJS has an impact on hospitals, such as increasing financial income and the number of new visits so that they can be used to improve health facilities and services. Unfortunately, not all hospitals can cooperate with BPJS, which gives rise to inequality, the reasons are due to various factors such as lack of facilities and services, membership has not been achieved, hospitals that refuse cooperation and delays in payment of hospital claim rights. This inequality can cause various problems, therefore the right of hospitals to cooperate with BPJS Health is an important thing to guarantee. This is because cooperation between hospitals and BPJS Health can provide benefits for various parties, namely BPJS Health participants, hospitals, and the government.

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