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LEGALITY OF DOCTORS WHO PROVIDE HEALTH SERVICES IN HOSPITALS

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ABSTRACT

Hospital is a health care facility that aims to be a container between every interaction between the community (patient) and medical personnel (doctor) for the achievement of the right to health care in a health care facility, namely a hospital agency presented by the government to become a provider of health services needed. This research is normative legal research, which is one of the normative legal research methods that focuses on the analysis of secondary legal materials. In addition, this research also uses the Legislation approach and conceptual approach. The results of this study state that the importance of legitimacy that doctors must have as form of prevention in the case of medical disputes that harm patients in exercising their rights to health in hospital institutions as means of providing health services where administrative malpractice is committed by doctors who do not have legality in practicing in hospitals. The legality of doctor practice is marked by the fulfilment of administrative requirements, ownership of a Registration Certificate (STR) and Practice Permit (SIP). In addition, Clinical Appointment and Clinical Privilege are given through credentials at the Hospital in accordance with Permenkes Number 755/MENKES/PER/IV/2011 concerning the Implementation of the Medical Committee in Hospitals.

Keywords: Legality of Doctors; Health Services; Hospitals.

INTRODUCTION

Health plays a crucial role in people's daily lives because the impact of health itself can affect various aspects such as social interaction, work performance, and other daily activities. ² The right to health in Indonesia is affirmed in "Article 28H paragraph (1) of the 1945 Constitution". For this reason, it is very important to pay attention to health facilities. In order to uphold the basic rights of individuals to obtain health care, the government must ensure that everyone has proper access to high-quality medical care. Health care itself is a series of complex and structured processes, which are carried out to provide maximum fulfilment of health services. This health service activity is carried out by skilled and

experienced medical personnel, who work in a particular health service facility agency. The agency (Hospital) plays a crucial role in providing quality, efficient, and effective health services, as well as ensuring that every citizen has equal and fair access to health services.

The profession most closely related to health care is the medical profession. Doctors are medical personnel whose profession has expertise in the field of health, according to professional ethics, the medical profession is classified as an honourable profession (officium nobile) which means that every obligation it performs has glory or is respected because of its duty to serve its patients and save human lives. (Muhammad, 2006). Doctors are also professionals, and are part of the hospital business. Hospitals, as health care institutions, must have committees that set patient safety standards, and quality assurance reporting systems to prevent adverse events. This means that doctors should also be partially responsible for medical services, while hospitals prioritise patient safety with standards set by hospital committees.

The doctor decides what information to provide to the patient about the condition, illness, disability, and injury and the clinical alternatives for managing the condition, illness, disability, and injury according to the skills he or she has acquired during medical education. Doctors play a significant role in shaping patients; decisions and substituting 'decision-makers' by subtly influencing the presentation and emphasis of information, as well as overtly making evidence-based recommendations. This influence extends to clinical assignments, where doctors operate within the scope and consequences that impact patients' interests, rights, and well-being. To respect the rights of patients, doctor must fulfill legal ethics in accordance with the Indonesian Code of Medical Ethics (KODEKI) which is a guideline for Indonesian doctors who are members of IDI in carrying out medical practice and being loyal to their profession. (Rozaliyani Libritany, 2018). Doctors must provide services to patients in accordance by looking at service standards, safety standards and patient safety. Hospital institutions and their medical personnel must make every effort to comply with the PNPk (National Guidelines for Medical Services) which is a reference for the preparation of Medical Service Standards by professional organisations, and Standard Operating Procedures (SOPs) set by the leadership of health service facilities. and take preventive measures to stop all forms of malpractice. (Mangesti, Suhartono, I Asmara,

2021). Likewise, patients have the right to receive any information related to their health, patterns of care and health services received.

Medical disputes are conflicts involving patients and/or their family members and health workers and/or health facilities, such as hospitals. These conflicts usually revolve around the end result of the healthcare service, with little or no role for the process of the service in the analysis. On the other hand, health law recognises that when providing services, health professionals or health care providers are only responsible for the process or efforts made (inspanning verbintenís) and do not guarantee the outcome (resultaat verbintenís). (Írwanto, Í Razy, 2021). In medical disputes, it is common for doctors to be held accountable for medical malpractice, while hospitals often deny allegations of medical risks. However, unexpected events often arise not due to negligence or error, but rather as a result of preventable circumstances. The medical field is autonomous, and professional associations set the parameters of how professional activities are performed. These organisations also set benchmarks for appropriate services. But patient expectations may not always be met during treatment. Even with the best of intentions, medical treatment may not go well, resulting in practitioners experiencing medical failure. In situations where patients are particularly vulnerable, such as those with limited capacity or opportunity to exercise their autonomy, they are often subject to the influence of physicians in clinical settings. This influence can vary in degree and has implications for the patient's interests, rights, and well-being within the scope and consequences of the clinical setting.

Given that the law demands legal protection for every party in every profession, the medical profession cannot be excluded. Legal protection, according to Yovíta Aríe Mangestí, is a complete and organised process by society to maintain human dignity for the achievement of justice. The enforcement of this protection is carried out with laws that are harmonious, responsive, and flexible to the needs of the times. (Mangestí, 2016). Medical professionals are also given immunity or legal protection for the health services they provide to their patients. It is important to distinguish between medical offences and criminal acts where medical personnel (doctors) conduct their practices without having legal legitimacy. However, looking at the concept of balance in legal protection must also consider the status or position of doctors, legal protection is only given to doctors who

carry out their duties professionally and accurately by looking at their legality by looking at the existence of a practice permit and registration certificate so that doctors can provide health services in hospitals.

The purpose of this study is to determine the legality of a doctor to carry out his practice in providing health services needed by patients legally and professionally in a hospital, so that the community (patients) as users of health services avoid malpractice carried out by fake doctors and protect the rights of patients in receiving health services where the relationship between doctors and their patients is binding and equal through a therapeutic agreement in accordance with Permenkes Number 290 / MENKES / PER / ÍÍ / 2008 concerning Approval of Medical Actions article 2 paragraph (1) which reads "All medical actions that will be performed on patients must be approved". Which includes the diagnosis of the disease or complaints from the patient that will be conveyed by the doctor to the patient which is informed consent where the patient and or the patient's family will agree or disagree to the medical treatment that the doctor will give to the patient.

RESEARCH METHODS

This journal uses normative legal research. Normative legal research has prescriptive characteristics, which means that its purpose is to provide guidance or recommendations on how legal norms and legal principles should be applied in practice. In addition, normative legal research also considers legal principles and applicable legal norms, which include the basic principles underlying the legal system and how these norms are applied in various legal situations to find problem solving for existing legal issues.

RESULTS AND DISCUSSION

Doctors Must Pass Medical Professional Education

Health is a very important and necessary element for each individual in carrying out daily life. The emergence of health law in more than 20 centuries BC began with King Hammurabi of Babylon who compiled a codification of laws that, among others, regulated doctors in carrying out their profession. In Indonesia itself, health law dates back to the Dutch colonial period. In the Netherlands, the colonial government issued an ordinance on the maintenance of public health. The Dutch used the term *gezondheidsrecht* which was

only proposed in 1954 as a response to the assignment of local medical personnel referred to as djawa doctors (mantri) to be in charge of handling the smallpox epidemic that was rampant in Indonesian society at the time.

The flow of the educational journey to become a doctor goes through specialised education, which is very important because it determines the quality and skills in handling problems with patients. Doctors play a crucial role in people's lives, as their work is directly involved in the physical and mental health of the patients they treat. The close relationship between doctors and patients creates significant risks for doctors, especially when it comes to errors in treatment or care. This is due to the potential fatal consequences for the patient, where even the slightest mistake by the doctor can be life-threatening for the patient. Therefore, professional responsibility and ethics in medical practice are essential to minimise the risk of errors and maintain patients' trust in healthcare professionals.

Referring to "Law of the Republic of Indonesia number 17 of 2023 concerning Health", it is explained that ¹⁷ the legality of medical practice is interpreted as a requirement for each doctor to undergo training under the auspices of a professional organisation and pass medical professional education before opening a medical practice. The experience gained by prospective doctors during their education plays a role in giving rise to the doctor's authority to treat patients hands on or directly. (Pasquale, 2013). So that in medical education hospital-based learning is very necessary. (Baerheim, 2007). In addition to the hospital-based system, there is a university-based system ⁶ in which residencies are collaborated with or managed by the faculty of medicine in accordance with "article 187 paragraph (3) of the Law of the Republic of Indonesia of 2023 concerning Health", and in the context of medical education in Indonesia, residents have the status of students of the faculty of medicine who are placed in network and educational hospitals ⁷ in accordance with the provisions of "article 187 paragraph (2) of the Law of the Republic of Indonesia of 2023 concerning Health" under ⁶ the coordination of the medical faculty of medicine. Clinical and Non-Clinical Skills Training, as well as Clinical Practice through proper medical procedures in Teaching Hospitals, are included in medical education according to the skill levels specified in the Indonesian Doctors Competency Standards. Competency based education is integrated through the incorporation of basic and clinical medical sciences. Through interactive lectures, self-directed learning, and group discussions,

knowledge is acquired, including cognitive components. Aspects of competence include learners' capacity to perform clinical procedures, accuracy of diagnostic algorithms, management, and communication. Meanwhile, aspects of professionalism include ethics and empathy. After successfully completing a series of tests during the clinical practice stage, Medical students must complete their studies as part of the Professional Doctor Education Study Programme (PSPPD) and earn a Bachelor of Medicine (S.Ked) degree.

5 Doctors Must Have a Registration Certificate and a Licence to Practice

Health workers and doctors who organise their practice must have adequate and verified qualifications and authority to provide health services. Doctors as intermediaries providing health services needed by the community in medical practice are authorised to provide health services to patients in accordance with government permits. The definition of a government permit is a representation of the state's responsibility in fostering and regulating the practice of medicine that occurs in the State of Indonesia.

STR is a mandatory requirement that must be owned by every doctor, whether a specialist, general practitioner or dentist before carrying out practice. (Sínamo, 2019). Possession of an STR indicates that the general practitioner or dentist has undergone the registration process and has fulfilled all the criteria set, and has been registered and registered with the Indonesian Medical Council in accordance with "article 261 paragraph (2) of the Law of the Republic of Indonesia Year 2023 concerning Health". Possession of an STR signifies that a doctor has the right to open a medical practice that is in line with his/her expertise and competence as further explained in "Law of the Republic of Indonesia No 17 of 2023 concerning Health". To obtain an STR, a graduate of the medical profession must undergo KOAS (CO-ASSISTANT), which is a level of professional education to obtain the title of doctor (dr). During the training period, young doctors are not allowed to perform medical procedures without appropriate responsibilities. They may be allowed to perform these medical acts under direct supervision or on the basis of delegated authority on the basis of a mandate given from a senior doctor or supervisor, in accordance with the regulations stipulated in the "Law of the Republic of Indonesia No. 17 of 2023 on Health". the legislation also affirms that individuals without SÍP ownership are not allowed to provide medical or medical acts independently without assistance or orders and are only

authorised as KOAS in services that are in accordance with their competence. The next stage that young doctors must do after KOAS is to undergo UKDI (Indonesian Doctors Competency Test) or now known as UKMPPD (Competency Test for Students of Doctor Professional Programmes). However, before taking this exam, students must fulfil three main requirements, namely graduating from the medical faculty, and successfully completing clinical and preclinical education. After passing the UKMPPD test, the next process is to take a doctor's oath and get a doctor's degree and get a Doctor's STR (Registration Certificate) when the prospective health worker (young doctor) has been sworn in as a doctor and gets an STR (Registration Certificate) with the publisher being the KKI (Indonesian Medical Council).

In the next stage, referring to "Article 2 paragraph (1) of the Regulation of the Minister of Health of the Republic of Indonesia Number 2052/MENKES/PER/X/2011 concerning Practice Permits and Implementation of Medical Practices", each dentists and specialist doctors are mandated to possess a Practice Permit (SIP) when engaging in medical practices. The scope of work of general practitioners is to open private clinics, hospitals, and health centres, just like the practice of doctors, dentists, and specialists in general. There are several stages that prospective doctors must go through in order to get an SIP, namely graduating from the medical faculty, and getting a medical degree (S.Ked), and successfully completing clinical and preclinical education. In addition, undergo a KOAS period, then take the UKMPPD competency exam and have participated in an internship programme under the supervision of a senior doctor or supervisor on duty. After the internship period is complete and the senior doctor feels that the intern doctor is competent, the intern doctor gets an SIP (Practice Permit) to practice general medicine issued by the district or city government. With the STR (Registration Certificate) and SIP (Practice Permit), a doctor can open a private practice or join a hospital to carry out his practice with a maximum limit of 3 (three) practice sites, be it at a hospital, health centre, clinic, or independent practice site. However, the SIP owned by a doctor is only valid in a district or city with the same scope.

Doctors Passing Credentials at Hospitals

Credentialing is the process of verifying and evaluating the qualifications, experience, training, and background of healthcare providers to ensure that they meet the standards required to practice medicine. The main purpose of medical credentialing is to ensure that the hospital agency as a health care provider has competent medical personnel who are qualified to serve and treat patients effectively and safely. Based on the law, the hospital is part of the rechtspersoon which has legal obligations and rights, not as a person which includes humans as natuurlijk persoon. (Sheff, & Marder, 2012).

Credentialing is a special authority (privilege) owned by the hospital. Each decision of clinical privilege (clinical authority) is a privilege of the decision to grant authority agreed by the hospital director as a delegation of the referral of medical personnel recommendations from the medical committee in line with the "Regulation of the Minister of Health of the Republic of Indonesia Number 775 / MENKES / PER / IV / 2011" which gives permission to health workers (doctors) to perform certain actions by considering the credentialing process in the form of clinical assignment decisions (Clinical Appointment), which are often risky if carried out by medical personnel (doctors) who do not have sufficient expertise. Each medical staff with the same specialisation has clinical privilege or clinical authority that is not the same. This is because the level of professionalism of each doctor or medical staff with certain specialities tends to be different in serving patients.

There are several factors that contribute to determining clinical privilege or clinical authority owned by medical staff, namely behaviour, mental health, physical health, scientific competency credentials, and skills. In addition, to ensure that doctors who will be given clinical assignments by the hospital director have adequate qualifications to carry out certain medical actions, then look at the contents of "article 283 paragraph (2) of the Law of the Republic of Indonesia No. 17 of 2023 concerning health", namely the requirement for every medical staff to have a SÍP (License to Practice) and STR (Registration Certificate) in order to be able to carry out medical practice legally and legally, and to avoid administrative malpractice committed by medical personnel (doctors) who practice in health service agencies without having official legality, namely the

Registration Certificate and Practice Permit which are regulated in articles 245 and 248 of Law No. 17 of 2023 concerning Health, 17 Year 2023 on Health.

This shows the importance of the role of the head of the hospital and the medical committee in ensuring that professional standards are maintained and that patients receive the best possible care and also the hospital guarantees to protect the rights and safety of patients in receiving the health services needed and according to the procedural standards and professionalism of the doctors who perform medical actions. (Breen, 2010). Professionalism in medicine is not just about meeting credentialing requirements, but also about how medical staff behave and act in their practice. This includes how they interact with patients, how they handle complex cases, and how they maintain their integrity and ethics in their practice. Suspension of clinical privilege can also be carried out in the event of a suspected accident due to incompetence or due to disciplinary action from the medical committee. (Health Services, 2013). Disciplinary offences are not necessarily legal offences. For example, one form of disciplinary offence is for a doctor to practice medicine in such a state of physical or mental health that he or she is incompetent. Regulations have clarified the scope of disciplinary offences. Article 3 of the Indonesian Medical Council Regulation No. 4/2011 on Professional Discipline of Doctors and Dentists explicitly and clearly defines the forms of disciplinary offences. Clinical authority will end when the clinical appointment letter expires or is revoked by the head or director of the hospital because each nurse has a validity period for a certain period.

CONCLUSION

The doctor profession is a profession that has an important role in health services because it is often referred to as a noble profession. Hospitals as health care institutions must ensure patient safety standards, and to avoid the occurrence of unexpected incidents in the provision of health services to patients. Therefore, the existence of hospitals plays a crucial role in providing health services to the community efficiently, effectively, and with quality. In health services in hospitals, doctors as medical human resources owned by hospital agencies have a role as the spearhead for providing health services to patients, therefore it is necessary for doctors to have legitimacy in professionalism according to standards in their knowledge, ethics, and morality, namely by paying attention to the

legality of doctors as medical personnel who practice, namely the existence of a Registration Certificate (STR) adjusted to the "Health policy and Practice Permit (SÍP)" in "article 245 paragraph (1) of Law No. 17 of 2023" and Health regulations in "article 248 paragraph (1 and 2) of Law No.17 of 2023" so that a doctor can be a doctor. Year 2023" then a doctor can practice legally. Therefore, it is necessary to implement a medical audit by the Medical Committee of the house in accordance with "Permenkes Number 755 / MENKES / PER / IV / 2011 concerning the Implementation of Medical Committees in Hospitals" as the main guard in the hospital's accountability to patients who use health services with additional completeness given Clinical Appointment and Clinical Privilege through credentials at the Hospital, and to avoid doctors practicing in hospitals without pocketing STRs and SÍPs from practicing as described in "article 329 letter (c) of Law No. 17 Year 2023 concerning Health", as well as to avoid doctors who practice in hospitals without STRs and SÍPs may not practice as described in "article 329 letter (c) of Law No. 17 Year 2023 concerning Health", because it can lead to fatal events due to the incompetence of a medical staff, both in terms of patients who are disadvantaged in obtaining health services that are not optimal and increase the potential for the impact of failure in the health service process which results in patients losing their lives and the occurrence of administrative malpractice cases that are detrimental to hospital agencies because it will lead to a decrease in public distrust in using health facilities. In terms of resolving medical case disputes, both through mediation and litigation, the Indonesian Medical Discipline Honour Council (MKDKI) as a medical discipline law enforcement organisation must be involved to check whether or not there is a mistake in violating the doctor's professional standards and standard operational (SOP) owned by the hospital.

REFERENCES

- Baerheim, A. (2007). Must undergraduate medical education be hospital-based? *Scandinavian Journal of Primary Health Care*, 25(3), 129-130.
<https://doi.org/10.1080/02813430701494355>
- Breen, K. J. (2010). *Good medical practice : professionalism, ethics and law*. Cambridge

University Press.

- Health Services, A. (2013). *Alberta Health Services Guide to Medical Staff Credentialing, Clinical Privileging And Appointment Provincial Medical Affairs*.
- Írwanto, A., & Razy, F. (2021). Pertanggungjawaban Hukum Dokter Program Internsíp Dalam Pelayanan Kesehatan Terhadap Pasien. *Audito Comparative Law Journal (ACLJ)*, 2(2), 57-65. <https://doi.org/10.22219/aclj.v2i2.16501>
- Mangestí, Y. A. (2016). *Hukum berparadígma kemanusiaan*. Genta Publishing.
- Mangestí, Y. A., Suhartono, S., & Asmara, G. Y. P. (2021). *Mengenal Audit Hukum (Pertama; Warsito, ed.)*. Karanganyar, Jawa Tengah: CV. Cipta Mandiri Solusindo.
- Muhammad, A. (2006). *Etika profesí hukum*. Bandung: Citra Aditya Bakti.
- Pasquale, S. J. (2013). Education and Learning Theory. *The Comprehensive Textbook of Healthcare Simulation*, 51-55. https://doi.org/10.1007/978-1-4614-5993-4_3
- Rozalíyaní, A., Meília, P. D. Í., & Líbrítany, N. (2018). Prínsíp Penetapan Sanksí bagí Pelanggaran Etik Kedokteran. *Jurnal Etik Kedokteran Indonesia*, 2(1), 19. <https://doi.org/10.26880/jekí.v2i1.11>
- Sheff, R. A., & Marder, R. J. (2012). *Credentials committee : essentials handbook*. United States of America: HCPro, Inc.
- Sínamo, N. (2019). *Hukum kesehatan dan sengketa medík*. Jakarta: Jala Permata Aksara.

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