

LEGAL PROTECTION FOR PATIENTS AGAINST NEGLIGENCE OF MEDICAL PERSONNEL

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Abstract - Health is a human right guaranteed by the 1945 Constitution. Hospitals, as health service providers, are responsible for providing quality and safe services. However, medical negligence by health personnel often causes harm to patients, which includes injury to death. Legal protection for patients against medical negligence is regulated in several laws, including Law No. 36 of 2009 on Health and Law No. 44 of 2009 on Hospitals. This research uses a normative legal approach and analytical descriptive to analyze legal protection for patients. The results show that although there are regulations, their implementation still faces obstacles such as difficulty of proof, low public awareness, and limited access to justice. Therefore, further efforts are needed to strengthen legal protection for patients, so that patients' rights are protected and justice can be realized.

Keywords: legal protection, patient, medical negligence, hospital, patient rights, responsibility, justice.

INTRODUCTION

Health is a human right and one of the elements of welfare that must be realized in accordance with the ideals of the Indonesian nation. In the 1945 Constitution of the Republic of Indonesia, Article 28H paragraph (1) states that "Every person has the right to live in physical and mental prosperity, to have a place to live, and to have a good and healthy environment, and has the right to receive health services." The article emphasizes that the state is obliged to fulfill, protect, and respect the right to health of every citizen.

One of the government's efforts to realize the right to health for all citizens is by establishing hospitals. Hospitals as one of the health care facilities have a very important role in the national health system. Hospitals are responsible for providing quality and affordable health services for the community (Law No. 44/2009 on Hospitals, Article 3).

In providing health services, hospitals involve various health workers such as doctors, nurses, midwives, pharmacists, and other health workers. Health workers have the obligation to provide safe, quality, anti-discrimination, and effective health services by prioritizing the interests of patients (Law Number 36 of 2009 concerning Health, Article 56 paragraph (1)).

However, in practice, it is not uncommon for medical negligence to be committed by health workers in providing health services. Medical negligence can be in the form of misdiagnosis, administration of the wrong medication, inappropriate medical action, or inadequate supervision of the patient (Subiakso et al., 2023). Such medical negligence can cause harm to patients, in the form of injury, disability, or death.

Cases of medical negligence that harm these patients require adequate legal protection. Legal protection for patients for medical negligence by health workers in hospitals is regulated in several laws and regulations, including Law Number 36 of 2009 concerning Health, Law Number 44 of 2009 concerning Hospitals, and Law Number 29 of 2004 concerning Medical Practice.

Article 58 of Law No. 36 of 2009 on Health states that "Every person has the right to claim compensation against a person, health worker, and/or health provider who causes losses due to errors or omissions in the health services they receive." Furthermore, Article 29 of Law No. 44 of 2009 on Hospitals confirms that "Hospitals are legally responsible for all losses caused by negligence committed by health workers in hospitals."

Although there are regulations regarding legal protection for patients for medical negligence, in practice there are still several problems, including a difficult evidentiary process, low public awareness of their rights, and limited access for patients to obtain justice (Ministry of Health of the Republic of Indonesia, 2013). In addition, hospitals and health workers often try to avoid legal responsibility for various reasons, such as claiming that the medical actions taken are in accordance with standard procedures (Prabowowati, 2020).

Therefore, this study aims to analyze how the legal protection of patients for medical negligence by health workers in hospitals. It is hoped that the results of this study can provide input for the government and related stakeholders to strengthen legal protection for patients, so that patients' rights can be guaranteed and patients can obtain justice for the losses they suffer due to medical negligence.

RESEARCH METHODS

This research uses a normative legal approach, with the aim of understanding in depth about the right measurement tools to discuss this research topic. This is important to achieve the essential research objectives. Normative legal research focuses on applicable legal methods and principles. Therefore, this research will use a statutory approach to examine various legal rules that are the focus and central theme. Furthermore, this research is descriptive analytical. That is, this research aims to provide a detailed, clear, and systematic description of the subject matter under study. By combining the normative legal approach and analytical descriptive method, this research is expected to produce in-depth and useful findings, as well as contribute to the understanding and development of legal science.

RESULTS AND DISCUSSIONS

Hospitals are an integral part of a country's national health system (Herianto et al., 2024). They play a role in providing equitable and quality health services to the entire community (Darmawan et al., 2022). Hospitals are referrals for public health care. They have an important role in providing comprehensive health services, ranging from prevention, diagnosis, treatment, to patient recovery.

The hospital's obligation is to protect patients' rights and maintain the quality of service. The Indonesian Hospital Law, particularly Article 29, underlines the hospital's obligation to provide clear and accurate information regarding hospital services to the public. It also organizes health services: Provide safe, quality, anti-discrimination, and effective health services, by always prioritizing the interests of patients and in accordance with applicable service standards.

Article 46 of Law Number 44 Year 2009 emphasizes the responsibility of hospitals for losses arising from the negligence of doctors in hospitals. This provision provides a legal basis for patients to hold hospitals accountable in the event of a doctor's negligence that results in harm. Based on Article 46, several important points can be interpreted:

- a. Scope of Liability: Hospitals are liable for losses directly caused by the negligence of doctors in the hospital.
- b. Burden of Proof: The patient needs to prove that there has been negligence of the doctor in the hospital that caused the loss.
- c. Intentional Acts: The hospital is not liable for damages arising from the doctor's intentional acts.
- d. Location of Occurrence: The hospital is only liable for doctor's negligence committed and occurring in the hospital.

Article 46 is a manifestation of the government's commitment to protecting patients' rights and ensuring the quality of health services in Indonesia. By understanding the obligations and responsibilities of hospitals, patients can be more proactive in maintaining their rights and obtaining optimal health services.

In the context of the therapeutic relationship between patients and hospitals, there is a unique pattern of interaction. The hospital acts as a party that provides health services, with doctors as professionals acting on behalf of the hospital. The patient is the party receiving the service and is obliged to provide compensation.

The consequence of this pattern of therapeutic relationship is the alignment of responsibility for medical negligence. If the patient suffers a loss due to the doctor's negligence, the hospital is responsible. This is because doctors act on behalf of and represent the hospital in carrying out their duties (Yulius et al., 2023). This relationship pattern does not always apply in all hospitals. In private hospitals, the relationship between doctor and patient may be independent, with the doctor acting as the party directly providing services to the patient. In this situation, the liability for medical negligence may be shared between the doctor and the hospital, depending on the agreement concluded between the two parties (Kaseger et al., 2023).

Understanding the dynamics of the patient-hospital relationship and its legal consequences is important for both the patient and the hospital. This can help in protecting patients' rights and ensuring optimal quality of healthcare.

In the patient-physician relationship, a different dynamic emerges when the patient is competent and hospitalized with a doctor who works as a partner (attending physician) and not as an employee. In this situation, the doctor and the hospital are on equal footing. The doctor is responsible for providing medical services, while the hospital functions only as a provider of facilities such as beds, food, nurses, midwives, and medical and non-medical facilities.

The concept is as if the hospital rents out its facilities to doctors who need them. This pattern is widely adopted by private hospitals, where doctors earn income based on the number of patients, quantity, and quality of medical actions performed.

The consequence of this pattern of relationship is the division of liability for medical negligence. If a doctor's negligence causes harm to a patient, it is the doctor who is liable, not the hospital. This is because doctors act independently and do not represent the hospital in carrying out their duties. The Hospital Law exists to provide certainty in the delivery of health services, as well as protect the public and resources in hospitals. The law stipulates that hospitals are legally responsible for the negligence of doctors that cause harm to patients.

However, based on this description, the provisions of Article 46 of the Hospital Law may have various practical implications in its application. This needs to be studied further to ensure fairness for all parties involved in the health care process. The determination of liability for medical negligence is not always as simple as it is portrayed. Other factors such as the agreement between the patient and the doctor, applicable standards of medical practice, and available evidence also need to be considered in determining the responsible party.

An understanding of the dynamics of the patient-doctor relationship and its legal consequences is essential. This will protect the rights of patients, ensure the quality of health services, and achieve justice for all parties involved (Khayru, 2022). Article 46 of the Hospital Law regulates the liability of hospitals for losses caused by doctors' negligence. This provision is intended to:

- a. Hospitals are responsible for the actions taken by doctors working under their auspices, both as permanent and non-permanent employees, except for guest doctors.
- b. Patients who are harmed as a result of a doctor's negligence are entitled to compensation.
- c. This provision encourages hospitals to be more careful in selecting and supervising doctors working in the hospital.
- d. Patients can sue the hospital if they feel harmed by the doctor's negligence.

Article 46 of the RS Law only applies if the relationship between the doctor and the hospital is employee-employer. This means that the doctor must be an employee of the hospital. If the doctor is not an employee of the hospital, such as a doctor practicing jointly at the hospital, then the hospital can disclaim its liability for the doctor's negligence. This is important to understand so that patients know who they should sue if they suffer losses due to the doctor's negligence. This provision on hospital liability is an important step towards protecting patients' rights and improving the quality of healthcare (Tamaka et al., 2023). By understanding these provisions, patients can be more proactive in maintaining their rights and hospitals can be more responsible in providing optimal services.

The patient can sue the hospital for damages caused by the doctor's negligence if several conditions are met:

- a. Doctors periodically receive a fixed salary/honor paid on an ongoing basis by the hospital. This indicates an employment relationship between the doctor and the hospital.
- b. The hospital has the authority to give instructions that must be obeyed by the doctor. This authority indicates that the doctor is subject to the control and direction of the hospital.
- c. The hospital has the authority to supervise the performance of doctors. This aims to ensure that doctors provide services in accordance with applicable standards and protocols.
- d. There is an error or negligence committed by the doctor in the hospital, and the negligence causes harm to the patient. This element is the core of the lawsuit, namely the existence of wrongful acts and resulting in harm to other parties.
- e. The doctor's actions were carried out within the scope of his competence and under the supervision of the hospital. This shows that the hospital is responsible for the actions of doctors performed in their capacity as medical personnel in the hospital.

Exception:

- a. If the doctor's actions are performed outside his competence and not under the supervision of the hospital, then the hospital can release its liability.
- b. Visiting doctors who are not hospital employees are generally not included in the hospital's scope of responsibility.

Understanding these requirements is important for patients to know when they can sue the hospital for doctor negligence. For hospitals, this understanding is important to increase accountability and ensure that they provide quality healthcare services with high standards.

This provision on hospital liability is an important part of efforts to protect patients' rights and improve the quality of health services. By understanding these provisions, patients can be more proactive in maintaining their rights and hospitals can be more responsible in providing optimal services.

Doctors have an important role in the healthcare field, with knowledge and skills acquired through education in the healthcare field. In the context of medical malpractice, there are three main categories to understand:

1. Intentional Professional Misconduct, i.e. a doctor is found guilty or commits poor practice if:
 - a. Violating the applicable medical practice standards.
 - b. Committing violations intentionally.
 - c. Ignoring existing standards and rules without elements of negligence.
2. Negligence, where the doctor is negligent in carrying out his duties, resulting in the disability or death of the patient. This negligence can be in the form of:
 - a. Not performing medical actions that should be performed in accordance with medical science.
 - b. Performing medical actions that are not in accordance with the applicable standards and protocols.
3. Lack of Skill, where the doctor performs medical actions outside of his competence or expertise.

Medical malpractice can be categorized into three types based on the legal perspective:

1. **Criminal Malpractice:** Occurs when the act of malpractice meets the formulation of an offense (criminal offense). The conditions are:
 - a. The act (whether active or passive) is reprehensible. (*actus reus*).
 - b. Performed with the wrong mental attitude (*mens rea*), yaitu in the form of intentionality, carelessness (recklessness), or negligence.
2. **Civil Malpractice:** It occurs when an act of malpractice causes harm to the patient. The patient has the right to claim compensation for the harm he/she has suffered.
3. **Administrative Malpractice:** Occurs when a doctor violates the rules or code of ethics of medicine that has been established. The sanctions given can be in the form of reprimands, warnings, and revocation of practice licenses.

Understanding the categories and legal perspectives of medical malpractice is important for patients to know their rights and how to sue if they experience malpractice. For doctors to understand their obligations and responsibilities in carrying out medical practices (Nasution, 2005). For the authorities to enforce the law and provide appropriate sanctions for doctors who commit malpractice.

Hospitals, as health service providers, have obligations that must be fulfilled (Kholis et al., 2023). These obligations are divided into two categories:

1. **Perfect Obligations**, which are obligations that are always linked to the rights of others such as
 - a. Provide safe, quality health services in accordance with applicable standards.
 - b. Maintain the confidentiality of patient information.
 - c. Provide correct and complete information to patients.
 - d. Obtaining the patient's consent before performing medical actions.
2. **Imperfect Obligations**, which are obligations that are not related to the rights of others, but are based on morals such as:
 - a. Strive to continuously improve the quality of health services.
 - b. Organizing education and training for medical personnel.
 - c. Play an active role in improving public health.

Patients have the right to sue the hospital if they feel harmed by the doctor's actions. However, proving that the harm was due to the doctor's negligence is not always easy. Patients must know and understand their medical records. The patient must seek strong evidence, such as the results of medical examinations or the opinions of other medical experts. Patients process their lawsuit through the correct legal channels.

Meanwhile, the hospital can release its responsibility if the doctor has made medical efforts properly and to the best of his ability. The disaster/loss that befalls the patient occurs unexpectedly and is not the result of the doctor's negligence (Rojak, 2022).

Understanding the obligations of hospitals and patient rights is very important to ensure patients get quality health services and in accordance with their rights (Katz, 2003). In addition, it can encourage hospitals to carry out their duties and functions more responsibly and build harmonious relationships between patients and hospitals (Tampil et al., 2023). By understanding obligations and rights, patients and hospitals can work together to build quality and patient-centered health services.

Hospitals as a place of service to the community, have the responsibility to provide the best services related to health (Khayru & Issalillah, 2022). Hospitals must provide high quality services, following established medical and ethical standards. Skilled and trained medical and paramedical personnel must be available to provide safe and effective care to patients. This will provide assurance for the patient's interests.

CONCLUSIONS

This study reveals that although there are regulations governing legal protection for patients against medical negligence, implementation and public understanding still need to be strengthened. Law No. 36 of 2009 and Law No. 44 of 2009 have provided a clear legal basis regarding the responsibility of hospitals and medical personnel. Article 46 of Law No. 44/2009 emphasizes that hospitals are responsible for the negligence of medical personnel working under their auspices. However, patients often experience difficulties in the evidentiary process, low awareness of their rights, and limited access to justice. In the context of the relationship between patients, doctors, and hospitals, liability for medical negligence is often complex and requires clearer and fairer treatment.

Suggestions that can be conveyed are that the government and hospitals need to increase education to the public about patient rights and available legal protection mechanisms. It is necessary to review and strengthen existing regulations so that they are more effective in protecting patient rights and facilitate the evidentiary process in cases of medical negligence. Supervision of medical practices and hospitals needs to be improved to ensure appropriate health service standards and prevent negligence and ensure strict enforcement of sanctions against medical personnel and hospitals proven to be negligent, to improve accountability and quality of health services.

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