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1 LEGAL PROTECTION OF MEDICAL STAFF IN HOSPITALS DURING THE COVID-19 PANDEMIC ERA

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ABSTRACT

This research begins with the Covid-19 pandemic which requires serious control because it has had a deleterious impact on society, especially medical staff in hospitals. The research focus is aimed at the legal protection of medical staff in hospitals and the state's responsibility for health workers. The research method used is library research, which is a method used by studying literature such as books, legislation and articles, journals related to the subject matter. Primary data used in field research, through interviews with related parties, namely hospitals and medical staff. The focus of the discussion is to emphasize more on laws and regulations related to Social Distancing / Physical Distancing policies as regulations for legal protection of medical staff as the frontline and state responsibility for medical staff. The results showed that various laws and regulations as a policy for handling Covid-19 cannot be realized concretely in the field because they are related to different bureaucracy and implementation. The role of the state in its responsibility for health workers is not. The responsibility of the state in this case is that the Government and Administrators of Health Service Facilities are obliged to ensure the sustainability of the availability of standardized Personal Protective Equipment (PPE) for health workers who work in health service facilities.

Keywords: Legal protection, medical staff, state responsibility and covid-19.

INTRODUCTION

To educate life and protect the entire nation, is the obligation of our country, as mandated in the fourth paragraph of the Preamble to the 1945 Constitution. In this case educating is not only about education, but also protecting people with regard to health. The world is still haunted by the Covid-19 pandemic, a respiratory tract infection caused by SARS-Cov2. According to the World Health Organization (WHO), the transmission is still ongoing.

In Indonesia up to July 28, 2020 there were 100,303 confirmed people, 4838 people died and 1525 new cases. The current handling of the Covid-19 outbreak can be seen in the form of breaking the chain of spread of the virus because no cure or vaccine has been found for this virus. The increase in the number of patients from time to time is a very complicated problem related to the capacity of the hospital and the number of medical personnel who will handle and treat patients. Likewise with limited facilities and medicines.

To follow up on the response to the COVID-19 pandemic, the government has issued several regulations, including: Large-Scale Social Restriction¹³, the Task Force for the Acceleration of Handling Corona Virus Disease 2019, the determination of non-natural disasters for the spread of Covid 19 as a national disaster and other regulations. The issuance of regulations in the context of handling the spread of Covid 19 is an effort to support the existence of Law Number 24 of 2007 which defines disease outbreaks as one of the non-natural disasters that need to be managed with potential threats.

However, on the other hand, in fact, the demand for people to carry out physical distancing, using masks as personal protective equipment is still only an appeal and certainly not enough, many people still ignore this appeal. For this reason, the community's obligation to carry out social distancing, using masks must be included in regulations, which if ignored will result in consequences in the form of sanctions. Apart from the foregoing, another important issue is regarding the protection of health workers as the front line providing medical assistance and care to patients in the hospital.

Given the serious impact of the Covid 19 pandemic, it is necessary to take protective steps for the community. The protection referred to can include protection for the general public, health workers as the front guard. For this reason, it is necessary to look at comprehensive legislation in the field of handling disease outbreaks. It is necessary to look at the existing health-related laws and regulations, look at current realities and anticipate them.

Based on what the authors describe above, the authors are interested in discussing the Legal Protection of Health Workers in Hospitals in the Covid Pandemic Era 19, with the problem: How are the Legal Aspects of Protection of Medical Staff in Covid 19 Pandemic Era Hospitals and how is the state's responsibility to health workers in the Covid pandemic era -19.

METHODOLOGY

This research method is library research, which is a method used by studying literature such as books, legislation and articles, journals related to the discussion material in the Covid 19 pandemic used to support the discussion of legal aspects of the protection of medical staff in pandemic era hospitals. covid 19. To collect primary data, field research was used, through interviews with related parties, namely hospitals and medical staff.

DISCUSSION

A. Legal Basis for Covid -19

Handling Regulations The legal basis used is the 1945 Constitution of the Republic of Indonesia, which is a constitutional basis. Article 28 H, paragraph (1) states that everyone has the right to live in physical and spiritual prosperity, to have a place to live and to have a good and healthy living environment and to have the right to receive health services. Other regulations in the form of law, namely:

1. Law No. 4 of 1984 concerning Outbreaks of Infectious Diseases
2. Law Number 24 of 2007 concerning Disaster Management
3. Law Number 36 Year 2009 concerning Health
4. Law Number 6 Year 2018 concerning Health Quarantine
5. Law Number 36 of 2014 concerning Health Workers
6. Law Number 29 Year 2004 concerning Medical Practice

The Invitation Laws that can be used as a concrete basis in the field as Covid services in hospitals include:

1. Presidential Regulation Number 17 of 2018 concerning Implementation of Disaster Emergencies in Certain Conditions
2. Presidential Decree Number 11 of 2020 concerning the Establishment of a Public Health Emergency for COVID-19.
3. Presidential Decree Number 12 of 2020 concerning the designation of non-natural disasters for the spread of Corona Virus Disease 2019 (COVID-19) as a National Disaster.

4. Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions in the context of the Acceleration of Handling Covid-19
5. Presidential Decree Number 7 of 2020 concerning the Task Force for the Acceleration of Handling of Corona Virus Disease 2019.
6. Presidential Decree Number 9 of 2020 concerning Amendments to Presidential Decree Number 7 of 2020 concerning the Task Force for the Acceleration of Handling Corona Virus Disease 2019
7. Decree of the Minister of Health of the Republic of Indonesia Number Hk.01.07 / Menkes / 413/2020 concerning Guidelines for the Prevention and Control of Coronavirus Disease 2019
8. Indonesian Medical Council Regulation Number 74 of 2020 concerning Clinical Authority and Medical Practice through Telemedicine During the Corona Virus Diseases (Covid 19) Pandemic in Indonesia

B. Definition of Covid-16

The appeal letter of the Secretary General of the Ministry of Health Number: PK.02.01 / B.VI / 839/2020 states that Covid-19 is a disease that attacks the respiratory tract, caused by a virus that spreads through sputum droplets for which no cure or vaccine has yet been found. Coronavirus is a zoonotic (transmitted between animals and humans). The results showed that SARS was transmitted from civet cats to humans and MERS from camels to humans. Meanwhile, the animal that is the source of transmission of COVID-19 is still unknown. The incubation period for COVID-19 averages 5-6 days, with a range between 1 and 14 days but can reach 14 days. The highest risk of transmission is acquired in the first 4 days of illness due to high concentrations of the virus in secretions. An infected person can be infectious up to 48 hours before symptom onset (presymptomatic) and up to 14 days after symptom onset.

C. Legal Aspects of Protection of Health Workers in Covid Pandemic Era Hospitals 19

The 1945 Constitution in Chapter XA on Human Rights, Article 28H paragraph (1) "Every person has the right to live in physical and mental well-being, to live in, and to have a good and healthy living environment and the right to obtain health services." Furthermore, it is stated in Article 34 paragraph (3) mandating that "the State is responsible for the provision of proper health service facilities and public service facilities". The phrase "appropriate" can be interpreted as saying that the state is not only responsible for providing adequate health facilities, but health facilities with certain standards that are deemed appropriate.

In the Law of the Republic of Indonesia Number 36 of 2009 concerning Health, the rights of citizens are regulated. Article 4 states that everyone has the right to health. Article 5 states (1) Everyone has the same right to gain access to resources in the health sector. (2) Everyone has the right to obtain safe, quality and affordable health services. (3) Everyone has the right to independently and responsibly determine the health services that are necessary for himself. The issuance of regulations in the context of handling the spread of Covid 19 is an effort to support the existence of Law Number 24 of 2007 which defines disease outbreaks as one of the non-natural disasters that need to be managed with potential threats. Based on Law no. 4 of 1984 concerning Communicable Disease Outbreaks, Article 10 states that the Government is responsible for implementing epidemic control efforts. Article 5 paragraph (1) states that the epidemic control efforts include: epidemiological investigations; examination, treatment, care, and isolation of patients, including quarantine measures; prevention and immunization; elimination of disease causes; handling of bodies

due to the plague; outreach to the community; other countermeasures. Article 6 Paragraph (1) states that the efforts to overcome the epidemic shall be carried out by actively involving the community. In several legal aspects in the Covid 19 Virus Prevention, the focus is on Social Distancing / Physical Distancing Policies and Protection for Medical Staff as Front Guard.

1. Social Distancing/Physical Distancing Policy

UU no. 4 of 1984 concerning Communicable Disease Outbreaks, Article 1 letter a referred to as an epidemic is an outbreak of an infectious disease in a community where the number of sufferers increases significantly more than the usual conditions at a certain time and area and can cause disasters. Covid-19 transmission is already categorized as an epidemic considering that transmission is very fast and with the number of sufferers increasing at certain times and areas.

Limiting contact with other people is the best way to reduce the spread of Coronavirus 2019 (Covid-19). The World Health Organization (WHO) uses several terms, namely social distancing, physical distancing, quarantine and isolation or there are also large scale social restrictions. Social distancing is social distance which is also often referred to as "physical distance". This means maintaining distance between you and others outside your home. To implement social distancing you must be at least 2 meters away from other people. The World Health Organization (WHO) has started using the term physical distancing or physical distance as a way to avoid the wider spread of the corona virus.

The term social distancing then changes to physical distancing in accordance with the term used by WHO because the use of the term social distancing seems to stop social interaction in society while what is actually wanted is to maintain physical distance. From this, various activities that were initially carried out with a close physical distance were then converted into activities that created physical distance, among others, online learning (online method), use of the WFH (work from home) mechanism, closing shopping places (malls).) and other efforts that can prevent the spread of Covid 19. Even the Medical Council stipulates the Indonesian Medical Council Regulation Number 74 of 2020 concerning Clinical Authority and Medical Practice through Telemedicine During the Corona Virus Diseases Covid 19 (Covid 19) Pandemic in Indonesia. In Article 3 (1) Medical Practice during the Corona Virus Disease (Covid 19) pandemic can be carried out by Doctors and Dentists through face-to-face and / or through an electronic application / system in the form of Telemedicine by paying attention to effective communication.

Based on data that has been published in various mass media, several doctors who died were doctors who opened private practices. So, there is a possibility that doctors do not realize that patients who are accessing their health services are carriers of Covid-19. Therefore, in such a situation, care must be taken in maintaining a distance from the patient when carrying out medical procedures or examinations. This is of course very difficult for health workers because it is an obligation to provide assistance to patients. Therefore, in various hospitals a policy has been adopted to limit the number of patient visits in clinical clinics and limit operations and elective medical actions unless emergency surgery is carried out with strict health protocols. Patients and families who care for them in the hospital must have a PCR test before surgery or surgery. This is for the protection of doctors, nurses and other medical staff in the hospital.

2. Protection for Health Workers

Medical Staff are at the forefront of daily care for Covid-19 patients with a very high risk of transmitting the virus. Legal protection for health workers is often neglected, as if the community is apathetic and ⁵believes that it is their duty and responsibility as medical personnel. The government needs to guarantee work protection and safety for medical personnel in an effort to deal with Covid-19. Protection of health workers rolled out after seven doctors died ⁵ due to positive infections, fatigue to heart attacks, so that working hours were arranged, increasing the number of referral hospitals, meeting the primary needs of each health worker, providing Personal Protective Equipment (PPE), then determining the priority scale for the provision of PPE .

Talking about legal protection, of course, cannot be separated from rights and obligations. Medical Staff are not protected, in this case the medical profession. When doctors do not get their rights or there are violations committed by patients who do not carry out their obligations. The violation of doctors' rights related to Covid-19 patient care that often occurs is that patients do not provide honest information about their condition as ODP or PDP so that they are increasingly prone to transmission of the Covid-19 virus which of course has a domino effect on doctors, nurses, other medical staff, patients and even their families. This violation clearly contradicts the provisions of Article 50 letter c of Law Number 29 Year 2004 concerning Medical Practice, that doctors are entitled to obtain complete and honest information from patients or their families. The full rights and obligations of doctors are contained in Article 50 of the Medical Practice Law. Doctors have the right to carry out their medical practice. In addition to violations of the right to honest information, the protection that must be given to medical staff, whether doctors or nurses, is the availability of Personal Protective Equipment (PPE). PPE is a doctor's right that must be fulfilled for their safety and in order to work in accordance with professional standards, as mandated in Article 50 letter (b) of the Law on Medical Practice which states that, in practicing medicine, doctors have the right to provide medical services according to professional standards and standard operating procedures. Medical service standards for the care of patients in the infectious epidemic category must be equipped with PPE in accordance with medical standards.

¹¹ Protection of medical staff has also been regulated in Articles 8 and 9 of Law No. 4 of 1984 on Contagious Disease Outbreaks. Article 8 paragraph (1) of the Law states that those who suffer property losses as a result of the efforts to contain the epidemic as referred to in Article 5 can be compensated. Likewise, Article 9 paragraph (1) has also been explicitly regulated that certain officers who carry out epidemic control efforts as referred to in Article 5 can be rewarded for the risks they bear in carrying out their duties. Article 9 of the Infectious Disease Outbreak Law is indeed fair and commensurate with the risks faced by medical staff.

The role and responsibility of the state to carry out the mandate of the provisions of Article 9 is mandatory because it is a legal obligation which impacts on the rights of medical staff that must be fulfilled. Legal certainty is an important instrument in ensuring the safety of medical staff so that the government cannot take arbitrary actions against the assignment of medical staff. Especially if you look at the regulations regarding medical staff, it seems that there is no one that regulates legal certainty for medical staff even though there is Law Number 36 of 2014 concerning Medical Staff, but currently there are no technical guidance regulations on the Medical Staff Law and other laws that regulates legal protection and work safety for medical staff.

CONCLUSION

1. Several regulations for handling Covid 19 in Indonesia include: Law no. 4/1984 concerning Outbreaks of Infectious Diseases, Law no. 24/2007 concerning Disaster Management, Law no. 36/2009 on Health, Law no. 6/2018 concerning Health Quarantine, Law no. 36/2014 concerning Health Workers, Law no. 29/2004 concerning Medical Practice, Presidential Decree No. 17/2018 concerning the Implementation of Disaster Emergencies in Certain Conditions, Presidential Decree No. 11/2020 concerning the Determination of Public Health Emergencies for COVID-19, Presidential Decree No. 12/2020 concerning the determination of non-natural disasters for the spread of Corona Virus Disease 2019 (COVID-19) as a National Disaster, PP No. 21/2020 concerning Large-Scale Social Restrictions in order to Accelerate the Management of Corona Virus Disease, Presidential Decree No. 7/2020 Regarding the Task Force for the Acceleration of Handling Corona Virus Disease 2019, and the Minister of Health Decree Hk.01.07 / Menkes / 413/2020 concerning Guidelines for the Prevention and Control of Coronavirus Disease 2019 (Covid-19). The government has issued various regulations mentioned above, but there are no concrete norms from the Medical Staff force Law and other laws that regulate legal protection and work safety for Medical Staff in the Covid 19 Pandemic era.
2. The responsibility of the state in this case is that the Government and Administrators of Health Service Facilities are obliged to ensure the sustainability of the availability of standardized Personal Protection Equipment (PPE) for medical staff who work in health service facilities. The government needs to ensure a system is in place to identify and break the chain of transmission through detection, testing, isolation and treatment of all cases. Hospital capacity needs to be assessed, increased and made sure it is available to deal with a spike in the number of cases again.

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Regulation

Undang-Undang Dasar 1945

Undang-Undang Nomor 4 Tahun 1984 tentang Wabah Penyakit Menular

Undang-Undang Nomor 24 Tahun 2007 tentang Penanggulangan Bencana

Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan

Undang-Undang Nomor 6 Tahun 2018 tentang Kekarantinaan Kesehatan

Undang-undang Nomor 36 Tahun 2014 tentang Tenaga Kesehatan

Undang-Undang Nomor 29 Tahun 2004 Tentang Praktek Kedokteran

Peraturan Presiden Nomor 17 Tahun 2018 tentang Penyelenggaraan Kedaruratan Bencana pada Kondisi Tertentu

Keputusan Presiden Nomor 11 tahun 2020 tentang Penetapan Kedaruratan Kesehatan Masyarakat COVID-19.

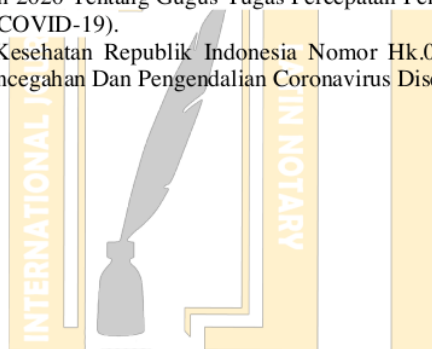
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Keputusan Presiden Nomor 7 Tahun 2020 Tentang Gugus Tugas Percepatan Penanganan Corona Virus Disease 2019.

Keputusan Presiden Nomor 9 Tahun 2020 tentang Perubahan Atas Keputusan Presiden Nomor 7 Tahun 2020 Tentang Gugus Tugas Percepatan Penanganan Corona Virus Disease 2019 (COVID-19).

Keputusan Menteri Kesehatan Republik Indonesia Nomor Hk.01.07/Menkes/413/2020 Tentang Pedoman Pencegahan Dan Pengendalian Coronavirus Disease 2019 (Covid-19)



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