

Legal Position and Role of Hospital Management in Non-Litigation Dispute Resolution in Hospital

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Abstract

The legal relationship between medical personnel and patients in carrying out their services as health workers is often experienced through incidents where health workers intentionally or unintentionally ignore patient rights until a problem or dispute arises. Medical malpractice is an action carried out by health workers regarding evil practices or not in the case of not meeting a standard that has been initially determined by the profession. Regulations regarding the resolution of medical disputes through non-litigation are regulated in Article 310 of Law Number 17 of 2023 which encourages the peaceful and family resolution of medical problems through mediation/arbitration institutions before proceeding to court, in order to protect all parties and achieve justice so that it needs to be studied. Therefore, to implement the established legal basis, legal experts are needed to carry out their profession. Government Regulations No. 47 of 2021 CHAPTER III Hospital Obligations Article 27 paragraph (1) point r mandates that "prepare and implement internal Hospital regulations". This means that the Law has mandated Hospital Management to create and establish its own rules regarding dispute resolution if a medical dispute occurs in the future. The research method used in this study is a normative juridical method, which is conducted through library research, often referred to as secondary data in the form of positive law. The results of this discussion indicate that hospital management requires a health council to establish a mechanism for resolving medical disputes, the initial stage of which is mediation. This is an excellent and structured alternative for resolving problems.

Keywords: *Health Workers, Medical Dispute Resolution, Hospital Management, Health Council*

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Introduction

The national goals of the Indonesian nation, as stated in the preamble to the 1945 Constitution, are to protect the entire Indonesian nation and its entire homeland, to advance public welfare, to improve the nation's intellectual life, and to contribute to the establishment of a world order based on independence, eternal peace, and social justice. To achieve these goals, comprehensive and sustainable national development and guarantee programs are implemented. Guaranteeing access to health is one of the measures implemented to improve public health through health efforts and community empowerment supported by financial protection and equitable distribution of health services. To achieve equitable distribution of health services, the government is making efforts to increase the availability of adequate health care facilities, one of which is hospitals. The role of hospitals is very significant in providing health services to the community. In practice, this responsibility is often not carried out optimally. Hospitals, as one of the main components providing health services to the community, have a very important role because they are directly related to the provision of health services and the quality of services provided.

Doctors and dentists, with their scientific expertise, possess unique characteristics. This uniqueness is evident in the legal justification for performing medical procedures on the human body in an effort to maintain and improve health. Medical procedures performed by non-doctors or dentists on the human body can be classified as criminal acts. Looking back over the past few decades, especially in Indonesia, many people considered doctors to be professionals who were less susceptible to legal action due to their profession. Conflicts in the relationship between doctors, hospitals, and patients arise during therapeutic transactions. Conflicts typically arise when one party fails to fulfill its role as expected. The patient, as the party in need of help, is in a weak position and often lacks advantageous bargaining power. Conversely, healthcare providers, such as hospitals, often fail to establish effective communication with patients and their families, resulting in inadequate therapeutic transactions.

From a legal perspective, the relationship between a doctor and a patient is one between legal subjects governed by civil law principles, which is essentially based on mutual agreement. Therefore, this relationship involves reciprocal rights and obligations. The doctor's rights are the patient's obligations, and the patient's rights are the doctor's obligations. In carrying out their obligations to patients, a doctor is always prone to errors and mistakes that can have negative consequences for the patient. In this case, various things can arise, including, how a doctor is considered to have committed malpractice, which provisions are used as a reference, what is the role of hospital management in resolving medical disputes, whether Law Number 44 of 2009 concerning Hospitals or Law Number 29 of 2004 concerning Medical Practice or Law Number 8 of 1999 concerning Consumer Protection or the Civil Code.

Health services in hospitals are carried out by doctors as medical personnel and health workers. Health workers according to Law Number 36 of 2014 concerning Health Workers consist of, among others, clinical psychology personnel; nursing personnel; midwifery personnel; pharmaceutical personnel; and public health personnel. Article 1 point 1 of Law Number 44 of 2009 concerning Hospitals (Hospital Law) states that a Hospital is a health service institution that provides comprehensive individual health services that provide inpatient, outpatient, and emergency services. Article 1 point 4 of the Hospital Law states that a Patient is any person who consults about their health problems for obtain the necessary health services, either directly or indirectly at the Hospital. Furthermore, Article 1 point 2 of Law Number 29 of 2004 concerning Medical Practice (Medical Practice Law) states that Doctors and dentists are doctors, specialist doctors, dentists, and dental specialists who have graduated from medical or dental education both at home and abroad and are recognized by the Government of the Republic of Indonesia in accordance with statutory regulations. Furthermore, the relationship between hospitals, doctors,

and patients that arises from therapeutic agreements sometimes gives rise to disputes. A therapeutic transaction is a relationship between two parties who make an agreement, namely a doctor and a patient, where the doctor is authorized to carry out medical actions for the patient's recovery. Meanwhile, the hospital is authorized to provide health services.

Therapeutic transactions are agreements made by two or more people who bind themselves to another person who makes the agreement, in accordance with the provisions of Article 1313 of the Civil Code. Therapeutic transactions result in the emergence of rights and obligations for the parties involved, namely the hospital, doctor and patient. These rights and obligations must be fulfilled by all three parties who entered into the agreement. The basis for the validity of therapeutic transactions is in Article 1319 of the Civil Code which states "for all agreements, whether they have a special name or are not known by a certain name, are subject to general regulations regarding obligations in general". Thus, therapeutic transactions are considered valid and in accordance with the agreement in Article 1320 of the Civil Code which states "for the validity of an agreement, four conditions are required, namely the agreement of the parties, the capacity of the parties, the existence of a specific purpose and the existence of a halal clause".

The legal responsibility of hospital management towards its personnel means that the hospital must be responsible for the quality of the personnel working in the hospital. Hospital Responsibility in Indonesia is regulated in Article 46 of Law Number 44 of 2009 concerning Hospitals, which states that hospitals are legally responsible for all losses caused by negligence by health workers in hospitals. However, to date, there are no implementing regulations that clearly explain the application of hospital responsibilities, as stipulated in Article 46 of the Hospital Law. As a result, there has been a number of inconsistencies in court decisions regarding hospital responsibilities. Therefore, the author is interested in addressing the issue of the legal status and role of hospital management in non-litigation dispute resolution in hospitals.

Research Methodology

This research is a normative juridical research, namely a study that reveals a problem, situation or event by providing a comprehensive, broad and in-depth assessment from a legal perspective, namely by examining legal principles, legal rules, and legal systematics. In collecting data, document studies are used, namely by studying secondary materials, both in the form of legislation, other regulations, court decisions on health cases as well as books, papers, and journals related to the research. The data obtained are then analyzed qualitatively, namely a data analysis method that is not based on numbers or statistics, so that the data obtained in library research are then presented in logical sentences to obtain a description of the Legal Position and Role of Hospital Management in Non-Litigation Dispute Resolution in Hospitals.

Results

The relationship between human rights and health issues in our country is regulated in Law 23/1992, where in Chapter 111 Article | Paragraph (1) and Article 4 it states: Article 1 (1): "health is a state of well-being of the body, soul and social which enables every person to live productively socially and economically." Furthermore, Article 4 states: "everyone has the right to the highest possible level of health. Talking about patient rights in health services, in general the patient rights are as follows:

- 1) The patient's right to care.
- 2) The right to refuse certain treatment methods.
- 3) The right to choose the healthcare professional and hospital that will treat the patient.
- 4) The right to information. 5) The right to refuse treatment without permission.
- 6) The right to feel safe.

- 7) The right to restrictions on the arrangement of freedom of care.
- 8) The right to terminate the treatment agreement.
- 9) The right to twenty days for visitors.
- 10) The patient's right to withdraw or sue

Along with these rights, patients also have the following obligations:

- 1) The obligation to provide information.
- 2) The obligation to follow the advice of a doctor or healthcare professional.
- 3) The obligation to be frank if problems arise in their relationship with a doctor or healthcare professional.
- 4) The obligation to provide compensation if their actions harm the doctor or healthcare professional.
- 5) The obligation to provide compensation for services.

Based on the therapeutic agreement that creates rights and obligations for the parties, the hospital also has rights and obligations as a health service provider. According to Article 1 number 1 of Law Number 44 of 2009 concerning Hospitals, a Hospital is a health service institution that provides comprehensive individual health services that also provide inpatient, outpatient, and emergency services. Hospitals have the task of providing comprehensive individual health services. The meaning of comprehensive health services is health services that include promotive, preventive, curative, and rehabilitative.

In essence, hospitals function as places for healing illnesses and restoring health and this function has the meaning of responsibility which should be the responsibility of the government in improving the welfare of the community. Hospitals as one of the health service facilities are part of the health resources that are very necessary to support the implementation of health efforts. Hospitals are organized based on Pancasila and are based on the values of humanity, ethics, professionalism, benefit, justice, equal rights and anti-discrimination, equity, patient protection and safety, and social benefits. Hospital rights are regulated in Article 61, point 7 of Law Number 11 of 2020 concerning Job Creation, as follows:

- 1) Provide accurate information about hospital services to the public.
- 2) Provide safe, high-quality, anti-discriminatory, and effective health services, prioritizing patient interests in accordance with hospital service standards.
- 3) Provide emergency services to patients according to their service capabilities.
- 4) Play an active role in providing health services during disasters according to their service capabilities.
- 5) Provide facilities and services for the underprivileged or poor.

Furthermore, hospital obligations are regulated in Article 30 of Law Number 44 of 2009 concerning Hospitals, as follows:

- 1) Determine the number, type, and qualifications of human resources in accordance with the Hospital classification.
- 2) Receive compensation for services and determine remuneration, incentives, and awards in accordance with statutory provisions.
- 3) Collaborate with other parties to develop services.
- 4) Accept assistance from other parties in accordance with statutory provisions.
- 5) Sue parties who cause losses.

A Hospital is an organization that, through organized professional medical personnel and permanent medical facilities, provides medical services, continuous nursing care, diagnosis, and treatment of patient illnesses. In the past, the function of a hospital was only to cure sick people, but in its current development, it has become a health center. With the emerging need for continuity of service in line with advances in medical science and technology, the scope of hospitals has now

also encompassed education and research. Hospitals are institutions that can apply business principles without violating medical ethics and also protect the poor.

If a patient or consumer is dissatisfied with the service provided, a complaint may arise. Complaints can be submitted in writing or verbally to the service provider. Comprehensive customer complaint management is an effective way to address customer complaints as a tool and concept of total quality management. Poor service quality can lead to customer complaints. Therefore, a comprehensive quality management system and effective complaint management are required. Based on Hospital Management Regulations, Law Number 44 of 2009 states that patients, families, and visitors can submit complaints directly or indirectly. Complaints can be submitted directly to service staff, ward heads, and the General, Household, Legal, Public Relations, and Marketing Sub-Divisions. Patients can also submit complaints indirectly through the Complaint Box.

Based on the established hospital regulations, if there is a medical dispute it can be resolved by mediation, in accordance with Article 310 of Law Number 17 of 2023 encourages the resolution of medical problems peacefully and amicably through a mediation/arbitration institution before proceeding to court, in order to protect all parties and achieve justice in the event that medical personnel are suspected of negligence in carrying out their profession, such negligence must be resolved first through mediation. In this case the role of Hospital management in resolving medical disputes is as a mediator if there is a loss to the patient, speaking of medical disputes in the world of health, it is very necessary for a legal expert who understands and understands how the regulations of the world of health are. In accordance with Article 310 of Law Number 17 of 2023, mediation/arbitration is preceded in resolving problems, therefore it is necessary to have a Health Council in the medical scope which includes judges, legal experts, medical experts and other experts to help resolve problems in the health sector such as in courts in general but in the health sector.

Health cases often disappear without resolution and without transparency, for this reason, *ius constituendum* was created, a law that is aspired to or expected to apply in the future. The health world is very important to have its own council to resolve problems so that in the future medical disputes are resolved fairly and beneficially. This is where the legal position is born. So, for the future, the role of management has a definite, fair, and beneficial legal position in the health world

Conclusion

In the world of healthcare, when a medical dispute occurs, this is where the important role of Hospital management in resolving disputes is regulated in Article 310 of Law Number 17 of 2023 concerning Health, where medical disputes are subject to mediation/arbitration first before proceeding to court, which aims to protect all parties and achieve justice in cases where medical personnel are suspected of negligence in carrying out their profession. To strengthen the legal side in this case, *ius constituendum* is needed, where in non-litigation dispute resolution in hospitals, namely by forming and activating a Medical Committee or Health Council that functions as a mediator and facilitator in resolving disputes between patients and healthcare personnel. Thus, hospital management can help prevent the escalation of disputes to legal channels and improve the quality of healthcare services.

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