

Legal Liability Of Students Of The Medical Professional Education Program (Medicine Coas) For Alleged Medical Negligence At The Hospital

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ABSTRACT

Medicine Coas is a student of a medical professional education program in a hospital who is pursuing a doctor's degree (dr). This paper presents the findings of normative research conducted through a statue approach and conceptual approach. The conclusion that can be drawn is that the hospital has a legal obligation as stated in Article 193 of Law 17 of 2023 concerning Health, to take responsibility for medical negligence committed by students of the Medicine Coas program. This responsibility applies if the actions of Medicine Coas students are in accordance with the instructions given by the supervising doctor and can be proven through medical records. Medicine Coas program students do not have the authority to make decisions independently in taking medical action at the hospital, because they do not have the right to do so unless they have a license to practice such as doctors, nurses, midwives. Therefore, in taking an action related to a person's life, Medicine Coas students must seek the approval of the supervising doctor in accordance with hospital standards or regulations that apply in the hospital.

Keywords: Hospital, Medicine coas, Responsibility

ABSTRAK

Koas Kedokteran adalah seorang mahasiswa program pendidikan profesi dokter di sebuah rumah sakit yang sedang menempuh pendidikan dokter (dr). Tulisan ini menyajikan hasil penelitian normatif yang dilakukan melalui pendekatan perundang-undangan dan pendekatan konseptual. Kesimpulan yang dapat diambil adalah rumah sakit memiliki kewajiban hukum sebagaimana tercantum dalam Pasal 193 UU 17 Tahun 2023 tentang Kesehatan, untuk bertanggung jawab atas kelalaian medis yang dilakukan oleh mahasiswa program Koas Kedokteran. Tanggung jawab ini berlaku jika tindakan mahasiswa Koas Kedokteran sesuai dengan instruksi yang diberikan oleh dokter pembimbing dan dapat dibuktikan melalui rekam medis. Mahasiswa program Koas Kedokteran tidak memiliki kewenangan untuk mengambil keputusan secara mandiri dalam melakukan tindakan medis di rumah sakit, karena mereka tidak memiliki hak untuk melakukannya kecuali mereka yang memiliki surat ijin praktik seperti dokter, perawat, bidan. Oleh karena itu, dalam melakukan suatu tindakan yang berhubungan dengan nyawa seseorang, mahasiswa Koas Kedokteran harus meminta persetujuan dokter pembimbing sesuai dengan standar rumah sakit atau peraturan yang berlaku di rumah sakit tersebut.

Kata Kunci: Koas Kedokteran, Rumah Sakit, Tanggung Jawab

Introduction

Based on article 1 paragraph 3 Law Number 17 of 2023 Concerning health (UU 17/2023), health services in hospitals are carried out by doctors as medical personnel and nurses, midwives and others listed in the legislation as health workers. medical personnel are everyone who devotes themselves to the field of health and has a professional attitude, knowledge and skills through professional education in medicine or dentistry which requires responsibility for carrying out health efforts. Meanwhile, health workers are everyone who

devotes themselves to the field of Health and has a professional attitude, knowledge, and skills through higher education which for certain types requires the authority to carry out Health efforts. Article 198 of the Health Law explains the existence of doctors grouped in Medical Personnel. The legality of medical practice is that every doctor who practices must take part in education and training organized by a professional organization, every doctor who practices must have a SIP and STR, health service managers are prohibited from allowing doctors or dentists who do not have a license to practice to practice medicine in health service facilities.

Medical professional education is a prerequisite for becoming a medical personnel, especially with reference to the profession of doctor. Professional education is very important for prospective medical personnel because it has a direct impact on their competence and capacity to address patient complaints and problems. The medical professional education process begins with the study of proficiency and expertise in dealing with patient problems. Prospective doctors must undergo an initial education that meets academic standards. These standards are necessary for undergraduate graduates of medicine schools and higher education to have the necessary skills to perform health care actions and efforts according to procedures. This includes a strong understanding of basic biomedical sciences and proficiency in managing health problems. Therefore, relying only on the initial standard of competence is not enough for a medical worker. As future medical personnel, it is important for them to keep abreast of the current advances in science and technology (Mangkey, 2014).

The relationship between doctors as health workers and patients is paternalistic as referred to in Article 1 paragraph (23) of UU 17/2023 Concerning health. In the law, a patient is any person who receives health services from medical personnel. Medical personnel refer to those who work in the field of health services and have professional attitudes, knowledge, and abilities obtained through medical professional education to provide health services. Prospective medical personnel are supported by medical professionals such as nurses, midwives, pharmacists, residents, and hospital staff in fulfilling their professional duties. All physician assistants are required to complete formal education that includes protocols and techniques for managing and providing health services according to their level of expertise. These requirements are outlined in the Regulation of the Minister of Health of the Republic of Indonesia Number 2052/MENKES/PER/X/2011 concerning Practice and Implementation Licenses. According to article 23 paragraph (1) of the medical practice regulation, doctors or dentists are allowed to give written permission to nurses, midwives, or certain health workers to perform medical or dental operations.

In general, teaching hospitals provide opportunities for students of medical professional education programs, namely students who are registered in the medical professional education program organized by the hospital. students who are registered in the Medical Professional Education Program, especially as prospective medical personnel in the hospital environment. In the framework of their professional education program, Coas Medicine students are under the supervision of a doctor who is in charge of supervising their actions in the hospital. Although he has officially completed his university degree, he is not authorized to make decisions through medical actions on patient (Arliman, 2016). The doctor's professional education program or also known as medicine Coas is one of the main requirements in realizing his desire to become a prospective medical staff for a medical faculty student. With the aim of achieving proficiency as a doctor in the future. Medicine Coas are also required to study an important part of medical records, in this case Medicine Coas are able to make medical records, especially in the field of procedural law. Because, medical records become important evidence in the trial and become evidence for the injured party.

There is no clear regulation regarding the limits of Medicine Coas. It is hoped that the government will make regulations regarding the limits and responsibilities, especially Medicine Coas in practicing medicine in hospitals, hospitals also do not have special regulations governing Medicine Coas. This does not mean that the hospital eliminates the responsibility of the Medicine Coas but in practice most Medicine Coas do not know that there are special regulations, it should be necessary to apply these regulations so that in this case it becomes the basis for regulating the process of doctor professional education in hospitals. Article 219 paragraph 1 a UU 17/2023 Concerning health explains that: "obtain legal assistance in the event of a medical dispute during the education process;" With the existence of this vague norm article requires an explanation, so the author in this study discusses about "Legal Liability of Students of the Medical Professional Education Program (Medicine Coas) for Alleged Medical Negligence in the Hospital".

Methods Research

In this article the author uses Normative Legal Research where the author in this case aims to find legal rules, principles or legal basis, as well as legal theory to face and find answers to legal problems (issues). In this case, the author uses several kinds of approach methods used in this research, namely the statutory approach method (statue approach) and conceptual approach method (conceptual approach). Techniques in collecting and analyzing legal materials that the author describes related to the above, namely by collecting primary and secondary legal materials and conducting fundamental reasoning which in this case is based on the acquisition of laws and regulations and applying them to the legal issues raised.

Results And Discussion

Medicine Coas in hospitals are students undergoing a medical professional education program. They have limited authority and are restricted in performing medical actions. All medicine Coas activities are supervised by a doctor or hospital supervisor. Medicine Coas in performing medical actions must obtain approval from the supervising doctor before performing any tasks related to the patient in hospital (I. K. C. Putri, 2017). Medicine Coas in hospitals are students undergoing a medical professional education program. They have limited authority and are restricted in performing medical actions. All Medicine Coas activities are supervised by a doctor or hospital supervisor. Medicine Coas in performing medical actions must obtain approval from the supervising doctor before performing any tasks related to patients. In addition, as a student of the doctor's professional program in the hospital, Medicine Coas must comply with hospital regulations. Health service efforts as stipulated in UU 17/2023 Concerning health will be carried out by health workers and medical personnel. This law not only regulates the roles and responsibilities of medical personnel and health personnel, but also provides direction on how to implement health services in hospitals. It aims to ensure legal clarity for all parties involved in the delivery of health services. Stakeholders in the health care sector consist of health care providers who provide medical services to the community, and the community itself who receive these services from health workers and medical personnel. The position of medical professional education program students (Medicine Coas) has not been officially appointed as doctors and does not have SIP and STR. With a license to perform medical actions, of course, it must first go through medical professional education under the auspices of supervising doctors, residents, PPDS and have conducted a doctor competency test (Tiffaby Putri, 2016). As prospective medical personnel in terms of carrying out health service efforts, they have a major role in carrying out health efforts by maintaining the quality and quality of health

service efforts. General knowledge as well as ethics and morals that should be provided to medicine Coas during the professional study process become a reference for prospective medical personnel to carry out health services in hospitals.

Carrying out work or a profession as a doctor is required to meet professional standards. as a prospective medical worker must have the competence to work by adjusting the standard operating procedures (SOP), as a medical worker, his professional work is always close to the patient so that it is related to the complaints experienced by the patient, of course with the type of illness experienced by the patient it is influenced by the influence of emotional. Supposedly with the existence of health workers or medical personnel always in contact with patients who are carrying diseases, of course patients in emotional shocks patients need special services from health care providers, namely medical personnel. But in this case, as prospective medical personnel, the relationship between medical coaches and patients is very limited, considering that medicine Coas are students of the doctor's professional education program, in carrying out medical actions against patients, of course they must receive assistance from supervising doctors in carrying out medical actions, of course this is based on a hospital guidebook where they (medical Coas) are doing professional education.

As an important point in providing health efforts towards patient recovery, of course doctors as medical personnel have an important role that has to do with the implementation of health services and ensuring quality for the purpose of achieving healthy human resources. Basic knowledge in performing actions and manners makes a guide during the undergraduate study program process a solid pillar for doctors as medical personnel to carry out actions in health service efforts in hospitals. Likewise with medicine Coas students in providing health services (Rizafaza & Mangesti, 2022). of course they will have an important role as medical personnel, it is the main foundation for improving their abilities and honing their skills in hospitals related to complaints against patients. Medical personnel have a paternalistic legal relationship with patients as providers of health services. This legal relationship is established when the patient initiates contact with the doctor and complains about a perceived threat to his health arising from something in his body. The psychological state of the individual shows a symptom that indicates that he perceives his body is being attacked by an illness. In such circumstances, the doctor is considered capable of providing help and support. The patient entrusts his fate to the doctor as a health expert. Furthermore, a therapeutic contract emerges from this partnership. Every individual who receives health services from a doctor is involved in a therapeutic relationship, where the patient is the recipient of health services. A therapeutic contract is an agreement between a medical professional (doctor) and a patient that authorizes the doctor to provide health services to the patient by relying on the doctor's knowledge and skills. In the contractual relationship between patients and medical personnel, doctors as medical professionals are considered competent by patients to provide healing interventions for health problems experienced by patients (K. A. W. W. Putri et al., 2020).

The work that is related to the profession as medical personnel is obliged to uphold honest and fair behavior, regardless of the background of a patient in order to keep the patient from being harmed by treatment that should not be carried out by medical personnel. it should be expected that prospective medical personnel are also expected to know matters relating to informed consent as a medical act approval as a basis for approval regarding obtaining permission for medical personnel in providing efforts which are the basis for carrying out recovery actions to patients (Adriana Pakendek, 2012). This is inseparable from UU 17/2023 concerning health in article 274 point b states: "Medical personnel and Health Workers in carrying out their practices must obtain approval from the Patient or his family for the actions to be taken". So informed consent in providing approval for medical action has

a major role, especially with regard to the process of providing explanations for health workers or medical personnel which will later be placed in medical record files for patients. Informed consent refers to a document, usually obtained from a patient or his or her family, that contains an agreement or refusal to a medical plan of action proposed by a doctor. This document is submitted after the doctor is fully informed about the treatment options and has the ability to make medical action decisions. The doctor's activities are approved voluntarily and without coercion in any form. In the above explanation, informed consent refers to an explicit authorization for medical intervention, which indicates mutual agreement between the patient and the doctor. The patient consents to the doctor's proposed actions, while the doctor commits to provide therapy to the patient seeking medical care. A legally binding contract is created when the parties reach a mutual agreement, and it is important for each party to consistently abide by the terms of the agreement (Busro, 2018). As in Article 1329 of the Civil Code and Article 1330 of the Civil Code, Article 1329 of the Civil Code states that "a person is deemed capable as long as he is not declared incapable by law" while Article 1330 of the Civil Code states that: "a person is deemed incapable if he is: a minor, a person under guardianship, a woman who has been prohibited by law from entering into certain obligations."

Students of the medical professional education program (medicine Coas) in carrying out their professional education in hospitals have the right to obtain opportunities during their studies and obtain patient information in this case for the purposes of informed consent and are obliged to maintain patient confidentiality as stipulated in UU 17/2023 Concerning health article 177 paragraph 1, that: Every Health Service Facility must keep the patient's personal health secret. Medicine Coas in conducting their professional education at the teaching hospital are accompanied by a supervising doctor. medicine Coas students are students who graduated from S1 medicine (S.ked) who carry out medical professional education in hospitals and are not allowed to perform medical actions independently without the knowledge of permission from the supervising doctor. So with the enactment of UU 17/2023 Concerning health, this is no longer allowed to be done by someone who has not been appointed as a doctor, because the requirement to perform medical actions must have a license to practice (SIP) and a registration certificate (STR).

With the cooperation of hospitals with university, the implementation of the medical professional education program (medicine Coas) is part of the requirements that are completed and fulfilled by every university that has a faculty of medicine. aims to provide opportunities for undergraduate students majoring in the faculty of medicine who want to continue their medical professional education (Anwar, 2014). This is as regulated in UU 17/2023 Concerning health regulates that Article 209 paragraphs (1) and (2) that:

"(1). Health professional education as part of higher education by university and in collaboration with Health Service Facilities, the ministry that organizes government affairs in the field of education, and the ministry that organizes government affairs in the field of health by involving the role of the Collegium in accordance with the provisions of laws and regulations. (2) In addition to being organized by university as referred to in paragraph (1), professional education in the field of Health for specialist and subspecialist programs can also be organized by teaching hospitals as the main organizer and in collaboration with university, ministries that organize government affairs in the field of education, and ministries that organize government affairs in the field of health by involving the role of the Collegium." Article 210 paragraph (1) states that: "Medical personnel must have an educational qualification of at least professional education.

From the explanation of the article, it is explicitly stated that every university that has a Faculty of Medicine must collaborate with a teaching hospital for the purpose of placing students in the doctor's professional program (medicine Coas). Students of the doctor's professional study program (medicine Coas). In general, medicine Coas students are not allowed to carry out medical action activities in hospitals without an agreement between the university and the hospital in conducting cooperation, which allows students to carry out learning activities in a teaching hospital environment. In the content of the agreement, it will strengthen the status of medicine Coas as students who graduated from the medical faculty undergoing a professional study program (medicine Coas) at the hospital. That with the legal relationship between medicine Coas and hospitals only as students of professional education programs or participants from a university appointed for cooperation with the aim of carrying out activities in the form of professional education in educational hospitals as stipulated in the applicable laws and regulations as a basis for reference in these educational activities. Medicine Coas have rights and responsibilities based on the mandate delegated to them during professional education in the hospital.

Literally, responsibility is basically a consequence of a person's actions that are related to the code of ethics and messages based on the desire to do the action. In the implementation of education, especially professional education for doctors in hospitals, in the implementation of health services to patients in hospitals, hospitals are responsible for the availability of facilities that support the implementation of professional education to hone the skills and insights of medical professional education students related to the process of health services in hospitals (Endang Sutrisno, 2020). The authority of medicine Coas in the learning process in the hospital is very limited, medicine Coas first get guidance and direction from the supervising doctor before taking medical action. Apart from the direction and guidance given, medicine Coas do not have any authority related to health services to patients in the hospital. Medicine Coas are only allowed to exercise their authority in health services in accordance with their competence (Sitepu, 2022).

University that collaborate with hospitals and carry out medicine Coas professional education are obliged and responsible for learning activities carried out by medicine Coas students who in the context are still going through the study process applied by their universities. Other than those justified by the curriculum implemented by the university through Higher Education is not the responsibility of the university. medicine Coas in this case the status as a student must certainly get guidance from an expert doctor, supervise and / or resident. His obligations in the hospital are part of the supervising doctor or supervisor as a companion to the medicine Coas and as the person in charge of the medicine Coas who are studying. In the process of carrying out their education, medicine Coas certainly have the possibility of experiencing negligence in taking medical action against patients, of course this is koas whose student status is included in making efforts and / or medical actions aimed at providing healing to patients in hospitals, in practicing medicine is certainly inseparable from the competence of general practitioners and must be under the supervision or assistance of supervising doctors (Mohamad Haikal Fikri, 2022). Hospital is an institution established to provide health services with the aim of carrying out health efforts and improving and maintaining public health status in the form of rehabilitative, promotive, preventive, curative and palliative. As referred to in article 1 number 2 and 3 of UU No. 17/2023 Concerning health. with the existence of health services, of course in upholding health efforts must be supported by the presence of medical personnel and health workers in order to achieve access and quality of health services in the community as referred to in article 3 of UU No. 17/2023 Concerning health.

Any action taken by a doctor as a medical personnel can be categorized as medical negligence or malpractice if the medical personnel does not fulfill the element of prudence. Similarly, a medical trainee, if not adequately supervised by a supervising doctor or senior doctor in performing medical acts, may also be liable for medical negligence. Medical negligence is categorized into five different forms: malfeasance, misfeasance, nonfeasance, malpractice, and maltreatment (Azizah, 2015). So the hospital in this case is obliged to be responsible for the medical negligence committed by the Medicine Coas student and the party who committed the act of medical negligence must be responsible for the losses suffered by the patient if the student takes medical action without the consent of a doctor and / or without the guidance of a doctor, as referred to in article 193 of UU No. 17/2023 Concerning health, that: "Hospitals are legally responsible for all losses caused by negligence committed by Hospital Health Human Resources."

Conclusion

Legal Liability of Medical Professional Education Program Students (Medicine Coas) for Alleged Medical Negligence in Hospitals Namely: the obligation to comply with hospital rules and regulations and obtain opportunities in health services, while the rights of Medicine Coas based on article 273 paragraph 1 letter I of UU No. 17/2023 Concerning health are to refuse tasks that are not related to their education and are contrary to professional ethics and (SOP) hospitals. The hospital is responsible for medical negligence committed by Medicine Coas in accordance with the instructions of the supervising doctor and can be proven in medical records. Given that medicine coas students do not have SIP and STR, medicine coas cannot be held liable as long as they only carry out the orders of their supervising doctor. If the medical coas acts on his own will, then he can be blamed for medical negligence.

References

- Adriana Pakendek, A. P. (2012). Informed Consent Dalam Pelayanan Kesehatan. *AL-IHKAM: Jurnal Hukum & Pranata Sosial*, 5(2), 309–318. <https://doi.org/10.19105/al-lhkam.v5i2.296>
- Arliman, L. (2016). Hukum Kesehatan (Tinjauan Terhadap Dokter Coass Dan Residen). *Jurnal Advokasi*, 8(1).
- Azizah, A. N. (2015). Tanggung Jawab Hukum Rumah Sakit atas Kelalaian Tenaga Medis dalam Melakukan Tindakan Medis kepada Pasien. *Digital Repository Universitas Jember*, 1–103. <http://repository.unej.ac.id/handle/123456789/67654>
- Busro, A. (2018). Aspek Hukum Persetujuan Tindakan Medis (Inform Consent) Dalam pelayanan Kesehatan. *Law, Development and Justice Review*, 1(1), 1–18. <https://doi.org/10.14710/ldjr.v1i1.3570>
- Endang Sutrisno. (2020). Tanggung Jawab Hukum Rumah Sakit Terhadap Pasien Health Care-Associated Infections (Hais). *HERMENEUTIKA : Jurnal Ilmu Hukum*, 4(1). <https://doi.org/10.33603/hermeneutika.v4i1.3277>
- Janal, (2000). (2018). Tanggungjawab Hukum Keperdataan Dokter Muda Dalam Penanganan Pelayanan Kesehatan Terhadap Pasien Di Rumah Sakit. *PENGARUH PENGGUNAAN PASTA LABU KUNING (Cucurbita Moschata) UNTUK SUBSTITUSI TEPUNG TERIGU DENGAN PENAMBAHAN TEPUNG ANGKAK DALAM PEMBUATAN MIE KERING*, 15(1), 165–175. <https://core.ac.uk/download/pdf/196255896.pdf>
- Mangkey, M. D. (2014). Perlindungan Hukum Terhadap Dokter Dalam Memberikan Pelayanan Medis. *Lex et Societatis*, II(8), 14–21.

- <http://ejournal.unsrat.ac.id/index.php/lexetsocietatis/article/viewFile/6180/5705>
Mohamad Haikal Fikri. (2022). Dokter Muda yang Melakukan Kelalaian Dalam Melaksanakan Pelimpahan Tugas Dokter Pembimbing. *Jurist-Diction*, 5(5), 1855–1870. <https://doi.org/10.20473/jd.v5i5.38554>
- Putri, I. K. C. (2017). Wewenang dan Tanggung Jawab Co-ass Dalam Pelayanan Kesehatan Terhadap Pasien di Rumah Sakit. *Fakultas Hukum, Universitas Negeri Semarang*, 1689–1699.
- Putri, K. A. W. W., Budiarta, I. N. P., & Arini, D. G. D. (2020). Tanggungjawab Dokter Terhadap Pasien dalam Perjanjian Terapeutik. *Jurnal Analogi Hukum*, 2(3), 315–319. <https://doi.org/10.22225/ah.2.3.2582.315-319>
- Rizafaza, D. N. O., & Mangesti, Y. A. (2022). PERLINDUNGAN HUKUM PENGGUNA JASA TUKANG GIGI TERHADAP DUGAAN MALPRAKTIK. *Bureaucracy Journal : Indonesia Journal of Law and Social-Political Governance*, 2(3), 660–674. <https://doi.org/10.53363/bureau.v2i3.56>
- Sitepu, D. (2022). Tanggung Jawab Keperdataan Dokter Muda Dalam Pelayanan Kesehatan Terhadap Pasien Di Rumah Sakit (Studi di RSUD. Dr. RM. Djoelham Binjai). *Jurnal Pencerahan Bangsa*, 1(3), 12–24.
- Tiffaby Putri. (2016). PERTANGGUNGJAWABAN HUKUM RUMAH SAKIT BAGI PASIEN BPJS TERHADAP TINDAKAN MEDIS YANG DILAKUKAN OLEH DOKTER MUDA (STUDI PADA RSUP Dr.M.DJAMIL PADANG). *Universitas Sumatera Utara*, 1(3), 82–91.