

## Civil Law In Health Services Practice In Indonesia: Systematic Review

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### ABSTRACT

Health services are one of the efforts that can be made to improve the health status of both individuals and groups or society as a whole. In its implementation it cannot be separated from legal rules and regulations. So it is hoped that this health service practice will not go off track. The aim of this systematic review is to examine journals that explain how civil law applies to health service practices in Indonesia. This systematic review uses articles in the PubMed, Google Scholar, and ProQuest databases published in 2018-2023, getting 759 articles then reviewed using the Preferred Reporting Items for Systematic Review and Meta-Analysis (PRISMA) diagram and getting 5 articles that meet the requirements to be applied. From the results of 5 articles, it was found that civil law in health service practice includes laws that regulate protecting patient rights, doctors' legal responsibilities regarding patient lawsuits, doctors' responsibilities towards patients and maintaining patient information confidentiality. It can be concluded that civil law in health service practice has provisions that regulate the rights and obligations of doctors and health workers to patients. Civil health law is also a tool or collection of rules. Civil law is the regulation of rights, property and anything related between individuals and legal entities. So it is important for doctors and health workers to understand and carry out health services in accordance with applicable procedures and laws as well as health norms.

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## 1. INTRODUCTION

Health is a state of physical, mental and social well-being that enables people to live economically and socially productive lives. Therefore, it is also necessary to apply rules that can convince the parties involved. So that health is regulated in law and law. Health law is not the same or should not be equated with all legal provisions in the health sector, although medical legislation cannot be separated from health law [1]. Health law also includes all statutory regulations in the health sector. Health law is a written rule regarding the relationship between health service providers and the community or community members. The Health Law itself regulates the rights and obligations of service providers and service recipients or the community. Health law, including the "lex specialis" law, specifically protects the mandate of the health sector (provider) in human health service programs with the aim of claiming "health for all" and special protection for special "receiver" patients to obtain medical services. The health law itself regulates these rights [2].

Health care services are one of the efforts that can be made to improve the health status of both individuals and groups or society as a whole. Health services are efforts either carried out individually or jointly within an organization to improve and maintain health, prevent disease, treat disease and restore health aimed at individuals, groups or communities. Paying attention to Law No. 36 of 2009 concerning Health in General Provisions Article 1 paragraph 12 formulates the definition of health efforts, that: "Health efforts are every activity and/or series of activities carried out in an integrated, integrated and sustainable manner to maintain and improve the level of health society in the form of preventing disease, improving health, treating disease, and restoring health by the government and/or society." Then in Article 10 it is formulated that: "To realize an optimal level of health for the community, health efforts are carried out with approaches to maintenance, health improvement

(promotive), disease prevention (preventive), disease cure (curative) and health restoration (rehabilitative) which are carried out in an integrated manner. comprehensive, integrated and sustainable". Meanwhile, in Law Number 29 of 2004 concerning Medical Practice, there is no formulation regarding health services. Article 3 of Law Number 29 of 2004 concerning Medical Practice states that: Regulation of medical practice aims to provide protection to patients, maintain and improve the quality of medical services provided by doctors and dentists and provide the public with legal certainty to doctors that a good agreement has been made. real or tacit relations between doctors and patients often create a professional relationship, so that the obligations that a doctor must fulfill towards his patient are sometimes seen as obligations based on a service contract.

In the civil law in health, it is stated that if a claim violates the law, the conditions must be fulfilled because there was an act or not, the act violates the law, there is a loss borne by the patient, there is a clause relationship between the loss and the error and the element of fault. or negligence. So that the practice of health services is regulated by law and statute [3]. Based on the description above, researchers are interested in conducting a systematic review of civil law in health service practice in Indonesia.

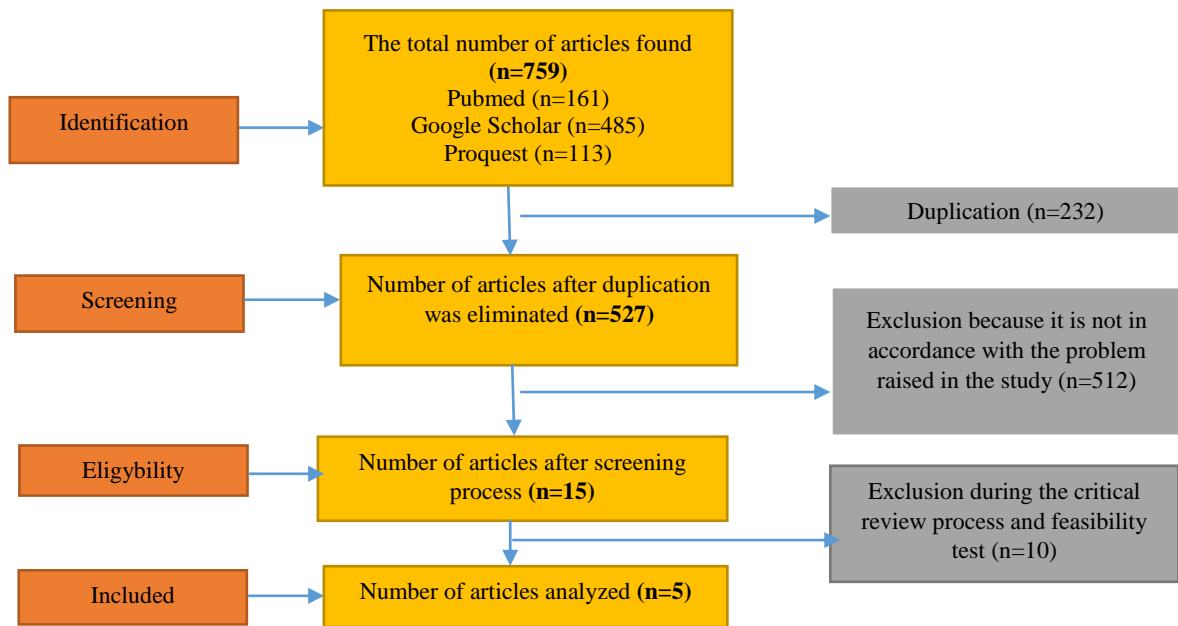
## 2. METHOD

This research method uses a Systematic Review. Systematic review is a research method for identifying, evaluating and interpreting all relevant research results related to certain research questions, certain topics, or phenomena of concern. Independent study (individual study) is a form of primary study, while systematic review is a secondary study. The stages of the Systematic Review are divided into 4 stages, namely Planning (designing review questions and planning methods), Data Collection (searching for keywords, screening titles and abstracts, filtering & assessment, data extraction), Analysis Stage (descriptive and thematic analysis), then ending with Synthesis (discussion). By synthesizing research results through a systematic review approach and presenting them in the form of actionable messages (policy brief and policy paper), the facts obtained are more conclusive.

Researchers get relevant articles from the database. Initial searches were conducted in PubMed, Google Scholar, and ProQuest. The initial search uses the main keyword, then adds modified keywords or additional keywords. These keywords include "Civil Law" with the synonym "Civil Law", "" with the synonym "Practice", or "Practice" and "Health Service" with the synonym "Health Services", and "Qualitative Research" with the synonym qualitative research. The results of research publications were published in the period 2018-2023, and used English and Indonesian. The articles were then reviewed using the Preferred Reporting Items for Systematic Review and Meta-Analysis (PRISMA) diagram.

## 3. RESULTS AND DISCUSSION

The results of searching 3 databases obtained a total of 759 articles. Next, a duplication check is carried out to see whether there is any duplication or not. After the articles were checked for duplication and excluded, 527 articles were obtained and the reviewers then screened the titles and abstracts to obtain 15 articles that were appropriate to the topic and reviewed. The articles obtained are then entered into the next stage, namely full-text review based on the inclusion criteria set by the reviewers. Five research articles that met the requirements were then assessed for quality and synthesized in this literature review. The following PRISMA diagram can be seen in Figure. 1



**Figure. 1** PRISMA (Search and Screening Strategy) of Systematic review

**Table 1.** Articles Reviewed

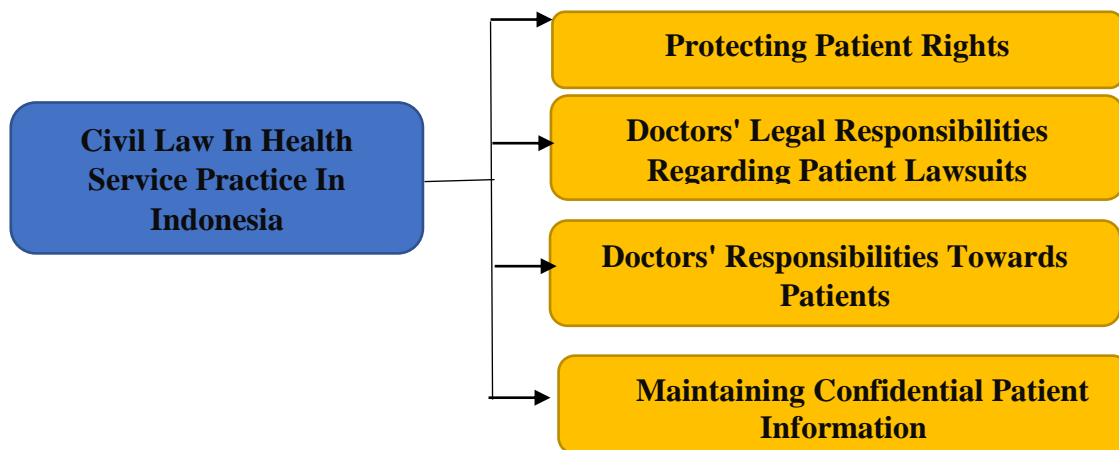
No	Researchers	Article Title	Research Method	Result
1	Angela & Aysha (2020)	The Civil Rights of Health: A New Approach to Challenging Structural Inequality	Qualitative	Results: As a joint project of public health and legal advocates, promoting civil society's right to health has the potential to raise public and elite awareness of the systems of subordination that produce and perpetuate health disparities. Effectively by the legal field, including patient rights defenders. Fully realizing patients' rights to health requires interdisciplinary and cross-sector collaboration to develop strategies and leverage collective resources. This work requires a combination of political and legal strategies, and much remains to be done [4].
2	Mohamad & Restu (2023)	Civil Legal Obligations and Responsibilities in Protecting Patient Data Privacy in Digital Health Services	Qualitative	Results : The results of this study reveal that compliance with patient data privacy regulations in digital healthcare varies, and there is an urgent need for increased legal understanding and awareness among stakeholders, including healthcare providers, application developers, and patients [5].
3	Marsono & Wijaya (2020)	Doctor's Legal Responsibility for Patient Lawsuits in	Qualitative	The results of this research are: (1) The doctor's legal responsibility for patient lawsuits in hospital health

		Hospital Services	Health		services occurs due to the doctor's negligence in providing medical procedures that are not in accordance with the standards of the medical profession, resulting in patient harm. (2) The legal consequences of violating a doctor's legal responsibility for a patient's claim in health services at a hospital, in legal, criminal, civil and administrative aspects. As a recommendation, it is necessary to increase socialization about criminal, civil and administrative law for doctors; a written statement is made regarding the patient's refusal of medical treatment, and carries out routine supervision [6].
4	Febriyanti & Abraham (2022)	Legal Protection for Consumers in the Field of Medical Services Based on the Civil Code		Qualitative	Result: That legal protection for patients is regulated in the Civil Code Article 1320 in terms of the conditions for making an agreement, namely, "an agreement is an act by which one or more people bind themselves to one or more people. Meanwhile, Article 1338 of the Civil Code concerns the principle of freedom of contract, namely that an agreement that is made and valid will bind the parties involved, so that the agreement binds the rights and obligations of the parties involved, namely the doctor and the patient. Along with deviations from the agreement between the doctor and the patient that can harm the patient are breaches of contract or unlawful acts committed by the doctor [7]
5	Ganesha (2021)	Doctor's Responsibilities towards Patients Viewed from the Civil Law Aspect.		Qualitative	The legal relationship between doctors and patients originates from a vertical, paternalistic relationship pattern such as between father and child which is based on the principle of "father knows best" which gives birth to a paternalistic relationship. 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 Doctors are considered to know everything related to disease and its healing. Meanwhile, the patient does not know anything about this, so the

patient leaves his fate completely in the hands of the doctor. The doctor-patient legal relationship refers to Article 1320 of the Civil Code which regulates the legal conditions for an agreement or legal engagement. These conditions include, among others:

- 1) The actor in the agreement must be able to act as a legal subject
- 2) The agreement between the legal subjects must be on a voluntary basis and without coercion
- 3) The agreement promises something in the field of health services
- 4) The agreement must be for a halal reason and not conflict with the law [8].

From the results of 5 articles, it was found that civil law in health service practice in Indonesia includes protecting patient rights, doctors' legal responsibilities regarding patient lawsuits, doctors' responsibilities towards patients and maintaining confidential patient information.



**Figure 2.** Civil Law In Health Service Practice

## Discussion

### Maintain Patient Rights

Health workers are obliged to maintain patient rights which must be fulfilled by health service providers. However, not everything talks about patient obligations in health services. In fact, a patient has a responsibility to ensure the quality of the health services they receive. The patient's obligations in health services are not only limited to paying health service fees or following the rules set by the health service provider. Patients also have an important role in maintaining the health of themselves and others, communicating honestly and openly with health care providers, and following advice and instructions from health care providers.

By prioritizing the rights of patients, every stakeholder in the hospital (doctors, nurses, midwives, even gardeners and cleaning services) in the hospital will make the patient's rights a driving force and motivation to fulfill the obligations and rights of the hospital itself. This means that by fulfilling and respecting patient rights, the hospital's obligations, patient obligations and hospital rights will be fulfilled / encouraged towards creating an atmosphere of therapeutic partnership between doctors and patients. Like a train, the patient's rights are the locomotive, while the hospital's rights and obligations and the patient's obligations are the carriage. For example: "Every patient has

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the right to receive information which includes the diagnosis and procedures for medical procedures, the purpose of medical procedures, alternative procedures, risks and complications that may occur, and the prognosis for the procedures carried out as well as the estimated cost of treatment" (article 32 point j). Likewise, article 32 point k: "Every patient has the right to give consent or refuse to actions carried out by health workers regarding the disease they suffer from." If only the hospital carries out its obligations by fulfilling and respecting the two examples of patient rights above in an atmosphere of clear communication, empathy, and most importantly that can be understood and accepted by the patient so as to satisfy the patient, then the patient will carry out his obligations (for example obeying all the rules that apply in the hospital). There is no guarantee that the splendor of the building and the sophistication of the medical equipment owned by the hospital will be able to meet patient satisfaction.

### **Doctor's Legal Responsibility for Patient Lawsuits**

Doctors have responsibilities towards patients in terms of aspects, service, safety, and having patient claims. In this case, patients are consumers, because patients receive treatment from health services and hospitals. In Article 19 paragraph (1) Law no. 8 of 1999 concerning consumer protection regulates sanctions for violated consumer protection rights, which includes doctors and hospitals that violate consumer rights [9]. One of them is medical malpractice.

To prevent malpractice, medical personnel must comply with professional ethics, medical professional standards and legal regulations while always improving the quality of their services to prevent malpractice due to miscommunication between doctors and patients. In an effort to prevent errors or negligence from practicing medical personnel, it is necessary to empower the medical committee to carry out its functions well, especially the functions of credentialing, recredentialing, granting clinical authority, medical audits, and the application of professional discipline to all medical personnel practicing in hospitals, in order to reduce the impact of medical malpractice. Law Number 29 of 2004 concerning medical practice states that: "Doctors and Dentists as one of the main components providing health services to the community have a very important role because they are directly related to the provision of health services and the quality of the services provided [10]."

As a profession, doctors have an obligation to provide medical services to patients. Remembering that there is an obligation towards doctors means that the doctor accepts responsibility if an error occurs. The professional responsibilities of doctors can be divided into ethical responsibilities and legal responsibilities. Legal responsibility can also be divided into administrative responsibility, criminal responsibility and civil responsibility. The responsibility of doctors in the event of medical malpractice in civil law can be seen from 2 (two) theories which state the source of the malpractice act, namely the breach of contract theory, in this theory the source of the malpractice act is the breach of contract (default) and the negligence theory, this theory states that the source of malpractice is negligence or error. This responsibility aims to obtain compensation for patient losses in the event of errors or medical malpractice.

### **Doctor's Responsibilities towards Patients**

A doctor's responsibility is a doctor's commitment to legal provisions in carrying out his profession. As a legal subject, it is natural that in providing health services, doctors are bound and must be responsible for all things that arise as a result of the implementation of their legal position as bearers of rights and obligations. So, responsibility means the state of being capable of being responsible for everything resulting from one's actions. The relationship between doctors and patients is a unique relationship, doctors as providers of health services and patients as recipients of health services. Expert doctors and lay patients, healthy doctors and sick patients. This unequal relationship of responsibility results in patients who, due to their general knowledge, do not know what is happening when medical procedures are carried out, this is possible because the information from the doctor is not always understood by the patient. Often patients do not understand this, suspect that an error/negligence has occurred, so the doctor is asked to compensate for the losses they have suffered. What is often a wrong opinion is that every error or negligence made by a doctor must receive compensation. In fact, sometimes if there is something that is suspected to have occurred as malpractice, the patient uses it as an opportunity to force the doctor to pay compensation. Determining whether a doctor is guilty or not and paying compensation must be proven first and determined by a

judge in court. The problem is that doctors are very vulnerable to publication, so often doctors who are reluctant to be in the spotlight in the mass media, pay for patient complaints, without going through the legal process [11].

#### **Maintain Patient Information Confidentiality**

Confidentiality of medical records is important to ensure patients receive medical treatment safely and comfortably. Patients are assured that their health details will remain confidential. No joke, this guarantee is regulated in detail in the law as outlined in the Minister of Health Regulation. However, in some cases the public interest may override such confidentiality. To maintain restrictions on what details can be disclosed, everything must refer to Minister of Health Regulation No. 269/Menkes/Per/III/2008 [12]. In Minister of Health Regulation no. 24 of 2022 article 29, the Ministry of Health regulates the security and protection of medical record data. The obligation to keep medical secrets is related to the relationship of trust between patients and health workers in the health care process [13].

Everyone has the right to confidentiality and personal dignity, the right to be able to decide which aspects of life are private and which can be shared with society. With the development and information technology, now the legal relationship between doctors and patients is more of a contractual relationship. The legal relationship between a doctor and a patient is contained in a civil relationship, namely an obligation, which occurs when the patient comes to terms with his illness, and the doctor agrees and tries to do the best for the patient. Meanwhile, patients and doctors are in accordance with the provisions of Article 1313 that "an agreement is an act by which one or more people bind themselves to one or more people". The object of the agreement is something, doing something, doing something. The concept of legal obligation as a concept of responsibility (legal responsibility) that a person is legally responsible for certain actions or that he bears legal responsibility means that he is responsible for a sanction if his actions conflict [14].

#### **4. CONCLUSIONS**

It can be concluded that civil servants in health service practice have provisions that regulate the rights and obligations of doctors and health workers to patients. Civil health law is also a tool or set of rules. Civil law is the regulation of rights, property and anything related between individuals and legal entities. So it is important for doctors and health workers to understand and carry out health services in accordance with applicable procedures and laws as well as health norms.

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