

# Hospital Responsibilities in Blood Transfusion Services as a Patient Protection

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**ABSTRACT--***The responsibility of the hospital in blood transfusion services is needed to provide protection to patients. Blood transfusion service is a series of activities that start from the planning, mobilization and preservation of blood donors, blood supply, blood distribution, as well as medical treatment of giving blood to recipients (patients). Blood transfusion services in hospitals must ensure the safety of patients who receive them, as well as for health workers who do them. Health workers when performing blood transfusions are required to work in accordance with standard operational procedures, thorough and careful in accordance with the purpose of the blood transfusion. If this is not done and an error occurs during a blood transfusion on a patient in the hospital will certainly harm the patient so that it can bring up a lawsuit. The lawsuit can be carried out both in Civil and Criminal Procedure. Civil and criminal lawsuits are not only the responsibility of the health worker who made a mistake but also the responsibility of the Hospital where the incident occurred.*

**Keywords:** *accountability, hospital, blood transfusion, patient protection*

## I. INTRODUCTION

Services in the health sector are one of the services most needed by the community. Therefore, services in the health sector are feasible if considered in order to provide the best health services for the community. The best health services are services that are fast, appropriate, inexpensive and friendly, because health services are one of the rights of the community as citizens in relation to their health as mandated in Article 28 H paragraph (1) of the 1945 Constitution.

One of the health service facilities that has a very important role in providing health services to the public is a hospital. Hospital is one type of health service facility whose main task is to serve individual health, such as the definition of hospitals according to health laws and hospital laws in general, which is a health service facility that provides individual health services in a complete manner.[1]

Basically, health services in hospitals in the form of health efforts through outpatient services, hospital care, and emergency services that include medical service activities and supporting facilities.[2] Health efforts in hospitals are not only focused on efforts to cure (curative) and restore health (rehabilitative), but also to promote health (promotive), and preventive.[3] In this connection, among the health efforts carried out in the hospital are healing efforts (curative) and health recovery efforts

(rehabilitative) which are carried out through blood transfusions.

At present, giving blood transfusions is a common method of treatment that is as part of supporting treatment (supportive therapy) which is carried out together with other therapies, may even be able to play an important and decisive role in the treatment of a patient because it is considered life-saving patients who suffer from pain due to lack of blood. Therefore, the need for quality and easily accessible blood by the community is increasingly high, [4] so hospitals are required to provide blood transfusion services safely. The availability of safe blood that is easily accessible greatly affects the quality of service in the hospital, while also being able to prevent patients from dying or contracting infectious diseases through Blood Transfusion (IMLTD)

Blood transfusion services in hospitals certainly cannot be separated from the role of health workers in the hospital. Health workers must be able to provide blood transfusion services in an appropriate, rational and safe manner so that blood transfusion services carried out are useful to save lives and improve health. If the health worker does not work carefully in providing blood transfusion services it will cause health problems even to death, this will certainly harm the patient and can lead to the emergence of medical disputes.[5]

Medical disputes that occur in health services in hospitals, are not only the responsibility of health workers but also the responsibility of the hospital. Because of the presence of health workers in the hospital, the placement must be based on the director's memorandum, so if the health worker is guilty, it means the director or management has misplaced an incompetent person in that position. Therefore it is appropriate if an event that harms the patient resulting from the medical services of a health worker in the hospital, the hospital must take responsibility.[6] Besides that the hospital as a legal subject is reasonable when in conducting health services is bound and must be responsible for all things that result from the implementation of its legal position as the bearer of rights and obligations.[7]

Health workers who commit negligence can be called by doing malpractice. Malpractice performed by health workers can be in the form of misconduct (misconduct) performed by health personnel when he runs his profession in the medical field, while medical malpractice is malpractice in the form of failure in providing medical services to medical patients. On the other hand, forms of malpractice of health workers consist of criminal

malpractice, civil malpractice and administrative malpractice.

Based on various forms of negligence that can be carried out by health workers, this certainly needs to be analyzed further, because if examined carefully the formulation of the legal responsibility of the Hospital is only in terms of civil law as referred to in article 46 of Law No. 44 of 2009 concerning Hospitals. However, in fact, if reviewed further, the hospital must be responsible for all activities carried out in the hospital as a means of health care. These responsibilities include:[8] a. Legal responsibilities related to the patient's rights b. Legal liability related to obligations set by the government c. Legal responsibilities related to carrying out the law.

Therefore, an in-depth analysis and assessment is needed to understand the responsibilities of the hospital in blood transfusion services, in order to provide optimal service to patients, in addition to that patients get appropriate legal protection in case of negligence in the event of blood transfusion performed by health workers in the hospital.

## II. RESEARCH METHOD

This research uses normative juridical research type, where law is a norm system building. The norm system in question is about the principles, norms, rules of the laws and regulations, court decisions, agreements and doctrines.[9] In researching the law conceptualized as what is written in the legislation / law conceptualized as a rule / norm which is a benchmark of human behavior that is deemed appropriate.[10] The type of approach used in this paper is the legal concept approach and the legislative approach. A legislative approach is needed to examine all laws and regulations related to the legal issues studied. The types of legal material reviewed consist of primary, secondary and tertiary legal materials to be processed, classified for later review. Analysis of the legal materials that have been obtained is carried out by means of qualitative and descriptive analysis.

## III. FINDINGS AND DISCUSSION

### *1. Health services in the provision of blood transfusions in hospitals.*

Blood transfusion was carried out around the 18th abab, during which time knowledge in the field of physiology and knowledge of blood circulation pioneered by William Harvey was still very narrow. In such conditions in general, many transfusions fail and many cause accidents in humans. After the discovery of the types of blood types by Dr. Karl Landsteiner in 1900, the act of blood transfusion helped many human souls from the threat of death due to blood loss.[11] According to medical transfusion according to the medical is a process of moving blood from healthy people to sick people.[12] There are two main objectives of blood transfusion. The first is to increase the amount of blood circulating in the body of a sick person and is suspected to have decreased

blood due to a reason such as surgery, bleeding during childbirth, accidents, etc., which causes the amount of blood in the body to decrease, so it must be increased through transfusion. The second goal is to increase the ability of the blood for the body of the sick to carry acidic substances or oxygen to all parts of the body, for example for diseases that have blood cells not functioning properly, and the ability of the blood to process these acids becomes reduced, such as anemia.

Then, legally donating blood means giving permission to other people to do something that disturbs the integrity of the tissues / body itself, by taking a certain amount of blood and releasing their property over the blood.[13]. The definition of blood transfusion can be found in several regulations, including: Article 88 paragraph 1 of Law No. 36 of 2009 concerning Health regulates that, "Blood transfusion services include planning, mobilization of blood donors, supply, distribution of blood, and medical actions for giving blood to patients. for the purpose of healing disease and restoring health ". The same thing is also regulated in Article 1 number 2 Government Regulation No. 7 of 2011 concerning Blood Services and Article 1 number 2 of the Republic of Indonesia Minister of Health Regulation No.83 of 2014 concerning Blood Transfusion Units, Hospital Blood Banks, and Blood Transfusion Service Networks.

Blood transfusion is basically a kind of transplantation that is the transfer of the parts that are still alive (viable) from one person to another.[14] In Article 65 paragraph (1) of Law No. 36 of 2009 concerning Health stipulates that: "Transplantation of organs and / or body tissues can only be carried out by health workers who have the expertise and authority to do so and are carried out in certain health facilities." Based on the provisions of article 65 of Law No. 36 of 2009 concerning Health, blood transfusion must be carried out by an authorized person and has expertise in his field so that it should not be done by just any health worker. Therefore, although blood transfusion has a very good purpose, it also needs to be understood that blood transfusion is not a riskless job, it may even be a job that carries a lot of risk for the patient, so that the patient's safety when receiving a blood transfusion needs to be maintained in a way conduct blood transfusion safely that is in accordance with the requirements and in accordance with professional standards.[15]

Safety in blood transfusion is the patient's right, as stipulated in Article 32 letter (n) of Law No. 44 of 2009 concerning Hospitals, regulating that every patient has the right to security and safety during treatment in the Hospital. The existence of arrangements for the right to patient safety in hospital law is the responsibility of the hospital to provide protection to patients.

### *2. Hospital's Responsibility in Blood Transfusion Services to protect patients.*

The word responsibility in the Indonesian dictionary means a state of being obliged to bear everything.[16] The legal dictionary defines responsibility as a necessity for a person to carry out what is required of him.[17] Whereas

according to the law responsibility is a result of the consequences of a person's freedom of conduct related to ethics or morals to perform an action.[18] The legal liability occurs because of obligations that are not fulfilled by one party in an agreement, because this makes the other party incur a loss due to their rights not being fulfilled by either party. Legal responsibility is a further consequence of the implementation of roles, both those roles are rights and obligations or power.[19] Therefore legal responsibility can be concluded as an obligation to do something or behave in a certain way so that it does not deviate from existing regulations. Because accountability must have a basis, that is, a matter that causes legal rights for one person to sue another person as well as rights that give birth to the legal obligations of others to give responsibility.[20]

The hospital as an organization of public service providers has responsibility for every health service they provide. The responsibility of the Hospital is to provide quality and affordable health services based on the principles of safe, comprehensive, non-discriminatory, participatory and provide protection for the community as users of health services (health receivers), also for health service providers in order to realize the highest health status - height.[21]

In administering blood transfusions, besides having a risk of transmitting infectious diseases through blood transfusion (IMLTD) there is also a hemolytic transfusion reaction.[22] Therefore blood transfusion must be done safely. For the safety of patients in receiving blood transfusions, they need to be maintained, among others: the process of providing safe blood, good storage at appropriate temperatures, distribution with cold chains and proper indications, as well as monitoring and countermeasures to prevent transfusion reactions that may occur.[23] Because safety is the right of a patient so when blood transfusion is performed at the hospital, the consequences are that every blood transfusion service must be carried out according to Standard Operating Procedures (SPO), and the availability of safe blood at the hospital is one of the minimum home service standards. sick which means every hospital must have a safe blood supply 24 hours. This means hospitals must have Hospital Blood Banks (BDRS) or Hospital Blood Transfusion Units (UTDRS), as well as management of transfusion services. This Standard Operating Procedure is to protect patients from being harmed in terms of quality / blood quality, so that blood transfusion services are safe to the patient, and the patient is protected from the risk of contracting an infectious disease through blood transfusion (IMLTD) and even from death. But in reality, it is not uncommon for blood to be transfused damaged before it is used. This is caused when blood distribution is not safe. The current system is the patient's family searching for blood needed to UTD PMI. Blood that has been cross-tested to match the patient's blood is carried by the patient's own family. This process has various adverse effects on patients because the distribution of blood from the UTD PMI to the hospital carried out by the patient's family usually does not meet the distribution

requirements, this can cause blood to be transfused is blood that has been damaged / lysis or contaminated with germs / bacteria, things this is certainly detrimental to the patient. In fact, just like a drug given to a patient, the transfused blood must meet safety requirements, so that it does not threaten the patient's safety.

Safe blood quality is very much needed in blood transfusion, with a guarantee of blood quality, means the patient will be protected by his health. This is in accordance with the provisions of Article 29 paragraph (1) letter b of Law No. 44 of 2009 concerning Hospitals which reads as follows: "Every hospital has an obligation to provide safe, quality, anti-discrimination and effective health services by prioritizing patient interests in accordance with hospital service standards." Furthermore Article 13 of Law No. 44 of 2009 concerning Hospitals, regulates the workforce in hospitals must carry out their work in accordance with professional standards, hospital service standards, prescribed operational procedure standards, and subject to professional ethics in order to respect patient rights and prioritize patient safety. The above must be carried out and become the responsibility of the hospital, remembering that health personnel are supporting health efforts in carrying out their duties in the hospital and must always be fostered and monitored, because any deviation in the performance of tasks by health workers results in consequences in the form of sanctions.

The independence of health workers in carrying out their duties in hospitals needs to be controlled in accordance with applicable regulations, therefore hospitals must have standard or operational procedures and be organized through a group that can direct and coordinate the activities of all medical personnel (health workers). This group is called a committee medical.[24] The medical committee is a professional organization in the hospital which is the highest authority in the organization of medical staff. The medical committee functions to assist hospitals in guarding the quality of health services based on patient safety. The medical committee of its establishment is established by Decree of the Director and reports directly to the director (Permenkes RI No 755 of 2011).

Furthermore, in order to ensure that the medical committee can function properly, the organization and management of the medical committee must be set out in the internal medical staff regulations (medical staff bylaws) compiled based on the Minister of Health Regulation and hospital internal regulations (hospital bylaws) as the basic rules regulate the procedures for managing hospitals including internal regulations of the corporation and internal regulations of medical staff. Corporate internal regulations (corporate bylaws) are rules that govern corporate governance (corporate governance) to be carried out properly through the regulation of relationships between owners, managers, and medical committees in hospitals. While the internal regulation of medical staff (medical staff bylaws) as a rule to regulate clinical governance in order to maintain the professionalism of medical staff in hospitals.

In principle, the internal regulation of medical staff is the normative basis for every medical staff to create a good and accountable professional culture. In this regard, the Medical Committee functions to uphold professionalism by controlling medical staff who carry out medical services in hospitals. The control is carried out jointly with the head / director of the hospital. The medical committee is tasked with carrying out credentials, improving the quality of the profession, and upholding professional discipline and recommending follow-up to the head / director of the hospital, while the head / director of the hospital follows up on the recommendation of the medical committee by mobilizing all resources so that the professionalism of medical staff can be applied at the hospital . Based on this, the Medical Committee was formed so that the hospital could carry out good clinical governance, so that the quality of medical services was improved, patient safety at the hospital was more assured and could also provide legal protection.

This legal protection is needed to provide protection for human rights that are harmed by others and the protection is given to the community so that they can enjoy all the rights provided by law.[25] Legal protection is protection of the dignity and recognition of human rights owned by legal subjects based on legal provisions or rules that can protect one thing from another. Based on this, it can be concluded that legal protection is a legal effort that must be given by law enforcement officials to legal subjects to provide a sense of security, both mind and physical from interference and various threats from any party.

Hospitals as a central organization of public service delivery are required to provide quality medical services for the community. Based on these provisions there are basically four sections relating to the responsibility of hospitals in medical services, namely:[26] a. Responsibility for personnel; b. Professional responsibility for quality. c. Responsibility for facilities / equipment; and d. Responsibility for the safety of the building and its maintenance.

The legal basic of the hospital's responsibility in the implementation of health services to patients is the legal relationship between the hospital as a provider of health services and patients as users of health services. The legal relationship was born from an agreement or agreement about health services called a therapeutic agreement.

Article 46 of the Republic of Indonesia Law No. 44/2009 concerning Hospitals regulates that: Hospitals are legally responsible for all losses incurred due to negligence committed by health personnel in hospitals. Based on the formulation of Article 46 of the Law of the Republic of Indonesia Number 44 Year 2009 concerning the Hospital, several conclusions can be drawn, namely: first that the hospital is responsible for losses, limited to the consequences of negligence of health personnel in the hospital; secondly, the hospital is not responsible for all losses of a person, if it is proven that there is no act of negligence from health workers in the hospital; thirdly, the hospital is not responsible for the intentional actions of health workers that cause loss to a person; and fourth,

the hospital is responsible for the actions of negligence of health workers, if the negligence is committed and occurs in the hospital.

Furthermore, the responsibility of the hospital in the implementation of health services to patients can be seen from several aspects, namely: ethical aspects of the profession, aspects of administrative law, aspects of civil law and aspects of criminal law.[27] The types of legal responsibility given by hospitals for misconduct by health workers are as follows:[28]

*First*, Hospital Responsibility in Administrative Law, Implications of administrative law in hospital-patient legal relations are related to policies (policies) or provisions - provisions that are required to administer health services in order to provide quality health services.[29] Violations of administrative policies or legal provisions can result in administrative sanctions which can be in the form of revocation of business licenses or revocation of legal entity status for hospitals, whereas for doctors and other health workers can take the form of oral or written reprimands, revocation of practice licenses, periodic salary delays or increases higher rank.

*Second*, Hospital Responsibility in Civil Law; In civil law responsibility, regarding the responsibility set out in Article 1367 of the Civil Code as further elaboration on who and what is under his responsibility This civil legal responsibility brings the result that the guilty (ie that causes harm to other party) must pay compensation. On a civil basis, patients who feel disadvantaged can ask for compensation based on Article 1365 j.o 1367 of the Civil Code.

*Third*, Responsibility of Hospitals in Criminal Law. Criminal law in Indonesia adheres to the principle of "no criminal without error".[30] Furthermore Article 2 of the Criminal Code regulates that all criminal provisions in Indonesian law are applied to everyone who commits an offense in Indonesia. The formulation of this Article determines that every person who is in the jurisdiction of Indonesia, is required to be able to be held criminally responsible for the mistakes he made. Therefore the formulation of article 2 of the Criminal Code also applies to health workers who work in hospitals. Whereas the regulation regarding compensation is an effort to provide protection for everyone for a result that arises due to the error or negligence of health workers.

#### IV. CONCLUSION

Blood transfusion is a transplant that is the transfer of the part that is still alive (viable) from one person to another person and also contains risks, so it must be done by authorized health personnel and must be done safely, because safety is the right of the patient. Therefore, at the time of blood transfusion at the hospital, the consequences are that every blood transfusion service must be carried out according to Standard Operating Procedures (SPO), and the availability of safe blood at the hospital is one of the hospital's minimum service standards. Hospitals must have a 24-hour safe blood supply and must have a Hospital Blood Bank (BDRS) or Hospital Blood

Transfusion Unit (UTDRS) equipped with transfusion service management. This Standard Operating Procedure is to protect patients from being harmed in terms of quality / blood quality, so that blood transfusion services are safe to the patient, and the patient is protected from the risk of contracting an infectious disease through blood transfusion (IMLTD) and even from death.

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