

## **JURIDICAL REVIEW OF MEDICAL SERVICES AT LABUANG BAJI REGIONAL GENERAL HOSPITAL, MAKASSAR CITY ACCORDING TO LAW NO. 36 YEAR 2009 CONCERNING HEALTH**

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<b>Keywords :</b>	<b>Abstract.</b> This study aims to determine: (1) how is the legal relationship between doctors and patients in the action of medical services at the Labuang Baji General Hospital Makassar. (2) Is every doctor responsible for the patient in an effort to provide medical services at the hospital? (3) What are the factors that influence the implementation of medical services at the Labuang Baji Regional General Hospital, Makassar City. Based on the results of this study indicate that 1) The legal relationship that occurs between doctors and patients in the action of medical services at the Labuang Baji Makassar Regional General Hospital is when the patient states his complaint and is then responded to by the doctor and when the patient is examined by the doctor, where the doctor has expressed his willingness which is expressed verbally or implicitly in showing an attitude or action that concludes the doctor's willingness. 2) a doctor is always responsible for every action given to his patient. 3) The factors that influence the implementation of medical services in hospitals are: the gap between the expectations of the patient or the patient's family towards the medical profession
Constitution	
Juridical Overview	
Medical Services	

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### **1. INTRODUCTION**

The hospital as one of the health service institutions which is part of the health resources that are indispensable in supporting the implementation of health efforts. The hospital as one of the health service institutions is part of the health resources that are indispensable in supporting the implementation of health efforts. The implementation of health services in hospitals has very complex characteristics and organization[1]. Various types of health workers with their respective scientific devices interact with each other. Science and technology are developing very rapidly which must be followed by health workers in the context of providing quality services. In essence, the hospital functions as a place for healing disease and restoring health and the function in question has the meaning of the government's responsibility in improving the level of community welfare.[2].

Efforts to improve the health status as high as possible were initially in the form of disease healing efforts, then gradually developed towards integrated health efforts for the entire community by involving the wider community which included comprehensive promotive, preventive, curative and rehabilitative efforts, integrated and sustainable. Every development effort must be based on health insight in the sense that national development must pay attention to public health and is the responsibility of all parties, both the government and the community.[3].

The rapid progress of health technology and information technology in this global era has not been properly accommodated by Law Number 23 of 1992 concerning Health.[4]. Based on this, Law Number 23 of 1992 concerning Health is no longer in accordance with developments, demands, and legal needs in society so it needs to be repealed and replaced with a new Law on Health. Therefore, the government established a new Health Law, namely Law Number 36 Year 2009 concerning Health. Article 4 of the Law on Health states that "everyone has the right to health".[5]. The right to health as referred to in Article 4 of Law No. 36 of 2009 concerning Health is the right to obtain health services from health service facilities in order to realize the highest degree of health. This means that anyone who wants to live a healthy life has the right to get access to proper health services, which include access to safe, quality, and affordable health services. Getting health services is a human right. The

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government realizes that healthy people are the main asset and goal in achieving a just and prosperous society[6].

Obtaining health services is a human right and one of the elements of welfare that must be realized in accordance with the ideals of the Indonesian nation as mandated in Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia which has affirmed that everyone has the right to obtain health services. Then, in Article 34 paragraph (3) it is stated that the State is responsible for the provision of adequate health service facilities and public service facilities[7], [8]. Therefore, every activity and effort to improve the highest degree of public health is carried out based on non-discriminatory, participatory, protective, and sustainable principles in the framework of the formation of Indonesian human resources, increasing the nation's resilience and competitiveness, as well as national development. The government realizes that healthy people are an asset and the main goal in achieving a just and prosperous society. The implementation of health efforts is carried out in a harmonious and balanced manner by the government and the community, including the private sector. In order for the implementation of health efforts to be effective and efficient, the government needs to regulate, foster and supervise both its efforts and its resources[9], [10].

## 2. METHOD

In the context of preparing the thesis, the author chose the research location in the Makassar City area of South Sulawesi Province with the consideration that the object of research used as material for analysis was the location of the implementation of medical services at the Regional General Hospital (RSUD Labuang Baji) Makassar City. This includes health service providers (doctors, nurses/health workers) and health service recipients (patients). There is also the reason for choosing this location because the city of Makassar is the largest city in eastern Indonesia and has a strategic location (Labuang Baji Hospital) in Makassar City and is located in the middle of the city, and is easy to reach.

In obtaining valid research results, it really depends on the type and nature of the research used. The type of research used is the type of empirical research and is a descriptive research.

The data that has been collected from the results of field research and library research, the authors classify it in, Primary data in the form of data obtained from related parties and related to the discussion of thesis problems. Secondary data in the form of data obtained through literature study by reading various kinds of readings as in data collection techniques

The population in this study, in accordance with the title of the thesis, namely a Juridical Review of Medical Services at the Labuang Baji Regional General Hospital, Makassar City according to Law Number 36 of 2009 concerning Health. the population taken is doctors/health workers and patients in the regional general hospital (RSUD Labuang Baji) Makassar City. The number of samples in this study were 22 people consisting of 7 doctors and nurses/health workers and 15 patients.

The method used in this data collection technique is as follows. Library research method (research library) namely the technique of collecting by examining literature books, articles and other scientific works. Field research methods are used with several techniques in data collection including observation, interviews and documentation.

The data management method used in this discussion is a qualitative method, namely a data processing method that requires analysis and interpellation techniques in the form of concepts that can support the object of discussion in the thesis. And for the next will be presented descriptively.

## 3. RELUST AND DISCUSSION

### Legal Relations between Doctors and Patients in the Action of Medical Services at the Labuang Baji Regional General Hospital Makassar

The legal relationship between a doctor and a patient is carried out with a sense of trust from the patient towards the doctor, which is called a therapeutic transaction. In a therapeutic transaction the object is the healing effort. This is misinterpreted by the general public that the patient's recovery is the object of a therapeutic transaction. The object of the therapeutic transaction is the doctor's efforts, not the patient's recovery, because if the patient's recovery is used as an object, it will corner the doctor more.

The relationship between doctors and patients begins with a pattern of vertical paternalistic relationships such as between fathers and children, which starts from the principle of "Father knows best" which gives birth to a paternalistic relationship. According to the author, in this relationship, the position of the doctor and the patient is not equal, namely the position of the doctor is higher than the patient because the doctor is considered to know about everything related to the disease and its healing. While the patient does not know anything about the disease so that the patient leaves his fate completely in the hands of the doctor. This relationship gives birth to a horizontal contractual legal aspect that is "inspanningsverbintenis" which is a legal relationship between 2 (two) legal subjects (patients and doctors) who are of equal status, giving birth to rights and obligations for the parties concerned. This legal relationship does not promise anything (healing or death), because the object of the legal relationship is in the form of a doctor's efforts based on science, the experience of doctors regarding disease with great care, thoroughness and thoroughness or professionally to cure patients.

### 1. When There is a Legal Relationship between Doctor and Patient

The contractual legal relationship that occurs between the doctor and the patient does not start from the moment the patient enters the doctor's office as many people suspect, but when the patient registers, the patient is examined by the doctor when the patient declares his complaint and the doctor declares his ability to treat the patient. Based on the results of the study indicate that the legal relationship between doctors and patients that occurs between doctors and patients in the action of medical services at the Labuang Baji Regional General Hospital Makassar is as follows:

**Table 1. Doctor's knowledge of the legal relationship between doctors and patients in medical actions to patients as recipients of medical services**

<u>Answer Category</u>	<u>Frequency (f)</u>	<u>percentage</u>
Know	6 people	86%
Do not know	-	-
Do not know	1 person	14%
Amount	7 people	100%

Based on the table above, in accordance with the questionnaire that the author distributed to doctors on duty at the Labuang Baji Regional General Hospital, Makassar. Most doctors already know about the legal relationship between doctors and patients in medical service actions at hospitals, especially the Labuang Baji Regional General Hospital Makassar, namely 6 doctors whose answer is "Know" with a total (86%) and only 1 doctor whose answer is "Lack of Knowledge" by the number (14%).

**Table 2. Level of Patient Satisfaction with Medical Services**

<u>Answer Category</u>	<u>Frequency (f)</u>	<u>Percentage</u>
Satisfied	6 people	40%
Quite satisfied	8 people	53%
Not satisfied	1 person	7%
Amount	15 people	100%

Based on the table above, it shows the high number of patients' answers to the "Sufficiently Satisfied" answer category, namely 8 patients with a percentage of 53% obtained with a fairly satisfied answer category, only 6 patients who chose the "Satisfied" answer category with a percentage of 40% and only 1 patients who chose the answer "Not Satisfied" with a percentage of 7%. This is due to the lack of information provided by doctors to patients as recipients of medical services and the lack of facilities and infrastructure provided by the hospital.

### 2. Legitimate Therapeutic Transactions

Regarding the legal requirements for a therapeutic transaction, it is based on Article 1320 of the Civil Code, which states that the conditions for the validity of an agreement require 4 (four) conditions,

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including:

- a. Agree with those who bind themselves (Toestemming Van Degenediezich Verbinden).  
Juridically, what is meant by an agreement is that there is no oversight or coercion or fraud (Article 1321 of the Civil Code). The time of the agreement when it is associated with Article 1320 of the Civil Code, which is the time of agreement between the doctor and the patient, namely when the patient states his complaint and is responded to by the doctor. Here, the patient and the doctor bind themselves to a therapeutic agreement whose object is the healing effort. If healing is the main goal, it will be difficult for doctors because the severity of the disease and the body's resistance to drugs for each patient are not the same. The same drug is not sure to get the same results in each patient.
- b. The ability to make engagements (Berkwaamheid Om Eene Verbintenis Aan Te Gaa).  
Juridically, what is meant by the ability to make an engagement is the ability of a person to bind himself, because it is not prohibited by law. This is based on Articles 1329 and 1330 of the Civil Code. According to Article 1329 of the Civil Code, every person is capable of entering into an engagement, if by law it is not declared incompetent. Then, people, in Article 1330 of the Civil Code, it is stated that people who are declared incompetent are people who are not yet mature, those who are placed under guardianship, women in matters stipulated by law and in general all people to whom the law has prohibited certain agreements from being made. In a therapeutic transaction,
- c. A certain thing (een bepaald onderwerp)  
This particular thing that can be related to the object of the therapeutic agreement/transaction is the healing effort. So the results obtained from the achievement of these efforts cannot or should not be guaranteed by the doctor. Moreover, the implementation of healing efforts does not only depend on the seriousness of the doctor's expertise in carrying out his professional duties, but many other factors that play a role, such as the patient's resistance to certain drugs, the severity of the disease and also the role of the patient in carrying out the doctor's orders for the benefit of the patient himself.
- d. A valid cause (geoorloofde oorzaak) Article 1337 of the Civil Code states that a cause is prohibited, if it is prohibited by law or if it is contrary to good decency or public order. Thus, what is meant by a valid cause is a cause that is not prohibited by law, decency or public order.

### 3. Informed Consent

Consent for medical action (Informed Consent) includes information and consent, namely the consent given after the person concerned has received prior information or can be referred to as informed consent. Based on Permenkes 585/1989, it is stated that Informed Consent is the consent given by the patient or his family on the basis of an explanation of the medical action to be performed on the patient. In essence, the relationship between humans cannot occur without going through communication, including the relationship between doctors and patients in medical services. Therefore, the relationship between doctor and patient is an interpersonal relationship. So the communication or better known as the treatment interview is very important. The results of the study prove that the essence of the relationship between doctor and patient lies in the treatment interview. In these interviews, doctors are expected to provide complete information to patients regarding the form of action to be carried out and also the risks. After the information is given, it is hoped that there will be consent from the patient in the sense of permission from the patient to carry out medical action. Patients have full rights to accept or refuse treatment for themselves, this is a patient's human right which includes the right to self-determination and the right to information. Therefore, before the patient gives his consent, several inputs are needed as follows: 1) a complete explanation of the procedures to be used in certain medical actions (which are still in the form of efforts,

Regarding the form of informed consent can be done expressly or tacitly. Expressly it can be conveyed in direct words either orally or in writing and informed consent which is done secretly, which is implied from a nod of the head or actions that imply a sign of agreement. drugs and medical examinations. As for medical actions that contain risks, such as surgery, the informed consent is in

writing and signed by the patient. It is safest for doctors if the consent is stated in writing because these documents can be used as evidence if a dispute arises.

So, essentially informed consent is to protect patients from all possible medical actions that are not approved by the patient, as well as protect doctors legally against possible unexpected and negative consequences. From the point of view of criminal law, informed consent must be fulfilled, this is related to the existence of Article 351 of the Criminal Code concerning Persecution. A surgery performed without the patient's consent can be termed as maltreatment and as such is a violation of article 351 of the Criminal Code.

In principle, the requirement to obtain informed consent in certain medical procedures is not distinguished from the informed consent required in an experiment. However, in experimental research, both therapeutic and non-therapeutic in which patients are used as experiments, informed consent must be sharpened, because it involves the protection of human dignity, prevention of coercion and misguidance and abuse of circumstances.

### **Forms of Responsibilities of Doctors to Patients in the Action of Medical Services in Hospitals**

Doctors as professionals are responsible for every medical action performed on patients. From the results of interviews with respondents (doctors), the same answer was found, namely a doctor is always responsible for every action given to his patient. In carrying out his professional duties, he is based on good intentions, namely trying earnestly based on his knowledge based on a doctor's oath, code of ethics, and professional standards to cure or help patients from their illness.

#### 1. Ethical Responsibility

The regulations governing the ethical responsibilities of a doctor are the Indonesian Medical Ethics Code and the pronouncement of the doctor's oath. Code of ethics is a code of conduct. The Indonesian Medical Code of Ethics was issued by the Decree of the Minister of Health Number 434/Menkes/SK/X/1983. The Indonesian Medical Code of Ethics was prepared taking into account the International Code of Medical Ethics on the basis of the ideal of Pancasila and the structural basis of the 1945 Constitution. The Indonesian Medical Code of Ethics regulates the relationship between humans which includes the general obligations of a doctor, the relationship between a doctor and his patient, a doctor's obligations to his colleagues, and the doctor's duty to himself.

#### 2. Professional Responsibilities

Responsibilities related to the medical profession concerning the ability and expertise of doctors in carrying out their professional duties.

#### 3. Legal Liability

The legal responsibility of a doctor is a doctor's attachment to legal provisions in carrying out his profession. The responsibilities of a doctor in the field of law are divided into three (3) parts as follows:

##### a. Doctor's legal responsibilities in the field of civil law

Doctors are considered responsible in the field of civil law if the doctor does not carry out his obligations (broken promises) that is, does not provide his achievements as agreed and because of actions that are against the law. Default is a condition where a person does not fulfill his obligations based on an agreement or contract.

##### b. Doctor's Legal Responsibilities in Criminal Law

In terms of criminal law, errors or omissions are always closely related to the nature of being against the law. A person can be said to be able to take responsibility if he can realize what he has done. Doctors' mistakes in carrying out their duties mostly occur due to negligence, while intentional rarely occurs. Because if a doctor intentionally makes a mistake, the punishment that will be given to him will be more stringent. In criminal law, if a doctor is proven guilty, the doctor can be punished according to the type of crime he has committed.

##### c. Doctor's Legal Responsibilities in Administrative Law

It is said to be an administrative malpractice violation if the doctor violates the state administrative law. Examples of doctor's actions that are categorized as administrative



malpractice are practicing without a permit, taking medical actions that are not in accordance with the license they have, practicing using an expired license and not making medical records.

#### Factors Affecting the Implementation of Medical Services in Hospitals

Usually the complaints that are often felt by patients in hospitals are:

1. Patients really expect a lot from doctors for their recovery and there are medical services that hinder, both doctors and hospitals or clinics. In other words, there is a gap between the patient's expectations and the reality obtained by the patient. In this case, among others, informative care, humane care, quality care, meeting professional standards, the end result of care in accordance with what the patient expects, effective and efficient care.
2. The treatment costs charged to patients in hospitals are too expensive, resulting in patient refusal by the hospital due to not being able to pay the down payment.
3. There is a tendency for hospitals or clinics to carry out examinations or actions that the patient considers unnecessary.

#### 4. CONCLUSION

The existence of a legal relationship between doctors and patients in the action of medical services at the Labung Baji Regional General Hospital Makassar is when the patient states his complaint and is responded to by the doctor and when the patient is examined by the doctor. In this case, the doctor expresses his willingness which is stated verbally or impliedly by showing an attitude or action that concludes his willingness; such as receiving registration, providing serial numbers, providing and recording medical records. In other words, a legal relationship requires a doctor's willingness to take medical action to a patient as a recipient of medical services. A doctor is always responsible for every action given to his patient. In carrying out his professional duties, based on good intentions, namely trying earnestly based on his knowledge based on the doctor's oath, code of ethics, and professional standards to cure or help patients from their illness. The factors that influence the implementation of medical services in hospitals are: the gap between the expectations of the patient or the patient's family towards the medical profession and the reality. And as for other factors that influence, namely the existence of slow medical services, either by doctors or hospitals or clinics, as for treatment costs that are too large or expensive so that patients are refused by hospitals because they cannot pay the down payment. The factors that influence the implementation of medical services in hospitals are: the gap between the expectations of the patient or the patient's family towards the medical profession and the reality. And as for other factors that influence, namely the existence of slow medical services, either by doctors or hospitals or clinics, as for treatment costs that are too large or expensive so that patients are refused by hospitals because they cannot pay the down payment. The factors that influence the implementation of medical services in hospitals are: the gap between the expectations of the patient or the patient's family towards the medical profession and the reality. And as for other factors that influence, namely the existence of slow medical services, either by doctors or hospitals or clinics, as for treatment costs that are too large or expensive so that patients are refused by hospitals because they cannot pay the down payment.

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