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## Hospital Responsibilities Toward Patients In The Implementation of Health Services

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### Keywords

Health; Patient Rights;  
Hospital

### Abstract

Law Number 36 of 2009 concerning Health provides legal protection for the right to health services. Everyone has the right to health, according to Article 4. To prevent medical errors in patient care, hospitals ensure that doctors and other health workers have legal protection. Patients also receive legal protection from hospital liability and from doctors and other health professionals. Every person has the right and legal right to obtain health services, and the public is free to utilize government and/or regional government health resources. The right to receive public health services, especially in government hospitals, needs to be implemented specifically to guarantee health financing for the poor, and emergency financing in hospitals due to disasters and extraordinary events. Therefore, legal protection of the right to obtain health services for the community is part of implementing the protection of human rights. The fulfillment of the right to adequate health services through hospital facilities is guaranteed and implemented by the government and/or regional governments. The hospital's responsibility for implementing patient rights, including the right to medical information, the right to consent to medical procedures, the right to choose a doctor, and the right to the contents of medical records, has not been implemented properly by the provisions and regulations of the laws and regulations applicable in the health sector



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### 1. Introduction

Health is a human right and one of the elements of prosperity that must be achieved, by the goals of the Indonesian nation as stated in Pancasila and the Preamble to the 1945 Constitution of the Republic of Indonesia. Therefore, all efforts and actions must be taken to improve the level of public health (Ampera, 2018). High-level implementation based on non-discriminatory, participatory, protective, and sustainable principles is very important for developing Indonesia's human resources, increasing the nation's resilience and competitiveness, and encouraging national development (Kartikawati, 2021).

Every person has the right to access health services, this has been confirmed by Article 28 H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The provision of health service facilities and public service facilities is the responsibility of the State, by Article 34 paragraph (Dharmawan, 2021). worthy. Hospitals, one of the organizations providing health services, are one of the health resources needed to support the implementation of health efforts. Providing health services in hospitals requires several complex organizational elements and procedures. interaction between different medical specialists and relevant scientific tools. Hospital challenges are becoming

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increasingly difficult due to the need for health workers who must keep up with rapid advances in medical research and technology to provide high-quality services (Arifin, 2016). The legal regulations that form the basis for hospital management are still at the ministerial level so they are no longer sufficient to meet needs. A legal document is needed that regulates the Hospital as a whole in the form of statutory regulations, so Law Number 44 of 2009 concerning Hospitals (Hospital Law) was issued to provide legal certainty and protection to perfect, direct, and provide a framework for the implementation Hospital. hospital management (Ampera, 2018).

The Hospital Law, the Health Law (which replaces Law Number 23 of 1992 concerning Health), and can also be related to Law Number 8 of 1999 concerning Consumer Protection, Law Number 25 of 2009 concerning Public Services, and Law Number 11 of 2009 concerning Social Welfare, However, because of the many regulations related to this matter, some many laws and regulations regulate the relationship between health workers (paramedics), hospitals and patients. others, which consequently leads to inadequate implementation. As a type of health facility, hospitals are an important component of health resources needed to support the implementation of public health initiatives (Maatisya & Santoso, 2022). The characteristics and organizational structure of providing health services in hospitals are quite complicated. Interaction between various health professionals and related scientific tools. Healthcare professionals must keep up with rapid advances in medical research and technology to provide high-quality services, which makes hospital problems increasingly difficult to solve. In essence, hospitals function as a place to treat disease and restore health, and this task implies that the government must be responsible for improving the level of community welfare. Law Number 44 of 2009 regarding Hospitals is the legal basis for running hospitals.

The government has an important role in providing excellent public services for all citizens by Law No. 25 of 2009 regarding Public Services in Article 1 states the following: (Ningrum & Arif, 2022)

"Public Service is an activity or series of activities in order to accomplish service needs by statutory regulations for every citizen and resident for goods, services and/or administrative services supplied by public administrators"

Service itself is essentially an effort to help prepare everything that other people need and can provide satisfaction by the wishes expected by consumers. (Widiastuti, 2017) The government was not created to serve, but to serve society and create conditions that enable every member of society to develop their abilities and creativity to achieve common goals (Ampera, 2018). It is hoped that this development effort can realize an optimal level of community life, including improving health.

The purpose is to develop, direct, and strengthen the basis for hospital management by providing legal clarity and protection. Health professionals, especially paramedics, who are an important component in this process, have a direct impact on the provision of health services and the quality of those services. In contrast, paramedics' capacity to perform medical interventions on behalf of others is determined largely by their knowledge, technological proficiency, and competence, all of which they have developed through education and training. Technology and science advance along with scientific progress which must continue to be preserved and improved. With the special equipment they have, health workers—predominantly paramedics—have diverse qualities. The legal justification for carrying out medical operations on people to maintain and improve their health status provides evidence of this uniqueness. Non-health professionals who perform medical procedures on the human body also commit crimes. Public lawsuits are currently on the rise, public trust in medical professionals is declining (especially in paramedics), and services that do not comply with norms and procedures are often blamed. On the other hand, the lack of understanding by the medical community (doctors, nurses, and hospitals) regarding the legal aspects of their profession is also a cause of medical disputes. This can be prevented if the medical community (and society) understands the limits of their respective rights and responsibilities when providing or obtaining health services.

Every customer or service recipient certainly wants satisfaction in receiving a service. According to Aziz, the criterion of success in equipping a service is determined by the satisfaction level of the recipient. Service recipient satisfaction is achieved if the service recipient receives services by what is needed and expected.

## 2. Materials and Methods

This study uses a normative juridical method, namely reviewing or evaluating secondary data in the form of secondary legal documents and viewing law as a set of guidelines or standards that are desired in the legal framework that regulates human existence. Researchers attempt to summarize salient events and situations without giving them extra prominence. Thus, this research includes library research, namely secondary data research (Wahyuni, 2019).

This research is considered normative legal research, so the type of data used is secondary data. The secondary data studied is primary data originating from legislation, public service regulations, and legal dictionaries. As secondary data is used in this research, data is collected through methodical collection, analysis, and processing of

library resources and related papers. Library materials are used to collect secondary information about basic, additional, and tertiary legal materials while still paying attention to the principles of recency and relevance

### 3. Results and Discussions

#### Legal Regulations Regarding Health Services in Hospitals

Health care services are every person's right guaranteed in the 1945 Constitution to make efforts to improve the health status of both individuals and groups or society as a whole. (Sudjadi, Widanti, Sarwo, & Sobandi, 2017) According to the Ministry of Health of the Republic of Indonesia in 2009 (Depkes RI), what is meant by "health services" is any action carried out by a person or group of people who work together in an organization to maintain and improve health, prevent and treat disease, and restore health to individuals, families, groups, or communities. According to Article 52 paragraph 1 of the Health Law, there are two types of health services provided in general:

a. Personal health services (medical services)

To treat illnesses and improve the health of individuals and families, many of these health services are offered independently by individuals (self-care), families (family care), or groups of community members. These individualized service initiatives are conducted in medical facilities known as hospitals, birthing centers, and independent practices.

b. Public health services (public health services)

To maintain and improve health, communities and groups provide public health services which include promotive and preventive efforts. These community involvement activities are carried out at certain community health clinics, such as community health centers. Complete health service activities as referred to in paragraph (1) are regulated in Article 52 paragraph 2 of the Health Law, namely:

- Promotive health services are an activity and/or series of health service activities that prioritize health promotion activities.
- Preventive health assistance is an activity to prevent a health problem/disease.
- Curative health services, are an activity and/or series of treatment activities aimed at curing disease, reducing suffering due to disease, controlling disease, controlling disability so that the quality of sufferers can be maintained as optimally as possible.
- Rehabilitative health services, activities, and/or a sequence of activities to return former sufferers to society so that they can function again as members of society who are useful for themselves and society, as much as possible according to their abilities.

As society's need for health services increases, the role of law in encouraging progress in health services also increases. To improve health services that emphasize legal protection and predictability, this explanation encourages governments and organizations that provide health services to implement legal foundations and functions to be tolerant. The legal basis for health services in general is outlined in Article 53 of the Health Law, specifically:

a. Personal health services are intended to cure disease and restore the health of individuals and families.

b. Public health services are aimed at maintaining and improving health and preventing disease in a group and community.

c. The implementation of health services as intended in paragraph (1) must prioritize the safety of patients' lives over other interests.

Then, Article 54 of the Health Law also regulates the provision of health services, namely:

a. The provision of health services is carried out in a responsible, safe, quality, equitable, and non-discriminatory manner.

b. The government and regional governments are responsible for the implementation of health services as intended in paragraph (1).

c. Supervision of the implementation of health services as intended in paragraph (1) is carried out by the government, regional government, and the community.

The legal relationship between hospitals in this case and patients who receive health services arises because health services are also a legal act. This professional activity or activity includes activities in the field of preventive and curative services for the benefit of patients. By hospital service standards, hospitals are obliged to prioritize patient needs to provide safe, quality, anti-discriminatory, and effective health services, by Article 29 paragraph (1) letter (b) Hospitals. Law.

Parties related to every health service activity, whether in hospitals, health centers, clinics, or private practices, include:

a. Doctor

A doctor is someone who is legally qualified to provide medical services, including diagnosing and treating disease, as well as other services related to the healthcare industry. The definition of a doctor according to Article 1 Paragraph 11 of Law no. 29 of 2004 is work carried out by knowledge, competencies obtained through educational levels, and a code of ethics that serves the community.

A doctor must know the legal requirements relevant to the practice of medicine, including equality of rights and obligations within the profession (Ibrahim, 2022). Doctors' awareness of their legal obligations both towards themselves and towards others in carrying out their profession must truly be understood by doctors as bearers of rights and obligations.

b. Nurse

The essence of a nurse's work is always in situations involving people, where there is a process of mutual influence and contact that may affect everyone involved. Based on knowledge about comprehensive bio-psycho-social-spiritual services, aimed at individuals, families, and communities, both sick and healthy, the findings of the 1983 National Nursing Workshop showed that nursing is one type of professional service that is an important part of health services that cover the entire human life cycle.

As a profession, nursing has a social contract with society, which means that society trusts nurses to continuously maintain and improve the quality of services provided. Minister of Health Regulation no. H.K. 02. 02 /MENKES /148 I /2010 concerning Licensing and Implementation of Nursing Practice. Article 1 paragraph (1) explains the definition of a nurse as someone who has passed nursing education, by statutory regulations. In the process of the relationship between the nurse and the patient, the patient expresses his problem to get help, which means the patient entrusts himself to the nursing care provided.

c. Midwife

At the national and international level, many professionals recognize midwifery as a profession. A midwife is someone who has completed a state-approved midwifery education program, obtained the necessary qualifications, and been granted a license to practice midwifery in that country, by the definition provided by the International Confederation of Midwives (ICM) in 1972. Midwives must be able to supervise, strengthen, and give good advice. Women are expected to plan their births and care for babies and children during pregnancy, birth, and the postpartum period. To receive this treatment, a person must exercise caution, recognize any abnormalities in the mother and baby, seek medical assistance, and provide emergency care without the assistance of other medical professionals.

The definition of a midwife in Indonesia is a woman who has attended and completed midwifery education that has been recognized by the government and has passed an examination by applicable requirements and obtained qualifications for registration and obtaining a permit. Authentic Article 1 paragraph (1) Minister of Health Regulation no. H.K. 02. 02. /MENKES/149/2010 concerning Licensing and Implementation of Midwife Practice explains that what is meant by a midwife is a woman who has graduated from education and has been registered by statutory regulations. Midwives have an important task in health consultation and education, not only for women as their patients but also for their communities. This education includes antenatal care, family planning, and child care.

d. Pharmacist

According to the provisions of Government Regulation No. 51 of 2009 concerning Pharmaceutical Work, a pharmacist is a pharmacy graduate who has graduated as a pharmacist and has taken the pharmacist's oath of office. The duties of a pharmacist in providing health services regulated in PP 51 of 2009 concerning Pharmaceutical Work are as follows:

- Carrying out pharmaceutical duties such as ensuring the quality of pharmaceutical preparations, maintaining security, obtaining, storing, and distributing pharmaceutical supplies, managing drugs, providing prescription services and drug information, as well as creating new drugs and conventional treatments.
- In the pharmaceutical business, develop and update SOP (Standard Operational Procedure).
- When carrying out pharmaceutical work in the distribution or distribution of pharmaceutical preparations, comply with the provisions on good distribution procedures stipulated by the minister, including recording everything related to the process of distributing or dispensing pharmaceutical preparations.
- As the person responsible in the pharmaceutical industry for quality assurance, production, and quality control.
- As the person in charge of pharmaceutical service facilities, namely in pharmacies, infirmary pharmaceutical installations, health centers, clinics, drug stores, or joint practices.
- Implementing pharmaceutical services in pharmacies to answer the community's need for access to medicines in the context of public health promotion.

- Maintaining pharmaceutical confidentiality in the pharmaceutical industry and pharmacies regarding the production, distribution, and service processes of pharmaceutical preparations, including patient confidentiality.

These institutions are expected to contribute in the best and most efficient way possible. Community health centers, government and private hospitals, clinics, and other institutions that provide health services are places where health services can be obtained. In the interests of patients and their families in this situation, the implementing agency must offer high-quality health services to the community or patients. The need for good and skilled professional medical personnel and adequate hospital facilities, which are needed to improve health services, cannot be met by all health service institutions, thus adding to the complexity of the current health service system.

All public service delivery must comply with service standards and be transparent to provide trust to the recipients of the service. On July 18, 2009, the DPR RI and the President of the Republic of Indonesia unanimously passed Law Number 25 of 2009 concerning Public Services which calls for changes to protect every citizen and resident from abuse of power in the administration of government. public services to ensure better public services are offered.

According to Law No. 25 of 2009, service standards are benchmarks used as guidelines for providing services and as a reference for assessing service quality as an obligation and promise of providers to the community in the context of quality, fast, easy, affordable, and measurable services.

This law mandates that providers prepare and set service standards while still considering their capabilities, community needs, and the environment. The involvement of the community and related parties in creating and enforcing service standards is carried out while still upholding the values of non-discrimination, discourse, and diversity. A set of rules which are then regulated by government regulations are used in determining service standards. Minimum service standards consist of:

- a. Legal Basis, statutory regulations which form the legal basis for providing services.
- b. Requirements, and conditions that must be met in managing a type of service, both technical and administrative requirements.
- c. Systems, mechanisms, and procedures, namely the procedures for providing services to service providers and recipients.
- d. Completion time figures, the duration required to complete the entire service process for each type of service.
- e. Costs/tariffs, which are charged to service recipients in administering and/or obtaining services from the provider, the amount of which is determined based on an agreement between the organizer and the community.
- f. Service products, results of services provided and received by established provisions.
- g. Facilities, infrastructure and/or facilities, equipment, and facilities needed to provide services, including equipment and service facilities for vulnerable groups.
- h. Competence, executor the abilities that the executor must have include knowledge, expertise, skills, and experience.
- i. Internal supervisor, control carried out by the work unit leader or the implementer's direct superior
- j. Handling complaints, suggestions, and input, Procedures for implementing complaint handling and follow-up.
- k. Number of executors, availability of executors according to workload.
- l. Service guarantee that provides certainty that services are carried out following service standards. Quite clear
- m. Guarantee of service security and safety in the form of a commitment to provide a sense of security, free from danger and the risk of doubt. Certainty provides a sense of security and freedom from danger, risk, and doubt.
- n. Evaluation of implementing performance, assessment to find out how far the implementation of activities is by service standards.

The goals of the law are efficiency, certainty, and justice. In the real world, there are several examples of law enforcement procedures that conflict with justice and legal certainty. Legal certainty is firm and unambiguous, but justice is temporary, so there are times when the value of justice is not respected when a judge decides a case based solely on the law. Therefore, justice is the main consideration if there is a legal problem. Because law is not only understood from the perspective of written law, there are still many laws in society that have the power to regulate people's lives. If justice is the only objective goal of the law, then the challenge arises from the fact that justice relies heavily on each individual's subjective core values.

the legal relationship that exists between clients and the parties involved in providing health services (in this context hospitals, doctors, nurses, and midwives). The first is a legal relationship regulated by written and unwritten laws, while the second is medical relationships which are regulated by medical rules. An agreement that aims to provide patient services and treatment for the patient's recovery is the basis for the legal relationship that exists within the framework of medical services.

Hospital health efforts begin with fundamental connections in the form of therapeutic exchange. When a patient engages in a therapeutic transaction, it becomes a legally enforceable agreement between the service provider and the



service recipient. According to Article 1320 of the Civil Code, the parameters of an agreement in a therapeutic transaction must contain the following things for a legal relationship agreement including health services to be considered valid:

- a. There is agreement from those who bind themselves.
- b. There is skill between the parties to create an agreement.
- c. A certain thing is permitted.
- d. For a legitimate reason.

The implementation and application of the agreement itself must be carried out in good faith by the provisions of Article 1338 and Article 1339 of the Civil Code and the agreement is based on a business agreement based on the precautionary principle. The relationship between health service providers and patients can be divided into two forms of agreement, namely:

- a. Treatment agreement, where there is an agreement between the hospital and the patient that the hospital provides a treatment room and care workers carry out healing actions.
- b. Medical service agreement, where there is an agreement between the hospital and the patient that the medical personnel at the hospital will make maximum efforts to cure the patient through medical procedures.

The process of providing health services begins when the patient and family decide to see a doctor or hospital for treatment. A patient's visit can be seen as an invitation to ask a doctor for help in dealing with their health problems. Assuming the patient and his family agree to seek treatment there and the hospital is willing to provide the necessary medical services to the patient, the rights and obligations of the patient and the hospital begin from the moment the patient enters the hospital and agrees to receive health services.

Patients with all their obligations determined by the hospital have the right to health services according to the indications of the patient's illness. In this agreement, the hospital must provide care facilities, namely medical equipment, doctors, and health workers to supply optimal health services to patients.

Healing efforts usually take the form of a business agreement (*inspanningsverbintenis*) which is as maximum as possible and is based on the precautionary principle of unknown results, not a results agreement (*resultaasverbintenis*), in the legal relationship between health care providers and patients. On the other hand, patients must also share with the doctor all their knowledge about the disease they are both facing. This can help avoid misunderstandings between the two parties, thereby facilitating more effective health service delivery.

As regulated in Article 40 of Law Number 25 of 2009 concerning Public Services, complaints are made against providers who do not carry out their obligations and/or violate prohibitions and/or implementers who do not provide services by existing service standards. For a complaint to be followed up, the public (complainant) is obliged to complain no later than 30 days after the service violation occurs by the public service organizer and/or implementer. If it is proven that the organizer or implementer has made deviations from service standards, the person concerned may be subject to sanctions by applicable regulations. Several types of sanctions received by violators of public services are as follows:

- a. Written warning.
- b. Release from office.
- c. Salary reduction equal to one periodic salary increase for a maximum of one year.
- d. Demotion.
- e. Dismissal with honor at your request.
- f. Dishonorable dismissal.
- g. Revocation of permission.

In addition to the administrative sanctions above, service organizers and implementers may also be subject to criminal sanctions. As regulated in the public service law, organizers and implementers can be given criminal sanctions because violations of the services provided result in injury, permanent disability, or loss of life to other parties (Toumahuw, Wijaya, & Widiyanto, 2023). For actions/negligence that result in injury, permanent disability, or loss of life, a person may be subject to criminal sanctions under Articles 359 and 360 of the Criminal Code and is not exempt from paying compensation for the victim (Article 1365 of the Criminal Code) based on a court decision.

### **Hospital Legal Responsibility for Implementing Patient Rights in Health Services**

The study of the hospital's responsibility for implementing patient rights in health services in hospitals focuses on the implementation of the patient's right to medical information, the patient's right to informed consent, the right to choose a doctor, and the right to medical records.

### **Hospital Responsibility for Implementing the Right to Medical Information for Patients**

Carrying out the responsibilities of doctors or hospitals in providing clear and accurate medical information to patients is an obligation as regulated in Article 29 paragraph (1) point a of Law Number 44 of 2009 concerning Hospitals which reads "Every hospital has an obligation provide correct information about hospital services to the public."

Then in Article 45 paragraph (3) of Law Number 29 of 2004 concerning Medical Practice, it is explained that every doctor in carrying out his medical practice is obliged to describe the diagnosis and procedures for medical procedures; the purpose of the medical action performed; alternative actions and their risks; possible risks and complications; and prognosis for the actions taken (Setyawan, 2016).

Moreover, the 2012 Indonesian Medical Code of Ethics regulates the provision of good and accurate information by doctors, which states that "a doctor is obliged to provide clear and adequate information and respect the patient's opinion or response to the doctor's explanation" in connection with his duties. doctors to respect the rights of patients (Rembet, 2020). In addition, it states that "a doctor must not hide information that a patient needs unless the doctor believes it is in the patient's interests, in which case the doctor can convey the information to the patient's family or guardian."

Furthermore, the Hospital Code of Ethics (Kodersi) regulates the hospital's obligation to provide information to patients regarding their illness as stated in Article 10 of the Hospital Code of Ethics which reads: "Hospitals must explain what the patient is suffering from, and what actions they intend to take (Rahmatika, 2011).

One example of a case of legal issues related to providing medical information is the legal case of Prita Mulyasari versus Omni Hospital, which stems from a feeling of dissatisfaction with the medical information provided by Omni Hospital International, so she sent electronic letters (e-mail) to her colleagues and friends about her feelings of dissatisfaction, which in turn Prita Mulyasari had to languish behind bars on charges of committing a criminal act of defamation on behalf of the Omni International Hospital where Prita Mulyasari received treatment.

In this case, Prita demands her right to obtain information and clarity from the hospital and doctors regarding several things: 1. Laboratory results which are an indication that she was hospitalized 2. Clarity regarding the disease she is suffering from. 3. Information about the drugs and medical procedures given. 4. The purpose of administering the medicines and the medical treatment they receive.

If we refer to the hospital's responsibility to carry out its obligation to provide clear and accurate medical information, then there is no reason for doctors and hospitals not to provide honest and correct information about the diagnosis of the disease which is the reason why Prita Mulyasari had to be hospitalized, medication and types of actions that will be given to Prita Mulyasari during treatment. Regarding errors in reading laboratory results during the initial examination, the doctor and hospital should be able to communicate them well. If there is an error in reading the results of the initial examination, the doctor and hospital must admit it explain it well to the patient, and stop therapy due to the diagnosis. the disease. However, what happened was as if the doctor and hospital did not want to admit the error in the initial examination and continued therapy based on the incorrect examination and did not explain clearly the illness suffered by Prita Mulyasari.

Communication patterns that tend to be one-way along with doctors' "arrogant" and paternalistic attitudes make patients reluctant to ask doctors. Many medical terms make patients confused and don't know where to ask. Unfortunately, the many myths and rumors circulating in society about the world of health mean that patients are flooded with wrong information. Several communication problems in the medical field that often come to the surface due to a lack of understanding of communication by both parties, including doctors and patients. Ironically, developments are currently still very backward in terms of technology and medicine in Indonesia. This is reflected in the behavior of patients who, because of their ignorance, leave their fate completely to the doctor or hospital, so that they often become victims of malpractice, or even act indifferently and look for shortcuts by treating themselves. The results of this research prove that doctors or hospitals have not fully carried out their responsibilities in terms of providing good and correct medical information to patients.

### **Hospital Responsibility for the right to consent to medical procedures for patients**

In general, doctors, when providing medical treatment to patients, first obtain approval for the action in the form of a statement of consent that has been signed by the patient. This is not only because of their responsibility to implement the patient's right to consent to medical treatment, but also because of concerns about legal claims that might occur if the actions they take are not as expected.

Approval for medical action obtained by a doctor before carrying out medical action on a patient sometimes does not comply with the requirements for a good medical action agreement, where before the patient makes his/her consent (consent), he or she must first obtain clear and detailed information (informed) about everything that will be

done to him regarding his illness. Difficulty in providing detailed explanations providing only sufficient medical information and asking patients to sign consent for medical treatment is often experienced by patients and/or their families.

Implementation of the hospital's responsibility for the right to consent to medical treatment for patients is an absolute requirement in providing health services to patients. Carrying out medical procedures by a doctor or hospital without prior notification and approval by the patient is an act of medical malpractice, where the doctor or hospital can be blamed for their actions, either intentionally or through negligence, in not asking for approval for medical procedures from the patient, especially if the consequences of the actions taken cause harm to the patient.

The obligation of doctors or hospitals to exercise the right to consent to medical procedures for patients in health services is regulated in Article 37 paragraph (1) of Law Number 44 of 2009 concerning Hospitals which states "Every medical action carried out in a hospital must obtain approval patient or their family." Furthermore, Article 45 of Law Number 29 of 2004 concerning Medical Practice, regulates approval of medical procedures which reads:

- a. Every medical or dental procedure that will be carried out by a doctor or dentist on a patient must obtain approval.
- b. Consent as intended in paragraph (1) is given after the patient has received a complete explanation.
- c. The explanation as intended in paragraph (2) at least includes: a) diagnosis and procedures for medical treatment; b) the purpose of the medical action performed; c) alternative actions and their risks; d) possible risks and complications; and e) prognosis for the actions taken.
- d. Approval as intended in paragraph (2) can be given either in writing or orally.
- e. Every medical or dental procedure that carries a high risk must be given with written approval signed by the person entitled to approve.

In essence, the right to consent to medical procedures (informed consent) is a communication process between the doctor and the patient regarding the agreement on a medical action that the doctor will carry out on the patient (there is a detailed explanation by the doctor). Signing the Informed Consent form in writing only confirms what has been agreed previously. This form is also a form of evidence that will be stored in the patient's medical record archive. In the case of medical procedures that are to be carried out without significant risk, a verbal agreement is required.

The problem in approval for medical action is whether the consent given by the patient to the doctor or hospital to carry out medical strategy on the patient has previously received sufficient explanation regarding the strong reasons why the action must be carried out (medical indication), the risks if the action is not carried out, the possible risks that may occur, the prognosis of the action, other alternative actions that can be performed with all the risks, advantages and disadvantages of the action and what is the range of costs that will be charged to the patient as a result of acting. If this has been carried out by the doctor or hospital to the patient and the patient expresses his/her consent by signing the informed consent form, it can be said that the doctor or hospital has carried out its responsibility for the implementation of the right to consent to medical treatment to the patient. This fact proves that doctors or hospitals have not fully carried out their responsibilities in providing explanations and information that are accurate and easily understood by patients before the patient gives consent to the medical procedure as an absolute requirement for carrying out a medical action on a patient. In reality, it often happens that medical action approval files have been created and signed by patients or their families even though they have not received clear and accurate information about the implementation of the medical treatment they will receive. The patient is only given a medical action approval file to be signed with a simple explanation and even the explanation received by the patient does not come from the doctor who will act, but rather from other health workers such as nurses or midwives.

### **Hospital responsibility for the patient's right to choose a doctor**

Implementing the hospital's responsibility to realize the patient's right to choose the doctor who will treat them is of course an obligation that must be fulfilled to improve the quality of service and the level of patient satisfaction as users and recipients of hospital services. Doctors or hospitals are aware that implementing the responsibility for the right to choose a doctor for patients in health services is an obligation, however, the implementation of this right does not have to be fulfilled because of various factors that become obstacles in fulfilling it.

Several obstacle factors that often become obstacles in fulfilling the patient's right to choose a doctor in health services are the limited number of doctors and specialist doctors at the hospital and also because of the patient's status when admitted to a hospital, whether as a patient using an insurance card or as a general patient who settles the rates set by the hospital. In fact, it is very difficult to realize the right to choose a doctor who will treat patients in a hospital, because the system that regulates the pattern of providing health services in hospitals suggests that there are quite striking differences between patients who come for treatment with general patient status and patients who come with BPJS insurance status. Moreover, with the shift change system for specialist doctors, even though they are on-site when it is not their shift to examine, it is difficult for patients to access them that day. Separated from not being on



duty that day, they usually practice in private hospitals even though they still have official hours as State Civil Apparatus (SCA) on duty in government hospitals.

In terms of getting maximum health services, of course, patients will choose a doctor or hospital that understands the history of the disease they are experiencing to entrust their health and cure their disease, even though every doctor in the same type of specialization has almost the same average ability to examine, treat, care for and even carry out certain medical procedures related to their specialty or expertise. Regarding the Right to Choose a Doctor for patients, it is not an absolute right, because it can be influenced by various factors such as the availability of certain specialist doctors, cost factors, or services that may be charged to the patient. After all, if the patient chooses an elite doctor or hospital/ foreigner, then the treatment costs he has to bear are automatically greater than if he chose a public hospital.

Even though in reality it is very difficult to realize the right to choose a doctor or hospital for patients, at least the services provided to patients must fulfill a sense of justice for all of them. Health services provided by hospitals must be based on the principles of safety, quality, anti-discrimination, and effectiveness, as stated in Article 29 paragraph (1) point b of Law no. 44 of 2009 concerning Hospitals. Furthermore, Article 2 of Law No. 29 of 2004 states that "Medical practice is carried out based on Pancasila and is based on scientific values, benefits, justice, humanity, balance, as well as patient protection and safety." The application of the principle of justice in health services for health insurance users such as BPJS in selecting doctors who will treat them requires the government's attention to anti-discriminatory health services that do not differentiate the services they receive from other general patients, as regulated in Article 28 H paragraph (1) The 1945 Constitution of the Republic of Indonesia which states: "Everyone has the right to live in physical and spiritual prosperity, to live and enjoy a good and healthy living environment and has the right to obtain health services." The right to health services is part of the law. This means that every person or legal entity or even the State must respect and be obliged to fulfill the rights of people who should receive health services without having to differentiate between the rich and the poor and general patients and BPJS insurance patients.

#### **Hospital responsible for the rights to the contents of medical records for patients**

Implementing the hospital's responsibility for the right to patient medical records in health services is an obligation to store and maintain medical records containing patient medical secrets which can only be disclosed with the permission of the patient concerned or for legal purposes in court. Medical record files belong to the hospital to be stored and kept confidential, while the contents of medical records belong to the patient so that the patient has the right to know everything that is recorded in the medical record file.

The confidentiality of the contents of patient medical records, which is the responsibility of the doctor or hospital to maintain and protect them, is regulated in several statutory regulations, including:

- a. Article 48 of Law no. 29 of 2004 concerning Medical Practice: a) Every doctor or dentist in carrying out medical practice is obliged to keep medical secrets. b) Medical secrets can be disclosed only in the interests of the patient's health, to fulfill the request of law enforcement officials in the context of law enforcement, the patient's request, or based on statutory provisions.
- b. Article 32 point (i) Law Number 44 of 2009 concerning Hospitals which reads: "Every patient has the right to privacy and confidentiality of the illness they are suffering from, including their medical data.
- c. Article 57 paragraph (1) Law no. 36 of 2009 concerning Health Workers states "Every person has the right to the confidentiality of their health conditions which have been disclosed to health service providers".

In connection with the obligation to keep medical secrets, doctors or hospitals are obliged to make good medical secret records to be maintained and protected as confidential as regulated in Article 46 of Law no. 29 of 2009 as follows: 1) Every doctor or dentist in carrying out medical practice is obliged to keep a medical record. 2) Medical records as intended in paragraph (1) must be completed immediately after the patient has finished receiving health services. 3) Every medical record must contain the name, time, and signature of the officer providing the service or action.

According to the Quo Vadis Kliniko Mediko Legal Indonesia Book and the Book on Implementing Good Medical Practices in Indonesia, all written notes in the Medical Record must be legible and complete, must be authentic, and given the date and time, directly by the person responsible for giving instructions, providing or evaluating services provided (titled by name and discipline, signature, written initials or computer entry). If a doctor gives instructions via telephone for a medical procedure, which must be received by a senior nurse, the nurse must reread the order and record it in the patient's medical record. Within 24 hours the doctor who gave the order must sign the order record. All data records must document:

- a. Evidence from a physical examination, including medical history carried out no longer than 7 days before admission or within 48 hours after hospital admission.

- b. Diagnosis and admission to treatment.
- c. The results of the patient consultation evaluation and findings are compatible with clinic staff and other staff in caring for the patient.
- d. Documentation of complications, infections that arise in the hospital, and reactions that are incompatible with drugs and anesthesia.

Properly execute Informed Consent forms for procedures and actions prescribed by medical staff, or Federal Law or State Law, as appropriate, to obtain approval

#### **4. Conclusion**

The service function is one of the primary functions that the government must carry out to achieve the goals of the Indonesian State. Service means providing a service needed by society in all fields. Community service activities are one of the duties and functions of state administration. Founded on Law Number 25 of 2009 concerning Public Services, what is meant by public service is an activity or series of activities to fulfill service needs by statutory regulations for every citizen and resident regarding the goods, services, and/or administrative services provided by public service providers. Law Number 36 of 2009 concerning Health provides legal protection for the right to health services. Everyone has the right to health, according to Article 4. To prevent medical errors in patient care, hospitals ensure that doctors and other health workers have legal protection. Patients also receive legal protection from hospital liability and from doctors and other health professionals. Every person has the right and legal right to obtain health services, and the public is free to utilize government and/or regional government health resources. The organization of hospital administration services, medical services, supporting services, and nursing services, both inpatient and outpatient must be provided at a minimum by the hospital, by regional hospital service standards. The right to receive public health services, primarily in government hospitals, needs to be implemented to guarantee health financing for the poor, and emergency financing in hospitals due to disasters and extraordinary events. The hospital's responsibility for implementing patient rights, including the right to medical information, the right to consent to medical procedures, the right to choose a doctor, and the right to the contents of medical records, has not been implemented properly by the provisions and regulations of the laws and regulations applicable in the health sector.

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