

## ENHANCE OF SECURE HEALTH WORKER IN HOSPITAL

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### ABSTRACT

Indonesia is an increasingly developing country of law and the advancement of human development should also be followed by the development of the rule of law. However, the reality is that the law has always lagged behind the progress of human development. Even the development of regulations in the field of health law in the country is still far from meeting expectations, especially regarding legal protection for medical workers (doctors and nurses) when they fight to save human lives, it still often happens that they become victims as a result of the profession they are engaged in. This research is a normative research that uses secondary data, namely library data and legislation.

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## 1. INTRODUCTION

The Preamble of the 1945 Constitution clearly states the ideals of the Indonesian nation which is also the national goal of the Indonesian nation. These national goals are to protect the entire Indonesian nation and the entire Indonesian homeland, to advance the general welfare, to educate the nation's life and to participate in the implementation of world order based on independence, eternal peace and social justice. This is a form of National Development. Health development is part of national development aimed at increasing awareness, willingness and ability to live a healthy life for everyone in order to realize the highest degree of public health, as an investment for the development of productive human resources.

The responsibility of the state in providing public services is stated in the 4th paragraph of the Constitution of Negara Republik Indonesia Tahun 1945 (selanjutnya disebut UUD 1945) which states that the purpose of the establishment of Negara Republik Indonesia is to promote the welfare and development of the Indonesian nation. Aside from the introduction, the responsibility of the state in the service of the people is also mentioned in the main body of the Constitution, namely in Article 34 paragraph (3) of UUD 1945 which reads, "The state is responsible for the provision of proper health service facilities and scientific facilities". The mandate of the state to provide health services which is formulated in the constitution as the highest law of the land (supreme law of the land) means that Negara is obliged to fulfill the health needs of every citizen of Negara through the a system of government which includes the creation of public services in order to fulfill the basic needs and civil rights of every citizen of Negara as stated in Article 28H paragraph (1) UUD 1945. "Every person has the right to be physically and mentally healthy, to have a place to live, and to have a good and healthy environment, and has the right to receive health services".

Health care science is still very new, in its development in Indonesia, it was first developed by Prof. Amelln and Almarhulm Prof. Oeltama in the field of health care science. The slow development of health in the field of health in the context of the national health system has resulted in the need for more extensive training, from health care to matters related to health (health care).

The current health care in Indonesia cannot be separated from the health care system adopted by the State government and / or society, so there are 2 (two) health care systems in Indonesia which are meant to be codified civil law systems and common law systems. The possibility of a mixed civil law system, especially for a pluralistic society such as Indonesia.

## 2. METHOD

This research is a Normative Sociological juridical research, namely a research that reveals a problem, situation or event by providing a comprehensive, broad and in-depth assessment from the point

of view of hulkulm science, namely by analyzing the principles of hulkulm, hulkulm rules, hulkulm system and its reality in the field. In this case the Abdul Manan Human Rights Hospital Kisaran.

In collecting data, a document study is used, namely by studying secondary materials, both in the form of legislation, other regulations, court decisions on health cases as well as books, papers, and journals related to the research. The data obtained is then analyzed qualitatively, which is a method of data analysis that is not based on numbers or statistics, so that the data obtained in library research is then presented in logical sentences to obtain a description of the Role of the Medical Committee in Resolving Medical Disputes at the HAM Abdul Manan Hospital in Kisaran.

### 3. RESULTS AND DISCUSSION

#### **Rights and Obligations of Health Workers in Hospital Health Services**

Health Workers in Law No. 36 of 2014 concerning Health Workers is every person who devotes himself to the health sector and has knowledge and / or skills through education in the health sector which for certain types requires authority to carry out health efforts. Health workers are regulated separately by law, namely Law Number 36 of 2014 concerning Health Workers. Law 36 of 2014 concerning Health Workers is the implementation of the mandate of the provisions of Article 21 paragraph (3) of Law Number 36 of 2009 concerning Health (State Gazette of the Republic of Indonesia of 2009 Number 144, Supplement to the State Gazette of the Republic of Indonesia Number 5063);

Law No. 36 of 2014 on Health Workers was passed by President Dr. H. Susilo Bambang Yudhoyono on October 17, 2014. Law No. 36 of 2014 on Health Workers was promulgated in the State Gazette of the Republic of Indonesia Year 2014 Number 298, and the Explanation of Law No. 36 of 2014 on Health Workers in the Supplement to the State Gazette of the Republic of Indonesia Number 5067 by the Minister of Law and Human Rights Amir Syamsudin in Jakarta and came into force on October 17, 2014.

Meanwhile, when Law Number 36 of 2014 Concerning Health Workers comes into force, Government Regulation Number 32 of 1996 concerning Health Workers (State Gazette of the Republic of Indonesia of 1996 Number 49, Supplement to State Gazette of the Republic of Indonesia Number 3637) is revoked and declared invalid. (Article 92). Furthermore, Article 4 paragraph (2), Article 17, Article 20 paragraph (4), and Article 21 of Law Number 29 of 2004 concerning Medical Practices (State Gazette of the Republic of Indonesia Year 2004 Number 116, Supplement to State Gazette of the Republic of Indonesia Number 4431) are revoked and declared invalid (Article 94 letter a).

According to the author's analysis, the enactment of Law No. 36 of 2014 is that health workers have an important role to improve the quality of maximum health services to the community so that the community is able to increase awareness, willingness, and ability to live healthy so that the highest degree of health will be realized as an investment for the development of socially and economically productive human resources and as one of the elements of public welfare as referred to in the Preamble of the 1945 Constitution of the Republic of Indonesia.

#### **Health Services For Communities In Government Hospitals**

Law Number 44 of 2009 concerning Hospitals, regulates the responsibility of hospitals, Article 46 states: Hospitals are legally responsible for all losses caused by negligence committed by health workers in hospitals. Article 45 paragraph: (1) Hospitals are not legally liable if the patient and/or his/her family refuse or stop treatment that may result in the death of the patient after a comprehensive medical explanation. (2) Hospitals cannot be sued in carrying out their duties in order to save human life. Article 45 paragraph (1): Patients have the right to refuse or stop treatment. Patients who refuse treatment for financial reasons must be given an explanation that the patient has the right to obtain guarantees from the Government. Hospital liability in relation to responsibility for personnel. Legal cases in medical services generally occur in hospitals where health workers work.

According to the Decree of the Minister of Health of the Republic of Indonesia Number: 722/menkes/SK/XII/2002 concerning Guidelines for Hospital Internal Regulations (hospital by laws), that a hospital is something that can basically be grouped into: medical services in a broad sense which involves promotive, preventive, curative, and rehabilitative activities, education and training of medical personnel, research and development of medical science. Based on these provisions, there are basically 4 (four) parts related to the responsibility of the hospital as a medical service, namely: (1) responsibility for personnel; (2) professional responsibility for quality; (3) responsibility for facilities/equipment; (4) responsibility for the safety of the building and its maintenance.<sup>13</sup> Civil law distinguishes the category of hospitals as always the defendant (corporation), namely government hospitals and private hospitals. In relation to government hospitals, then the management of government hospitals.

### Factors Causing Medical Disputes in Hospitals

In the book *Medical Criminal Law and Malpractice (Aspects of Criminal Liability of Doctors in Health Services)* authored by Dr. dr. Beni Satria, M.Kels., S.H., M.H. and Dr. Redyanto Sidi Jambak, S.H., M.H. that what is said to be Malpractice or one of the disputes in the medical world is divided into three, Criminal Mal-Practice Civil Mal-Practice Administrative Mal Practice. However, the author briefly describes the factors that can cause medical disputes. They are:

- a. Doing what according to the agreement should not be done;
- b. Doing what according to the agreement must be done but not on time;
- c. Doing what is agreed to be done but not perfectly; Lack of information;
- d. Communication: Manner and quality, poor communication can cause problems, good communication should reduce problems; Different perceptions of the meaning of malpractice;
- e. Differences of interest
- f. Expectation and outcome gap. This can happen because excessive trust can be a trigger, forgetting that doctors are also human;
- g. The aggrieved party has expressed their dissatisfaction either directly to the party considered to be the cause of the loss or to another party. The dissatisfaction cannot be resolved properly or slow response. that's why if there is a problem or there is a seed of a problem selgelra look for a solution, don't just wait. Sometimes if the patient's slow response is upset and then tells it to someone else, and that person heats up the patient or his family, then the problem can be even more complicated;
- h. Developments in society, can occur due to the influence of invalid information from social media;
- i. Fading / neglect of ethical values, this occurs due to various things, including being money oriented, consumptive, forgetting about sumpa and ethical models.
- j. Competition among peers, this is very likely to happen;
- k. Weak trust; and there may be others.

In terms of social science, in this case the relationship between doctors and patients shows that doctors have a dominant position, while patients only have a passive waiting attitude without the authority to fight back. This position has historically lasted for many years in which the doctor plays a leading role, both because of the special knowledge and skills he possesses, as well as the authority he carries because he is a small part of the community who for many years has been positioned as a party with field authority in providing medical assistance based on the patient's full trust.<sup>16</sup> The first thing that needs to be known is that in order to create legal protection for patients, the parties must understand the rights and obligations attached to themselves, including the providers of health services to be responsible for the profession provided to recipients of health services.<sup>17</sup> The law provides protection for the right to obtain health services for the community. This is part of the implementation of the protection of human rights mandated in the 1945 Constitution of the Republic of Indonesia.

#### 4. CONCLUSION

Legal protection of the right to obtain health services for the community is part of the implementation of the protection of human rights as mandated by the 1945 Constitution of the Republic of Indonesia. The community has the same rights and opportunities to obtain safe, quality and affordable health services and has the right to independently and responsibly determine the health services needed for themselves and have the right to obtain opportunities in utilizing health resources provided by the government and / or local governments.<sup>2</sup> The fulfillment of the right to obtain proper health services through health facilities in government hospitals is guaranteed and implemented by the government and / or local governments organized by the Technical Implementation Unit of the Agency in charge of the health sector, certain Agencies, or Regional Technical Institutions with management by the Public Service Agency or Regional Public Service Agency to ensure the availability of all forms of quality, safe, efficient and affordable health efforts. Government hospitals are obliged to provide health services, especially in emergencies, in the interests of saving patients' lives and preventing disability and are prohibited from refusing patients and / or asking for advances. Government hospitals are obliged to organize health service efforts, both promotive, preventive, curative and rehabilitative.

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