

RESPONSIBILITY OF DOCTORS IN MEDICAL SERVICES TO PATIENTS ACCORDING TO LAWS AND REGULATIONS

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ABSTRACT

A doctor's legal responsibility is a doctor's "relationship" to legal provisions in carrying out his profession. The responsibility of a doctor in the field of law is divided into three parts, namely the responsibility of a doctor in the field of civil law (Articles 1365, 1366, 1426) criminal, (Article 322, Article 351, Article 356 of the Criminal Code regarding abuse, Article 359, Article 360, and Article 378 of the Criminal Code regarding acts of fraud and ethical responsibility. Legal protection for patients in health services claiming their rights as regulated in Article 276 of the Health Law, can claim compensation for health workers and/or health providers who cause losses due to errors or negligence of doctors. The research method used in this study is a normative research method using various types of primary legal materials in the form of laws and regulations and secondary legal materials in the form of literature materials related to the legal responsibility of doctors in health services as a source of research materials.

Keywords: *Physician Liability, Patient Legal Protection, Health Services*

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INTRODUCTION

The implementation of health by health workers must be continuously improved through continuous education and training, certification, registration, licensing, as well as coaching, supervision, and monitoring so that the implementation of health efforts meets the sense of justice and humanity and is in accordance with the development of health science and technology. Health services do not only include professional activities or activities in the field of curative and preventive services for the benefit of individuals, the Health Law regulates the mechanism for enforcing the discipline of medical and health personnel as well as the responsibility of doctors and legal protection for patients, if medical and health personnel make mistakes in carrying out their profession so as to cause losses to patients and their families. Law 17 of 2023 provides legal protection for medical and health workers as well as patients.

By looking at the above background, a formulation of the problem can be drawn, including: first; how is the Legal Responsibility of Doctors in health services to patients according to laws and regulations, second; how to Protect the Law for patients according to the Laws and Regulations. This study aims to find out about the legal responsibility of doctors in health services for patients and legal protection for patients according to laws and regulations.

METHOD

The research method used in this study is a normative research method using various types of primary legal materials in the form of laws and regulations and secondary legal materials in the form of literature materials related to the legal responsibility of doctors in health services as a source of research materials. Johnny Ibrahim argues that normative legal

research is a form of scientific research aimed at finding the truth based on legal scientific logic reviewed from the normative part, or which is in the form of legal discovery efforts that are adjusted to a particular case (Ibrahim, 2006).

RESULTS AND DISCUSSION

A. Legal Responsibilities of Doctors in Health Services to Patients According to Legal Regulations.

Health is one of the basic human needs besides food and clothing, without a healthy life, human life becomes meaningless, because in a state of illness it is impossible for humans to be able to carry out daily activities properly. In addition, people who are sick (patients) who cannot cure their own diseases, have no other choice but to ask for help from health workers who can cure their diseases and these health workers will do what is known as health efforts by providing health services. To be able to improve the degree of public health, many things need to be considered. One of them has a fairly important role in providing health services (Koewarijanto et al., 2015).

Health services are any efforts organized alone or jointly in an organization to maintain and improve health, prevent and cure diseases and restore the health of individuals, families, groups and/or communities (Journal, 2019). In that case, health services are efforts made by the government and the community in order to improve, maintain, and restore public health, health care service is the right of every person guaranteed in the 1945 Constitution to make efforts to improve the degree of health of both individuals, as well as groups or communities as a whole. The definition of health services according to the Ministry of Health of the Republic of Indonesia in 2009 (Ministry of Health of the Republic of Indonesia) contained in the Health Law of 2009 is any effort organized alone or jointly in an organization to maintain and improve health, prevent and cure diseases and restore health, individuals, families, groups or communities.

The legal relationship between doctors and patients has occurred since ancient times (ancient Greece), doctors as a person who provides treatment to people who need it. This relationship is a very personal relationship because it is based on the trust of the patient in the doctor called therapeutic transactions. A therapeutic transaction is an agreement between a doctor and a patient in the form of a legal relationship that gives birth to the rights and obligations of both parties. The object of this agreement is in the form of an effort or therapy to heal the patient. The legal relationship that occurs between doctors and patients gives birth to the rights and obligations of the parties. Currently, people are increasingly aware of their rights as health consumers. So often they critically question the disease, the type of examination, treatment, and the action to be taken regarding the disease. This is a right that should be respected by health service providers.

Doctors' responsibilities towards patients include ethical responsibility, namely in the event of a default or unlawful act from the doctor's actions, according to Article 1426 of the Civil Code, the compensation that can be charged in the event of default is, the losses that are clearly suffered by the creditor called *Damnun Emergency*; The supposed advantage is called *Lucrum Cegans*. Basically, the commonly used form of compensation is money, because according to civil law and jurisprudence experts, money is the most practical tool, which causes the least difference in resolving a dispute. In addition to money, there are other

forms that are needed as a form of compensation, namely the restoration of the original state (innatura) and the prohibition of repeating. These two, if not kept, can be strengthened with forced money. So it must be remembered that forced money is not a form or form of compensation.

A lawsuit to pay compensation on the basis of consent or agreement that occurs can only be made if there is indeed an agreement between the doctor and the patient. The agreement can be classified as an agreement to do or do something. The agreement occurs when the patient calls the doctor or goes to the doctor, and the doctor fulfills the patient's request to treat him. In this case, the patient will pay a certain amount of money. Meanwhile, doctors actually have to make achievements in curing patients from their diseases. But that cure is not always possible so a doctor simply binds himself. to provide assistance as much as possible, in accordance with the knowledge and skills they master. This means that he promised to make every effort to cure patients. Civil Liability of Doctors for Unlawful Acts based on Article 1365 of the Civil Code.

Patient rights must be fulfilled considering that patient satisfaction is one of the barometers of service quality while patient dissatisfaction can be the basis for lawsuits. The signing of a medical procedure consent form or sheet has the consequence that what is called "agreement of the parties who bind themselves, an agreement to carry out medical procedures" has been reached. This consent has binding force in the sense that it has legal force, meaning that doctors can carry out their obligations to provide information and give doctors the right to perform medical procedures. There are articles in the Criminal Code that are relevant to the issue of liability in criminal law and/or civil law.

B. Legal Protection for Patients as Consumers in Health Services

One of the main problems faced by doctors is that they are often blamed for malpractice, which can jeopardize their reputation and career sustainability. In many cases, doctors often don't get a proper opportunity to defend themselves (Boys, 2023). They sometimes become the object of judgment without having enough space for them to convey their perspective, explanation, or reason behind the medical decision taken. Medical negligence is the attitude of medical personnel, especially a doctor, who is not careful in using the level of skills and knowledge that is commonly used in treating patients or injured people according to the same environmental size. Negligence is not a violation of the law if it does not bring injury or loss to the patient, according to the principle of "De minimis non curat lex", the principle can be set aside if; "contrary to the law, the consequences of his actions can be imagined, the consequences of his actions can be avoided and his actions can be blamed" (Soewono & Setyowati, 2007).

The patient is a consumer because he is a service user, namely the services of a doctor. Patients as consumers in health services can be categorized as end consumers, because patients are not included in the production. The consumeristic nature of health services can be seen from the shift in the paradigm of health services from the original social to commercial because patients have to spend quite a lot of money for their health efforts. Patients have rights as stipulated in Article 4 of the UUPK, which states that patients have the right to comfort, the right to security, the right to safety, the right to vote, the right to information, the right to be heard, the right to advocacy, the right to non-discriminatory services, the right to compensation, and the rights regulated in the law.

Consumer protection has a very wide scope because it includes protection against all losses due to the use of goods and or services. Protection needs to be given to consumers because in general, their existence or position is always weak. Article 1 paragraph (2) of the UUPK, states that: "Consumers are every person who uses goods and or services available in society, either for the benefit of themselves, their families, other people or other living beings and are not traded. While services are any services in the form of work or achievements that are traded in the community for consumers to use, for example the services of lawyers, doctors, teachers, and others". So the subject referred to as a consumer is every person who has the status of a user of goods and services.

Patients have to change paradigms and are reluctant to take responsibility for their recovery. In Article 4 of Law No. 17 of 2023, point d, it is explained that patients can determine for themselves the necessary health services independently and responsibly. This means that there is no compulsion for the patient to use certain medical personnel, he is allowed to choose medical personnel who are suitable for him. In fact, at point h, the patient is allowed to refuse any action given to him if the patient feels displeased. However, there is an important note in this regard that the patient must understand the complete risks of the actions given to him. Therefore, actually from this article it has a clear implication that the doctor's job is to convey the best information possible. In general, doctors are protected if they are able to provide the most complete information to patients without providing inaccurate information. This article also emphasizes how important communication skills are for medical personnel.

Legal protection of patients' rights in health services based on the Health Law is the protection of patients' rights through civil lawsuits to demand compensation. In the framework of protecting patients' rights, the law provides the right to sue patients, if there is a service that is not in accordance with service standards. Another right that patients or the community have is to demand compensation against a person, health worker, and/or health provider who causes losses due to errors or negligence in the health services they receive. Everyone has the right to receive or obtain part or all of the help that will be given to him. That is, in a legal relationship or relationship, the rights of one party are a must for the other party. In this case, patients or recipients of health services can claim their rights that are violated by the health service provider, in this case the hospital and doctors or health workers. "As stated in Article 322 of the Criminal Code, a doctor can be convicted for violating his obligations". There are still other criminal regulations related to the health or negligence of a doctor or related to the mistake or negligence of a doctor or health worker such as Article 351, Article 356 of the Criminal Code regarding persecution, where the persecution is classified as a weapon to damage health Article 359, Article 360, and Article 378 of the Criminal Code regarding fraudulent acts (Kristian, 2018) (Moelyatno, 2021) (Meliala, 2014) (R. Indonesia, 2004) (Number, 10 C.E.) (P. R. Indonesia, 2023).

CONCLUSION

The responsibility of doctors in health services to patients is an ethical responsibility, Civil Law, Criminal Law, Civil Liability based on Article 1365 of the Civil Code Due to Unlawful Acts or unlawful acts of doctors' actions, according to Article 1426 of the Civil Code compensation that can be charged in the event of default, Article 1366 of the Civil Code, a

doctor in addition to being sued on the basis of default and unlawful, can also be sued on the basis of negligence, which causes losses. Legal Protection for Patients in Health Services The Law Regulation is that patients can claim their rights as stipulated in Article 276 of the Health Law

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