

Hospital Responsibilities in Providing Health Services

Sunarto¹

¹ Faculty of Law University 17 Agustus 1945 Semarang - Indonesia

E-mail: dodi271100@gmail.com

ABSTRACT--Doctors as health care workers in hospitals are required to be professional in carrying out their duties and authority in medical services. In medical practice, doctors and patients have interrelated relationships. The object of this agreement is the health services performed by doctors and their nature is in the form of inspirational verb, which is the efforts of doctors to cure patients. However, not always the medical services provided by doctors in hospitals can produce the results that are desired by all parties. There are times when medical services occur errors/negligence by doctors that cause harm to both immaterial and material patients such as trauma, disability, paralysis or even death. Circumstances indicate that there is a doctor's action which results in dissatisfaction with the patient which has implications for the doctor's responsibility for the action. If this happens the doctor who made a mistake or negligence, the doctor will be assisted by the hospital in terms of compensation. The responsibility of the hospital as an employer from a doctor who is a subordinate is also mentioned in 1367 Civil Code. Hospital Director shares responsibility when there is an error from the doctor for whom he is responsible, this is called vicarius liability. With this principle, the hospital can be held accountable for mistakes made by its doctors (subordinate), provided that it can be proven that the doctor's actions are in the context of carrying out hospital obligations.

Keywords: hospital responsibility, health services

I. INTRODUCTION

Health is one of the basic human needs besides, clothing, boards and boards, only in a healthy state can humans maintain the survival of this world. If health is disturbed, it will affect all life activities, will hamper what is the goal of human life itself. Therefore we need medical personnel who will maintain or provide treatment if there are sick people

In order to maintain and provide treatment for people who are sick, hospital is needed, which is one type of health service facility, whose main task is to serve individual health in addition to other service tasks. Hospital definitions are formulated in Article 1 point 1 of Law No. 44 of 2009 concerning Hospitals that: "Hospital is a health service facility that organizes health services providing inpatient, outpatient and emergency services"

Doctors as health care workers in hospitals are required to be professional in carrying out their duties and authority in medical services. In medical practice doctors and patients have interrelated relationships. The relationship is inseparable from an agreement called a

therapeutic agreement. A therapeutic agreement is an agreement between a doctor and a patient, in the form of a legal relationship that gives birth to rights and obligations for both parties. In contrast to the agreements made by the general public[3], therapeutic agreements have special objects and properties. The specificity of this agreement lies in the object agreed and its nature. The object of this agreement is the health services performed by doctors and their nature is in the form of inspirational verb, which is the efforts of doctors to cure patients. However, not always the medical services provided by doctors in hospitals can produce the results that are desired by all parties. There are times when medical services occur errors/negligence by doctors that cause harm to patients both immaterial and material such as trauma, disability, paralysis or even death. Like the example below:

Case I: A patient is brought to the hospital with a history of illness and a physical examination that is carried out reveals later the presence of appendicitis. Because by chance there is no empty room in the Hospital, the patient is referred to another hospital by being given a referral letter that directs to the diagnosis of appendicitis. Doctor from home the second pain does not read the referral letter again, the patient is given medicine and told to go home. Then the patient was taken to a third hospital, where it was detected that the patient was suffering from acute appendicitis. During the operation, it appeared that the appendix had ruptured and was immediately removed, but the patient later died of peritonitis.

Case II: The patient is a woman of thirty years old, has a stomachache accompanied by fever for five days and cannot defecate, then she is accompanied by her husband to check at the nearest hospital. After being treated by a general practitioner who was on guard at the time it was diagnosed as an ectopic pregnancy. who are disrupted and recommended hospitalization and directed to be treated by obstetrics and gynecology. By the doctor and with her husband's approval, surgery was performed. But when the surgery was performed, apparently did not find a disturbed ectopic pregnancy, instead what was found was an appendix that swollen full of pus. By obstetricians and obstetrics, the appendix was lifted and succeeded well, but a few days later the operation was heard by his colleague surgeon specialist and there was a small commotion between them because the operation carried out by obstetricians and pregnancy was an operation which should be left to the surgeon.

Case III: Case that happened at the hospital dr. Soebandi due to a doctor's error. Dr. Soebandi

complained by the mistake of the doctor who had the initials of Dr. E, dr. AN, and Dr. A in providing a diagnosis. Previously the patient whose initials ny. K 70 years old received diagnostic information that he had a hernia, but when he was in surgery the doctor switched the operation that originally had the hernia into surgery to the intestine that was suspected to have decay. The family did not know this because the doctor took the decision unilaterally without asking the patient or the patient's family for approval. After being discharged the patient still complained of illness and operations carried out due to intestinal decay still left. The family disappointed that because the doctor took the decision unilaterally without asking the patient's consent or the patient's family. In this case the doctor does not do what he promised, as promised and do something that according to the agreement should not be done.[6]

The description of the case above shows that there is a doctor's action which results in dissatisfaction with the patient which has implications for the doctor's responsibility for the action.

II. RESEARCH METHOD

In this research the research method that will be used is Normative Juridical. The research specifications used are descriptive analytical. In researching legal issues with a normative approach, in order to obtain the data needed in this study the researcher used the Literature Study method to obtain secondary data through legislation such as Law No. 29/2004 on Medical Practice, Law No. 44 of 2009 concerning Hospitals, the Civil Code, the Decree of the Management of the Indonesian Doctors Association Number: 111/PB/A.4/02/2013 Regarding the Applicability of the Indonesian Medical Ethics Code for Doctors in Indonesia, as well as journals and other scientific works .

While the analysis in this study, researchers used qualitative analysis methods to analyze data by measuring and testing data with concepts, theories, laws, doctrines that are related.

III. FINDINGS AND DISCUSSION

A. Responsibilities Of Doctors In Running Their Profession

According to the Big Indonesian Dictionary (KBBI), responsibility is the obligation to bear everything if anything happens that may be prosecuted, blamed, and sued. In the legal dictionary, responsibility is a necessity for a person to carry out what is required of him [1] According to the science of law, responsibility is a result of the consequences of a person's freedom about his actions relating to ethics or morals in carrying out an act. Furthermore, according to the Quarterly Point, liability must have a basis, which is the thing that causes legal rights for one person to sue another person as well as things that give birth to other people's legal obligations to give responsibility.[10] According to Civil Law, the basis of accountability is

divided into two types, namely mistakes and risks. Thus, it is known as liability without error on the basis of risk responsibility or absolute responsibility (strick liabiliti) .10 The basic principle of liability on the basis of error implies that a person must be held responsible for making a mistake because it harms others. Conversely, the principle of risk responsibility is that the plaintiff's consumer is no longer required but the defendant's producer is directly responsible as a business risk.

1. Ethical and disciplinary responsibilities

The regulations governing the ethical responsibilities of a doctor are the medical code of ethics and the doctor's oath. The Indonesian Medical Code of Ethics is prepared taking into account the International Code of Medical Ethics with the idiomatic foundation of the Pancasila and the structural foundation of the 1945 Constitution. The Indonesian Medical Code of Ethics, hereinafter in Indonesia abbreviated as KODEKI, regulates human relations which includes the general obligations of a doctor, the doctor's relationship with his patients , the obligations of doctors to their colleagues and the obligations of doctors to themselves. Violation of KODEKI items constitutes a mere violation of ethics and some is a violation of ethics as well as a violation of the law. Violation of ethics does not always mean violation of the law, on the contrary violation of the law does not always constitute a violation of medical ethics.

2. Legal Responsibility

A doctor's responsibility is a physician's attachment to legal provisions in carrying out his profession. As a reasonable legal subject if in conducting health services, doctors are bound and must be responsible for everything that results from the implementation of their legal position as the bearer of rights and obligations. Thus, responsibility implies a capable state of the burden of liability for everything due to his actions. Declared to be responsible is a state of competence according to law, both a person or a legal entity, and is able to bear the obligation to everything that is carried out.[8]

a) Administrative Liability

According to Law No. 29/2004 on Medical Practice, it mentions the Indonesian Medical Disciplinary Honorary Council (MKDKI) which receives complaints and has the authority to examine and decide whether or not a mistake was made by a doctor for violating the application of medical science disciplines and applying sanctions. If it turns out that a violation of the discipline of medicine has been found, the MKDKI will continue the complaint to the professional organization of the Indonesian Doctors Association (IDI), then IDI will act against the doctor. The administrative sanctions can be in the form of:

- Giving a written warning
- Recommendation to revoke registration certificate or permit.
- Temporary practice. Permanent revocation of

license.

- Must join education or training in medical education institutions.

b) Civil Liability

Based on civil law that involves a patient's lawsuit against a doctor who handles it almost everything, if it can not be said all, is related to claims for compensation. Therefore, if a doctor is proven to have committed a violation or an act that violates the law, he may be sued to pay compensation.

Patients who feel disadvantaged by the services provided by doctors or hospitals, can file lawsuits to doctors and hospitals. The type of this lawsuit include:[7]

i. Personal Liability

Personal Liability is the inherent responsibility of the individual means that those who do it are responsible.

ii. Strict Liability

Strict liability is a responsibility that is often referred to as liability without fault. Considering that a person must be held responsible even if he does not make any mistakes whether intentional, tactlessness, or negligence.

iii. Rep Ipsò Liquitor Liability

This responsibility is almost the same as strict liability, but the responsibility resulting from the act exceeds the authority or in other words, the presumptuous act.

iv. Respondet Liability

Respondet Liability is a joint responsibility.

v. Vicarious Liability

Vicarious Liability is the responsibility arising from mistakes made by subordinates. The doctrine of vicarious liability is in line with article 1367 which states: "A person is not only responsible for the damages caused by the actions of the dependents, or due to the goods under his supervision".

c) Criminal Liability

In criminal law there is a teaching about error (schuld), both in the form of intent (Opzet, dolus) and neglect / negligence (culpa). Intentions which are often called criminal malpractice, for example, include abortion without medical indications and euthanasia. Violations committed by doctors according to the benchmark of gross negligence or culpa (grave schuld, gross negligence).

interpreted as the legal relationship between health workers and patients in medical services in a professional manner based on competencies in accordance with certain expertise and skills in the health sector.

B. The Legal Relationship Of Doctors And Patients In Hospitals

When someone wants to get checked out because he has an illness, then that person will bind himself to a

health worker, which is a hospital or doctor. When the person has the intention to check his illness to the hospital or doctor, then the person has indirectly made a trust in the hospital or doctor to make an effort to cure the disease experienced by that person. And that's when that person ties himself up for an examination and a therapeutic agreement arises which is defined as the legal relationship between health workers and patients in medical services in a professional manner based on competence in accordance with specific expertise and skills in the health field. Therapeutic transactions are agreements (*Verbintenis*) to find or determine the most appropriate therapy for patients by doctors and health workers. Therapeutic transaction is a legal relationship between doctors (health workers) and patients in a professional medical service, based on competencies that are in accordance with certain expertise and skills in the health field.

Based on the preamble of the Indonesian Medical Code of Ethics which is attached to the decision of the Executive Board of the Indonesian Doctors Association Number: 111/PB/A.4/02/2013 Regarding the Applicability of the Indonesian Medical Ethics Code for Doctors in Indonesia, then what is meant by therapeutic transactions is the relationship between doctors and sufferers who are carried out in an atmosphere of mutual trust (confidential), and are always overwhelmed by all the emotions, hopes, and concerns of human beings. A therapeutic transaction is a relationship between two legal subjects that bind to each other based on mutual trust. The therapeutic agreement is also called the therapeutic contract which is a contract that is known in the field of health services. Contract or therapeutic agreement is the maximum effort made by doctors and health workers to cure patients (*inspaningsverbintenis*). The therapeutic agreement is likened to *inspaningsverbintenis* because in this contract doctors and health workers only try to cure patients and the efforts made are not necessarily successful.[5]

Doctors as health workers who carry out healing efforts are concerned to get legal protection so that he can work in accordance with the standards of his profession calmly without being disturbed by feelings of anxiety that he might be sued by his patients as long as he really performs his duties according to professional standards.

Legally the validity of an agreement must be measured based on the criteria given by the law. Conditions for the occurrence of therapeutic transactions are determined by article 1338 in conjunction with article 1320 of the Civil Code. If the conditions have been implemented well by both parties then an agreement will occur. In the agreement, there are two types of agreements which are reviewed from the agreed achievements, namely agreements that must be done with caution and hard work (*inspaning verbintenis*) and agreements whose achievements produce something that is certain (*resultaat verbintenis*).

When these two subjects face each other, the doctor has the right to receive identity, history and all

complaints from the patient, the doctor will receive an identity and health complaint information to be used as a basis for determining further action in the effort of medical services.

After the doctor listens to various complaints from the patient, the doctor plans and analyzes the disease and plans treatment, care and medical actions that must be given to the patient. The doctor can be sure to give a therapy and medicine as an effort to cure the patient.

After a good medical record is performed, the doctor offers informed consent. The approval of this medical action is carried out after he gets information from the doctor about medical efforts that can be done to help him, including obtaining information about all possible risks. Although in reality the implementation of the provision of information in order to obtain the agreement was not as simple as one might imagine, but at least the problem was legally regulated, so that there was power for both parties to take legal action.

The other reason that causes the relationship between the patient and the doctor, is because the patient's condition is very urgent to get help from the doctor immediately because other situations that cause the patient's condition is already critical, so it is very difficult for the treating doctor to know with certainty the patient's will.

In these circumstances the doctor immediately conducts what is called zaakwaarneming as regulated in article 1354 of the Civil Code, which is a form of legal relationship that arises because of the existence of an "approval of medical action", but rather because of a forced or emergency situation.

So, essentially informed consent is to protect patients from all possible medical actions that are not approved or not permitted by these patients, as well as protect the doctor (legally) against the possibility of unexpected and negative consequences.

C. Forms Of Accountability Of Hospitals And Health Workers (Doctors) In The Event Of A Patient's Dissatisfaction With Health Services

The form of doctor's responsibility for mistakes made by doctors can be accounted for administratively through inspection by the Indonesian Medical Disciplinary Board (MKDKI) who receives complaints and has the authority to examine and decide whether there is a mistake made by a doctor for violating the application of medical science disciplines and applying sanctions. Another form of responsibility is civil liability. Based on civil law that involves a patient's lawsuit against a doctor which is generally in the form of compensation, in addition to a civil suit the doctor's responsibility for the doctor's negligence in handling a patient is a criminal liability. If this is true, it is proven to be a mistake both in the form of intent (*Opzet, dolus*) and negligence (*culpa*). Intentions which are often called criminal malpractice, for example, include abortion without medical indications and euthanasia. Violations committed by doctors

according to the benchmark of gross negligence or culpa (*grove schuld, gross negligence*).

While the form of responsibility of the Hospital for patient dissatisfaction with hospital services can be seen in Article Article 32 letter q of Law number 44 of 2009 concerning Hospitals clearly states that patients have the right to sue and sue the hospital if the hospital cannot provide good service. Hospitals as a means of health services to the community involve doctors as sub-ordinates or partners in carrying out the duties of health services to patients, so that in the event of a lawsuit or demand from patients due to failure in medical services at the hospital, the hospital is also responsible.

The relationship between a doctor and a home is an employee relationship, which is a doctor who works as a sub-ordinate of the hospital who receives salary from the hospital. In this relationship established by the hospital and the doctor, if the sub-ordinate doctor from the hospital makes a mistake or negligence, the doctor will be assisted by the hospital in compensation, provided that the error or negligence is carried out in the hospital environment as a means of service. Health bears the obligation to take responsibility if there are cases of negligence or mistakes made by doctors in the hospital environment. This is due to the contractual relationship between the hospital and the doctor or other health authorities.

The responsibility of the hospital as an employer from a doctor who is a sub-ordinate is also mentioned in 1367 Civil Code. Related to Article 1367 of the Civil Code, the Director of the Hospital shares the responsibility if there is an error from the doctor for whom he is responsible, this is referred to as vicarius liability. With this principle, the hospital can be held accountable for the mistakes made by its doctors (sub-ordinate), provided that it can be proven that the doctor's actions in the context of carrying out hospital obligations.[7]

IV. CONCLUSION

Legal relationship between doctors and patients in medical services that is based on therapeutic transactions, where patients give informed consent to doctors in hospitals and doctors in medical services in hospitals to meet therapeutic transactions doctors make maximum effort (*verbintenis inspection*) in patients. The legal relationship that occurs between a doctor and a patient is a service provider and consumer relationship.

Doctor's responsibility in carrying out his profession can be accounted for in Ethics and Discipline and in Law. In terms of legal liability, it can be in the form of administrative legal responsibility, civil law, and criminal law.

Forms of Responsibility of Hospitals and Health Personnel (Doctors) In the Case of Patient Dissatisfaction with Health Services Hospital Director shares the responsibility when there is an error from the doctor for whom he is responsible, this is referred

to as vicarius liability. With this principle, the hospital can be held accountable for the mistakes made by its doctors (sub-ordinate), provided that it can be proven that the doctor's actions in the context of carrying out hospital obligations.

The doctor carries out informed and informed consent. Use language that is understood by the patient, so that the patient understands the benefits of the doctor's actions in medical services as well as the negative consequences if the doctor's medical service actions in the hospital fail to not get the desired results. Based on this, the patient is expected to be ready for the consequences of the doctor's actions in medical services at the hospital.

The hospital needs to socialize the judicial profession of the medical profession as an competent competent institution to carry out judicial accountability of doctors for alleged violations or negligence by doctors. Based on this, it is expected that the patient understands the body's resolution of alleged violations in the medical profession so that it is not always solved through litigation.

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