



# Hospital Responsibilities for Patients' Rights in Health Services

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**Abstract.** This study analyzes patients' rights in health services in hospitals that have not yet realized legal certainty. The hospital's position as a health service facility is strategically improving Indonesia's people's health status. The problem of this research is related to legal protection and hospital responsibility for patients' rights in health services in hospitals. This study uses normative legal research in the form of legal materials, which include statutory legal documents, literature, and other literature that supports the research. The results showed that (a) Legal protection of the rights of patients in health services in hospitals can demand compensation through legal claims based on unlawful acts filed to obtain compensation in the form of justice for patients or families who are harmed due to negligence rather than health workers, which can be in the form of material compensation and immaterial compensation. (b) The hospital's responsibility to patients' rights in health services can be applied responsibly by providing administrative, civil, and criminal sanctions. The application of these sanctions needs to be stated in various laws and regulations, both in Law Number 8 of 1999 concerning Consumer Protection, as well as in Law Number 29 of 2004 concerning Medical Practices, Law Number 36 of 2009 concerning Health, Law Number 44 of 2009 regarding Hospitals is a State obligation, so that a settlement mechanism is needed if there are violations committed, especially by doctors.

**Keywords:** Responsibility · Hospital · Patient Rights · Health Services

## 1 Introduction

Health is a human right and one of the elements of welfare that must be realized following the ideals of the Indonesian nation, as referred to in Pancasila and the 1945 Constitution of the Republic of Indonesia. Implementation is regulated in Article 1 number 1 of Law Number 36 of 2009 concerning Health. It states that health is a state of physical, mental, emotional and social well-being that enables everyone to lead a socially and economically productive life. Health is the part that must be pursued to achieve the welfare of the nation. One of the efforts to achieve this must be realized in the provision of medical facilities.

The hospital's position as a form of health service facility is very strategic to improving the people's health status in Indonesia. The government has been serious in ensuring and enhancing the quality of services in a preventive, promotive, curative, and rehabilitation manner [1]. Law Number 44 of 2009 regulates hospitals. Article 1, paragraph (1) states, "hospitals are health service institutions that provide complete individual health services that provide inpatient, outpatient and emergency services." Juridically, in Articles 2 and 3, hospitals are based on Pancasila, which upholds the values of professionalism, ethics, humanity, patient safety, protection, rights, equity, anti-discrimination, and contains the benefits of justice and must have and have social functions [2].

Hospitals have the main task of providing health services aimed at individuals, which in this case is plenary according to Law Number 44 of 2009. This is related to health workers' prevention, recovery, healing, and health maintenance to provide health services to individuals. Hospitals must be able to manage their activities by prioritizing the health sector professionals' responsibilities, especially medical personnel and nursing staff, when carrying out their duties and authority [3].

Hospitals, as the institutions that carry out health services, have relationships with various parties, dealing with patients as recipients of health services. Hospitals also have relationships with doctors and medical personnel at the hospital. The relationship between the hospital and the patient from the beginning was a development that, at first, the hospital was believed to be an institution with medical personnel who could cure the disease suffered by the patient. In subsequent actions, the relationship became contractual so that if there was a problem, one of the parties could be resolved it through a civil suit.

Cases in the form of lawsuits are focused on the hospital and medical personnel because an action they take is detrimental to the patient, namely the increasing number of health services provided to patients. In general, lawsuits are about allegations of negligence or malpractice related to excessive actions in health services. Based on Law No. 36 of 2009 Article 58 paragraph (1) concerning Health, it was stated that "everyone has the right to claim compensation for someone, health workers, and/or health providers he receives."

Patients can sue medical personnel or the hospital through a civil lawsuit regarding this, requesting compensation caused by their negligence or intentional in providing health services. Article 46 of Law Number 44 of 2009 states, "Hospitals are legally responsible for all losses caused by negligence committed by health workers in hospitals." Loss is a certain amount of money that, in this case, is received by the patient for the patient to return to his initial condition as compensation before the medical dispute [4]. The hospital needs to map out the forms of negligence that are the hospital's responsibility or not the hospital's responsibility. This problem is interesting for research on "Hospital Responsibilities to Patient Rights in Health Services."

## 2 Research Method

This study uses normative legal research, that is, research that emphasizes jurisprudence, to produce a favorable legal inventory regarding the effectiveness of legislation in the field of law. The analytical method used is qualitative analysis using a literary scientific

approach to legal phenomena. The research uses secondary data from legal sources, including statutory legal documents, literature, and other literature that supports the research. This study emphasizes jurisprudence and creates a positive legal inventory on the effectiveness of laws in the legal field.

### 3 Findings and Discussion

#### A. Legal Protection of Patients' Rights in Health Services in Hospitals

Every legal relationship that regulates rights and obligations is complimentary, and there are no rights if there are no obligations or vice versa. There are no obligations if rights do not accompany them. In the end, rights and obligations are two possibilities: the authority becomes the rule and opens a regulation [5]. In its development, rights are something that deserves and deserves to be accepted, such as the right to life, religion, and other rights [6].

Hospital management is regulated in Presidential Regulation of the Republic of Indonesia Number 77 of 2015 concerning Hospital Organization Guidelines. In the regulation, it is stated in article 8 that the element of medical services as referred to in Article 6 paragraph (1) letter b is an organizational element in the field of medical services which is under and responsible to the head of the hospital or the director of the hospital. This element of medical services in the framework of preparing plans for providing medical services has a role in coordinating and implementing medical services, implementing quality control, controlling costs, having a role in patient safety and monitoring, monitoring and evaluating the implementation of medical services.

In the study of legal science, rights are seen as the authority of objective law given to subjective law, which has implications for legal subjects to be able to take action against something that is their right. In practice, some rights have been implemented in various human activities, such as the recognition of human rights, the right to life, the right to express opinions in public, and other rights stipulated through the protection of the legislation [7]. In relation to hospitals, these rights have been regulated in the Hospital Law, described in article 30. Hospital rights are regulated in Article 30 paragraph (1) of Law Number 44 of 2009 concerning Hospitals.

In law, the obligation is imposed on the legal subject if there is a right. Obligations are a form of responsibility that must be fulfilled by various parties 29. Obligations can be said as a principle that can be forcibly sued on the holder of the obligation and the holder of the obligation to commit a violation. This can create a sense of interest and a sense of responsibility for the holder of responsibility. The Hospital Law regulates a number of hospital obligations concerning the fulfillment and optimization of health services for patients. Every hospital has the same obligation. This is regulated in Article 29 paragraph (1) of Law Number 44 of 2009 concerning Hospitals.

In general, every hospital must fulfill several obligations in terms of (1) fulfillment of information, (2) fulfillment of active medical personnel, (3) fulfillment of facilities, (4) fulfillment of medical service standards, and (5) respect the rights of patients and the protection of medical staff. Generally, every hospital obligation can be fulfilled managerially by applying medical ethics, hospital ethics, and other health regulations

encouraging hospitals to fulfill their obligations. The rules that provide a legal basis for hospital and patient obligations are contained in the Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2018 concerning Hospital Obligations and Patient Obligations. In the regulation, article 2 explains the obligations of hospitals, one of which is to provide emergency services and implement quality standards of health services.

The law is made to regulate everything done and carried out by its citizens so that the element of legal protection is an absolute thing that must exist in a country. It encourages interaction between fellow citizens with other citizens [8]. The patient is a consumer because he is a service user, namely the services of a doctor. Patients in health services can be categorized as final consumers because patients are not included in the production.

The consumeristic nature of health services can be seen from a shift in the health care paradigm from social to commercial because patients have to pay quite a lot for their health costs. Article 52 of Law No. 29 of 2004 concerning Medical Practice states that patients' rights are to obtain a complete explanation of medical actions, ask for a doctor's opinion, Obtaining services for medical necessity, refusing medical procedures, and obtaining medical records. In this case, achieving the goals expected of the patient is a legal protection mechanism regulated and housed in various relevant norms and regulations that protect the rights and obligations of the patient.

Health workers and patients related to their legal protection include legal responsibilities and methods of settlement as well as the rights and obligations they have. This can refer to an engagement which in this case is contained in the Civil Code, which symbolizes the relationship between the patient and the doctor. An engagement agreement can arise because, in essence, a therapeutic transaction cannot be separated from the two sources, which in this case include engagement. After all, the commitment is clear. In this case, there is a legal relationship between the patient and the doctor in the provision or provision of medical services.

Health workers who give patients complete trust must pay attention to the good and bad actions and be careful in carrying out medical duties. If it results in a loss to a person, it is the obligation of the party who made a mistake to compensate for the loss. Victims of these actions suffer losses both materially and morally. Hence, it is very natural that those who are harmed receive compensation in the form of compensation from the injured party.

Legal protection for patients who are victims of malpractice to demand compensation is regulated in Article 58 paragraph (1) of the Health Law, which explains that "everyone has the right to claim compensation for a person, health worker, and/or health care provider who causes losses due to errors or omissions in health services." Article 58 of Law Number 36 of 2009 concerning Health also states that "which includes losses due to health services, including the leakage of medical secrets." In explaining the form of compensation or compensation to make it more precise, it is necessary to follow government regulations or the Regulation of the Minister of Health (Permenkes). The opportunity to sue must meet 4 (four) elements, namely an act against the law, there is an error (performed by another party or the defendant), there is a loss (which the plaintiff suffers), and there is a causal relationship between the error and the loss.

## B. Hospital Responsibilities to Patients' Rights in Health Services

The law has a function; to regulate hospitals recruiting and employing health workers. With this arrangement, it is hoped that health workers who work in hospitals are truly professional so that people can get good health services. Even though the law has functioned well to realize the professionalism of health workers, at the practical level, there are times when there are violations of the law committed by health workers. There are 3 (three) aspects of responsibility can be applied to health workers in carrying out their duties to provide health services to patients, namely administrative, civil and criminal responsibilities.

Administrative responsibility can be requested from health workers who commit administrative violations. Civil liability is asked for health workers proven to have made mistakes/negligence in providing health services to cause losses that are not fatal (disability or death). Meanwhile, health workers can request criminal responsibility because they have made mistakes/omissions that cause fatal losses.

The importance of dispute resolution institutions between doctors and patients because the rights of patients are outlined in various laws and regulations, both in Law Number 8 of 1999 concerning Consumer Protection, as well as in Law Number 29 of 2004 concerning Medical Practice, Law Number 36 of 2009 concerning Health, Law Number 44 of 2009 concerning Hospitals, the fulfillment of which is an obligation of the State so that a settlement mechanism is needed if there are violations committed mainly by doctors.

Settlement of doctor and patient disputes through mediation can be pursued through three possibilities: initial mediation in the settlement mechanism through litigation, mediation in the settlement mechanism by the Consumer Dispute Settlement Agency, and mediation established by the Indonesian Doctors Association (IDI) or hospitals. Settlement through mediation institutions established by IDI or hospitals has advantages and disadvantages. The advantage is that these disputes are resolved by an institution whose membership consists of professionals well versed in medicine. The weakness is that there is the subjectivity of the mediators, which can benefit the doctor.

The law regarding hospitals is held to provide and prosper health in the community. Hospital responsibilities in providing health are based on professional, ethical, civil, administrative, and criminal aspects. The hospital law provides protection and guarantees to patients and medical personnel involved in health services. Certainty in the hospital maximizes the management function, regulating and controlling various things that are the hospital's responsibility to minimize various things that can harm the patient.

Health service workers are evidence of ensuring patients' rights in hospitals, which are legally contained in Law Number 44 of 2009 Article 46. Due to the negligence of health workers in hospitals, and based on that article, the hospital is responsible for all losses that befall a person. If there is negligence due to medical personnel causing losses, then based on the interpretation of Article 46, the hospital must be responsible. If this cannot be proven to be negligence on the part of the hospital, the hospital cannot be held accountable. If negligence occurs and is carried out at the hospital, the hospital is required to take responsibility [9].

Currently, the duties, functions, and obligations, as well as the operation of hospitals in Indonesia, are regulated in Law Number 44 of 2009 concerning Hospitals. The hospital's job is to provide individual health services. Furthermore, the functions of hospitals in Indonesia are determined as follows; First, Providing treatment and recovery services in accordance with hospital service standards. Second, it maintains and enhances personal health through a full range of second and third level health services according to medical needs. Third, provide education and training for human resources related to improving medical capacity. Fourth, the implementation of research and development as well as technology screening in the health sector in the context of improving health services by taking into account the ethics of science in the health sector (Article 5). The duties and functions of the hospital, the hospital has obligations, namely things that must be done or things that must be carried out. Liability consists of perfect obligations and imperfect obligations.

Perfect obligations are obligations that are always associated with the rights of others, while imperfect obligations are obligations that are not related to the rights of others. Perfect obligations are essentially obligations, and imperfect obligations are moral. From the legal aspect, an obligation is a form of a burden given or determined by law to a person or legal entity [10].

The medical staff, if in the future a lawsuit or claim is found from the family or patient if an undesirable result arises, but there has been a mutual agreement and consensus before a medical action is taken, then this can be self-defense. For patients, the approval of medical action is very comfortable and safe when carrying out a medical action and as a means of self-defense if there is an act of malpractice carried out by medical personnel so that they can sue or sue the health service for ignoring the rights of the patient.

High-risk medical action is written regarding approval of medical action because it is related to the obligations in this case in the medical record. Files that cover various matters related to patient identity, multiple acts, and services related to examination and treatment are matters of medical practice which are legally regulated in the medical record contained in Law No. 29 of 2004. If a loss occurs to the patient, then the patient has the right to sue or ask for responsibility from medical personnel for any negligence against him.

An agreement bound by an agreement or contract by both parties, namely the patient and medical staff, can be a piece of authentic evidence to measure the extent of responsibility that will be borne in the event of negligence on a medical action when viewed from a civil perspective. In this case, the negligence of medical personnel in health services which will undoubtedly harm the patient, can use Article 1371 of the Civil Code as a legal basis so that the victim has the right to demand compensation for medical expenses and losses due to injuries or disabilities because medical personnel does not carry out contractual obligations by professionally making mistakes [11].

Acts against the law (*onrechtmatige daad*) can be used as the basis for asking for accountability, in this case, directed to a doctor, if in carrying out an action it is contrary to various principles, including prudence and propriety based on laws and regulations and professional code of ethics [12]. Negligence of the institution (corporate negligence) is something that the constitution must bear if a medical officer's negligence is found when carrying out a medical action in a hospital for a patient. Hospitals are considered

to lack control and supervision, causing negligence. Based on this doctrine, the hospital, as an institution that plays a role in providing treatment services (cure and care), must monitor all activities and be responsible for all things within its territory.

The development of various aspects in terms of mastery of technology and health law encourages hospitals to be more adaptive and also cannot immediately escape from their responsibilities, which in this case include various things that are carried out and carried out by health workers who are under the auspices of the relevant hospital institution [13]. Juridical arrangements related to hospitals which in this case are related to their responsibilities, are contained in Article 46 of Law Number 44 of 2009. In this case, hospitals that play a role in providing health services and institutions that carry out medical actions and supervise medical personnel must be responsible for all matters related to negligence committed by medical personnel.

The use of Corporate Liability is a doctrine that is applied in hospitals to be responsible for their obligations and all events from the related doctrine, requiring hospitals to be able to control and always supervise all matters relating to the scope of work carried out by their subordinates in order to minimize the occurrence of a loss caused by its negligence. The responsibility is to compensate for losses to patients harmed by negligence committed by medical personnel.

## 4 Conclusion

- a. Legal protection of the rights of patients in health services in hospitals can demand compensation is regulated in Article 58 paragraph (1) of Law Number 36 of 2009 concerning Health which explains “everyone has the right to claim compensation for someone, health workers, and or health services that cause losses due to errors or omissions in health services,” also includes losses due to health services, including the leakage of medical secrets. The form of compensation or compensation follows government regulations or the Regulation of the Minister of Health (Permenkes). This compensation can be obtained through a lawsuit based on an unlawful act filed to receive compensation in the form of justice for patients or families harmed due to negligence rather than health workers, which can be in the form of material compensation and immaterial compensation.
- b. The hospital’s responsibility for patients’ rights in health services can be applied to administrative, civil, and criminal responsibilities. Administrative responsibility can be requested from health workers who commit administrative violations. Civil liability is requested for health workers proven to have made mistakes/negligence in providing health services to cause losses that are not fatal (disability or death). Meanwhile, health workers can request criminal responsibility because they have made mistakes/omissions that cause fatal losses. Dispute settlement institutions between doctors and patients need to be stated in various laws and regulations, both in Law Number 8 of 1999 concerning Consumer Protection, as well as in Law Number 29 of 2004 concerning Medical Practice, Law Number 36 of 2009 concerning Health, Law Number 44 of 2009 concerning Hospitals, the fulfillment of which is a State obligation, so that a settlement mechanism is needed if there are violations committed mainly by doctors.

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