



Implementation Of Health Law In Medical Accident Cases By Medical Personnel And Health Personnel To Patients

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Abstract

Health has a very important element in a country's progress. Each country seeks to give primary attention to health services, starting from the provision of professional health workers to modern health facilities. Health law basically regulates the rights, obligations, functions, responsibilities of the parties involved in the health sector, and provides certainty of legal protection to recipients and providers of health services. This study aims to determine how the legal protection of patients, doctors and health workers in cases of medical accidents and the legal liability of health care facilities in cases of medical accidents. Medical accidents are unexpected and unexpected events, and there is no more intentional element in the form of planning. This research method uses a sociological juridical approach with primary and secondary data collection. Based on the research results obtained that from some of the answers to the questionnaire there must be full attention to error prevention and patient safety. Encourage patients to play an active and involved role and provide information to the health team. The aim is to highlight specific improvements in patient safety and current problem areas in healthcare. From the results of the study that criminal responsibility is imposed on health workers who make mistakes when carrying out health services/treatments/medical actions in hospitals. Health is regulated in Law No. 36 of 2009, in which there are medical personnel and other health workers. Health worker is every person who devotes himself to the health sector and has knowledge and or skills through education in the health sector which for certain types requires the authority to carry out health efforts.

Keywords: Health Law; Medical Accidents; Medical Workers; Health Workers

I. Introduction

The development of the world of health is very rapid, not only regarding disease, but also disease handling technology and supporting facilities that are increasingly modern and sophisticated. This is not directly proportional to the regulations governing the relationship regarding health services, so it is possible to cause legal problems in health services, especially those relating to patients and medical personnel, paramedics and hospitals.¹ Health is a human right and one of the elements of welfare that must be realized in accordance with the ideals of the Indonesian nation as referred to in Pancasila and the 1945 Constitution of the Republic of Indonesia. According to Law Number 36 of

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¹ Santoso, Aris Prio Agus Hukum Kesehatan. (Jakarta: CV. Trans Info Media, 2020). page. 1

2009 concerning Health, what is meant by health is a state of health, both physically, mentally, spiritually and socially that enables everyone to live socially and economically productive lives. According to Hermien Hadiati Koeswadji, the definition of health law is a group of legal regulations that regulate health care care, which means that in Indonesia the health law has been regulated in the Health Law, which is sourced from legal regulations. written by the competent state agency.²

Medical negligence is one of the events or phenomena that has recently emerged and is in the public spotlight. This is because some patients experience medical risks in the form of death or disability and result in many lawsuits filed by patients against doctors.³ There is a case of torture of medical personnel in a well-known hospital in Palembang. Quoted from CNN Indonesia media and one of the patient's family slapped the nurse, it was suspected that the nurse had made negligence. Furthermore, there was also the case of a nurse injecting corpses in Sidoarjo, there was a patient who was declared to have a nervous breakdown but was instead abandoned, even though his condition was critical. Of the cases above are included in medical negligence so that the hospital must be responsible for the problem. Then there are cases of contaminated medical equipment, the source of which is contaminated surgical instruments in at least four different hospitals in the US.

Medical Accident is an unexpected and unexpected event, there is no element of intent, especially a form of planning. Accidents occur as a result of having to do with medical personnel and other health workers when carrying out work. Health worker is every person who devotes himself to the health sector and has knowledge and or skills through education in the health sector which for certain types requires the authority to carry out health efforts.⁴ The patient is actually a liveware factor. Patients must be seen as subjects who have a major influence on the final service outcome, not just an object. Patients' rights must be fulfilled considering that patient satisfaction is one of the barometers of service quality, while patient dissatisfaction can be the basis of lawsuits.⁵

² Triana Ohoiwutun. Bunga Rampai Hukum Kedokteran. (Malang: Bayumedia, 2001). page.3

³ Wahyu Rizki Kartika Divine, Resiko Medis dan Kelalaian Medis Dalam Aspek Pertanggungjawaban Pidana. Jurnal Hukum Volkgeist Vol.2 No.2 Year 2018. page.7

⁴ Christie Pricilia Pelealu and Jermias Tjakra. Penerapan Aspek Hukum Terhadap Keselamatan dan Kesehatan Kerja. Jurnal Sipil Statik.3 No.5 of 2015. page.4

⁵ Jusuf Hanafiah and Amri Amir, Etika Kedokteran dan Hukum Kesehatan, (Jakarta: EGC, 1989)

II. Method

The This research method uses a sociological juridical approach with primary and secondary data collection. Secondary data collection is done through reviews in regulations, journals, books, and theses. Primary data collection was carried out by means of a questionnaire which was distributed via Google form to Medical and Health Workers. The number of samples in this study was limited to 11 respondents and the technique used was Purposive Sampling, then the results of further research were analyzed qualitatively to find a description of how the legal protection of patients, doctors and health workers in cases of medical accidents and how the legal responsibility of health care facilities in cases of medical accidents .

III. The Analysis or Results

Legal Protection Of Patients, Doctors And Health Workers In Cases Of Medical Accidents

Patient safety is the absence of preventable harm to patients and the reduction of the risk of unnecessary harm associated with health care to an acceptable minimum. Article 1 paragraph (1) of Law no. 11 of 2017 concerning patient safety, states that patient safety is a system that makes patient care safer, including risk assessment, patient risk identification and management, incident reporting and analysis, the ability to learn from incidents and their follow-up, as well as implementing solutions to minimize risks. and prevent injuries caused by errors resulting from carrying out an action or not taking the action that should have been taken. In the world of nursing, patient safety is the most important part of nursing care which aims to prevent avoidable errors and prevent harm to patients.⁶

The Following Is The Theory Of Medical Negligence And Occupational Accident

MEDICAL NEGLIGENCE MEDICAL	ACCIDENT
Medical negligence is one of the events or phenomena that has recently emerged and has become the public spotlight. This is because some patients experience medical	Medical accidents are unexpected and unexpected events, and there is no more intentional element in the form of planning. Accidents occur due to the

⁶ Santoso, Aris Prio Agus. Hukum Kesehatan. (Jakarta: CV. Trans Info Media. 2020). Page 84

risks in the form of death or disability and result in many lawsuits filed by patients against doctors	relationship between medical personnel and other health workers while doing work.
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To complete the theory above and compare, the following is a questionnaire that the author distributes to medical personnel.

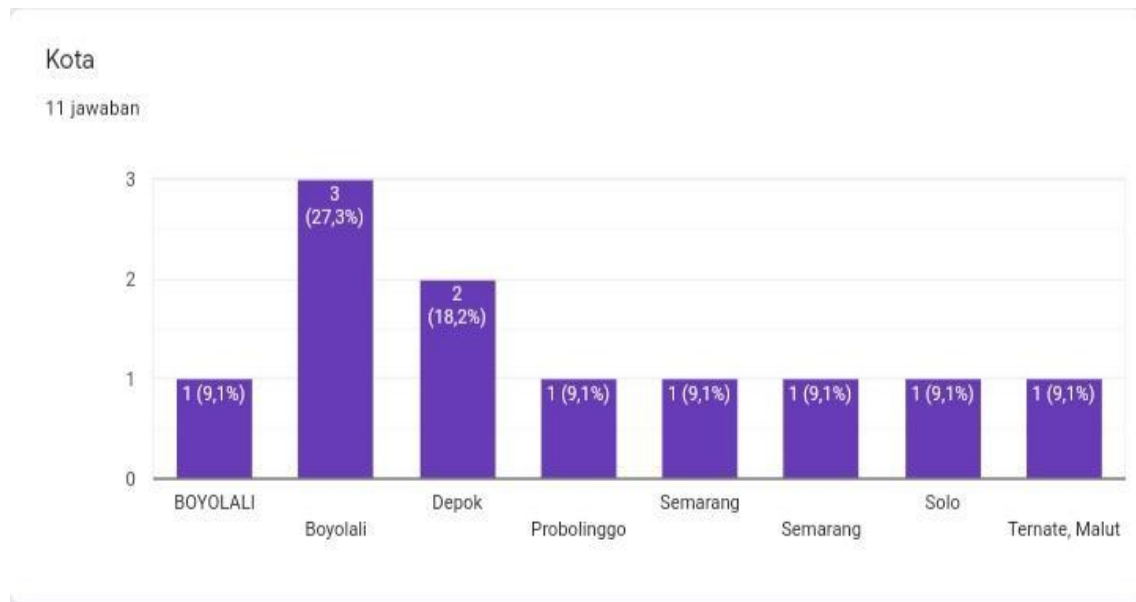


Diagram 1.1 Cities that have answered the research questionnaire

From the diagram above, there are 7 cities that have answered the research questionnaire. Patient safety continues to be one of the most pressing health care challenges in a country. A medical accident occurs when something planned as part of medical treatment doesn't work out or when the wrong plan is used.

Apakah kecelakaan medis selalu disamakan dengan kelalaian medis?

11 jawaban

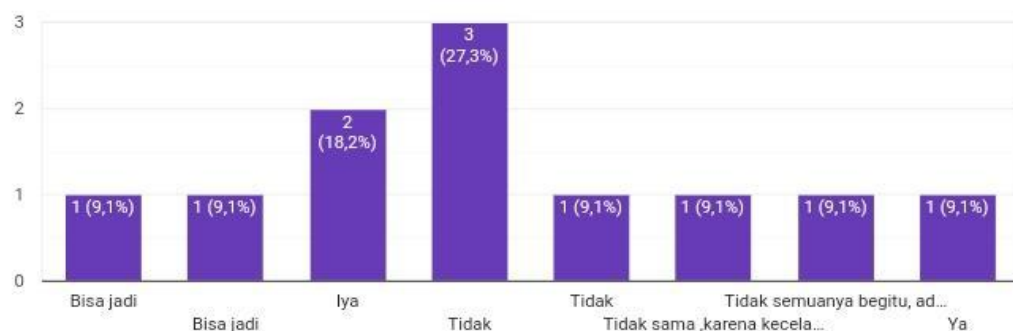


Diagram 1.2 Medical Accidents are always equated with medical negligence The number of Health Workers and Doctors studied as much as 30% said that medical accidents are not always related to negligence, and as many as 20% said that medical accidents are always related to negligence.



Diagram 1.3 Article 29 of Law Number 44 of 2009

In Article 29 of Law Number 44 of 2009 which states that in the event that a health worker is suspected of negligence in carrying out his profession, the negligence must be resolved first through mediation. As many as 90% have been applied by institutions to doctors or public health workers and other health workers, only 9% have not implemented them.

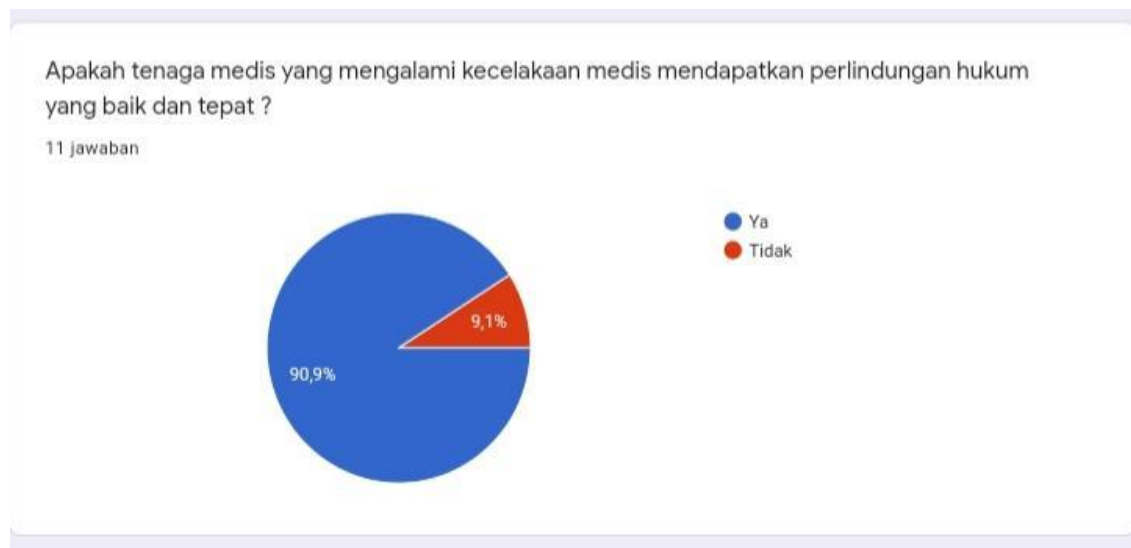


Diagram 1.4 Medical personnel who experience medical accidents get good and proper legal protection

From the above diagram it is explained that 90% of medical personnel who experience medical accidents get good and proper legal protection. In fact, there are still 9% who have not received good and proper legal protection.

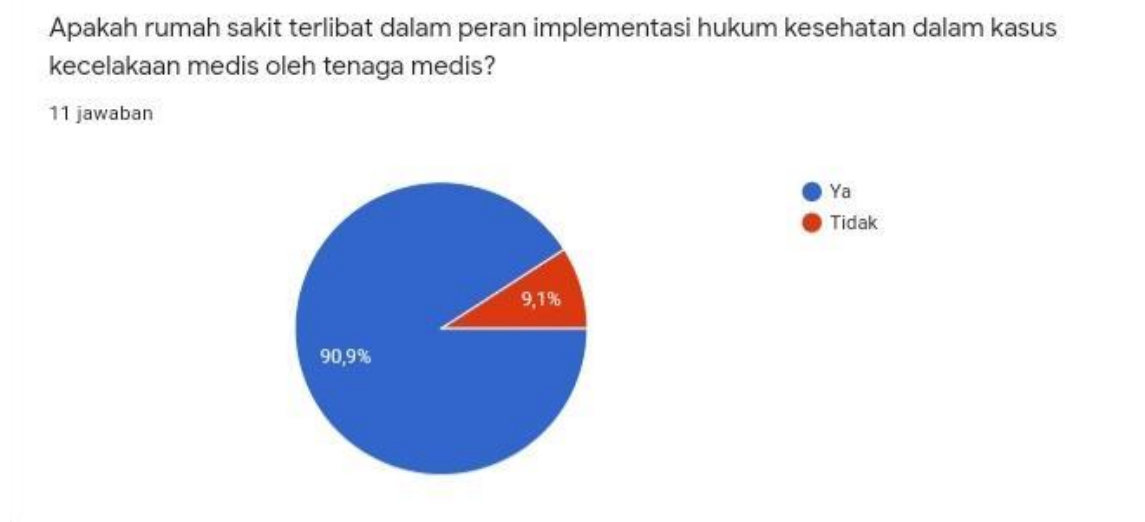


Diagram 1.5 The role of the implementation of health law in cases of medical accidents by medical personnel

From the research results obtained as much as 90% said that the provisions of this article have been implemented. But there are hospitals that are involved in implementing the health law.

From several theories that have been explained and connected with the facts in the field, it can be concluded that medical negligence and medical accidents are different. And from the description above, the researcher concludes that from some of the answers to the questionnaire there must be full attention to error prevention and patient safety. Encourage patients to play an active and involved role and provide information to the health team. The aim is to highlight specific improvements in patient safety and current problem areas in healthcare. Evidence-based recommendations require health care facilities to focus on a specific set of actions. Being alert and focused in engaging in prevention-centered activities not only enhances patient safety but also contributes to the overall success of the health care facility.

Legal accountability of health care facilities in cases of medical accidents

Health services are one of the efforts that can be made to improve the health status of individuals, as well as groups or society as a whole which aims to obtain a good health degree and a good quality of life as well. The basic requirements of health services are available and sustainable, acceptable and reasonable, easy to achieve, easy to reach, and of good quality. Health care efforts are generally carried out at health facilities. One of the health facilities is a hospital. In implementing hospital services, human resources are needed in the form of health workers.

The legal responsibility of the facility hospital as a legal subject in health services to patients in the current hospital when viewed from civil legal liability will stem from unlawful acts or defaults. The liability can be direct or shared with the doctor or hospital, depending on the type of action taken. Meanwhile, liability under criminal law will be based on the requirements to be held legally accountable, namely:

1. The existence of an act or omission based on written rules
2. There is the ability to be responsible
3. There is an error, either intentionally or negligently
4. And there is no element of forgiveness and elements of justification. The form of accountability is independent and directly in accordance with the function of the criminal sanctions later, namely to deter the perpetrators.⁷

In relation to health services in hospitals, for the emergence of criminal responsibility in health services by hospitals, it must first be proven that there was a professional error committed by health workers who carry out health services/treatments/medical actions in hospitals. Based on this understanding, then.⁸

⁷ Sukrisno Wijayono Hadi. Thesis: "*Rekontruksi Pertanggungjawaban Hukum Perawat Sebagai Subjek Hukum Dalam Pelayanan Kesehatan Berbasis Nilai Keadilan*", (Semarang: UNISSULA, 2019),, (Semarang: UNISSULA, 2019), Page.18

⁸ Aris Prio Agus Santoso. Hukum Kesehatan. (Jakarta: CV.Trans Info Media, 2020), 47-49

Apakah rumah sakit memberikan pelayanan kesehatan yang berbentuk perawatan dan tindakan medis lainnya?

11 jawaban

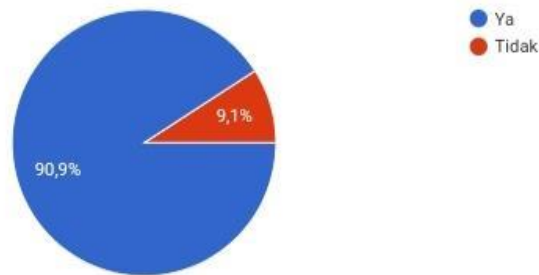


Diagram 2.1 Health services in the form of care and other medical measures

From the research conducted, 90% of hospitals have provided health services in the form of care and other medical measures. In this case there is a professional error committed by a health worker when performing a medical action in a hospital, then criminal responsibility is not necessarily borne by the owner and head of the hospital or management.

Pasal 46 Undang-Undang Nomor 44 Tahun 2009 yang menyebutkan bahwa Rumah Sakit bertanggung jawab secara hukum terhadap semua kerugian yang ditimbulkan atas kelalaian yang dilakukan oleh tenaga kesehatan di Rumah Sakit. Apakah hal ini sudah diterapkan kepada saudara?

11 jawaban

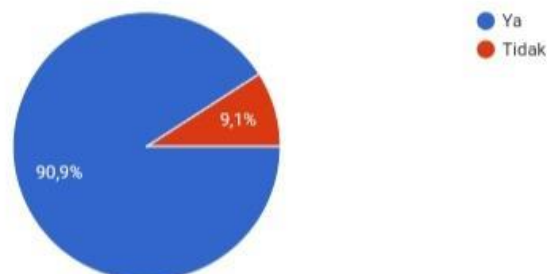


Diagram 2.2 Article 46 of Law Number 44 of 2009

From the data above, many have implemented Article 46 of Law Number 44 of 2009 concerning legally responsible hospitals, and there are also a small number that have not implemented it. This is what underlies Article 46 of Law Number 44 of 2009 which states "Hospitals are legally responsible for all losses caused by negligence committed by health

workers in hospitals.". So far, every loss caused by health workers in the hospital who is responsible for the hospital, the legal reconstruction is that the wrong health worker is the one who is obliged to be responsible both civilly and criminally, while the hospital is still required to provide compensation as the "employer" or party. providing health facilities. Therefore, Indonesia is a state of law, so of course all citizens are equal under the law.⁹

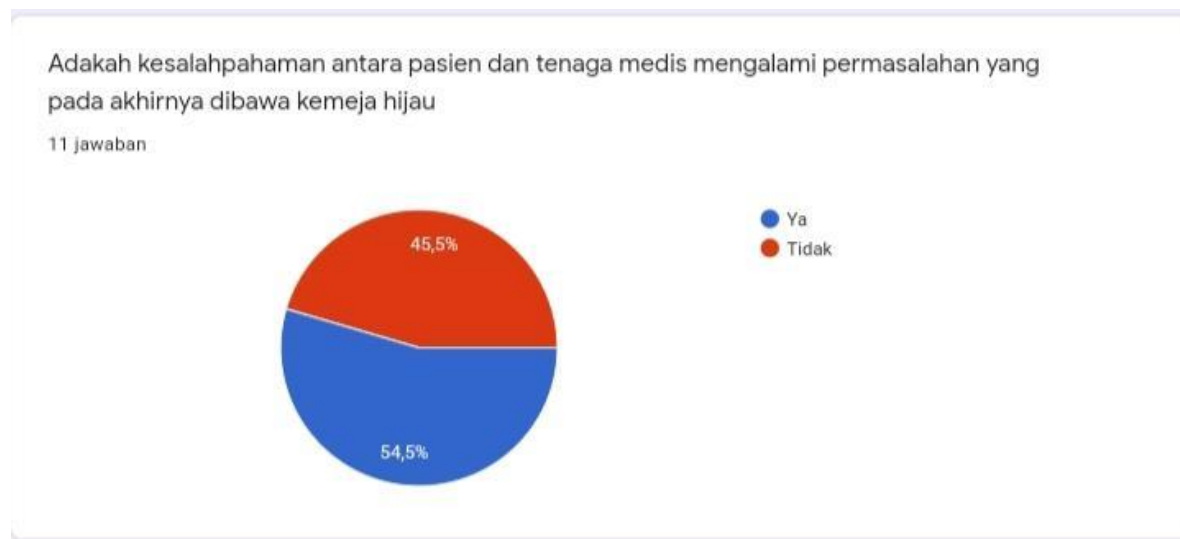


Diagram 2.3 Misunderstandings between patients and medical personnel

From the data above, as much as 54% there are misunderstandings between patients and medical personnel who experience problems which are eventually brought to green shirts. However, as many as 45% did not experience this misunderstanding.

From the description above, the researcher draws the conclusion that criminal responsibility is imposed on health workers who make mistakes when carrying out health services/treatments/medical actions in hospitals.

IV. Conclusion

From the results of the research conducted, it can be concluded that:

That medical errors occur when something planned as part of medical treatment does not work or when the wrong plan is used. This happens in all health services. Must pay attention to regulatory and organizational safety initiatives and individual patient risk

⁹ Sigit Lesmonoaji, *Pertanggungjawaban Pidana Atas Perbuatan Kelalaian Pada Tindakan Medis di Rumah Sakit*, (Surabaya: SCOPINDO, 2020). page 77

factors. The Joint Commission (TJC) and The Centers for Medicare and Medicaid Services (CMS) pay close attention to error prevention and patient safety. Encourage patients to play an active and involved role and provide information to the health team.

That the legal responsibility of a facility hospital as a legal subject in health services to patients in hospitals at this time when viewed from a civil legal liability will stem from unlawful acts or defaults. The liability can be direct or shared with the doctor or hospital, depending on the type of action taken.

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