



LEGAL PROTECTION FOR MIDWIVES IN CARRYING OUT INDEPENDENT MIDWIFE PRACTICE (PMB) SUCI, Amd. Keb CENTRAL BENGKULU REGENCY

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Abstract

Midwives are health workers who have been recognized as stated in Law Number 17 of 2023 concerning Health. Midwifery is everything related to midwives in providing midwifery services to women during the pre-pregnancy period, pregnancy, childbirth, postpartum, infants, toddlers and preschool children, including women's reproductive health and family planning according to their duties and authorities. Legal protection for midwives in independent practice is a crucial issue, considering that they operate in a legal context that is often complex. Based on the background that has been described, the author wants to conduct legal research on "Legal Protection for Midwives in Carrying Out Independent Midwife Practice (Pmb) Suci, Amd. Keb, Central Bengkulu Regency". The formulation of the problem in this study is How is the Legal Protection for Midwives in Carrying Out Independent Midwife Practice (Pmb) Suci, Amd. Keb, Central Bengkulu Regency. In this study, the author uses a type of normative legal research or normative legal research, the data collection technique for this study is secondary and primary research. The conclusion in this study is that legal protection is a protection given to legal subjects in the form of legal instruments, both preventive and repressive, both written and unwritten. Article 29 of the Ministry of Health Regulation on Licensing and Implementation of Midwife Practices explains that midwives receive legal protection as long as they provide services in accordance with professional standards.

Keywords: Midwife, Midwife Independent Practice, Legal Protection.

INTRODUCTION

Midwives are recognized health workers as stated in Law Number 17 of 2023 concerning Health. A midwife's professionalism is determined if she can work in accordance with her functions and roles based on the specified authority (Ahmad, 2023). Based on the Regulation of the Minister of Health Number 1464 / Menkes / Per / X of 2010 concerning Midwife Licensing and Practice, hereinafter referred to as (Permenkes Licensing and Practice of Midwives), in carrying out her practice, midwives are authorized to provide maternal health services, child health, women's reproductive health and family planning. IBI makes efforts to maintain and safeguard the quality of professionalism in order to provide protection for the community as recipients of services and midwives themselves as service providers. In addition, IBI also assesses each midwife's compliance with the professional code of ethics and the ability to practice independently (Sumbung, 2021).

The authority of the Health Office after a Midwife member obtains a STR is to require the Midwife to make a Business Practice Permit (SIPB). If the midwife works in a Health service, the Health Office's function in the IBI Organization is as a professional supervisor if there is a Midwife who carries out Actions that are not in accordance with their authority, the Health Office has the right to reprimand and issue a Warning Letter through the Professional Organization in this case IBI (Indonesian Midwives Association). As for this SIPB, there are two categories, namely: SIPB I is given to Midwives who provide midwifery services in: 1. Government/Private Hospitals. 2. Community Health Centers 3. Clinics that provide Midwifery services. SIPB II is given to midwives in independent practice a series of health service activities provided by midwives to patients (individuals, families and communities) in accordance with their mandate and skills. The Midwife's License, hereinafter abbreviated as SIPB, is a written

statement for midwives who have met the requirements for independent midwifery practice. After obtaining the STR, the midwife must then carry out SIPB.

Midwifery is everything related to midwives in providing midwifery services to women during the pre-pregnancy period, pregnancy, childbirth, post-natal period, postpartum period, infants, toddlers and preschool children, including women's reproductive health and family planning according to their duties and authorities. Although there are several regulations regarding the protection of health workers, they have not been able to provide legal certainty and protection for Independent Midwives in carrying out their duties and responsibilities. Because several articles in the Criminal Code and BW can still burden midwives in dealing with problems with patients, such as the provisions of Article 1365 BW which stipulates that every unlawful act that results in harm to another person, requires the person whose fault caused the loss to compensate for the loss. Furthermore, Article 77 of the Health Workers Law stipulates that every recipient of health services who is harmed due to the error or negligence of health workers can request compensation in accordance with the provisions of statutory regulations. And also Article 85 paragraph (1) of the Health Workers Law, that every health worker who commits negligence that results in serious injury to the recipient of health services is subject to a maximum prison sentence of 3 years. In paragraph (2) it is also stated that if serious negligence as stated in paragraph (1) results in death, every health worker shall be punished with a maximum prison sentence of 5 years. (Ningsih, et al. 2024)

Legal protection so that midwives do not make mistakes in abusing their authority in carrying out their practice, in this case it must be in accordance with the duties and functions of midwives, in accordance with Law No. 4 of 2019 concerning midwifery which is clearly explained through the Minister of Health Regulation No. 28 of 2017 concerning permits and implementation of midwife practice, article 29. Efforts made by the Indonesian Midwives Association (IBI) organization so that midwives do not abuse their authority include: by providing routine guidance to midwife members in their area. The authority of midwives as stated in Article 62 paragraph (1) and Article 62 paragraph (1) letter c of Law of the Republic of Indonesia No. 36 of 2014 concerning Health Workers, what is meant by "authority based on competence" is the authority to provide health services independently according to the scope and level of qualification, for example midwives are authorized to provide maternal health services, child health services, reproductive health services, and family planning (Suhelianah, et al. 2022)

Legal protection for midwives in independent practice is a crucial issue, given that they operate in an often complex legal context. Lawsuits, the risk of malpractice, and public pressure are all challenges they must face. While laws and regulations govern midwifery practice, implementation and understanding of these legal protections are often inadequate. This raises concerns among midwives, impacting the quality of care provided to patients. Independent practices run by midwives are often exposed to legal risks. Malpractice cases or patient complaints can result in lawsuits, which often result in the loss of a license or the reputation of the profession. Therefore, it is important to understand the extent of legal protection provided to midwives and how it can improve their certainty and comfort in practicing (Permatasari, 2024).

METHOD

The approach method used in this research is normative juridical or normative legal research, namely by studying and reviewing legal principles, especially positive legal rules originating from library materials in the form of existing laws and regulations, legal doctrine, legal discoveries in cases in concreto (concrete), legal systematics, synchronization levels, legal comparisons, and history.

The approach used in this research was quantitative or interview, a survey method used to collect data from a large population. The survey was conducted by distributing a list of questions in the form of a questionnaire and conducting direct interviews with respondents.

The research specification used is analytical descriptive, which is a study that aims to describe and analyze existing facts systematically, factually, and accurately with positive legal theories concerning the problem in question. This study will describe legal issues, facts with other symptoms related to the Legal Protection of Midwives in Carrying Out Independent Midwife Practice (Pmb). Data collection techniques Library research is to review primary and secondary data in the form of materials:

- a) Primary legal material, namely obtaining data through the interview method, namely by asking and answering questions to respondents and people related to the problem the author is researching.
- b) Secondary legal materials, namely legal materials that provide explanations regarding primary legal materials such as research results, works from legal circles, and others related to Environmental Crimes committed by corporations and the Restorative approach.

- c) Tertiary legal materials, namely materials that provide guidance and explanations for primary and secondary legal materials, such as encyclopedias, legal dictionaries and political books.

The data analysis technique used in this study is: Once primary data has been collected, data analysis is performed. A problem is studied based on the data obtained, then processed according to the main problem proposed in the descriptive research. In the subsequent discussion or research results, the prospective author will analyze the data using descriptive analysis methods, which attempt to analyze the data by clearly describing and presenting easily measurable field data regarding the object being studied.

The data and information obtained from the research object are then studied, analyzed, and linked to the applicable theories and changes so that a conclusion can be reached to solve the problems raised by the prospective author.

RESULTS AND DISCUSSION

Interview Results of the DPMPTSP of Central Bengkulu Regency

Based on the interview results, it is known that the licensing regulations for SIPB for independent midwife practice are implemented in accordance with PMK Number 28 of 2017 concerning Permits and Implementation of Midwifery Practice, to obtain SIPB for independent practice, midwives are required to come to the PMPTSP Service to obtain an explanation of the registration flow and checklist for fulfilling the requirements according to the provisions stated in Article 8 of PMK Number 28 of 2017 concerning Permits and Implementation of Midwife Practice

Interview Results of the IBI Central Bengkulu Branch

Based on the interview results, it is known that the IBI organization has the main task and function of fostering unity and brotherhood among fellow midwives in strengthening national unity; developing the knowledge and skills of members in the midwifery profession, especially in KIA services and family welfare; assisting the government in national development, especially in improving the level of public health and increasing the dignity and position of midwives in society.

The protection provided by professional organizations helps advocate for or mediate these issues. The IBI also provides legal protection to patients by ensuring that every midwife who practices adheres to midwifery service standards, professional standards, and standard operating procedures.

Midwife Interview Results (PMB)

Based on the interview results, Midwife "S" revealed that she provided health services within the limits, competencies, and authority established by laws and codes of ethics. The duties of independent midwives in providing health services include maternal and child health services, family planning counseling, and prenatal classes.

Respondents also revealed that in providing health services, they always adhere to the provisions of laws and regulations, as well as the code of ethics and standards of midwifery care. Respondents also revealed that in conducting independent practice, they always refer to laws and regulations such as the Midwifery Law, the PMK for Midwifery Practice Permits, the PMK for Midwifery Care Standards, the Code of Ethics for the Midwifery Profession, and the PMK for Health Services during the Pre-Pregnancy Period, Pregnancy, Childbirth, and Postpartum Period, the Provision of Contraceptive Services, and Sexual Health Services.

To date, there have been no cases of lawsuits filed by patients against respondents. However, if an error or lawsuit occurs, each midwife must report it to the community health center in their area of operation. The community health center will then forward the matter to the health department for mediation.

DISCUSSION

A. Midwife's Authority

As a profession engaged in the health sector, the authority of midwives is regulated in the Health Law which states that "Health Workers in carrying out practice must be carried out in accordance with the authority based on their competencies." This authority is further regulated in Article 18 of the Minister of Health Regulation on Licensing and Implementation of Midwife Practice which states that "Midwives have the authority to provide:

- a). maternal health services; b). child health services; and c). women's reproductive health and family planning

services." In addition, based on statutory regulations, midwives have the authority based on a mandate from a doctor and the authority to carry out medical actions on assignment from the government (Ahmad, 2023).

B. Midwife's Responsibilities

Midwifery is a science formed from the synthesis of various disciplines or multidisciplinary sciences related to midwifery services, including medicine, nursing, social sciences, behavioral sciences, cultural sciences, public health, and management sciences, to be able to provide midwifery services to mothers during the pre-conception, pregnancy, labor, postpartum, and newborn stages. The midwife's responsibilities are as follows:

1. Responsibility for statutory regulations.
2. Responsibility for professional development.
3. Responsibility for deviations from obstetric records.
4. Responsibility towards the families served.
5. Responsibility towards the profession.
6. Responsibility towards society. (Sumbung, 2021)

C. Role and Function of Midwives

A midwife is a health worker who can provide services to the community according to their competence and authority. The implementation of midwifery is an integral part of health services, which focuses on women's health services in the reproductive cycle, newborns and toddlers to realize family health so that quality Human Resources (HR) are available in the future. Midwives have been recognized as a health worker profession in Indonesia as regulated by the Health Law and Government Regulation No. 32 of 1996 concerning Health Workers, hereinafter referred to as (Permenkes Kesehatan Tenaga Kesehatan). Therefore, to be considered someone who works professionally, a midwife must be able to understand the extent of her role and function as a midwife. The role of a midwife is a behavioral device that is expected and possessed by people in a position in society. The role of a midwife is divided into four, namely, midwives as implementers, managers, educators and researchers. (Sumbung, 2021)

D. Rights and Obligations of Midwives and Patients in Midwifery Services

In healthcare, midwives and patients have rights and obligations that must be fulfilled. Fulfillment of rights and obligations aims to create harmony in a reciprocal relationship. Patients have the right to receive healthcare services from midwives, while midwives have an obligation to provide healthcare services to patients. Therefore, it can be concluded that rights are something that patients receive from a professional midwife, while obligations are something that midwives give to midwives. A legal relationship (*rechtsbetrekking*) is a relationship that occurs between two or more legal subjects, or between a legal subject and a legal object that applies under the authority of law, is regulated/exists in law and has legal consequences.

Explanation of the legal relationship is as follows:

1. Legal relationship between two legal subjects, one person with another legal subject, for example the legal relationship between a midwife and a patient;
2. Legal relations between legal subjects who are individuals and legal subjects who are legal entities, for example between patients and health service facilities (hospitals); and
3. The legal relationship between a legal subject, a person or entity, and a legal object, an object, in the form of rights to an object. The legal relationship that occurs between a midwife and a patient occurs when the patient first comes and conveys problems/complaints related to their health condition to the midwife, and the midwife provides services to the patient. At that point, a legal relationship is established between the midwife and the patient. (Ahmad, 2023)

E. Legal Protection

Legal protection is a protection provided to legal subjects in the form of legal instruments, both preventive and repressive, both written and unwritten. In other words, legal protection is a depiction of the function of law, namely the concept that law can provide justice, order, certainty, benefit, and peace. Legal protection is a narrowing of the meaning of protection, in this case only protection by law. Protection provided by law is also related to the existence of rights and obligations, in this case owned by humans as legal subjects in their interactions with other humans and their environment. As legal subjects, humans have the rights and obligations to carry out legal actions. (Ningsih, et al. 2024)

Preventive legal protection is protection that aims to prevent disputes from occurring. Legal protection provided by the government aims to prevent violations before they occur. This is contained in laws and regulations with the aim of preventing violations and providing guidelines or limitations in the implementation of an obligation. In the Republic of Indonesia Government Regulation Number 67 of 2019 concerning the management

of health workers, Article 88 states that preventive legal protection is to ensure legal certainty for health workers in carrying out their professional practices. Preventive legal protection efforts aim to prevent violence and crime. Efforts that can be made in this legal protection are : Re-regulating the Regulation of the Minister of Health Number 28 of 2017 concerning the implementation of Midwifery Practice. (Ningsih, et al. 2024)

Legal protection for midwives who commit acts beyond their authority is repressive legal protection because repressive legal protection functions to resolve disputes and guarantee the rights granted to midwives in carrying out their duties. Repressive legal protection aims to resolve disputes. Handling of legal protection in general courts and administrative courts in Indonesia is included in this category of protection. The principle of legal protection against actions taken by the government is based on and relies on the concept of recognition and protection of human rights because historically, the birth of concepts about recognition and protection against actions taken by the government is a principle of the rule of law. Associated with the recognition and protection of human rights, it has a primary place that can be linked to the objectives of the rule of law. (Ningsih, et al. 2024)

Satjipto Raharjo stated that “the law protects a person’s interests by placing a power that is carried out in a measured manner (specific and deep) to act in the framework of those interests.” Similarly, Salmond said that “legal protection aims to integrate and coordinate various interests in society because in the traffic of interests, protection of certain interests can only be done by limiting the interests of others.” As a midwife is a health worker, it is appropriate that midwives, including independent practicing midwives, have the right to obtain legal protection in carrying out their duties and responsibilities in midwifery services. In Law No. 36 of 2014 concerning Health Workers, hereinafter referred to as (the Health Workers Law), Articles 57 and 75 have been explained, in Article 57 which reads: “personnel in carrying out practice have the right to obtain legal protection as long as they carry out their duties in accordance with professional standards, professional service standards, and operational procedure standards.” And Article 75 which reads: “health workers in carrying out practice have the right to obtain legal protection in accordance with statutory provisions.” Likewise, in the Minister of Health Regulation on Midwife Licensing and Practice, Article 19 also states that "in carrying out practice/work, midwives have the right to obtain legal protection in carrying out practice/work as long as it is in accordance with standards (Sumbung, 2021)

Midwifery services are a form of professional work for which a license is granted to midwives by the health department through a SIPB (Midwife Practice License). The purpose of midwifery services is to be responsible within the health care system for providing maternal and child health care, thereby achieving family and community health. Midwives, in carrying out their duties, are an integral part of health services, which are directed at improving the quality of family health. Midwifery services cover individuals, families, and communities by striving to improve, prevent, and provide healing and recovery. .(Rahmad, et al. 2023)

Article 29 of the Minister of Health Regulation on Licensing and Implementation of Midwifery Practice explains that midwives receive legal protection as long as they provide services in accordance with professional standards, service standards, and standard operating procedures. This regulation serves as the basis for midwives in exercising their authority to provide services including maternal health services, child health services, women's reproductive health services, and family planning, as well as carrying out duties based on delegation of authority, and/or carrying out duties under certain limited circumstances. It should be noted that midwives receive legal protection if they carry out their services in accordance with professional standards, service standards applicable at the hospital where they are assigned, and standard operating procedures for the field they work in at the hospital where they are assigned (Rahmad, et al. 2023).

Midwives who commit violations can also be brought to court. Violations committed by midwives are then prosecuted. continued by IBI through Member Defense Council (MPA) IBI and the Ethics Advisory Council Midwife (MPEB) IBI, followed up by assessing whether the midwife concerned had truly make a mistake. If from the results of the IBI MPA assessment and MPEB IBI violation Which happen No caused by a midwife, and the midwife concerned has carried out her duties in accordance with professional standards, service standards, and applicable operational procedure standards, then IBI through MPA and MPEB has the authority to provide legal assistance to the midwife concerned in facing demands or lawsuits in court (Rahmad, et al. 2023)

CONCLUSION

Legal protection is a protection provided to legal subjects in the form of legal instruments, both preventive and repressive, both written and unwritten. Article 29 of the Minister of Health Regulation on Licensing and Implementation of Midwifery Practices explains that midwives receive legal protection as long as they carry out

services in accordance with professional standards, service standards and standard operational procedures. This regulation is the basis for midwives in exercising their authority to provide services including maternal health services, child health services, women's reproductive health services and family planning, as well as carrying out duties based on delegation of authority, and/or carrying out duties under certain limited circumstances.

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