



LEGAL PROTECTION FOR DOCTORS IN PROVIDING HEALTH SERVICES AT THE COMMUNITY HEALTH CENTER OF BENER MERIAH DISTRICT

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Abstract

This study attempts to examine the Legal Protection for Doctors in Providing Health Services at the Bener Meriah Regency Health Center. A doctor in carrying out his profession will very likely get a situation that leads to the realm of law, it can be due to the final result of a treatment process carried out by the doctor which if the patient who is being treated dies or is disabled, it could get a response from the patient's family that this is malpractice. The problems written in this study are: How is the inpatient health service system at the Bener Meriah Regency Health Center, what are the factors of inpatient health services that can bring doctors at the Bener Meriah Regency Health Center into the realm of law, How is the legal protection for doctors in providing inpatient health services at the Bener Meriah Regency Health Center. This research is a qualitative research that is descriptive in nature with an empirical legal approach whose data consists of primary data and secondary data, then primary data is taken through interviews and secondary data sourced from legal materials based on concepts, theories, laws and regulations. The research shows that the inpatient health service system at the health center that was the object of the research has carried out and provided maximum and quality health services for the local community, and has carried out its duties in accordance with the applicable SOP, while the factors that can bring doctors into the legal realm are referral factors, availability of equipment and drugs, and visas requested by members of the community, legal protection is given to doctors who treat patients at the health center in Bener Meriah Regency after being assessed as having carried out their duties properly.

Keywords: *Legal Protection, Doctors, Health Services, Bener Meriah District Health Center*

INTRODUCTION

The 1945 Constitution of the Republic of Indonesia mandates that health is a human right. In "Article 28 H it is stated that every person has the right to live in physical and spiritual prosperity, to live and have a good and healthy living environment and has the right to receive health services." Furthermore, "Article 34 paragraph 3 states that the state is responsible for providing adequate health service facilities and public service facilities." This shows that the government is obliged to make the sick healthy and try to keep the healthy healthy.

Currently, the health sector has a lot to do with health law in its development in Indonesia. The development of health maintenance and care in the country must be adapted to community conditions. In order to achieve the goal of improving welfare through health, it is necessary to carry out sustainable national development in all areas of life, which is a comprehensive and integrated series of development. Therefore, every activity and effort to improve optimal public health services is carried out based on non-discriminatory, participatory, protective and sustainable principles which are very important for the formation of Indonesia's human resources, increasing the nation's resilience and competitiveness, as well as national development.

Health development is one element of general welfare that must be realized by the government in accordance with the ideals of the Indonesian nation as intended in the 1945 Constitution, namely to protect the entire Indonesian nation and all of Indonesia's blood and to promote general welfare, make life intelligent. nation and participate in implementing world order based on freedom, eternal peace and social justice. Discussing the issue of health services, it must first be agreed that the essence of health care and service efforts is a dynamic flow process that continues with problems in the economic, social and cultural fields of society which are very

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complex. The complexity of the elements of health care will sooner or later result in greater emphasis in the state budget required for health care and services. This situation is not only found in countries where health care and services are a burden on the state, but also in countries that have accepted the principle of private health care and services. This will be seen from the quality of health services provided at referral health service facilities, especially in finding common ground between the interests of entrepreneurs and health service users.

The quality of health services at the Community Health Center is one of the factors that drives patient satisfaction with the health services they receive. Patient satisfaction with health services is a comparison between perceptions of the services received and expectations before receiving services. The service is said to provide extraordinary quality and will also lead to high satisfaction if the patient's expectations before receiving the service are met.

Juridically, the relationship between the doctor and the patient arises based on two things, namely an agreement (*ius contractual*) or what is called a therapeutic transaction. This relationship is personal between the doctor and the patient because it is based on trust and the law (*zaakwarneming*). *Zaakwarneming* or voluntary representation is said, if the patient is unconscious so that the doctor cannot provide information, then the doctor can act or carry out medical efforts without the patient's permission.

Based on the results of preliminary data, the problems that occur at the Bener Meriah Regency Health Center are very limited human resources, unequal placement of doctors by the government and incomplete facilities and other infrastructure such as equipment and supplies that do not meet the established standards. With the BPJS program, large numbers of patients will not provide optimal services if they are not supported by the availability of adequate personnel, while Puskesmas are required to provide optimal services. 15

On the other hand, it is often heard that patients are suing doctors because their illness has not been cured, even though in a therapeutic contract, the object of the agreement is the doctor's best efforts or efforts to cure (*inspanning verbinten*) and not at all whether the patient is cured or not cured (*resultaat verbinten*). . In this way, a doctor is at risk of facing a lawsuit or demand for patient dissatisfaction with health services at the Community Health Center which are not supported by adequate human resources, facilities and infrastructure.

As initial data was obtained on March 18 2024 at one of the Bener Meriah Regency health centers, the community complained that health services at the health center were slow and blamed the services at the health center for not being worthy of being called a health center, and after observation it turned out that the health center had implemented it appropriately. SOP, but what happens is that during 24 hours only one doctor is on duty. In this case, the head of the Community Health Center immediately took action and explained that all forms of service at the Community Health Center had SOPs, so that one form of legal protection for the doctor already existed because they fulfilled the SOP.

The results of observations obtained at the Singah Mulo Community Health Center, there was a complaint made by a member of the public about the doctor being required not to frequently refer patients to more adequate health facilities, while the doctors and health workers at the Community Health Center had carried out according to the SOP, that there were complaints that cannot be treated at the Community Health Center and it is appropriate to make a referral. However, according to doctors at the Singah Mulo Community Health Center, referral problems like this often trigger problems that can bring doctors into the realm of law.

RESEARCH METHODS

Types of research

In this writing, empirical juridical research is used and to analyze the data, qualitative analysis is used, namely a way of analyzing data sourced from legal materials based on concepts, theories, statutory regulations,⁴⁴ doctrine, legal principles, opinions. experts or researchers' own views. The approach used in legal research is the statute approach. The statute approach or

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statutory approach is an approach method that is carried out by examining statutory regulations and matters relating to the legal issue being researched.

Place and time of research

Research location

This research was conducted at UPTD DTP Singah Mulo Health Center, UPTD Lampahan Community Health Center, Pante Raya Health Center UPTD, Bandar Pondok Baru Health Center UPTD, Buntul Buntul Community Health Center UPTD. Research time This research will be carried out in April-May 2024.

Population

The population in this study were general practitioner respondents who served at the Bener Meriah Regency inpatient health center, consisting of 3 general practitioners at the Singah Mulo Health Center, 4 general practitioners at the Lampahan Community Health Center, 3 general practitioners at the Pante Raya Community Health Center, 4 general practitioners at the Bandar Public Health Center, 3 general practitioners at the Bandar Public Health Center, 3 general practitioners at the Community Health Center. Buntul. The objects of this research are general practitioners who work at the Singah Mulo Health Center and Buntul Health Center.

Data analysis

Data analysis is used to explain the data processing mechanism. So it can become information or material used in research. Data analysis in this paper uses empirical juridical research. namely research that refers to the enactment or implementation of normative legal provisions in action on every specific legal event that occurs in society.

RESULTS AND DISCUSSION

Legal Protection For Doctors In Providing Inpatient Health Services In The Bener Meriah District Private Health Center

Legal Protection of Health Services in Indonesia

Discussions about law and social change will revolve around examining how laws that function to order society can compete with social change. In this case, law has a function as a means of social control and a means of carrying out "social engineering", which means that law is expected to be able to shape, direct and change society towards something that is aspired to. This function of law is apparently not always supported by social life in which The law is applied to maximize the function of the law and must be supported by an adequate legal culture which ultimately is based on legal awareness and compliance.

In the era of National Health Insurance there was "reform" in the health sector where previously "unstructured" health services were changed to "structured", the health financing pattern which was previously "fee for service" became "prospective payment/capitation". By using the Managed Care system as an operational basis, health services are divided into primary, secondary and tertiary health services. In the Managed Care system, this first level health facility becomes the focal point and plays a very large and important role with the concept of "gate keeper" for access to health services in tiers, where doctors are required to play an optimal role. Being a family doctor / Primary Care Doctor (DLP) in carrying out his profession and his role as a gate keeper faces various obstacles, both internal and external, including the service system, health facility facilities and infrastructure, the financing system, the human resource system, there are also Legal culture factors in implementing legal regulations.

Based on the theory of the working of law, according to Chambliss and Robert B. Seidman, it is argued that there is the influence of social forces in the working of law. Social, cultural, political and economic forces will always influence it. It is necessary to realize that law is part of social life and therefore does not exist in a vacuum and deals with abstract things and is always

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within a certain social order and living humans. Primary care doctors as "role occupants" in Chambliss and Seidman's theory are required to work optimally by BPJS Health to carry out the role of gate keeper where the doctor will be the first contact (first contact care) when a patient is sick, carrying out continuity of service (continuity care).), coordination of services (coordinated care), comprehensiveness of services (comprehensive care), with a family and community health orientation (family and community oriented care) focusing on promotive and preventive health efforts, with a capitation payment method (prospective payment).

Legal Relationship Between General Practitioners and Patients

The relationship between a doctor and a patient is that of a person who provides treatment to someone who needs it. The legal relationship between doctors and patients begins with a vertical relationship pattern. paternalistic like father and son which is based on the principle of "Father knows best", where a doctor is considered to know better and be able to treat the disease suffered by the patient. The position of the doctor is higher than that of the patient and the doctor has an important role. In its development, this pattern of relationship between doctors and patients has gradually shifted towards a more democratic one, namely a horizontal contractual or participatory relationship. The position of the doctor is no longer considered higher than the patient, but the position of the doctor and patient in this relationship is equal or equal. Patients are no longer considered as legal objects but patients are now as legal subjects.

Everything is communicated between both parties, resulting in a mutually beneficial decision between both parties, both the doctor as the provider of health services and the patient himself as the recipient of health services. Quoting from The legal relationship between doctors and patients has existed since ancient Greek times, a doctor was someone who provided treatment to people who needed it. This relationship is a very personal relationship because it is based on the patient's trust in the doctor, which is called a therapeutic transaction. A therapeutic transaction is an agreement between a doctor and a patient in the form of a legal relationship that gives rise to the rights and obligations of both parties. The object of this agreement is an effort or therapy to cure the patient. The legal relationship between doctors and patients originates from a pattern of vertical paternalistic relationships, such as between fathers and children, which is based on the principle of "father knows best".

Doctors' rights and obligations when providing medical services

The rights and obligations of general practitioners when providing medical services are regulated by various regulations, professional standards and medical ethics. This is what has been implemented and carried out by the Community Health Center which is the object of research. The author considers that what is the obligation of a doctor to carry out their duties in accordance with the regulations in force. Below, the author explains several rights and obligations of general practitioners in providing medical services to patients at the Community Health Center. According to researchers, by understanding the rights and obligations in providing medical services to patients, general practitioners are expected to be able to carry out their duties with full responsibility, integrity and empathy. This is important to ensure that patients receive treatment in accordance with professional standards and provide protection for the rights and interests of patients in the medical care process. From this, the researchers assessed that everything carried out by the Singah Mulo and Buntul Community Health Centers had carried out their duties according to applicable standards.

Legal Protection for General Practitioners in Providing Health Services

Legal protection for general practitioners in providing health services is very important to protect their interests when providing medical care to patients. Law NO.17 of 2023 article 286 states that

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- 1) Under certain circumstances, Medical Personnel and Health Personnel can provide services outside their authority.
- 2) Certain circumstances as intended in paragraph (1) include at least:
 - a. absence of Medical Personnel and/or Health Personnel in an area where Medical Personnel or Health Personnel are on duty;
 - b. government program needs;
 - c. handling medical emergencies; and/ata'u
 - d. Extraordinary outbreak, epidemic, and/or disaster emergency.
- 3) Medical Personnel and Health Personnel as intended in paragraph (1) include:
 - a. doctors/dentists who provide medical and/or pharmaceutical services within certain limits;
 - b. nurses or midwives who provide medical and/or pharmaceutical services within certain limits; or
 - c. pharmaceutical vocational staff who provide pharmaceutical services which fall under the authority of pharmacists within certain limits.

The following are several forms of legal protection that are usually given to doctors at Community Health Centers in Bener Meriah Regency, as follows:

1. **Malpractice Insurance (Medical Negligence Insurance)**

In Indonesia, the issue of doctor's responsibility in both the civil and criminal fields is starting to be widely discussed among both practitioners and legal theorists. This problem is actually not a new problem. Around the 1930s in our country there were already court decisions regarding the issue of "medical practice", such as the Raad van Justiti Medan decision in 1938. Recent developments have become increasingly rapid, especially in the field of civil cases with all its legal aspects. Therefore, it is appropriate that medical law should receive more attention. Medical negligence insurance is a form of insurance protection that provides insurance to general practitioners against legal claims that may arise due to errors in medical services. This insurance can help protect doctors from financial risks arising from malpractice claims. Sometimes providing medical services can result in things that are detrimental to patients. Even Indonesia as a developing country certainly has many problems in the field of medical services, such as differences in people's backgrounds in terms of social, cultural, customs and systems which are the reasons why this can happen.
2. **Professional Standards**

Practicing general practitioners are required to comply with established professional standards. Following medical professional standards is a form of legal protection, because it can support doctors in proving that they have acted in accordance with applicable norms.
3. **Consent Forms (Approval Form)**

General practitioners are required to obtain informed consent from patients before carrying out medical procedures that are invasive or carry certain risks. This consent form can be proof that the doctor has provided sufficient information to the patient before carrying out medical procedures. This form is called Informed Consent, which consists of two words "informed" which means information and "consent" which means agreement. So the meaning of informed consent is approval given after receiving information. Thus, informed consent can be interpreted as a statement by the patient or his legal representative containing a form of approval for the medical action plan recommended by the doctor after receiving sufficient information to be able to agree or refuse. Consent to the action to be carried out by the doctor must be done without any element of coercion. For patients, informed consent is an embodiment of the patient's right to obtain

- complete information regarding medical conditions, actions to be taken, risks, alternative therapies, and side effects of procedures.
4. Confidentiality Agreements (Confidentiality Agreement)
Confidentiality of patient medical information is very important in medical practice. General practitioners are required to maintain the confidentiality of patient information in accordance with applicable health privacy laws. The existence of a confidentiality agreement between doctors and patients can also be a form of legal protection for doctors.
 5. Medical Board Oversight (Medical Board Oversight)
General practitioners are usually regulated by a Medical Council or competent health authority. The Board of Medicine is responsible for overseeing the medical practice of physicians and upholding the ethical standards and discipline of the medical profession. This also provides legal protection for doctors who act in accordance with established provisions.
 6. Legal Counsel (Legal Aid)
General practitioners who are faced with legal issues in their medical practice can seek help from legal experts or legal consultants who specialize in the field of medicine. Legal assistance can help doctors understand their legal rights and obligations and provide protection in complex situations.
 7. Good Samaritan Laws
Some jurisdictions have Good Samaritan laws that provide legal protection for general practitioners who provide emergency care to someone outside their scope of practice without any strings attached. This law aims to encourage individuals to provide help in emergency situations without fear of legal action.
With appropriate legal protection in place, general practitioners can carry out their duties more confidently and safely, and can focus on providing the best health care for patients without worrying about potential legal risks. It should be remembered that compliance with legal regulations, professional standards, medical ethics, as well as clear and transparent communication with patients is the main key in maintaining legal protection for general practitioners in carrying out medical practice in addition to complying with the laws of the Republic of Indonesia and also carrying out the functions of the Medical Code of Ethics. Indonesia.

CLOSING

The conclusions of this research reveal that the community health center at Singah Mulo, Buntul, Bandar Community Health Center in Bener Meriah Regency has important notes, namely as follows:

1. The inpatient health service system at the inpatient health center studied has carried out and provided maximum and quality health services for the local community which is carried out through various activities and activities in the form of training health workers, meeting facility standards, and adding necessary medical equipment.
2. Health services at Community Health Centers in Bener Meriah Regency, especially at Singah Mulo, Buntul and Bandar Community Health Centers, often face challenges that bring doctors into the realm of law due to many factors, such as referral factors, availability of equipment and medicines, and post-mortems requested by community members.
3. In the legal relationship between doctors and patients at the Bener Meriah District Health Center, they are considered to have carried out their duties in accordance with the applicable SOP.

REFERENCES

- Aminudin, Perlindungan Hukum Tenaga Kesehatan Terapis Gigi Dan Mulut Dalam Pelaksanaan Pelayanan Tindakan Klinis Gigi Dan Mulut Di Pusat Kesehatan Masyarakat (Puskesmas), Universitas Lampung, <http://digilib.unila.ac.id/29749/19/.pdf> Diakses Pada Senin Tanggal 26 Februari 2024 Pukul 16:36 WIB
- Aries Kelana, Hayati Nopus, Umaya Khusniah, Aturan Hukum Menuai Protes, (Gatra, Edisi 8-XX1, 25 Desember, 2014) Hlm.99.
- Azhali Siregar. 2023. The Concept of Resolving Medical Crimes Based on a Restorative Justice Perspective in the Criminal Justice System in Indonesia. Volume 2/Issue 5/Sinomic Jurnal.
- Danil, Tamaulina Br, Bambang F. 2023. Juridical Analysis of Informed Consent and Ownership Rights Reviewed from Law No 17 of 2023 Concerning Health. Vol. 2/174-180. Asian Journal of Multidisciplinary Research and Analysis
- Dhimas Panji Chondro Asmoro, Tanggung Jawab Hukum Dokter Dalam Memberikan Pelayanan Kesehatan Terhadap Pasien, Jurnal MAKSIGAMA, Volume 13 Nomor 2 Periode November 2019, hal. 127
- Endang Sutrisno, Bunga Rampai Hukum Dan Globalisasi, Yogyakarta: Penerbit Genta Press, 2007, Hlm.46.
- Esmi Warassih , Pranata Hukum Sebuah Telaahsosiologis, Semarang: Penerbit PT Suryandaru Utama, 2005, Hlm.4.
- Endang Sutrisno, Rekonstruksi Budaya Hukum Masyarakat Nelayan Untuk Membangun Kesejahteraan Nelayan Studi Kritis Terhadap Pemaknaan Hukum, Yogyakarta, Genta Press, 2013, Hlm. 57.
- Farda Tamama Al Khikami, Universitas Islam Sultan Agung Semarang, Perlindungan Hukum Terhadap Pasien Dalam Pelayanan Kesehatan (Studi Di Rumah Sakit Ibu Dan Anak Bunda Semarang), Pertanggungjawaban Pidana Dokter Gigi Atas Pasien Korban Malpraktek, 2022, <http://repository.unnisula.ac.id/id/eprint/9823> Diakses Pada Senin, Tanggal 26 Februari Pukul 16:45 WIB
- Ika Yuliana Sofiati, Perlindungan Hukum Bagi Peserta Jaminan Kesehatan Nasional Dalam Fatwa Dewan Syariah Nasional No. 98/Dsn- Mui/Xii/2015 Dan UU Perlindungan Konsumen (Studi Kasus di Puskesmas Arjasa Kecamatan Arjasa Kabupaten Sumenep), Institut Agama Islam Negeri Surakarta <https://eprints.iain-surakarta.ac.id/547/1/I.pdf> Diakses Pada Senin Tanggal 26 Februari 2024 Pukul 22:52 WIB
- Lawrence M Friedman, The Legal System: A Social Science Perspective, New York, Russel Sage Foundation ,1986, Hlm.17.
- Michel Daniel Mangkey, Perlindungan Hukum Terhadap Dokter Dalam Memberikan Pelayanan Medis, http://hukum.unsrat.ac.id/etc/mk_4_2007.pdf, Diakses Pada Senin Tanggal 26 Februari 2024 Pukul 22:22 WIB
- Moh Hatta. 2013. Hukum Kesehatan dan Sengketa Medik. Liberty . Yogyakarta. hlm 59
- Neni Ruhaeni, Perkembangan Prinsip Tanggung Jawab (Bases Of Liability) dalam Hukum Internasional dan Implikasinya terhadap Kegiatan Keruangankasaan, <https://journal.uin.ac.id>. Diakses Pada Senin Tanggal 26 Februari 2024 Pukul 18:47 WIB.
- Ukilah Supriyatin, Hubungan Hukum Antara Pasien Dengan Tenaga Medis Dokter (Umum) Dalam Pelayanan Kesehatan, <https://jurnal.unigal.ac.id/galuhjustisi>. Diakses pada Selasa tanggal 18 Juni 2024. Pukul 14.00 WIB.
- Nur Yahyah, Hubungan Antara Kepatuhan Diit Dengan Tekanan Darah Pada Pasien Hipertensi Rawat Jalan Di Puskesmas Taman, Thesis, Universitas Muhammadiyah Gresik, 2014.
- Roihanah, Rifah. 2019. Hubungan Hukum Dokter dan Pasien: Perspektif Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen. Jurnal IAIN Ponorogo. Volume 16, Nomor 1, <http://jurnal.iainponorogo.ac.id/index.php/justicia/article/view/166> Diakses 1 Agustus 2024

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- Rianto Adi, Sosiologi Hukum: Kajian Hukum Secara Sosiologis, Jakarta, Yayasan Pustaka Obor Indonesia, 2012, Hlm. 59.
- Soerjono Soekanto, Kesadaran Hukum Dan Kepatuhan Hukum, Jakarta, Penerbit Rajawali, 1982, Hlm. 153-154.
- Syahrul Machmud, 2008. Pe negakan Hukum dan Perlindungan an Hukum bagi Dokter yang Di duga Melakukan Medikal Malprak tek, Mandar Maju. Bandung. hlm 26
- Ukilah Supriyatin, Hubungan Hukum Antara Pasien Dengan Tenaga Medis Dokter (Umum) Dalam Pelayanan Kesehatan, Jurnal Ilmiah Galuh Justisi, Volume 6, No. 2 -November 2018, hal. 187.
- Wahyudin, Munandar. 2017. Hukum Kedokteran, Edisi 1. Alfabeta. Bandung.