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**LEGAL ASPECTS OF MEDICAL PRACTICE IMPLEMENTATION:
DISPUTES OF CODE OF ETHICS IN HANDLING PATIENTS
HEALTH SOCIAL SECURITY ADMINISTERING AGENCY**

***ASPEK HUKUM PENYELENGGARAAN PRAKTIK KEDOKTERAN:
SENGKETA KODE ETIK DALAM MENANGANI PASIEN BADAN
PENYELENGGARA JAMINAN SOSIAL KESEHATAN***

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ABSTRACT

The Health Social Security Administering Body is a public legal entity whose main task is to provide improved health services to the entire community. With the existence of health insurance products, it is hoped that all Indonesian people can experience health services equally to all levels of society. Doctors are one of the leading professions in the health sector. The main task of a doctor is to provide optimal service to everyone who has problems with their health interests in accordance with and carried out in accordance with the doctor's professional code of ethics. This research is juridical normative, which is a form of research that will analyze a problem and solve it using legal materials obtained based on facts, literature, and expert arguments and analyze article by article in the legislation so that the results of this study will provide a explanation of existing legal issues to be used as guidelines in improving medical service standards by the government. There are quite a lot of participants in the Health Social Security Organizing Agency in Indonesia. This shows that more and more people need easy access to health services. This must be supported by human resources (doctors, nurses, and related parties) and agencies such as hospitals or health centers in improving the quality of health services. A doctor has a professional code of ethics in carrying out his duties, namely he must carry out health services seriously in accordance with his competence to be able to provide optimal service to patients while respecting human dignity.

Keywords : Doctor's Profession; Code of Ethics; Health Social Security Administering Body.

ABSTRAK

Badan Penyelenggara Jaminan Sosial Kesehatan adalah badan hukum publik yang tugas pokoknya memberikan peningkatan pelayanan kesehatan kepada seluruh masyarakat. Dengan adanya produk asuransi kesehatan diharapkan seluruh masyarakat Indonesia dapat merasakan pelayanan kesehatan secara merata ke seluruh lapisan masyarakat. Dokter merupakan salah satu profesi yang terdepan dalam bidang kesehatan. Tugas utama dokter adalah memberikan pelayanan yang optimal kepada setiap orang yang mempunyai masalah dengan kepentingan kesehatannya sesuai dengan dan dilaksanakan sesuai dengan kode etik profesi dokter. Penelitian ini bersifat yuridis normatif, yaitu suatu bentuk penelitian yang akan menganalisis suatu masalah dan menyelesaikannya dengan menggunakan bahan-bahan hukum yang diperoleh berdasarkan fakta, kepustakaan, dan argumentasi ahli serta menganalisis pasal demi pasal dalam peraturan perundang-undangan sehingga hasil penelitian ini akan memberikan suatu penjelasan permasalahan hukum yang ada untuk dijadikan pedoman dalam peningkatan standar pelayanan medis oleh pemerintah. Peserta Badan Penyelenggaraan Jaminan Sosial Kesehatan di Indonesia cukup banyak. Hal ini menunjukkan bahwa semakin banyak masyarakat yang membutuhkan kemudahan akses terhadap pelayanan kesehatan. Hal ini harus didukung oleh sumber daya manusia (dokter, perawat, dan pihak terkait) dan instansi seperti rumah sakit atau puskesmas dalam meningkatkan mutu pelayanan kesehatan. Seorang dokter memiliki kode etik profesi dalam melaksanakan tugasnya, yaitu ia harus melaksanakan pelayanan kesehatan dengan sungguh-sungguh sesuai dengan kompetensinya untuk dapat memberikan pelayanan yang optimal kepada pasien dengan tetap menghormati harkat dan martabat manusia.

Kata Kunci : Profesi Dokter; Kode Etik; Badan Penyelenggara Jaminan Sosial Kesehatan.

I. INTRODUCTION

Health is a healthy and good physical condition that allows every human being to live a socially and economically productive life. When someone is not healthy, there is a doctor who will help provide health services so that someone can carry out their activities effectively. Therefore, it can be said that the basic need of every human being is health. The medical profession has the main task of improving health status in Indonesia. In seeking to improve the degree of health, a doctor needs expertise in the field of medical science. In achieving this skill, a doctor needs several years to be declared graduated and can practice medicine. The knowledge learned will be used by a doctor to perform medical actions on patients.¹

¹ Aspinall, E. (2014). Health care and democratization in Indonesia. *Democratization*, 21(5), 803-823.
<https://doi.org/10.1080/13510347.2013.873791>

Various medical actions performed by doctors will show the skills that doctors have learned during their studies. The longer the doctor practices, the more experience he will gain. With the changing times that occur rapidly, this is also followed by various developments in the medical world. It is an additional task for doctors to be able to follow these developments and be able to implement them. With the different abilities of each individual doctor, in carrying out medical actions each doctor will be faced with two different situations, namely success and failure. The object of the doctor's action is the safety of human life. Therefore, law and medical action are two things that are related and inseparable.

Norms and ethics will not be biased apart from the medical profession so that it needs to be regulated in a rule regarding the Discipline of the Medical Profession. Medical Profession Discipline is adherence to various rules and/or provisions related to the application of science in the implementation of medical practice which aims to provide protection to the public, maintain and improve the quality of health services, and maintain the honor of the medical profession.² In carrying out his profession, a doctor will always be supported by public service facilities (health) such as hospitals or clinics.

Facilitating health services such as hospitals must have service policy standards regarding behavioral guidelines for all health workers, including the medical profession in it. These service standards will later be used by all health workers who work to provide optimal service to all patients starting when the patient comes to carry out the administrative process until the patient is discharged (discharge). These services must be continuous with the code of ethics of the health profession. Standardization of service policies in hospitals will affect the performance of the medical profession and the results provided.³

Indonesia has 2,831 hospitals, consisting of 2,267 general hospitals and 564 special hospitals as of 2017. The hospitals are spread across 34 provinces. Each hospital has different service standards tailored to the ability to manage the hospital system. With the number of Indonesian people reaching 257,912,349 people, it is clear that this health service facility may not necessarily reach the community as a whole to remote areas. This is also coupled with the social status of the Indonesian people, the majority of whom are still at the lower middle level. Health facilities have not been able to reach every community in various regions in Indonesia.

The human need for health services is one aspect of the formation of a Limited Liability Company legal entity. Askes Indonesia, which is currently known as the Health Social Security Administration. The Health Social Security Administering Body was established based on Law Number 24 of 2011 concerning the Health Insurance Administering Body which is further explained in Article 1 point 1 that the establishment of the Social Security Administering Body is to implement the social security program which began operating on January 1, 2014.

² Indonesia. *Peraturan Konsil Kedokteran Indonesia Tentang Disiplin professional Dokter dan Dokter Gigi*. Perkonsil No.4 Tahun 2011, BN No. 304 Tahun 2012 Pasal 2

³ Dody Firmanda, *Disiplin Profesi Kedokteran*, Retrieved from http://kki.go.id/assets/data/arsip/DF-Materi_Workshop_JSLG_Disiplin_Profesi_Kedokteran.pdf

This health social security program has a mechanism that is able to help related to the affordability of the community in health care facilities.⁴ This affordability is extended to all levels of society. With the Health Insurance Administration Agency program, it is easier for the community to get health services. The community welcomes this program as evidenced by the number of participants of the Health Insurance Administering Body as of March 1, 2020 reaching 223,009,215 out of a total of 257,912,349 inhabitants in Indonesia.⁵

As the purpose and objective of the establishment of the Health Insurance Administering Body, namely to provide social security in the form of health, the Health Insurance Administering Body cooperates with several hospitals.⁶ In this collaboration, of course, between the Health Insurance Administering Body and the hospitals wishing to cooperate, an agreement has been reached regarding the standard provisions for patient care participating in the Health Social Security Administering Body.

Although the existence of the Health Insurance Administering Body has received a positive response from various circles of society, there is still a stigma that someone using the services of the Health Insurance Administering Agency is an Indonesian society who is considered to have a fairly low level of economic welfare. From this stigma, opinions arise from all circles of society, including health workers, especially the medical profession in dealing with patients. In professional ethics, a doctor may not give different treatment to one patient. Health care is the right of every patient. With the number of patient participants of the Health Insurance Administering Body as many as 223,009,215, the hospital as a health care facility is not optimal.

Because the number of patients is too large, the hospital or clinic does not carry out its obligations properly. The health services provided to the community are only as minimal as they can. Things like that cause harm to patients because they are considered not to provide protection to patients by providing optimal health services in accordance with Article 4 of Law Number 44 of 2009 concerning Hospitals.⁷

With this, it can be said that when providing health services to the entire community, both agencies and health workers are always in contact with the law. It is necessary to be careful and always be guided by the medical service standards that have been regulated by each hospital and/or clinic. Every health service is carried out in a hospital, therefore every hospital must ensure that it has good hospital governance and can be applied to all health

⁴ Solechan, S. (2019). Badan Penyelenggara Jaminan Sosial (BPJS) Kesehatan Sebagai Pelayanan Publik. *Administrative Law and Governance Journal*, 2(4), 686–696. <https://doi.org/10.14710/alj.v2i4.686-696>

⁵ Mia Citra D, Retrieved from <https://lifestyle.bisnis.com/read/20200310/106/1211210/peserta-bpjs-kesehatan-capai-223-juta-orang>

⁶ Mariyam, S. (2018). Sistem Jaminan Sosial Nasional Melalui Badan Penyelenggara Jaminan Sosial (BPJS) Kesehatan (Perspektif Hukum Asuransi). *Jurnal Ilmiah UNTAG Semarang*, 7(2), 36–42.

⁷ Amin, M. E., Hafidah, N., Gozali, D. S., Faisal, A., Tornado, A. S., Irawan, R., & Firdaus, A. (2020). Public understandings of healthcare services regulations. *Systematic Reviews in Pharmacy*, 11(3), 393–398. <https://doi.org/10.5530/srp.2020.3.49>

workers, especially the medical profession who will later provide medical treatment to patients. If there is a complaint regarding hospital services or doctor's ethics, it can be categorized as a violation of doctor's discipline so that later accountability will be required by doctors and hospitals as a place for providing health services.

In this modern era, there are often problems regarding very complex medical professional ethics.⁸ From these various ethical problems, doctors are often complacent with their attitude.⁹ This is not about the right or wrong attitude of doctors towards patients using the Health Social Security Administering Body in fulfilling their rights to get health services, but in this case it is related to the mentality and sensitivity of doctors. Ethical principles such as respect for people, clear goals and confidentiality are the basis of the doctor-patient relationship.¹⁰ Medical ethics at this time is strongly influenced by the law, patients have legal protection related to health services.

Regarding providing health services, it will definitely be closely related to the principles of Human Rights. In the medical world, it turns out that there are different views on the principle of equality. In the Geneva Declaration, it is stated that a doctor must not have an understanding regarding the disease, religion, ethnicity, social status, nationality of a patient he is dealing with because everyone has the same rights in terms of obtaining health services. But on the other hand, a doctor argues that he may refuse a patient but for reasons such as a lack of specialization in the field of patient disease because if medical action is still carried out, the doctor will be subject to a disciplinary violation.

In the reality on the ground, it turns out that there are still a lot of hospitals that refuse patients for economic reasons and this is also supported by the existing regulatory gap regarding the refusal of poor patients. Law Number 36 of 2009 concerning Health and Law Number 44 of 2009 concerning Hospitals provide protection to patients who experience problems related to costs. The guarantee of protection provided is binding and provides certainty for the rights of people who have economic problems related to health services provided by hospitals.

The protection provided by the government in the form of a law can be used as a guideline by the community if there is a refusal of a patient using the Health Insurance Administering Body in an emergency condition to be able to file a lawsuit against doctors and hospitals. The doctor's profession and health services such as hospitals and clinics can be held criminally responsible if an error occurs in carrying out health care actions to patients, whether it is due to negligence or intentional action. The doctor's profession and health services such as hospitals and clinics must take responsible

⁸ Kasuma, N., Bahar, A., & Tegnan, H. (2018). Law and medical disciplinary sanctions: Enhancing medical practice and health quality in Indonesia. *Journal of Legal, Ethical and Regulatory Issues*, 21(4).

⁹ Jost, T. S., Mulcahy, L., Strasser, S., & Sachs, L. A. (1993). Consumers, complaints, and professional discipline: a look at medical licensure boards. *Health Matrix (Cleveland, Ohio: 1991)*, 3(2), 309–338.

¹⁰ William, J. R. (2006) Panduan Etika Manual. Penerbit Pusat Studi Kedokteran Islam Fakultas Kedokteran Universitas Muhammadiyah, Yogyakarta.

actions if there is a loss experienced by the patient due to errors in the form of: An obligation; There is a cause; and a loss occurs.¹¹

Violations committed by the medical profession will always be related to the ability of each individual doctor in dealing with patients. Each individual doctor must have a different nature and/or character, so ethical and moral guidelines are needed so that it is hoped that a doctor can improve his expertise and quality in providing services to each patient. This can be realized by conducting education and training continuously by following changes in regulations and technology.

II. METHOD

This research is juridical normative, namely a form of research that will analyze a problem and solve it using legal materials obtained based on facts, literature, and expert arguments and analyze article by article in the legislation so that the results of this study will provide an explanation of the existing legal issues to be used as guidelines in improving the standard of medical services by the government. By conducting normative juridical research, knowledge will be obtained about the relationship between one regulation and another.¹²

III. ANALYSIS AND DISCUSSION

a. Physician Professional Code of Ethics in Handling Patients Participants of the Health Social Security Administering Body

Getting proper health services is a human right that every human has. With this, the government seeks to fulfill the right of everyone to be able to enjoy health service facilities by enacting Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that: "everyone has the right to live in physical and spiritual prosperity, to live and have a good and healthy life and have the right to health services."¹³

Ethics is the study of morality and reflection on morals in a systematic and careful manner and analysis of moral decisions and behavior in the past, present or in the future. Studying ethics has a very broad study because it relates to every action in the form of "good", i "bad", i "wrong" and "appropriate". Every profession in this world has its own professional code of ethics, including the medical profession. Medical ethics has a study related to problems in carrying out treatment to the community.

Medical ethics is always changing while still being guided by international human rights. Therefore, there is a very close relationship between the medical profession and the law. The Lisbon Declaration on Patient Rights in 1995 stated that "there has been a marked change in the relationship between doctor and patient. In providing treatment to patients, a doctor with all his abilities must give the best action to reduce the patient's

¹¹ Nasution, B. J. (2005). *Hukum Kesehatan dan Pertanggungjawaban Dokter*. Penerbit Rhenika Cipta: Jakarta.

¹² Rideng, I. W. (2013). Metode Penelitian Hukum Normatif. *Kertha Widya*, 1(1), 136–149.

¹³ Salim, D. L. F. (2020). AKSESIBILITAS PEMBIAYAAN KESEHATAN DALAM PROGRAM JAMINAN KESEHATAN NASIONAL. *LEX ET SOCIETATIS*, 8(4). <https://doi.org/10.35796/les.v8i4.30915>

pain, with the same effort a doctor must also protect the rights of patients. Associated with his profession, a doctor will always have direct responsibilities to patients and responsibilities to other parties such as organizations and hospitals or clinics.

Indonesia is very concerned about the code of ethics of the medical profession so that the Honorary Council for Medical Ethics was formed which has the task of supervising the application of ethics in the medical profession. The Medical Ethics Honorary Council was formed based on Law Number 18 of 2002 concerning Science and Technology which in Article 12 states that "To guarantee responsibility and professional accountability, professional organizations are obliged to determine standards, requirements and certification of expertise, as well as professional codes of ethics".¹⁴ From this it can be said that in relation to the actions of each doctor related to his authority to provide treatment to patients, supervision will always be carried out, this is done so that each profession can carry out their duties and responsibilities in accordance with the established professional code of ethics.

Regarding ethical violations committed by a doctor by profession, the party entitled to decide whether a doctor has actually committed a violation is the Medical Ethics Honorary Council. When a doctor is suspected of having violated medical ethics, it is not necessarily a violation of legal norms. If a doctor violates the code of ethics, the Honorary Council for Medical Ethics has the right to summon and conduct a trial which will then be held accountable if it is proven that he has violated the doctor's professional code of ethics.

Professional standards will continue to go hand in hand with service standards. Service standards will regulate the main actions of medical practice that become guidelines related to doctor discipline, which will be the main task of the Indonesian Doctors Honorary Council in enforcing them. Violations of physician discipline are mapped into 3 parts, namely related to the competence of doctors in dealing with patients, not carrying out their professional duties and responsibilities, and taking deviant actions that can damage the patient's dignity and honor.¹⁵

Service standards must also be applied to health service providers such as hospitals. Handling of patients must be done properly because if the patient's rights are fulfilled then this will become a benchmark for the quality of service. The government participates in helping in terms of improving the quality of services, especially for people who experience financial difficulties or difficulties in reaching hospital locations. This is realized by establishing a Health Social Security Administering Body which has the task of providing social security to the entire community.

The government is cooperating with the Health Social Security Administering Body and several hospitals throughout Indonesia in order to achieve the target of creating comprehensive health services. The Health Social Security Administering Body has its own qualifications for hospitals

¹⁴ Camelia, F. (2020). Analisis landasan ilmu pengetahuan dan teknologi. *Susunan Artikel Pendidikan*, 5(1), 57–65.

¹⁵ Setiani, B. (2018). Pertanggungjawaban Hukum Perawat Dalam Hal Pemenuhan Kewajiban dan Kode Etik Dalam Praktik Keperawatan. *Jurnal Ilmiah Ilmu Keperawatan Indonesia*, 8(04), 497–507. <https://doi.org/10.33221/jiiki.v8i04.154>

that wish to cooperate. Minister of Health Regulation Number 99 of 2015 concerning Amendments to the Regulation of the Minister of Health Number 71 of 2013 concerning Health Services in the National Health Insurance that a mandatory requirement for hospitals wishing to cooperate with the Health Social Security Administering Body is the possession of an accreditation certificate.¹⁶

Having accreditation alone is not a guarantee that the hospital has officially entered into a cooperation agreement. Furthermore, the Health Social Security Administering Body will conduct a joint selection with the District and/or City Health Offices related to health facilities according to their needs. The need in question has its own criteria, namely the presence of human resources (doctors and/or dentists, nurses, and pharmacists who are judged to be competent in their respective fields), the existence of adequate facilities and infrastructure, and a commitment to service for the community.

The occurrence of a cooperation agreement between the Health Social Security Administering Body and the hospital will directly relate to all existing components related to the cooperation. The hospital and all medical personnel are committed to providing comprehensive health services to all participants of the Health Social Security Administering Body. In Article 52 of Law Number 24 of 2009 concerning Medical Practices, it is stated about the rights of patients, as will be explained in full regarding the actions to be taken to them; can communicate and ask for opinions or advice from doctors and/or other doctors; the right to receive medical services according to the patient's needs; the patient has the right to refuse any medical action that will be carried out by another doctor and/or doctor; and the patient has the right to receive the contents of the medical record.

Regarding the rights of patients, it will always relate to the code of ethics of the doctor's profession contained in Article 8 of the Indonesian Medical Code of Ethics that "a doctor is obliged, in every medical practice, to provide services competently with complete technical and moral freedom, accompanied by compassion. (compassion) and respect for human dignity". So it is only natural that in carrying out health services a doctor can respect every patient's rights.¹⁷

Any doctor who is suspected of robbing the patient's rights will be dealt with strictly by the Honorary Council of Medical Ethics. A doctor in carrying out his duties and responsibilities related to the provision of health services to the community must uphold a professional attitude which includes:

- a. Independence, namely providing services competently in accordance with Service Operational Standards optimally.
- b. Knowledge, providing health services in accordance with the knowledge he has. A professional doctor will know the limits related to what he needs to do and what he doesn't need to do to reduce medical risks.

¹⁶ BPJS Ketenagakerjaan, Retrieved from <https://www.bpjs-kesehatan.go.id/bpjs/post/read/2019/1019/Akreditasi-Rumah-Sakit-Jadi-Syarat-Wajib-Kerjasama-dengan-BPJS-Kesehatan>

¹⁷ Rozaliyani, A., Meilia, P. D. I., & Libritany, N. (2018). Prinsip Penetapan Sanksi bagi Pelanggaran Etik Kedokteran. *Jurnal Etika Kedokteran Indonesia*, 2(1), 19. <https://doi.org/10.26880/jeki.v2i1.11>

- c. Skill, a professional doctor must know the limits of his ability to treat patients. He does not have to solve all the complaints of the patient's illness. Everything depends on the ability of each individual doctor.¹⁸

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Many problems have occurred since the existence of the Health Social Security Administering Body. The number of participants of the Health Social Security Administering Body which is quite large sometimes makes health workers start to get overwhelmed. This will result in frequent refusals of patients participating in the Health Social Security Administering Body for various reasons. The act of refusing a patient is an individual attitude from the doctor, because every hospital that enters into a cooperation agreement with the Health Social Security Administering Body must have determined the standard service procedure as requested by the Health Social Security Administering Body.

The occurrence of patient refusal due to the attitude or individual thought of a doctor will have an impact on the hospital as an institution. Hospitals can be held accountable for the behavior of their employees. Rejection of patients is a discriminatory attitude that has violated the professional code of ethics, this is viewed from the main task of a doctor who must provide optimal health services in accordance with standard procedures.²⁰

a. Professional Accountability of Doctors and Hospital Agencies in Medical Disputes regarding the Code of Ethics

The government continues to make efforts to improve the quality standard of health services, especially for people who have lower middle income levels. Legal protection for underprivileged patients is a sure thing. Every patient's rights will continue to be protected as long as it does not conflict with the laws and regulations in the health sector. Various incidents of discrimination against underprivileged patients still often occur in Indonesia. Many of the Indonesian people are participants in the Health Social Security Administering Body to ensure their health services. The Health Social Security Administering Body is considered very profitable because it provides health insurance that can provide protection for a lifetime. In addition, the premiums offered by the participants of the Health Social Security Administering Body are also quite cheap so that they can be reached by people who are experiencing financial difficulties.

With the comfort and convenience offered to participants, the Health Social Security Administering Body makes it easy for people to realize their health-related interests. This is one of the rights of a patient so that a doctor

¹⁸ Pengurus Besar Ikatan Dokter Indonesia. (2012). Kode Etik Kedokteran Indonesia. Retrieved from <http://www.idai.or.id/professional-resources/ethic/kode-etik-kedokteran-indonesia>

¹⁹ Majelis Kehormatan Etika Kedokteran (MKEK). (2012). *Kode Etik Kedokteran Indonesia dan Pedoman Pelaksanaan Kode Etik Kedokteran Indonesia*. Kode Etik Kedokteran (pp. 1-80). Retrieved from <http://www.idai.or.id/professional-resources/ethic/kode-etik-kedokteran-indonesia>

²⁰ Zulhasmar, E. (2008). Implikasi Hukum Penolakan Tindakan Medik. *Lex Jurnalica*, 5(2), 83-111.

or hospital must provide optimal service to all patients. Patient refusal is an act of violating the code of ethics in the health sector carried out by both the medical profession and hospital agencies. Patients can file a lawsuit against a doctor or hospital if there is a refusal to provide health services.

The presence of law in the health sector will provide guarantees for every community to obtain optimal health services. In the Indonesian Code of Medical Ethics, it is explained that a doctor must be sincere and use his knowledge in the health sector to provide maximum service to patients. A doctor must do his job well and be limited to his abilities without any discrimination.²¹ If the patient's interests are not in his area of expertise, a doctor must refer the patient to another doctor who has the ability according to the patient's interests.

The medical profession is a profession that emphasizes humanity by prioritizing the safety and health of patients and not prioritizing personal interests. The obligations of doctors and dentists have been regulated in Article 51 of Law Number 29 of 2004 concerning Medical Practice, including:

- 1) Provide medical services in accordance with professional standards and standard operating procedures as well as the patient's medical needs;
- 2) Refer the patient to another doctor or dentist who has better skills or abilities, if unable to carry out an examination or treatment;
- 3) Keep everything he knows about the patient, even after the patient dies;
- 4) Perform emergency assistance on a humanitarian basis, unless he believes that someone else is on duty and capable of doing it; and
- 5) Increase knowledge and follow the development of medical science or dentistry.

There are situations and conditions that allow doctors and hospitals to refuse patients. This is regulated in the Regulation of the Minister of Health Number 1 of 2012 Articles 7 and 9, namely:²²

- 1) Doctors are not competent enough and there are other doctors who are more competent to handle the patient's illness.
- 2) Inadequate hospital facilities or unavailability of inpatient rooms for patients (full hospital). So with this, a doctor needs to make a referral letter to another hospital so that patients can be treated quickly.

If a doctor must refuse to provide health services to a patient, it is necessary to have a clear explanation and reason for the refusal. Not only that, doctors must also provide other solutions so that patients can be treated immediately.

Patient refusal is explained in more detail in Article 59 of Law Number 36 of 2014 concerning Health Workers which explains that hospital doctors are prohibited from refusing patients and/or asking for advances if the patient

²¹ Borysowski, J., Ehni, H. J., & Górski, A. (2021). Ethics codes and medical decision making. *Patient Education and Counseling*, 104(6), 1312–1316. <https://doi.org/10.1016/j.pec.2020.10.034>

²² Paulia L.T, Retrieved from <https://www.alomedika.com/kajian-etik-dan-medikolegal-mengenai-menolak-pasien>

is in an emergency condition.²³ The government always provides guidelines to doctors and hospitals that providing medical services to the community is a priority. Problems regarding administration cannot be the basis for doctors or hospitals to refuse patients. The refusal of a patient participating in the Health Social Security Administering Body is included in a medical dispute. In the world of health, there are three medical disputes, namely: Medical disputes regarding the code of ethics; Medical disputes about discipline or professional standards; and Medical disputes about law.

The patient's refusal becomes a medical dispute because a doctor is considered to have discriminated against the patient's rights. Doctors violate the rules in Article 10 of the Indonesian Doctor's Code of Ethics which stipulates that a doctor must respect the rights of every patient. Patients can report to the Medical Ethics Honorary Council.²⁴ Doctors who are suspected of committing ethical violations will be summoned and conduct a trial. The trial was conducted by the Honorary Council of Medical Ethics of the Indonesian Doctors Association. Trials conducted by the Honorary Council of Medical Ethics to protect the professionalism of the medical profession. A trial by the Medical Ethics Honorary Council can be held even if there is no plaintiff.

In the trial by the Medical Ethics Honorary Council, a proof system will be carried out in the form of: Oral and/or written statements obtained directly from the parties involved in the alleged refusal of the patient (plaintiffs, defendants, and other parties deemed related), and documents related to medical profession, such as a diploma or license to practice medical personnel, licensing from the agency where the incident occurred, licensing letters related to the relationship between doctors and hospitals, informed consent, medical records, or other certificates related to the alleged refusal of the patient.

In the trial the Honorary Council of Medical Ethics and the Honorary Council of Indonesian Doctors applied similar regulations related to decision-making actions.²⁵ Decisions regarding violations committed by doctors will be made based on the evidence that has been provided. If the evidence is strong enough, the doctor will receive a sanction given by the Medical Ethics Honorary Council. The sanction imposed by the Honorary Council for Medical Ethics is a warning and a means of rehabilitation for a doctor. In addition, by giving sanctions to doctors who commit violations, the community can also be protected so that there are no negative things related to patient refusal in the future.

²³ Ni nyoman, A. R. P. (2020). *Tanggung Jawab Hukum Dalam Penolakan Pasien Jaminan Kesehatan Nasional*. 1–23.

²⁴ Nurdin, M. (2015). *Prinsip Perlindungan Hukum Terhadap Pasien Atas Korban Malpraktek Kedokteran*, Publikasi: Samudera Keadilan. Vol 10 No. 1 Januari-Juni 2015. Retrieved from <https://media.neliti.com/media/publications/240395-perlindungan-hukum-terhadap-pasien-atas-97f6abae.pdf>

²⁵ Rozaliyani, A., Meilia, P. D. I., & Libritany, N. (2018). Prinsip Penetapan Sanksi bagi Pelanggaran Etik Kedokteran. *Jurnal Etika Kedokteran Indonesia*, 2(1), 19. <https://doi.org/10.26880/jeki.v2i1.11>

There are three stages of imposing sanctions for doctors who violate the code of ethics, namely:²⁶

- 1) The first stage, the Medical Ethics Honorary Council must formulate and know the purpose of giving sanctions to doctors who reject patients. The sanctions must also take into account the guarantee of protection to the community. Giving sanctions to doctors must include reasons so that the perpetrator understands the intent and purpose of giving sanctions to him. The explanation is done specifically to avoid misinformation.
- 2) The second stage, the Medical Ethics Honorary Council determines the severity and severity of the sanctions to be given. This can be assessed from the mistakes made by the doctor. The severity and severity of the sanctions given to doctors must also be considered from the history of violations. If the doctor has previously committed a similar violation or did not eat, the sanctions given will be heavier. In addition, it must also pay attention to related factors such as the intent and purpose, intentions, or the individual condition of the doctor at the time the incident took place.
- 3) The third stage, the Medical Ethics Honorary Council imposes sanctions on doctors who reject patients by continuing to carry out regular supervision. The sanctions given to the doctor will continue to be evaluated related to the effectiveness of the sanctions given.

Sanctions imposed on doctors who violate the code of ethics vary according to the level of error. The Honorary Council for Medical Ethics may impose sanctions in the form of excommunication of a doctor from a health organization, orders to conduct studies, not being involved in seminars, or revocation of license to practice (non-active).

Violating medical professional ethics in the form of refusing patients can have fatal consequences. This happened at the Bintan Regional General Hospital, a doctor refused a patient from the Social Security Administering Body so that the patient died. Doctors and hospitals are prohibited from refusing patients who are already in an emergency. As a result of this action, doctors and other medical personnel who participate in the refusal will be given a sanction in the form of temporarily deactivating the practice permit.

In addition to reporting to the Honorary Council for Medical Ethics, patients who experience rejection of medical treatment services can file a civil lawsuit to the court within the general court. Doctors who violate the code of ethics can be examined by the Honorary Council for Medical Ethics and can also be examined in court without having to be interrelated. The Honorary Council for Medical Ethics will impose sanctions in accordance with the acts of violating the code of ethics carried out based on the Indonesian Medical Ethics Code, while the general court will provide penalties in the form of compensation for the actions of doctors based on the Civil Code.

The juridical basis that a patient can use in suing a doctor who refuses a patient is Article 1365 (unlawful acts) of the Civil Code which states “Every

²⁶ Rozaliyani, A, Meilia PDI, Liberty N. 2018. *Prinsip Penetapan Sanksi Bagi Pelanggaran Etik Kedokteran*, Publikasi: JEKI/ilmiah.id. Vol 2 No. 1. Retrieved from https://www.researchgate.net/publication/323862277_Prinsip_Penetapan_Sanksi_bagi_Pelanggaran_Etik_Kedokteran

act against the law, which causes harm to another person, obliges the person who because of his mistake to issue the loss, compensate for the loss.” Furthermore, Article 1365 of the Civil Code explains that to be able to say that the act is an unlawful act, it is necessary to fulfill 4 (four) elements of an unlawful act, namely: material or immaterial, and negligence or omission, in this case it is known from evidence in the form of information given by doctors, patients, or interested parties in the event of patient refusal. Other legal evidence according to the Civil Procedure Code is described in Article 164, namely in the form of letters, witnesses, confessions, oaths, and judges' suspicions. There is a causal relationship between errors and losses, where the act of a doctor who refuses to provide services is a violation of the code of ethics. With this refusal, a patient who needs help from a doctor can suffer losses in the form of the loss of someone’s life. This is very possible when the patient is in an emergency. And the existence of unlawful acts such as patient refusal is a violation committed by doctors related to the rights of a patient. According to Article 52 of Law Number 29 of 2004 concerning Medical Practice which explains that “Patients have the right to receive services according to their medical needs”.

Regarding the refusal to provide health services, the hospital agency as the place where the service is carried out can also be held accountable. This relates to the rights of patients contained in Article 32 letters c, d, e, q, (related to cases of patient refusal) Law Number 44 of 2009 concerning Hospitals. “Every patient has the right to receive services that are humane, fair, honest and without discrimination”. “Every patient has the right to obtain quality health services in accordance with professional standards and standard operating procedures”, “Every patient receives effective and efficient services so that patients avoid physical and material losses” and “to sue and/or sue the hospital if the hospital suspected of providing services that are not in accordance with standards, both civil and criminal.²⁷

In refusing a patient, the hospital can file a civil lawsuit based on Article 1367 of the Civil Code. Article 1367 explains “a person is not only responsible for losses caused by his own actions, but also for losses caused by the actions of people who are his dependents or caused by goods under his control”.

A hospital that agrees to a cooperation agreement with the Health Social Security Administering Body means that it has agreed on operational standards in an effort to provide health services to participants of the Health Social Security Administering Body. If one of the parties violates the elements of the agreement between the two, it can be said to be negligence. The occurrence of rejection of the patient is a negligent act by the hospital because it does not supervise the people under its supervision. With this, it will be related to the responsibility of the hospital to the people under its supervision, namely all health workers who work in the hospital. For permanent doctors who work in hospitals where patient refusal occurs, the hospital needs to take responsibility.

²⁷ Rozaliyani, A., Meilia, P. D. I., & Libritany, N. (2018). Prinsip Penetapan Sanksi bagi Pelanggaran Etik Kedokteran. *Jurnal Etika Kedokteran Indonesia*, 2(1), 19. <https://doi.org/10.26880/jeki.v2i1.11>

In addition to being subject to civil liability, hospital leaders as agencies or places where patient rejection occurs can also be subject to criminal liability. This is based on Article 190 of Law Number 36 of 2009 concerning Health which explains that "leaders of health care facilities and/or health workers who practice or work at health care facilities who intentionally do not provide first aid to patients who are in an emergency condition. emergency as referred to in Article 32 paragraph (2) or Article 85 paragraph (2) shall be sentenced to a maximum imprisonment of 2 (two) years and a maximum fine of Rp. 200,000,000 (two hundred million rupiah).

IV. CONCLUSION

There are a large number of participants in the Health Social Security Administering Body in Indonesia. This indicates that more and more people need easy access to health services. This must be supported by human resources (doctors, nurses, and related parties) and agencies such as hospitals or health centers in improving the quality of health services. a doctor has a professional code of ethics in carrying out his duties, that he must perform health services sincerely in accordance with his competence to be able to provide optimal service to patients while respecting human dignity. If a doctor violates the professional code of ethics, he will be summoned and tried by the Honorary Council of Medical Ethics. The Medical Ethics Honorary Council has the authority to conduct trials whether there are demands or there are no demands. In some circumstances, the doctor may refuse the patient. The conditions in question are: Doctors are not competent enough and there are other doctors who are more competent to handle the patient's illness. Inadequate hospital facilities or unavailability of inpatient rooms for patients (full hospital). In this regard, a doctor needs to provide a referral letter to another hospital so that the patient can be treated quickly. Apart from the reasons mentioned above, doctors or institutions are prohibited from refusing patients. In Law Number 29 of 2004 concerning Medical Practice, it has provided certainty regarding the rights of a patient to obtain health services. Law Number 44 of 2009 concerning Hospitals has regulated the procedures for implementing hospital service activities that every time they perform services, hospitals are not allowed to refuse patients on the basis of discrimination or social interests.

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