

Legal Protection For Doctors Against Dishonesty Of Patients In Providing Information During Covid-19 Pandemic

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Abstract.

Doctors and paramedics as health resources are the main component of health care providers to the public to achieve health development goals by national goals. Doctors and paramedics are the vanguard of treating Covid-19 patients with a very high risk of transmission of the virus. Legal protections for Doctors and paramedics are often overlooked as if society is apathetic and opinionated that it is already a duty and responsibility as medical personnel. Legal protections for the safety of Doctors and paramedics are less noticed, even though medical personnel are the vanguard in the handling of the Covid-19 pandemic. Speaking of legal protections certainly cannot be released from rights and obligations. Unprotected health workers, in this case, the profession of health workers. Violation of the rights of Doctors and paramedics related to covid-19 patient services that often occur is that the patient does not provide honest information on his condition as a Person in supervision or Patient In Supervision, so the more prone to the transmission of the Covid-19 virus that certainly has a domino effect on both doctors, Doctors and paramedics, other patients and also their families. Legal protection of Doctors and paramedics should be a serious concern of governments and hospitals. The patient must need and trained to be honest with what he feels and does. Legal protections that will surely make Doctors and paramedics feel protected in carrying out their humanitarian duties. All good measures of the assessment until evaluation will be carried out properly. Synergy together is the way to be done for all to realize quality health care.

Keywords: Legal Protection, Covid-19, Doctors, Dishonesty Of Patients, Informed Consent

1. INTRODUCTION

The medical profession is not a field of science that can all be measured. The medical profession, according to Hippocrates, is a combination or a combination of knowledge and art. As in making a diagnosis is an art of its own from the doctor because after hearing the patient's complaint, the doctor will make careful observations of the patient and make sure what disease is being experienced by the patient sometimes needs laboratory tests to ascertain the diagnosis better. so far become the basis of diagnosing the patient's disease, and it is expected that the

diagnosis is close to the truth. In providing health care, a doctor as much as possible strives to help or help patients to achieve healing.[2]

In providing health care, a doctor in performing full medical action uncertainty, which results from his work in helping a patient cannot be taken into account mathematically or in other words, a definite result. Because almost all medical actions have risks and also, on the other hand, a medical action accompanied by an unpleasant follow-up, this is never expected, of course for doctors or patients. For example, there is a new allergy in the patient when the patient takes medicine given by the doctor, and the patient also does not know that he or she will appear allergic.[3] All of these potential risks if they occur or the patient, not others will felt all the consequences of follow-up that can occur or. It can also have an impact on medical personnel or doctors who provide services, for example, there is dissatisfaction on the part of the patient or the patient's family, contracting the disease, and so on [4]. To realize the degree of health, the need for integrated and comprehensive health efforts in the form of health services that are promotive, preventive, curative, and rehabilitative, with non-discriminatory treatment.

The efforts made by a doctor during the covid-19 pandemic need to be rewarded, because as the vanguard to help others affected by covid-19, doctors along with Doctors and paramedics must struggle in addition to trying to recover patients, they must also face the risk of contracting. Also, a doctor must accept the state of separation or keep a safe distance for his family at home and sometimes get unpleasant treatment from the community. Also, doctors should also use Personal Protective Equipment (PPE) when performing medical measures in critical situations of the current Covid 19 pandemic [5].

Besides, law enforcement for patients who are dishonest in providing information to doctors and other Doctors and paramedics so to transmit and can cause death to doctors must be unequivocal. This is to give a deterrent effect to the person responsible, as well as provide certainty to doctors, other Doctors and paramedics as well as to the people who are victims of covid-19.[6] So it is necessary to understand and know clearly so as not to cause fatalities for doctors and other Doctors and paramedics in cases of dishonesty patients in providing information in the period of covid-19 pandemic.

In this pandemic period, cooperation is needed to all parties, starting from the participation of the government, the public and also health workers, the need to implement health protocols so that it is expected that this pandemic can pass soon. However, it is difficult to be realized if many people do not care about health such as using masks, reducing the activity of gathering with crowds, not keeping a distance and not washing their hands with the automatic flowing water of this pandemic outbreak will continue to increase the death toll even more. Good cooperation should also be done between the doctor and the patient during the

Covid-19 pandemic when the patient provides information or information about him must be done honestly [7]. The impact of patient dishonesty on doctors certainly poses problems and can be detrimental on the part of doctors as well as for other health workers.

II. METHODS

This study is normative legal research which has a different method from other kinds of research. Normative legal research is a systematic way of researching the form of a product of legal behaviour, for example, examining legislation. The main point of the study is that law is conceptualized as a norm or rule that applies in society and becomes a reference for everyone's behaviour so that normative legal research focuses on written regulations in the form literature, legislation, norms and regulations, or principles related to the subject matter. To answer the problem and achieve the objectives of this study, the researcher uses a type of normative research by looking at the law in its normative context. Studies in normative law focus more on library research. The approach used in this study is a process of finding legal rules, legal principles, and legal doctrines to answer the legal problems faced. This is under the perspective of legal character.

III. RESULT AND DISCUSSION

Health is one of the basic needs of human beings in addition to food and board, without a healthy life, human life becomes meaningless because in a state of human pain it is impossible to do daily activities properly. In addition to the person who is sick or called a patient who can not cure his own disease, there is no other option but to ask for help from a health professional who can cure his illness, and the health professional will do what is known as health efforts by providing health services.

The patient is a person who based on the doctor's description is declared to have a disease both in the body and in his soul. In its development, patients are also widely interpreted, including people who come to the doctor just to check-up, to consult on something health issues and others. Act No. 29 of 2004 on Medical Practice in Article 1 paragraph 10 says that the understanding of the patient is that everyone who consults health problems to obtain the necessary health services either directly or indirectly to the doctor or dentist [8].

In the legal view, the patient is the subject of an independent law that is considered to be able to make decisions for his or her self-interest. Therefore it is wrong to assume that patients are always unable to make decisions because of illness. In normal daily life associations, usually, the disclosure of desire or will is considered as a turning point for making decisions. Thus even if a patient is sick, his legal position remains the same as that of a healthy person. So, legally the

patient is also entitled to make decisions against the health service that will be made against him because this is closely related to his human rights as a human being, except where it can be proven that his mental state does not support making the necessary decisions.

A doctor in providing medical services must carry out informed consent. Informed Consent is an agreement given by the patient or his family after receiving information about the medical action that will be taken against him and all his risks[9]. If there has been a further explanation and it turns out that the patient or family agree (informed consent), in the event of a previously suspected risk, then the doctor cannot be held accountable for his medical actions.

Informed consent is an interesting issue related to the Covid-19 pandemic because some patients convey information not honestly or cover some information when accessing medical services to doctors. This happens because in the community there are concerns if they know their condition is positive coronavirus they will be ostracized or shunned by relatives, friends and also the community, This condition will also impact on the patient's family, there are concerns they will also be shunned by the community, which is more distressing if any family members die from being affected by a coronavirus, they can not bury family members because of the refusal to be buried in their area. Misinformation in society builds an opinion that is misleading and impacts others[10].

Therapeutic transactions between the patient and the doctor do not begin from the moment the patient enters the doctor's practice, as many interpret, but precisely since the doctor expresses his orally stated willingness (oral statement) or implied statement by showing an attitude or action that concludes a willingness such as, receiving the registration, providing sequence numbers, providing and recording his medical records[11]. In other words, therapeutic transactions also require the willingness of a doctor. It is following the principle of consequence and contracting.

Therapeutic transactions arising between the doctor and the patient directly give rise to the rights and obligations between the doctor and the patient, where directly what is the right of the patient is automatically the obligation for the doctor to carry it out as well as vice versa[12]. A patient has certain obligations to the doctor as well as to himself. In performing its duty, the patient is required to carry out following reasonable patient standards [13]. If it does not perform its obligations and this causes problems for others such as transmitting viral diseases to infect doctors, Doctors and paramedics or other patients who can also cause death for others, of course, the patient can be held accountable whether in a punitive way or a criminal direction.

A patient has an obligation, both morally and legally. Morally the patient is obliged to maintain his health and exercise the rules of care following the advice of the doctor who cares for him. In Article 53 of Act No. 29 of 2004 on Medical Practice mentions patients in receiving services to medical practice, has the

obligation (a) Provide complete and honest information about his health problems, (b) Comply with the advice and instructions of a doctor or dentist (c) Comply with the applicable provisions in health care facilities, (d) Provide service rewards for the services received. Article 50 letter (c) of Act No. 29 of 2004 on Medical Practice states that "Doctors or Dentists in carrying out medical practice have the right to obtain complete and honest information from the patient or his family." Article 7 paragraph (2) letter (a) of the Regulation of the Minister of Health of the Republic of Indonesia No. 11 of 2017 on Patient Safety requires patients and their families to provide correct, clear, complete and honest information.

The patient's dishonesty results in the process of providing health care or therapy provided by the Doctor to be not maximal, besides also the Doctor has the potential to be exposed to Covid-19 if it turns out that the patient he is serving is a carrier of Covid-19. This is especially concerning because some laws and regulations have mandated patients to communicate information honestly when accessing medical services. The impact of patient dishonesty in providing information or information to doctors cannot be mentioned as a minor error for now in the covid-19 pandemic. The condition will cause major problems and can also result in not only one doctor but can result in the contracting of one hospital where the patient is being treated.

This information from patients and or families is essential in enforcing the diagnosis in addition to the course of physical and clinical examination of the patient. Dishonesty or incompleteness of information can make the diagnosis inappropriate [14]. In ordinary cases, of course, it is the patient who will lose if he does not convey the information in the question and answer of the patient and the doctor appropriately. However, in the case of Covid-19, not only will it have an impact on patients, but rapid transmission can be detrimental to the doctor who handles it [15]. Not to mention the entire hospital, if not immediately placed in isolation. Obscure or misleading information such as concealing a disease that has been suffered before, not providing correct information that he or she has been close to a person infected with the virus or not informing the drugs he or she has taken while he or she is ill, can be considered the patient's fault known as "Contributory Negligence" which means "Patient is guilty". If patients and families are found to have provided inappropriate information on medical examinations, Doctors and paramedics may be released from liability if there are harms incurred from the enforcement of inappropriate diagnoses. Because the same patient has violated the agreement between the patient and the doctor, and there has been an element of deception in an agreement [16].

The relationship between the patient and the doctor is *inspanningsverbintenis*. That is, in this relationship that is focused on is the maximum effort of the doctor based on scientific standards and experience in the medical field.

Inspanningsverbintennis contains meaning as an alliance whose achievements are in the form of maximum effort. Concerning the Covid-19 pandemic [17], a doctor cannot guarantee the success of his medical actions while treating patients. As long as the Doctor has made the most of the medical size (science and embroidery in the medical field), then his medical actions cannot be blamed [18]. This is due to several factors that have the potential to cause failure in medical actions, including medical risk, medical accident, and contributory of negligence from the patient[19].

The actions of patients who do not provide proper information or information, do not comply with the advice of the doctor or do not comply with the applicable provisions in the health care facilities indirectly have an impact on doctors, Doctors and paramedics and on the health service as well. If the risk posed by the patient is detrimental to others in this case, the doctor, of course, a doctor has the right to legal protection.

The protection of the law is to give protection to human rights (human rights) that others harm and protection is given to the community in order to enjoy all the rights granted by the law. The law can be enabled to realize protections that are not only adaptive and flexible but also predictive and anticipatory. Laws are needed for the weak and not yet socially, economically and politically strong to obtain social justice.

a. Classification of legal protection

1) Preventive Legal Protection

Protection stipulated by the government to prevent before the violation occurs. This is contained in the legislation with the intent to prevent an offence and provide signs or restrictions in performing an obligation.

2) Repressive Legal Protection.

Repressive legal protection is the final protection in the form of sanctions such as fines, imprisonment, and additional penalties given in the event of a dispute or an offence has been committed.

b. Purpose of legal protection

The purpose of legal protection is to create an orderly society in the balance. With the achievement of balance in society, it is expected that human interests will be protected. Thus the purpose of this law is pointing to respect and protection of people.

c. Principles

In providing medical services to patients, patients must pay attention to the principles that apply, especially ethical transactions, so that the principles that apply in contracting. The principles are:

1) Consensual Principles

That each party must express its consent, such consent is either explicit or implicit.

2) Principles of Good Faith

Utmost of good faith is the main principle in contractual relationships. In the absence of good faith, the transaction is not valid under the law. Not only for doctors this principle applies, as well as to patients, when the patient is dishonest in providing information or information requested by the doctor that aims to be able to provide the appropriate diagnosis and service, this patient already has bad intentions.

3) Free Principles

That the parties bound by the agreement have the right to determine what are the rights and obligations of each party. However, in the transaction of teraupetik results can not be ascertained; it is not recommended that the doctor guarantee the results to the patient.

4) Principles of Not Breaking the Law

That what becomes a free agreement is determined by the parties, as long as it is not unlawful. The agreement struck between patients should be based on an open attitude so that in providing health care doctors do their utmost to help the patient heal.

5) Principles of Propriety and Habits

That in addition to what they have agreed, the parties must also submit to general customs and propriety. However, it is distinguished by propriety and general habits in general with propriety and general habits that apply in the world of medicine. Suppose if the patient disconnects unilaterally with the doctor, given that the relationship is based on trust, then it is reasonable if trust in the doctor can be lost.

In Article 50 of the Law of the Republic of Indonesia No. 29 of 2004 on Medical Practice explains that doctors in carrying out medical practices have the right to obtain legal protection as long as they carry out their duties following professional standards and standards of operational procedure and obtain complete and honest information from patients or their families. Article 29 letters Act No. 44 of 2009 on Hospitals explains that protecting and providing legal assistance for all Hospital officers in carrying out their duties, and in affirming Article 30 paragraph 1 letter e and f of the hospital law that the hospital may sue the party that causes harm and obtain legal protection in carrying out the health service, so that if any patient harms the doctor and hospital the patient can be prosecuted civilly or criminally because the patient's actions have injured the agreement. Civil law is deemed that the patient has committed unlawful conduct and may be penalized following the article 1365 Criminal Code which states: "Any unlawful act that brings harm to another person, then the person who causes the loss is obliged to indemte such damages".

Legal protection against doctors can also be provided through criminal charges to patients who are still disorderly to implement protocols to prevent infectious disease outbreaks that affect the contracting of doctors [20]. Doctors and paramedics or others or even result in the death of doctors, Doctors and paramedics or others who are affected. The in order to implement the standard of health protocols against Covid-19 [21] can be said that the community or the patient's patients/ families meet the elements by deliberately obstructing the implementation of the covid-19 infectious disease outbreak. This is ens ed in Article 14 of the Infectious Diseases Outbreak Act [22].

Act No. 4 of 1984 on Infectious Disease Outbreaks in Article 5 that efforts to combat outbreaks include epidemiological investigations; examination, treatment, treatment, and isolation of sufferers, including quarantine measures; prevention and embalming; the extermination of the cause of the disease; handling of corpses due to plague; counselling to the community and Article 14 paragraph (1) is mentioned that whoever intentionally obstructs the implementation of plague prevention as stipulated in this Law, is threatened with imprisonment for an amount of 1 (one) year and/or a fine as high as Rp 1,000,000,- (one million rupiah). According to the article, it can be considered for patients who are dishonest in providing information on their condition to harm doctors, hospitals and others categorized as hindering the prevention of outbreaks because doctors and Doctors and paramedics desperately need honesty from patients so that this covid-19 pandemic outbreak does not expand [23].

Protection of doctors and Doctors and paramedics has also been stipulated in Articles 8 and 9 of Act No. 4 of 1984 on Infectious Disease Outbreaks. Article 8 paragraph (1) of the Law states that those who suffer property losses resulting from the efforts to deal with the plague as referred to in Article 5 may be compensated. Similarly, article 9 paragraph (1) has also been expressly stipulated that certain officers who carry out the efforts to combat the plague as referred to in Article 5 may be rewarded for the risks incurred in carrying out their duties.

Also, a form of legal protection for occupational safety for doctors in terms of providing health services in dealing with the covid-19 pandemic: (a)The need for adequate completeness of medical equipment [24] given that the availability of quality medical equipment to protect doctors who are providing health services in terms of the treatment of this virus is indispensable, on the contrary when the quality of medical equipment is not of great quality doctors can easily contract the covid-19 virus; (b) Provide excellent health services that are routinely checking the health of the medical personnel themselves so that medical personnel who are unwell or elderly do not need to jump directly into the field to deal with the virus because it is susceptible to contracting; (c)The time burden of medical personnel in providing health services in this pandemic condition should be considered because when providing their services using PPE, this condition instead makes the body

dehydrated due to the body sweating; (d) Provide compensation for medical personnel who died in providing health services to deal with the covid-19 pandemic. They are the heroes of the vanguard protecting the people from the covid-19 outbreak;(e) This condition can be considered by the state immediately establishing a rule on the protection of the law for the safety of medical personnel in the fight against covid-19.

IV. CONCLUSION

All forms of health care that occur between doctors and patients are therapeutic transactions. In the agreement, the doctor must explain in advance about the patient's condition and what action will be taken against the patient. Similarly, a patient is obliged to provide true and honest information. Doctors who have performed duties following professional standards, service standards and standards of operational procedure are entitled to legal protection. In carrying out medical practice, the doctor must fulfil Informed Consent and Medical Records as a means of proof that can free the doctor from any lawsuits. If the patient is dishonest, then inflicting contribution negligence or the patient is guilty of honesty and obeying the advice and instruction of the doctor is the patient's duty to the doctor.

The case of the dishonesty of patients in conveying information is one of the resolved inhibitors of covid-19 cases in Indonesia. Many patients lie because they feel ashamed, feel scared. However, his lies can hinder the treatment process that will be given. The patient's lies can also result in transmission to other patients as well as the medical personnel who treat those patients because the honesty and openness of patients in conveying information is critical.

In both the Medical Practice Act and the Doctors and paramedics Act and the Hospital Act are not expressly sanctioned if a patient is dishonest in providing information or circumstances, of course, this is very detrimental to the doctor. What if the patient does this to the doctor, not at the time of the outbreak? So the government must make clear legal regulations to provide legal protection to doctors.

REFERENCES

- [1] Syahrul Machmud, Penegakan Hukum dan Perlindungan Hukum Bagi Dokter Yang Diduga Melakukan Medikal Malpraktek, Bandung,Indonesia, 2012, pp. 2-3
- [2] Wila Chandrawila, **Hukum Kedokteran**, Bandung, Indonesia, 2001, p. 35.
- [3] Husein Kerbala, Segi-segi Etis dan Yuridis Informed Consent, Jakarta, Indonesia,1967, pp. 36
- [4] David, D. S, Rubin, A. L, Stenzel, K. H, Bunge, W. R and Clouser, K. D, *Medical Ethics*, **The New England Journal of Medicine**, 1975, pp.1050-1051 <https://doi.org/10.1056/NEJM197511132932024>

- [5] Mesa Vieira, C, Franco, O. H, Gómez Restrepo, C and Abel, T, *COVID-19: The forgotten priorities of the pandemic*, **Maturitas**, 2020, pp.38-41 <https://doi.org/10.1016/j.maturitas.2020.04.004>
- [6] John Watkins, *Preventing a covid-19 pandemic*, **The BMJ**, 2020, pp.1-2 <https://doi.org/10.1136/bmj.m810>
- [7] Rajkumar, R. P, *COVID-19 and mental health: A review of the existing literature*, **Asian Journal of Psychiatry**, 2020, <https://doi.org/10.1016/j.ajp.2020.102066>
- [8] Bahder Johan Nasution, *Hukum Kesehatan Pertanggungjawaban Dokter*, Jakarta, Indonesia, 2005, p.31-32
- [9] Ravven, S. E. *Informed consent*, **Psychiatry and the Law: Basic Principles**, 2017, pp.9-19, https://doi.org/10.1007/978-3-319-63148-6_2
- [10] Endang Kusuma Astuti, *Transaksi Terapeutik dalam Upaya Pelayanan Medis di Rumah Sakit*, Bandung, Indonesia, 2009, pp. 105
- [11] Lee Shaw and Oliver Wiedow, *Therapeutic potential of human elafin*, **Biochemical Society Transactions**, 2011, pp.1450-1454 <https://doi.org/10.1042/BST0391450>
- [12] Oyedeji Ayonrinde, *Importance of cultural sensitivity in therapeutic transactions: Considerations for healthcare providers*, **Disease Management and Health Outcomes**, 2003, pp. 233-248, <https://doi.org/10.2165/00115677-200311040-00004>
- [13] Judith Allsop, *Regaining trust in medicine: Professional and state strategies*, **Current Sociology**, 2006, pp.621-636, <https://doi.org/10.1177/0011392106065093>
- [14] Anthony, D. L and Stablein, T, *Privacy in practice: professional discourse about information control in health care*, **Journal of Health, Organisation and Management**, 2016, pp. 207 – 226, <https://doi.org/10.1108/JHOM-12-2014-0220>
- [15] Marie M Bismark, Matthew J Spittal, Jennifer M Morris and David M Studder, *Reporting of health practitioners by their treating practitioner under Australia's national mandatory reporting law*, **Medical Journal of Australia**, 2016, pp. 24.e1 - 24.e6, <https://doi.org/10.5694/mja15.00710>
- [16] Abi Rimmer, *Covid-19: What's the current advice for UK doctors?*, **The BMJ**, 2020, pp.1-2, <https://doi.org/10.1136/bmj.m978>
- [17] Sir John Daniel, *Education and the COVID-19 pandemic*, **Prospects**, 2020 <https://doi.org/10.1007/s11125-020-09464-3>
- [18] Matt Blanchard & Barry A. Farber, *Lying in psychotherapy: Why and what clients don't tell their therapist about therapy and their relationship*. **Counselling Psychology Quarterly**, 2016, pp.1-23, <https://doi.org/10.1080/09515070.2015.1085365>
- [19] Andrea Cioffi and Raffaella Rinaldi, *Covid-19 and medical liability: A delicate balance*, **Medico-Legal Journal**, 2020, pp.1-2 <https://doi.org/10.1177/0025817220935879>
- [20] Heike Hennig-Schmidt, Hendrik Jürges, and Daniel Wiesen. *Dishonesty in health care practice: A behavioral experiment on upcoding in neonatology*, **Health Economics, United Kingdom**, 2019, pp.1-20, <https://doi.org/10.1002/hec.3842>
- [21] MS Pandit and Shobha Pandit, *Medical negligence: Coverage of the profession, duties, ethics, case law, and enlightened defense - A legal perspective*, **Indian Journal of Urology**, 2009, pp.372–378. <https://doi.org/10.4103/0970-1591.56206>

- [22] Malcolm H Parker, *Normative lessons: Codes of conduct, self-regulation and the law*, **Medical Journal of Australia**, 2010, pp. 658–660 <https://doi.org/10.5694/j.1326-5377.2010.tb03670.x>
- [23] Kelly J Purser and Tuly Rosenfeld, *Evaluation of legal capacity by doctors and lawyers: The need for collaborative assessment*, **Medical Journal of Australia**, 2014, pp. 483–485, <https://doi.org/10.5694/mja13.11191>
- [24] Thirumalaisamy P. Velavan and Christian G. Meyer, *The COVID-19 epidemic*, **Tropical Medicine and International Health**, 2020, pp.278–280 <https://doi.org/10.1111/tmi.13383>