

## **FULFILLING PATIENTS' RIGHTS IN HEALTH SERVICES IN THE HOSPITAL BASED ON LEGAL PROTECTION ASPECTS**

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### **ABSTRACT**

*Health services are part of human rights, so it is important for the state to protect, respect and fulfill the rights of every individual to obtain adequate health services. Highlights the problem of accessibility to health services in Indonesia, especially in remote areas or with high levels of poverty. There is a need for policies that ensure that all citizens have equal access to quality health services. Legal protection is to provide protection for human rights that are harmed by other people. The writing method used by the author is a normative juridical method where the researcher will study the main issues according to the scope and identify the problem based on the main legal material by examining legal principles, concepts and theories as well as statutory regulations. Health service facilities, in this case hospitals, are responsible for providing complete health services to all patients. In fulfilling patients' rights, hospitals must be cooperative, professional, transparent and of course affordable.*

**Keywords:** Patient Rights, Health Services, Hospitals, Legal Protection.

### **ABSTRAK**

Pelayanan kesehatan sebagai bagian dari hak asasi manusia sehingga pentingnya negara untuk melindungi, menghormati, dan memenuhi hak setiap individu untuk memperoleh pelayanan kesehatan yang memadai. Menyoroti masalah aksesibilitas terhadap pelayanan kesehatan di Indonesia, terutama di daerah-daerah terpencil atau dengan tingkat kemiskinan yang tinggi. Perlunya kebijakan yang memastikan bahwa semua warga memiliki akses yang setara terhadap pelayanan kesehatan yang berkualitas. Perlindungan hukum adalah memberikan pengayoman kepada hak asasi manusia yang dirugikan orang lain. Metode Penulisan yang digunakan penulis yaitu metode yuridis normatif dengan peneliti akan mengkaji pokok-pokok permasalahan sesuai dengan ruang lingkup dan identifikasi masalah berdasarkan bahan hukum utama dengan cara menelaah asas-asas hukum, konsep-konsep dan teori-teori serta peraturan perundang-undangan. Fasilitas pelayanan Kesehatan dalam hal ini rumah sakit bertanggung jawab untuk memberikan pelayanan Kesehatan yang paripurna kepada semua pasien. Dalam pemenuhan hak

Pasien rumah sakit harus kooperatif, Profesionalisme, Transparansi dan tentunya harga terjangkau.

**Kata Kunci :** Hak Pasien, Pelayanan Kesehatan, Rumah Sakit, Perlindungan Hukum

## **BACKGROUND**

As the public's need for health services increases, regulations and support for improving health services by the government increase, this is a driving factor for health service providers to implement the basis and role of law in health services. Which is oriented towards protection and legal certainty regarding patients' rights in receiving health services.

The regulation of health services for the community in Indonesia, philosophically comes from Pasal 34 Ayat (3) Undang-Undang Dasar 1945 of the Republic of Indonesia which stipulates health services as the responsibility of the state, and Pasal 28 H ayat (1) which stipulates the rights of citizens to get health services.<sup>1</sup> These two articles are the embodiment of the principles of just and civilized humanity and the principles of social justice for all Indonesian people.<sup>2</sup> Health services are every person's right guaranteed in the Undang-Undang dasar 1945 which is a constitutional mandate with the aim of advancing community welfare and increasing the highest level of health for individuals, groups or communities.

Health services consist of individual health services and community health services.<sup>3</sup> Personal health services are aimed at curing disease and restoring the health of individuals and families.<sup>4</sup>

Hospitals are a form of individual health service facility. Hospitals have very important duties and functions. As a form of public service, the government carries out its duties to carry out activities in order to fulfill the basic human right to obtain health services.<sup>5</sup> In essence, hospitals have a function as a place to cure disease and restore health. The function in question

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<sup>1</sup>Zahir Rusyad, Hukum Perlindungan Pasien, Konsep Perlindungan Hukum dalam Pemenuhan Hak Kesehatan Oleh Dokter dan Rumah Sakit, Malang: Setara Press, 2018, Page. 1.

<sup>2</sup>*Ibid.*,

<sup>3</sup>Soekijjo Notoatmodjo, Etika & Hukum Kesehatan, Jarkarta: Rineka Cipta, 2010, Cetakan Pertama, Page. 62.

<sup>4</sup>*Ibid.*, Page.63

<sup>5</sup>Zahir Rusyad, Hukum Perlindungan Pasien Konsep Perlindungan Hukum dalam Pemenuhan Hak Kesehatan Oleh Dokter dan Rumah Sakit, Malang: Setara Press, 2018, hal.2.

has implications in the form of the Hospital's responsibility for services to patients.<sup>6</sup>

Hospitals are one of the providers of health services that are carried out in a responsible, safe, quality, equitable and non-discriminatory manner.<sup>7</sup> There are many cases in almost every region of Indonesia where the right to health services is not fulfilled as stipulated in law. The author highlights the problem of accessibility to health services in Indonesia, especially in remote areas or with high levels of poverty. There is a need for policies that ensure that all citizens have equal access to quality health services.

Health services are part of human rights, so it is important for the state to protect, respect and fulfill the rights of every individual to obtain adequate health services.

Legal protection is to provide protection for human rights that are harmed by other people.<sup>8</sup> The protection provided by law is related to the right and obligation to take legal action. Legal measures must be taken to provide a sense of security, both mentally and physically, from interference and various threats from any party.<sup>9</sup>

In this research the author formulates the problem as follows:

1. How are patient rights fulfilled in health services in hospitals ?
2. How is the legal protection of patient rights in health services in hospitals?

## **B. RESEARCH METHODOLOGY**

In this writing, the researcher explains the type of research that uses normative juridical methods where the researcher will examine the main issues in accordance with the scope and identification of the problem as mentioned above. Normative juridical research methods are also called research carried out based on primary legal materials by examining legal principles, concepts and theories as well as statutory regulations. The nature of the research carried out is descriptive analytical. Descriptive analytical research is a form of research that describes, examines and explains the analysis of a legal regulation.

## **FINDING & DISCUSSION**

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1. <sup>6</sup>Endang Wahyati Yustina, *Mengenal Hukum Rumah Sakit*, Bandung: Keni Media, Cetakan Pertama, 2012, Page.

<sup>7</sup>Soekijo Notoatmodjo, *Etika & Hukum Kesehatan*, Jarkarta: Rineka Cipta, Cetakan Pertama. 2010, Page. 63.

<sup>8</sup>Zahir Rusyad, *Hukum Perlindungan Pasien, Konsep Perlindungan Terhadap Pasien Dalam Pemenuhan Hak Kesehatan oleh Dokter dan Rumah Sakit*, Malang: Setara Press, 2018, hal. 42.

<sup>9</sup>*Ibid.*, hal, 69.

## 1. Fulfillment of Patient Rights in Health Services in Hospitals

Patient rights in health services are very important and need to be understood by all parties involved in health services. Patient rights are fundamental rights and protect the interests of patients in receiving safe, quality and best care. However, even though patient rights have been regulated in law, there are still many cases where patient rights are ignored or not respected. Therefore, it is important for all parties involved in health services to understand patient rights and implement them well. By understanding patient rights and providing adequate protection, patients can feel safer, more comfortable and confident in getting the health care they need.

In the latest hospital regulations which are combined into one unit in Undang-Undang Number 17 Tahun 2023 concerning Health, the matters and obligations of each person have been regulated. Therefore, it is important to both know what each person's rights are in health services. Chapter II Rights and Obligations Part one is about Rights. Pasal 4 of the Health Law states:<sup>10</sup>

### 1) Everyone Has Rights:

- a. live a healthy life physically, mentally and socially;
- b. get information and education about balanced and responsible health;
- c. obtain safe, quality and affordable health services in order to achieve the highest level of health;
- d. receive health care in accordance with health service standards;
- e. gain access to Health Resources;
- f. determine the necessary Health Services for himself independently and responsibly;
- g. obtain a healthy environment for achieving a degree of Health;
- h. accept or reject some or all of the assistance actions that will be given to him after receiving and understanding the information regarding those actions completely;
- i. obtain confidentiality of personal health data and information;

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<sup>10</sup>Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan

- j. obtain information about his/her health data, including actions and treatment that he or she has received or will receive from medical personnel and/or health workers;  
And
- k. get protection from health risks.

The provision of health services is carried out in a responsible, safe, quality, equitable and non-discriminatory manner. Every person has the right to accept or reject some or all of the assistance measures that will be given to him after receiving and understanding the complete information regarding the actions that will be provided by the Health worker. Patients in medical services are people who need a doctor's help because of their illness. Meanwhile, a doctor is a person who will provide help because of his professional abilities which are considered capable of treating disease.<sup>11</sup>

Undang-Undang No.17 Tahun 2023 about Health In Part Nine Paragraph 2 concerning Patient Rights and Obligations, it explains that patients have rights:

- a. get information about his/her health;
- b. receive an adequate explanation regarding the Health Services they receive;
- c. obtain Health Services in accordance with medical needs, professional standards and quality services;
- d. refuse or agree to medical treatment, except for medical action necessary for the prevention of infectious diseases and control of outbreaks or epidemics;
- e. gain access to information contained in medical records;
- f. ask for the opinion of Medical Personnel or other Health Personnel;
- g. obtain other rights in accordance with the provisions of statutory regulations.

Regarding the hospital's obligations, it is inherent as an institution that operates in the humanitarian and social sector while being able to support itself so that its condition remains healthy, especially from the aspect of operational financing. Likewise, patient obligations such as providing complete and honest information about their health problems to health workers at the hospital are inherent in someone seeking health services so that

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<sup>11</sup>Siska Ayu Ningsih, Pelaksanaan hak-hak pasien terhadap pelayanan tenaga kesehatan di Rumah Sakit, Jurnal Keperawatan Muhammadiyah Bengkulu, Vol.08, No.02, Oktober 2020, hal. 141-152.

doctors can determine the correct diagnosis. The obligations of hospitals and patients do not require too in-depth debate, because these two things already occur naturally as seekers and providers of services. Problems often arise when hospitals are unwilling or unable to fulfill patient rights. It is more important to pay attention to the fulfillment of patient rights because this is the essence of services that are based on humanity and social issues. All countries in the world recognize, including Indonesia, the human right to a standard of living adequate for the health and welfare of their families. In ICESCR general comment no. 14, Health is a fundamental human right and invaluable for the implementation of other human rights.

Everyone has the right to enjoy the highest standard of health that is accessible and conducive to a dignified human life. The realization of the right to health can be achieved through several diverse approaches, such as: establishing health policies or implementing programs established by WHO, or adopting legal instruments. Apart from this, the right to health includes several components that can be implemented according to law.<sup>12</sup> The Committee recognizes that for millions of people throughout the world, the full realization of the right to health remains far from being hoped for, and moreover, in many cases, especially for those living in poverty, this hope is only further away from becoming a reality. The Committee recognizes that it is the strong structural conditions and obstacles of international origin, as well as other factors resulting from state policy that hinder the full realization of Pasal 12 in many countries.<sup>13</sup>

By prioritizing the rights of patients, every stakeholder in the hospital (doctors, nurses, midwives, even gardeners and cleaning services) in the hospital will make the patient's rights a driving force and motivation to fulfill the obligations and rights of the hospital itself. This means that by fulfilling and respecting patient rights, the hospital's obligations, patient obligations and hospital rights will be fulfilled / encouraged towards creating an atmosphere of therapeutic partnership between doctors and patients. For example, every patient has the right to receive information that includes the diagnosis and procedures for medical procedures, the purpose of medical procedures, alternative

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<sup>12</sup>Komentar Umum ICESCR, Hak Atas Standar Kesehatan Tertinggi Yang Dapat dijangkau, Genewa : 25 April – 12 Mei 2000, Agenda ketiga, hal. 130.

<sup>13</sup>*Ibid.*, hal. 132

procedures, risks and complications that may occur, and the prognosis for the procedures carried out as well as the estimated cost of treatment. If the hospital carries out its obligations by fulfilling and respecting the patient's rights based on what is written in the law, in an atmosphere of clear communication, empathy, and most importantly that can be understood and accepted by the patient so as to satisfy the patient, then the patient will carry out his obligations. (for example, obeying all the rules that apply at the hospital). There is no guarantee that the splendor of the building and the sophistication of the medical equipment owned by the hospital will be able to meet patient satisfaction.

## **2. Legal protection in fulfilling patient rights in health services in hospitals**

In the increasingly developing medical world, the role of hospitals is very important in supporting the health of the community. The progress or decline of a hospital will be largely determined by the success of the parties who work in the hospital, in this case doctors, nurses and the people who live there. The hospital is expected to be able to understand its consumers as a whole and be able to implement protection for patients as consumers of medical services. In health services, hospitals must also pay attention to the professional ethics of the staff working in the hospital concerned. However, professional staff who work in hospitals in providing professional decisions are independent. This decision must be based on awareness, responsibility and high morals in accordance with the ethics of each profession.

Legal protection of patients is an important aspect of the health system that guarantees patient rights and provides a framework for resolving conflicts and violations that may occur.

Indonesia is a country based on law, this is stated in Undang-Undang Dasar Pasal 1 ayat (3) UUD 1945 which states that Indonesia is a legal state.<sup>14</sup> The main aim of law is to create an orderly society, creating order and balance. By achieving order in society, it is hoped that human interests will be protected.<sup>15</sup> Therefore, law regulates human behavior in society when carrying out activities and interacting with other people. The application of law is an effort to create order, security and tranquility in society as a means of preventing

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<sup>14</sup>Undang-Undang Dasar 1945 Pasca Amandemen

<sup>15</sup>Sudikno Mertokusumo, Mengenal Hukum Suatu Pengantar, Yogyakarta: Liberty, 2005, hal 77.

violations of the law. By implementing good law, it is hoped that human interests can be protected from criminal acts.

Legal protection in the civil sector, including consumer protection, adheres to the principle that "whoever harms another person must provide compensation". If someone feels that they have been harmed by other members of the community, of course they will sue the other party so that they are legally responsible for their actions. In this case, there may already be a legal relationship between them in the form of an agreement in the field of civil law, but it could also be the other way around.

Law Number 17 of 2023 concerning Health also regulates professional standards, service standards and standard operational procedures which provide legal protection for parties, especially patients, among others:<sup>16</sup>

a. Consent to the Health Services Act (Paragraph 5)

Pasal 293 :

- 1) Every individual Health Service action carried out by Medical Personnel and Health Personnel must obtain approval.
- 2) Consent as intended in paragraph (1) is given after the patient has received adequate explanation.
- 3) The explanation as intended in paragraph (2) covers at least:
  - a) diagnosis;
  - b) indication;
  - c) Health Service actions carried out and their objectives;
  - d) possible risks and complications;
  - e) other alternative actions and their risks;
  - f) risks if action is not taken; And
  - g) prognosis after taking actio.

Pasal 294

- 1) Apart from receiving an explanation as intended in Psaal 293 paragraph (3), the patient also receives an explanation of the costs of the health services they receive.

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<sup>16</sup>Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan



- 2) An explanation of the costs of Health Services as intended in paragraph (1) is provided by the Health Service Facility.

#### Pasal 297

- 1) Dokumen Medical record documents as intended in Pasal 296 belong to the Health Service Facility
- 2) Every patient has the right to access the information contained in the medical record document as intended in paragraph (1).
- 3) Health Service Facilities are obliged to maintain the security, integrity, confidentiality and availability of data contained in medical record documents as intended in paragraph (1)

#### Pasal 302

- 1) In the case of Medical Personnel and Health Personnel who know or reasonably suspect that there has been a criminal act committed against a Patient who is being provided with Health Services, the Medical Personnel and Health Personnel have the right to report this to law enforcement officials.
- 2) The provisions as intended in paragraph (1) are excluded from Health secrets.
- 3) Medical Personnel and Health Personnel who report suspected criminal acts against Patients who are provided with Health Services as intended in paragraph (1) are required to receive legal protection.

### b. Quality Control and Cost Control dan Kendali Biaya

#### Pasal 303

- 1) Every Medical Personnel and Health Personnel in carrying out Health Services is obliged to carry out quality control and cost control and pay attention to Patient safety.
- 2) In the context of implementing the activities as intended in paragraph (1) an audit of Health Services may be carried out.
- 3) Quality control and cost control in Health Service Facilities is the responsibility of the Health Service Facility.

- 4) Guidance and supervision of quality control and cost control as intended in paragraph (1) to paragraph (3) is carried out by the Central Government and Regional Government.

c. Enforcement of Discipline of Medical Personnel and Health Personnel

Pasal 305

- 1) Patients or their families whose interests are harmed by the actions of Medical Personnel or Health Personnel in providing Health Services can complain to the panel as intended in Pasal 304.
- 2) The complaint as intended in paragraph (1) must at least contain the identity of the complainant, the name and address of the medical worker or health worker's practice place and the time the action was taken, and the reason for the complaint.

Pasal 306

- 1) Violations of discipline by Medical Personnel or Health Personnel as intended in Pasal 304 paragraph (3) will be subject to disciplinary sanctions in the form of a written warning, obligation to attend education or training at an education provider in the Health sector or the nearest educational hospital that has the competence to conduct such training, deactivation STR for a while; and/or recommendation for revocation of SIP.

Based on the law above, patients in health services are protected by a series of legal rights and protections which aim to ensure that they receive safe, fair and quality health services.

As for patient protection according to the Consumer Protection Law, Pasal 19 paragraph (1) stipulates that "Business actors are responsible for providing compensation for damage, pollution and/or losses to consumers resulting from consuming goods or services produced or traded". Based on this, losses suffered by patients as a result of medical procedures carried out by doctors can be claimed for compensation. Compensation can be in the form of a refund or replacement of goods and/or services of the same or

equivalent value, or health care and/or provision of compensation in accordance with statutory provisions.

If we look at patient protection according to civil law, the principle adopted in civil law as private law is that anyone who causes harm to another person must provide compensation. This is different from criminal law as public law, because in criminal law what is regulated or aimed at is orderly living together in society on an individual or individual basis. According to Van der Mijl there are 3 elements in civil liability, namely:<sup>17</sup>

1. There is culpable negligence
2. There is a loss
3. There is a causal relationship

Legal protection for other patients is to demand liability according to civil law based on unlawful acts (PMH).<sup>18</sup> The Civil Code provides protection for consumers, in the sense of patients, with the aim of protecting the patient's interests and protecting the patient in the event of unlawful acts and defaults committed by perpetrators/medical personnel, which can harm the patient. So the protection of consumers, namely patients, is considered important to be regulated in the Civil Code. The existence of harm and efforts to protect the patient are preceded by an agreement between the patient and the perpetrator/medical personnel.

Protection of consumers is considered important and of public concern, so the Civil Code regulates protection of consumers, including patients who are consumers of medical services. Basically, the Civil Code regulates the protection of individuals as consumers, in accordance with the context of consumers referred to here as patients. The Civil Code provides protection for consumers, in the sense of patients, with the aim of protecting the interests of patients and protecting patients in the event of unlawful acts and defaults committed by medical staff, which can harm patients.

Apart from the Civil Code, issues regarding patient protection as consumers are also regulated in other laws. Regulations relating to the protection of patients as consumers

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<sup>17</sup>J. Guwandi, *Hukum Medic (Medical Law)*, Jakarta : Balai Penerbit Fakultas Kedokteran Indonesia, Page.51

<sup>18</sup>Indonesia, *Kitab Undang-Undang Hukum Perdata (Burgelick wetboek)*, diterjemahkan oleh R. Subketi dan R. Tjitrosudibio, cet. 31, Jakarta, Pradnya paramita, ps 1365.

include regulations in the Civil Code, Consumer Protection Law, Health Law and other legislation.

### **C. CONCLUSIONS AND RECOMMENDATIONS**

The more developed and more sophisticated technology is, the easier it is for people to get information, both general and/or health information, so that people are braver to criticize or report something that is not in accordance with social, humanitarian values and even legislation. We can see that the level of success of health services in Indonesia is greatly influenced by the professionalism of health workers, such as doctors, nurses, midwives and other workers, especially in the service sector.

Health service facilities, in this case hospitals, are responsible for providing complete health services to all patients. In fulfilling patients' rights, hospitals must be cooperative, professional, transparent and of course affordable. Cooperative means getting ease in accessing all the information they need, of course within the limits of the patient's rights. Professionalism is the fulfillment of the patient's expectations that by coming for treatment to the hospital they will receive good service and the hope of getting a cure, avoiding disability and death of the patient. Transparency and affordable prices are honest prices, not too commercial, not too high. The relationship between the hospital and the patient is a civil relationship, if one party feels disadvantaged due to the other party's negligence and the victim can file a claim for compensation. Patient protection is regulated in the Health Law and the Consumer Protection Law.

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