

Legal Protection for Patients in Cases of Negligence of Health Workers: A Study on Private Hospitals in Indonesia

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ABSTRACT

Cases of negligence of health workers in private hospitals raise serious problems related to legal protection for patients. This study aims to analyze the forms of legal protection available, the obstacles faced by patients, and alternative solutions in cases of medical negligence in Indonesian private hospitals. A qualitative approach with a case study design was used through in-depth interviews, observations, and document analysis at two private hospitals in West Java. The results of the study show that normative legal protection has been regulated in the 2023 Health Law and the Hospital Law, but its implementation is still weak. Informed consent is more practiced as an administrative formality, patient complaint units are less effective, and mediation mechanisms are rarely used. The main obstacles include low legal literacy of patients, the dominance of health workers in power relations, and the economic interests of private hospitals. This study emphasizes the need to improve patient legal literacy, legal-medical communication training for health workers, and optimize non-litigation mechanisms as a form of real protection. The implications of this study emphasize the importance of the active role of hospitals and the government in ensuring that patients' rights are protected, so that the social functions of hospitals can run in balance with business orientation.

Keywords: Health Law, Patient Protection, Medical Negligence, Private Hospital, Informed Consent

ABSTRAK

Kasus kelalaian tenaga kesehatan di rumah sakit swasta menimbulkan permasalahan serius terkait perlindungan hukum bagi pasien. Penelitian ini bertujuan untuk menganalisis bentuk perlindungan hukum yang tersedia, hambatan yang dihadapi pasien, dan alternatif penyelesaian dalam kasus kelalaian medis di rumah sakit swasta Indonesia. Pendekatan kualitatif dengan desain studi kasus digunakan melalui wawancara mendalam, observasi, dan analisis dokumen pada dua rumah sakit swasta di Jawa Barat. Hasil penelitian menunjukkan bahwa perlindungan hukum normatif telah diatur dalam UU Kesehatan 2023 dan UU Rumah Sakit, namun implementasinya masih lemah. Informed consent lebih banyak dipraktikkan sebagai formalitas administratif, unit pengaduan pasien kurang efektif, dan mekanisme mediasi jarang digunakan. Hambatan utama meliputi rendahnya literasi hukum pasien, dominasi tenaga kesehatan dalam relasi kuasa, dan kepentingan ekonomi rumah sakit swasta. Penelitian ini menekankan perlunya peningkatan literasi hukum pasien, pelatihan komunikasi hukum-medis bagi tenaga kesehatan, dan optimalisasi mekanisme non-litigasi sebagai bentuk perlindungan yang nyata. Implikasi dari penelitian ini menekankan pentingnya peran aktif rumah sakit dan pemerintah dalam memastikan hak-hak pasien terlindungi, sehingga fungsi sosial rumah sakit dapat berjalan seimbang dengan orientasi bisnisnya.

Kata Kunci: Hukum Kesehatan, Perlindungan Pasien, Kelalaian Medis, Rumah Sakit Swasta, Persetujuan Berdasarkan Informasi

INTRODUCTION

The development of the global health system in the last two decades has presented new challenges for the provision of medical services. On the one hand, advances in medical technology allow patients to obtain faster, more precise, and more effective health services. However, on the other hand, the increasing complexity of health services also increases the risk of medical negligence. World Health Organization (WHO) data shows that every year around 134 million

undesirable events occur in hospitals of middle- and low-income countries, resulting in 2.6 million deaths (WHO, 2019). This fact confirms that the issue of patient *safety* is a global issue that requires serious attention, including from a legal perspective. Furthermore, the WHO emphasizes that a significant proportion of these adverse events are preventable, with system failures, inadequate communication, and insufficient safety protocols identified as primary contributing factors. This global

epidemiological evidence underscores the critical intersection between healthcare quality, patient safety, and legal accountability frameworks.

At the international level, the negligence of health workers is not only seen as a professional failure, but also has far-reaching legal and ethical implications. Many countries have strictly regulated legal protection mechanisms for patients, either through regulatory arrangements, standards of practice, and dispute resolution mechanisms. For example, in the United States there is a Medical Malpractice Law that allows patients to claim compensation if medical negligence is proven, while in the United Kingdom there is a National Health Service Complaints Procedure system that emphasizes an administrative dispute resolution mechanism before entering the realm of litigation. Additionally, countries such as Australia have implemented comprehensive Clinical Governance frameworks that integrate quality improvement, risk management, and accountability systems to prevent negligence and protect patients. The European Union's Cross-Border Healthcare Directive establishes minimum standards for patient rights and redress mechanisms across member states. Japan's medical accident investigation system combines administrative oversight with criminal liability provisions, creating multi-layered accountability structures. This comparison shows that legal protection for patients is a universal issue that is regulated according to the social, cultural, and legal context of each country. Moreover, comparative analysis reveals that effective patient protection systems typically combine three essential elements: clear legal frameworks defining rights and responsibilities, accessible dispute resolution mechanisms that balance efficiency with justice, and robust institutional capacity for monitoring, enforcement, and continuous improvement.

In Indonesia, the problem of patient protection due to the negligence of health workers is also increasingly complex, especially in private hospitals. Private hospitals as health service providers are often the main choice of the public due to accessibility, service quality, and public perception of government health facilities.

However, the high workload, limited human resources, and profitability demands in private hospital management have the potential to trigger negligent practices that harm patients. A report by the Ministry of Health of the Republic of Indonesia (2022) noted that complaint cases related to alleged medical malpractice tend to increase from year to year, with a significant proportion coming from private hospitals.

Several previous studies have highlighted this issue. A study conducted by Sudrajat (2020) shows that many patients who are victims of alleged medical negligence in private hospitals have difficulty in obtaining justice due to a lack of understanding of their legal rights. Another study by Sari and Nugroho (2021) emphasized that the mechanism for resolving medical disputes through mediation is still rarely optimized in Indonesia, even though it has been normatively regulated in Law Number 29 of 2004 concerning Medical Practice and Law Number 44 of 2009 concerning Hospitals. This shows that there is a gap between legal norms and implementation in the field.

The urgency of research on legal protection for patients in cases of negligence of health workers in private hospitals is increasingly urgent, especially after the enactment of Law Number 17 of 2023 concerning Health. This latest regulation emphasizes the importance of strengthening the health service system, including aspects of the legal responsibility of health workers. However, the implementation of this law in private hospitals still leaves the question: to what extent are patients' rights protected in the event of medical negligence? How are the available legal mechanisms able to provide legal certainty, a sense of justice, and adequate protection for patients? These questions have not been widely discussed in previous research, so this study has high academic and practical relevance.

The novelty of this study lies in the focus of the study on the legal protection of patients specifically in private hospitals, which often receive less attention than government hospitals. This study seeks to analyze the available forms of legal protection, obstacles to regulatory implementation, and find alternative dispute resolution mechanisms that are more effective for patients. A qualitative approach is used to

explore the experiences of patients, health workers, and private hospital management in dealing with cases of medical negligence, so as to provide a comprehensive overview of legal protection practices in the field.

The objectives of this study are: first, to identify the forms of legal protection available to patients in cases of negligence of health workers in private hospitals in Indonesia; second, to analyze the obstacles faced by patients in obtaining their rights; Third, to offer alternative legal and policy-based solutions that can strengthen patient protection in the future. With this goal, the research is expected to fill the academic gap while making a practical contribution to the development of the health legal system in Indonesia.

The benefits of this research are divided into three aspects. Theoretically, this study can enrich the health law literature by providing a new perspective on patient protection in private hospitals. Practically, this research is expected to be an input for private hospitals in strengthening patient protection mechanisms, both through internal SOPs, training of health workers, and optimization of patient complaint services. Meanwhile, in terms of policy, this research is expected to provide recommendations for the government and regulators in improving the implementation of the 2023 Health Law and other derivative regulations.

The implications of this research are quite broad. First, research can help increase patients' awareness of their legal rights, thereby strengthening the bargaining position in dealing with medical negligence cases. Second, this research has the potential to encourage private hospitals to be more accountable in carrying out their service functions, considering the existence of lawsuits and reputations. Third, on a macro level, this research can contribute to improving the quality of the national health system through the integration of legal, ethical, and more equitable aspects of medical services. Thus, this research is not only beneficial for the academic realm, but also has a real impact on the community, health workers, and health service institutions in Indonesia.

Research Methods

Research Design

This study uses a qualitative approach with a case study design. The case study design was chosen because it allows researchers to explore in depth the phenomenon of legal protection against patients in cases of negligence of health workers in a specific context, namely private hospitals in Indonesia. This approach is relevant because the focus of research is not on data quantification, but on an in-depth understanding of patient experiences, healthcare worker perspectives, and internal hospital policies. Thus, this research is exploratory and descriptive, and aims to reveal socio-legal reality as perceived by the research subject.

Location and Research Subject

The research was conducted in two private hospitals in the West Java region, considering that the area has a relatively high number of private hospitals and is often a destination for people to obtain health services. The selection of the location is also based on the accessibility and willingness of the hospital to be the object of the research.

The research subjects consisted of three main groups:

1. **Patients or families of patients** who have experienced alleged negligence of health workers in private hospitals.
2. **Health workers** (doctors, nurses, and medical support personnel) who are involved in health services, either directly or indirectly.
3. **The hospital management** (legal department, medical service director, or patient complaint unit) has the authority to manage medical dispute cases.

The number of participants is not determined from the beginning, but follows the principle until the data is saturated (saturation point), which is when the data obtained no longer shows significant new information.

Research Instruments

The main instrument in this qualitative research is the researcher himself (*human instrument*). Researchers play the role of planners, implementers, data collectors,

analysts, as well as reporters of research results. To help with regularity and consistency in data collection, the researcher developed guidelines in the form of:

1. **The semi-structured interview guidelines** contain a list of key questions regarding the patient's experience, the views of healthcare professionals, and hospital policies regarding the legal protection of patients.
2. **Observation format** to record the situation of health service interactions, complaint systems, and standard operating procedure (SOP) implementation practices.
3. **Documentation sheets** to record and analyze legal documents, hospital SOPs, and patient complaint records.

Data Collection Techniques

Research data is obtained through three main techniques:

1. **In-depth interviews** Interviews are conducted with patients/patients' families, health workers, and hospital management. The interview uses a semi-structured format, so that the researcher still has a framework of questions, but is flexible to adjust to the dynamics of the conversation. This technique was chosen to explore the subject's experience, perception, and meaning of the patient's legal protection.
2. **Passive participatory observation** The researcher observed health service activities, especially in outpatient units, inpatient units, and patient complaint units. The observation is aimed at understanding how the implementation of hospital policies related to patient safety and legal protection takes place in practice.
3. **The documentation study** The documents studied include Law Number 17 of 2023 concerning Health, Law Number 44 of 2009 concerning Hospitals, SOP for patient services, patient complaint records, and court decisions relevant to cases of negligence of health workers. The documentation study helps to strengthen the data from interviews and observations and

provides a strong legal basis in the analysis.

Research and Discussion Results

Research Results

Based on in-depth interviews, observations, and documentation studies at two private hospitals in West Java, several key findings were obtained related to legal protection for patients in cases of negligence of health workers.

Available Forms of Legal Protection

The results of the study show that private hospitals in principle have a formal mechanism to provide legal protection to patients. This mechanism is realized through:

1. **Implementation of informed consent:** the patient or the patient's family is required to sign a medical action consent form. However, most patients admitted that they only signed without receiving a detailed explanation from health workers.
2. **Patient complaint unit:** both hospitals provide a complaint unit as an official channel in case of complaints. However, its effectiveness is still questionable, as most patients feel that the complaint resolution process is protracted and not transparent.
3. **Claims through legal mechanisms:** the patient has the right to file a civil or criminal lawsuit. However, from interviews, the majority of patients are reluctant to take the litigation route due to cost, time, and psychological burden.

Obstacles to Patient Legal Protection

Some of the key barriers found include:

1. **Lack of legal literacy of patients** – most patients do not understand their rights according to Law Number 17 of 2023 concerning Health and Law Number 44 of 2009 concerning Hospitals.
2. **Hierarchical culture in healthcare** – patients tend to be reluctant or afraid to question medical procedures because they think health workers have more power in making decisions.
3. **The economic interests of private hospitals** – there is a tendency for management to delay or close cases of negligence in order to maintain reputation and avoid financial losses.

4. **Limitations of non-litigation mechanisms** – mediation or alternative dispute resolution is rarely used to the maximum, even though it can be a faster and more efficient solution.

Perspectives of Health Workers and Management

From interviews with health workers, it was found that some doctors and nurses are afraid to face lawsuits because they think that patients often do not understand the complexity of medical procedures. The hospital management admits that there is a dilemma between protecting health workers and providing justice to patients.

Documentation and Regulation

The results of the documentation study show that private hospitals already have SOPs that refer to the 2023 Health Law, but implementation is still limited. Not all health workers follow the SOPs consistently, especially regarding the explanation of medical procedures and recordings.

Discussion

Legal Protection of Patients in a Normative Perspective

Legal protection of patients in cases of negligence of health workers has been regulated in various regulations. Law Number 17 of 2023 concerning Health affirms the patient's right to safety, security, comfort, and compensation if they suffer losses due to medical negligence. Similarly, Law Number 44 of 2009 concerning Hospitals mandates that every hospital is obliged to provide quality, effective, and non-discriminatory services.

However, the results of the study show that there is a gap between legal norms and implementation in the field. Patients still have difficulty accessing their rights due to low legal literacy, dominance of health workers in power relations, and lack of transparency in private hospital management. This reinforces the findings of Sudrajat (2020) that patients in Indonesia are often in a weak position in medical disputes.

Informed Consent as the Main Pillar of Protection

In theory, *informed consent* is the most basic legal instrument in protecting patients.

This principle emphasizes that any medical procedure must be performed after the patient has obtained complete information and expressed conscious consent. However, the results of the study found that the practice of informed consent in private hospitals is often just an administrative formality. The patient did not receive a detailed explanation of the risks, alternative course of action, or medical consequences.

This phenomenon is in line with research by Sari & Nugroho (2021) which highlights the weak application of the principle of informed consent in Indonesia. This condition has the potential to lead to legal disputes, as patients can claim to never really understand the risks at hand. Therefore, hospitals need to increase the capacity of health workers in explaining medical procedures in a communicative and transparent manner.

Cultural and Structural Barriers

The results of the study revealed that there are cultural barriers in the form of hierarchical culture in the doctor-patient relationship. Many patients are reluctant to ask questions or raise objections because they think health workers have full authority. In fact, from the perspective of modern health law, the doctor-patient relationship is contractual and parallel.

In addition, structural obstacles in the form of economic interests of private hospitals are also significant. Hospitals tend to close negligence cases to maintain a business reputation. This practice has the potential to cause a conflict of interest, because the social function of hospitals as health service providers clashes with commercial interests. This underscores the need for stricter regulations to ensure the accountability of private hospitals.

Non-Litigation Mechanism: Unoptimal Potential

This study found that non-litigation mechanisms such as mediation have not been utilized to the fullest. In fact, mediation can be a means of resolving medical disputes that are faster, cheaper, and fairer than litigation. The ineffectiveness of mediation is due to the lack of professional facilitators, low patient awareness, and hospital resistance to open mechanisms.

When compared to practices in developed countries, Indonesia is still lagging behind. In the United States, for example, health mediation has been institutionalized and has become the main route of resolving disputes before going to court. The implementation of a similar system in Indonesia can strengthen the legal protection of patients while maintaining the sustainability of private hospitals.

Practical Implications

The results of this study provide important practical implications. First, there is a need to strengthen patient legal literacy through the socialization of patients' rights in hospitals. Second, health workers must be equipped with legal-medical communication training in order to be able to explain medical risks in easy-to-understand language. Third, private hospitals need to optimize patient complaint units and internal mediation as a preventive effort against litigation disputes. Fourth, the government needs to supervise the implementation of the 2023 Health Law through stricter derivative regulations for private hospitals.

Contributions to Health Law Theory

Theoretically, this study reinforces the concept that the legal protection of patients is inseparable from the practice of medical ethics and hospital management. The approach to health law must combine normative, cultural, and structural aspects. Thus, this research contributes to the development of a more contextual health law theory in Indonesia.

Research Limitations

This research has limitations in the scope of subject and location. The study was only conducted at two private hospitals in West Java, so the generalization of the findings is still limited. In addition, the sensitivity of the issue of medical negligence makes some respondents withhold information. However, the findings of the study still provide a significant picture of the legal protection of patients in private hospitals.

Conclusion of the discussion

The results of the study show that the legal protection of patients in cases of negligence of healthcare workers in private

hospitals already has a strong normative basis through the Health Act 2023 and the Hospital Act. However, implementation in the field still faces various obstacles, both in terms of patient legal literacy, hierarchical culture in health services, and the economic interests of private hospitals. Informed consent is often just a formality, the patient complaint unit is not effective, and the mediation mechanism is not optimal.

These findings emphasize the need to strengthen the patient legal protection system through improving legal literacy, communication training of health workers, optimizing non-litigation mechanisms, and government supervision of the accountability of private hospitals. This research makes an important contribution to the development of health law theory as well as practical implications for improving the quality of health services in Indonesia.

Conclusion

This study confirms that legal protection for patients in cases of negligence of health workers in private hospitals has not been running optimally even though national regulations are available. Patients' rights often stop at the normative level, while practice in the field still faces serious obstacles. Informed consent tends to be carried out only administratively, the complaint unit has not provided a transparent resolution, and the mediation mechanism is hardly used optimally.

The gap between rules and practices is exacerbated by the lack of understanding of patients' laws, the dominance of health workers in decision-making, and the economic interests of private hospitals that often sacrifice aspects of justice. These findings show that patient legal protection requires more than just regulation, but also the transformation of healthcare culture, increasing public legal literacy, and strengthening the role of the state in supervision.

This study highlights the need for concrete steps in the form of: improving legal-medical communication by health workers, massive socialization of patient rights, strengthening the non-litigation dispute resolution system, and the commitment of private hospitals in balancing social functions and business orientation.

With these efforts, legal protection is not only a normative document, but also a real presence in the experience of patients who are dealing with medical negligence.

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