



RIGHTS, OBLIGATIONS, AND AUTHORITIES OF MEDICAL AND HEALTH PERSONNEL IN PRIMARY HEALTH SERVICES POST LAW NUMBER 17 OF 2023 CONCERNING HEALTH

Asep Subur Setiadi, Sanusi, Koharudin, Achmad Gunarto

Universitas Swadaya Gunung Jati, Indonesia

Email: rachmanda.1110721@gmail.com

ABSTRACT

Health problems have always been an inevitable aspect in the daily activities of society. In the context of Indonesia's health care system, the government is trying to revitalize primary care programs that are believed to be able to improve public health status in general. However, medical and health workers who are in primary health care often face difficult obstacles, especially in carrying out therapeutic services to patients. This research aims to examine the rights, obligations, and authorities of medical and health personnel in primary health services. The method used is normative research. Therefore, the research conducted is prescriptive analytical, namely describing, analyzing, concluding the problems that become the object of research. The approach in this writing is a statute approach and conceptual approach. An adequate understanding of the rights, obligations and limits of authority as mandated in Law No. 17 of 2023 concerning Health will undoubtedly ensure that all Medical and Health Workers who perform primary health services are guaranteed protection by law as long as in carrying out their practice they are obliged to provide Health Services in accordance with professional standards, professional service standards, standard operating procedures, and professional ethics and obtain approval from Patients. Legal education for Medical and Health Workers who perform primary health services is an urgency so that Medical and Health Workers understand their rights, obligations and authorities as the frontline in maintaining and improving public health.

Keywords: health problem, legal, health services

INTRODUCTION

Health problems have always been an inevitable aspect in people's daily activities. In line with the ever-growing complexity of the medical world, the legal basis continues to support and regulate all aspects of health

practice and policy. Research regarding the rights and obligations and authority of Medical Personnel and Health Personnel is a relevant and dynamic field in the context of health and law. In this ever-developing era, the role of medical personnel and

health workers is becoming increasingly important. However, medical personnel and health workers are often faced with complex legal challenges ranging from issues related to professional responsibility to legal consequences in making medical decisions. This study will provide a prescriptive analysis regarding the complexity of the relationship between the interrelated fields of health and law.

During the reform era, the Indonesian Constitution firmly mandated the fulfillment of the right to health for all Indonesian people. Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia mandates that health is a human right. Concretely, every person has the right to live in physical and spiritual prosperity, to live and have a good and healthy living environment and has the right to receive health services. Primary health care is an important initial foundation in the health service system and starts from health promotion, prevention, disease diagnosis, to treatment and rehabilitation efforts (Sari, 2023). In the context of the Indonesian health service system, the government is trying to revitalize promotive and preventive programs in primary care which are believed to be able to improve the general health status of the community.. Therefore, primary health care is a crucial aspect in a country's health system which involves the important role of medical personnel and health workers (Ministry of Health of the Republic of Indonesia, 2023b). However, medical personnel and health workers in primary health care often face difficult obstacles, especially in carrying out therapeutic services for patients (Larasati, 2019).

The problems that are often experienced by medical personnel and health workers in providing health services

are complaints from patients or patient families which often turn into hot balls for health workers. Medical personnel and health workers often experience problems when patients or patient families submit complaints which can lead to medical disputes and lawsuits from parties who feel disadvantaged. Patients and their families often feel dissatisfied and feel that there are allegations of malpractice regarding health services provided by medical personnel and health workers, which leads to legal demands (Mangkey, 2014). On the other hand, it must be acknowledged that in primary health care, poor patients tend to receive services that are inadequate and often inhumane, giving rise to the potential for greater suffering and the potential for medical malpractice cases to occur (Koto & Asmadi, 2021). Therefore, it is important for medical personnel and health workers to understand the rights and obligations of medical personnel and health workers, as well as ensuring that the health services provided are in accordance with professional standards and standard operational procedures (Ministry of Health of the Republic of Indonesia, 2023a).

After the enactment of Law Number 17 of 2023 concerning Health, a comprehensive understanding of the rights, obligations and Medical Personnel and Health Personnel in providing primary health services are relevant in order to provide adequate legal protection and awareness among Medical Personnel and Health Personnel. Various regulations and provisions governing the rights, obligations and authority of Medical Personnel and Health Personnel need to be analyzed in depth to ensure quality primary health services and in accordance with professional standards and applicable laws. The presence of law is necessary for society

to organize state life. Organizing various interests in a statutory regulation is an urgency to avoid conflicts of interest and aims to protect the interests of everyone, in this case both medical personnel, health workers and patients (Ardiansah & Silm, 2020).

Based on above background, this research aims to examine the rights, obligations, and authorities of medical and health personnel in primary health services.

RESEARCH METHODS

In order to conduct research, methodology is very important in an effort to answer the problems posed in the research. The method used is normative research. Normative legal research is essentially a document study that examines and examines sources of legal material that are conceptualized in the form of written regulations, namely statutory regulations, court decisions, legal principles and principles, legal theories, and doctrines or expert opinions (Ishaq, 2017). This is based on Peter Mahmud Marzuki's opinion that there is no need for the term normative legal research, because legal research or Dutch *rechtsonderzoek* is always normative. With this statement it is clear that the research is normative in nature. It's just that the approach and legal materials used must be stated (Marzuki, 2013).

In line with this, the nature of legal research is prescriptive so that in legal research there is no need for hypotheses, and also legal research does not recognize data but legal sources (Marzuki, 2013). Therefore, the research carried out is prescriptive analytical, namely describing, analyzing and concluding the problems that are the object of research, namely the

rights and obligations and authority of medical personnel and health workers in providing primary health services after the enactment of the new Health Law.

The approach in this writing is the statutory approach and the conceptual approach. The statutory approach is to approach the study of laws and regulations related to the legal issues being discussed, while the conceptual approach is an approach guided by the views as well as the doctrines of experts who developed in legal science (Hadjon et al., 2011).

The data collection technique in this research was carried out using a library study, which is a method of collecting data by searching and reviewing library materials (literature, research results, scientific magazines, scientific bulletins, scientific journals). Legal materials that have been collected through the legal inventory process are then classified and then analyzed in depth by exploring the basic principles, values and norms contained therein. The primary legal material in this research is Law Number 17 of 2023 concerning Health, Minister of Health Regulation Number 5 of 2014 concerning Clinical Practice Guidelines for Doctors in Primary Health Care Facilities, Decree of the Minister of Health of the Republic of Indonesia Number Hk.01.07/Menkes/2015/2023 Concerning Technical Instructions for Integrating Primary Health Services, while secondary legal materials are supporting literature and references consisting of textbooks written by influential legal experts, legal journals, opinions of scholars, legal cases, jurisprudence, and the results of the latest symposium related to research into the views and doctrines of experts regarding written legal issues (Ibrahim, 2016).

RESULTS AND DISCUSSION

The conditions behind the changes in Law Number 17 of 2023 concerning Health

The formation of a legal rule must contain the main principle in order to create clarity regarding legal regulations, which is called the principle of legal certainty. The existence of the principle of legal certainty is important as a protection for everyone who seeks justice and certainty from arbitrary actions (Susetiyo et al., 2022). Therefore, legal certainty refers to the application of clear, permanent and consistent laws whose implementation cannot be influenced by subjective factors (Jason & Tan, 2022). Legislative regulations must be formulated clearly, firmly, synchronously and consistently so that they are easy to understand and implement. Legislation must also be in accordance with community needs or be effective and efficient and prioritize quality over quantity. Only with good and quality legal regulations can legal certainty be realized so as to build legal order that is conducive to achieving a better national and state life (Indonesian Legislative Body, 2023).

Law Number 17 of 2023 concerning Health is an important pillar of legal certainty in changing health regulations in Indonesia. This law carries a number of key changes that mark significant changes in the Indonesian health system. The main points of changes in Law Number 17 of 2023 concerning Health include strengthening the role of the community in health care, increasing the availability and distribution of affordable medicines, and seeking innovation in a more holistic approach to health services. These changes aim to build a solid foundation to support efforts to improve public health in a comprehensive and sustainable manner.

As a developing country, Indonesia still faces the problem of low public access to high-quality health services. The implementation of health services is unable to handle the complexity of organizing and financing health services which increasingly depend on increasingly expensive and complex technology. In line with this, one of the problems behind the urgency of promulgating the new Health Law is regarding the Fulfilment of the Right to Information on Medical Procedures for patients. The right to obtain information regarding medical procedures that will be provided and/or have been provided by medical personnel is closely related to the therapeutic agreement relationship (Santoso & Sulistiyono, 2019). Therapeutics means the science of examination and treatment so that a therapeutic agreement is an agreement made on the basis of agreement, covering the areas of diagnostic, preventive, rehabilitative and promotive (Hanafiah, 2014). A therapeutic agreement that places the parties in a balanced position, places the patient's right to determine the medical treatment received and obtain information before obtaining the action which is categorized as the right to self-determination.

The thing that needs to be emphasized in the therapeutic relationship between medical personnel and/or health workers and patients is the existence of informed consent, namely all medical actions that will be carried out by a doctor on a patient where the patient must obtain a comprehensive understanding of the information, accompanied by the impact resulting from the medical efforts undertaken (Bazzano et al., 2021). In order to avoid all forms of missing information between medical personnel/doctors and patients, delivery of medical procedures

must be carried out at the beginning or before the medical action is carried out. The patient's ability or competency to make decisions is one of the most important components in informed consent, which will influence the actions to be taken by medical personnel and/or health workers (Budiarsih, 2021).

The legal problem before the promulgation of Law Number 17 of 2023 concerning Health was that there was a regulatory vacuum if there was a lack of informed consent regarding the fulfillment of the patient's rights before an action was taken, and if the patient did not give consent to the action taken by the Medical Personnel and/or Health Personnel. These two legal issues raise the question of whether this can still be included in the realm of therapeutic transactions as a purely civil form or has an administrative aspect, or even a criminal aspect? and are actions carried out without consent included in the actions mentioned as a form of malpractice? Meanwhile, if you look closely at Law Number 36 of 2009 concerning Health and Law Number 29 of 2004 concerning Medical Practice, there are no provisions for sanctions, whether administrative or criminal, for violations of these provisions.

On the other hand, holistic health services require complete access to quality health services for all citizens by providing good and appropriate health services for the Indonesian people as a whole (Aditama, 2023). In this regard, good health services include medical personnel and health workers who are experts and skilled in carrying out health services (Oponu, 2023). Health workers have an important role, especially in improving the maximum quality of health services to the community. Medical personnel and health workers also

play a role in increasing people's awareness, will and ability to live healthily so that the highest level of health can be achieved as an investment for the development of productive human resources. Fulfilling the right to health services and increasing health service coverage can only be realized through the availability, accessibility, acceptability and quality of medical personnel and health workers. The quality of Medical Personnel and Health Personnel is closely related to awareness and understanding of the rights, obligations and authority of Medical Personnel and/or Health Personnel in providing health services.

Primary Health Care in Law Number 17 of 2023 concerning Health

In implementing the 2020-2024 RPJMN vision, the Ministry of Health is committed to transformation of the health system, one of which is transformation of primary services which includes:

- a) Population education, which includes (immunization, balanced nutrition, exercise, anti-smoking, environmental sanitation and cleanliness, disease screening, medication compliance),
- b) Primary prevention takes the form of adding routine immunization which now has 14 (fourteen) antigens and also expanding coverage throughout Indonesia,
- c) Secondary prevention is by implementing screening for 14 (fourteen) diseases that are the highest causes of death at each target age, screening for stunting, and increasing ANC for maternal and infant health,
- d) Increasing the capacity and capability of primary services, by building community health centers in 171 (one hundred and seventy one) sub-districts, providing 40

(forty) essential medicines, and fulfilling primary health human resources.

The transformation of primary health services, as mandated in the 2020-2024 RPJMN vision, is realized by strengthening primary health services as an effort to realize insightful health development through community empowerment, civilizing community movements, and cross-sector mobilization. This strategy includes strengthening and expanding community education and empowerment efforts, including increasing the role and independence of the community to live healthy lives; community-based disease control through Community-Based Health Units, family approaches, and involving the private sector.

In an effort to increase the role of primary health services, the government has taken various policy and regulatory steps involving all stakeholders and the community itself to ensure that quality health services remain available and accessible to all communities, and these policies have had a direct impact on strengthening community-based health services (Kasim, 2022). However, even though primary health services have been implemented as per the 2020-2024 RPJMN vision, the reality on the ground is that there are problems that result in deaths by ranking the highest number of deaths categorized according to the life cycle, namely babies which result in 96.8% of deaths, children children with a death rate of 76.4%, teenagers with a death rate of 63.9%, adults with a death rate of 72.6%, elderly people with a death rate of 73.5% (Burstein, 2019). Therefore, strengthening primary health services in Law Number 17 of 2023 concerning Health focuses on development efforts, meeting the needs of health centers equipped with Human

Resources, in this case medical personnel and health workers.

Basically, primary health care is a form of health effort in the form of services. Health efforts are all forms of activities and/or a series of activities carried out in an integrated and sustainable manner to maintain and improve the level of public health in the form of promotive, preventive, curative, rehabilitative, and/or palliative by the Central Government, Regional Government, and/or the community. Meanwhile, Health Services are all forms of activities and/or a series of service activities provided directly to individuals or the community to maintain and improve the level of public health in the form of promotive, preventive, curative, rehabilitative and/or palliative.

Primary health care is the health service closest to the community as the first contact for health services. The characteristics of primary health services are intimate services to the community which aim to improve the welfare and health of the community. Primary health services must serve the community as a whole and focus on all aspects so that the community can achieve equitable prosperity (Ansari, 2023). The parties authorized to carry out primary health efforts are Medical Personnel and Health Personnel. In this case, medical personnel and/or health workers in providing primary health services interact directly with patients and are at the forefront in maintaining and improving the level of public health. Therefore, it is important for medical personnel and health workers to understand their rights and obligations. They must also ensure that quality primary health services are provided in accordance with professional standards and standard operating procedures. Quality primary

health services can only be created if Medical Personnel and/or Health Workers understand the rights, obligations and authority of their profession in carrying out therapeutic agreements with patients.

Rights and Obligations and Authorities of Medical Personnel and Health Personnel in Law Number 17 of 2023 concerning Health

Medical Personnel is every person who devotes themselves to the field of Health and has a professional attitude, knowledge and skills through medical or dental professional education who requires the authority to carry out Health Efforts while Health Personnel is every person who dedicates themselves to the field of Health and has a professional attitude, knowledge and skills through higher education which for certain types requires authority to carry out health efforts. Professional attitude is an action carried out in accordance with competency standards. The Aegroti Salus Lex Suprema principle is the basis for the professionalism of medical personnel who always uphold patient safety when carrying out health service measures.

In medical practice, competence and authority are required for a doctor to provide medical services. Competence is the ability of a doctor based on knowledge, skills and professional attitudes to practice, while authority is the authority given to a doctor by the authorized party to carry out practice (Gosal et al., 2022). A Medical Professional and Healthcare Professional is responsible for moral judgment to maintain patient safety when making ethical clinical decisions. Patient safety is basically an effort to prevent injuries caused by errors resulting from carrying out an action or not taking action that should be taken (Salawati, 2020).

Medical personnel and health workers in carrying out their practice have the right to receive legal protection as long as they carry out their duties in accordance with professional standards, professional service standards, standard operational procedures and professional ethics, obtain complete and correct information from patients, receive protection against treatment that is not in accordance with dignity and human dignity, morals, decency, and socio-cultural values, rejecting the wishes of patients or other parties that conflict with professional standards, service standards, standard operational procedures, codes of ethics, or statutory provisions. Medical personnel and health workers can stop health services if they receive treatment that is not in accordance with human dignity, morals, decency and socio-cultural values, including acts of violence, harassment and bullying. On the other hand, Medical Personnel and Health Personnel in carrying out practice are obliged to provide Health Services in accordance with professional standards, professional service standards, standard operational procedures, and professional ethics as well as the Health needs of Patients, obtain approval from the Patient or his family for the actions to be provided, maintain confidentiality Patient Health, create and store records and/or documents regarding examinations, care and actions carried out, refer patients to medical personnel or other health personnel who have the appropriate competence and authority.

In carrying out practice, Medical Personnel and Health Personnel who provide Health Services to Patients must carry out their best efforts in accordance with norms, service standards and professional standards as well as the patient's Health needs. These best efforts

do not guarantee the success of the health services provided considering that health services are a therapeutic agreement that does not promise success but promises the best possible treatment (*inspanningverbintenis*) (Putra, 2016). In line with this, medical personnel and health workers must carry out their practices in accordance with their authority based on their competence. However, in certain circumstances, Medical Personnel and Health Personnel can provide services outside their authority, including the absence of Medical Personnel and/or Health Personnel in an area where Medical Personnel or Health Personnel are on duty, the need for government programs, handling medical emergencies, unusual events, epidemics and /or disaster emergency. It needs to be emphasized that regardless of whether the Medical Personnel and Health Personnel carry out practices in accordance with their authority or in certain circumstances provide services outside their authority, every Medical Personnel and Health Personnel in providing Health Services is obliged to comply with professional standards, service standards and standard operational procedures.

Furthermore, every individual health service action carried out by medical personnel and health workers must receive approval with adequate explanations including diagnosis, indications, health service actions to be carried out, risks and complications that may occur, other alternative actions and their risks, risks if action not taken and prognosis after obtaining action. Consent in a therapeutic agreement occurs when the patient understands the information conveyed by the doctor completely and agrees to the medical action that will be carried out by

the doctor. This patient consent can occur implicitly or explicitly. Implicitly, the patient's consent is simply indicated by the patient nodding their head, so there has been an agreement in the therapeutic agreement. However, for medical procedures that have a high risk, this approval is not enough just implicitly. Approval of high-risk medical procedures requires an explicit form of consent or a form of written consent which is then known as informed consent (Yulia Kusuma Wardani, 2019).

Informed consent is the starting point for the birth of a therapeutic agreement. After this therapeutic agreement is entered into, an agreement is born which gives rise to rights and obligations in the legal relationship between the Medical Personnel or Health Personnel and the patient. The engagement in this therapeutic agreement requires Medical Personnel and/or Health Personnel to carry out healing efforts maximally and carefully and does not promise results. On the other hand, patients must also comply with all doctor's instructions. However, in practice, the implementation of this therapeutic agreement sometimes creates problems that stem from the asymmetrical nature of the relationship between medical personnel or health workers and patients (Subekti, 2005). However, with an adequate understanding of the rights, obligations and limitations of authority as mandated in Law Number 17 of 2023 concerning Health, all medical personnel and health workers who provide primary health services will be guaranteed protection by law while carrying out the practice of being obliged to provide appropriate health services. with professional standards, professional service standards, standard operational procedures

and professional ethics and obtain approval from the patient.

CONCLUSION

Medical and Healthcare Professionals are responsible for moral judgment to maintain patient safety when making ethical clinical decisions. Medical personnel and health workers in carrying out their practice have the right to receive legal protection as long as they carry out their duties in accordance with professional standards, professional service standards, standard operational procedures and professional ethics, obtain complete and correct information from patients, receive protection against treatment that is not in accordance with dignity. and human dignity, morals, decency, and socio-cultural values, rejecting the wishes of patients or other parties that conflict with professional standards, service standards, standard operational procedures, codes of ethics, or statutory provisions. Medical personnel and health workers can stop health services if they receive treatment that is not in accordance with human dignity, morals, decency and socio-cultural values, including acts of violence, harassment and bullying.

In line with this, medical personnel and health workers must carry out their practices in accordance with their authority based on their competence. Furthermore, every individual health service action carried out by medical personnel and health workers must receive approval with adequate explanations including diagnosis, indications, health service actions to be carried out, risks and complications that may occur, other alternative actions and their risks, risks if action not taken and prognosis after obtaining action. However, in practice the implementation of this

therapeutic agreement sometimes causes problems due to allegations of malpractice, medical accidents or medical risks. However, with an adequate understanding of the rights, obligations and limitations of authority as mandated in Law Number 17 of 2023 concerning Health, all medical personnel and health workers who provide primary health services will be guaranteed protection by law while carrying out the practice of being obliged to provide appropriate health services. with professional standards, professional service standards, standard operational procedures and professional ethics and obtain approval from the patient. Therefore, legal education for Medical Personnel and Health Personnel who provide primary health services is an urgency so that Medical Personnel and Health Personnel understand their rights, obligations and authority as the front guard in maintaining and improving the level of public health.

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