Legal Strength of Doctor's Work Contract in Facing Medical Disputes in Hospitals

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Abstract. This study intends to examine the legal power of a doctor's employment contract in dealing with medical disputes in a hospital. This research method uses normative law by examining the legal force of the doctor's work contract. The result of this study is a doctor's work contract following the regulation of the minister of health number 1199/Menkes/Per/X/2004 concerning the Procurement of Health Workers and Work Agreements in Government-Owned Health Facilities in which doctors have rights and obligations so that they can be used as a legal force in dealing with health problems. Medical dispute lawsuit when there is a problem. This paper concludes that a doctor's employment contract has the legal power to file a lawsuit in court in a medical dispute with a hospital.

Keywords: Legal force; Employment contract; Doctor, Medical Dispute

1 Introduction

The rapid population growth throughout Indonesia and technological and cultural developments in people's lives has caused various problems.[1] The level of human civilization is growing day by day, thus affecting the work environment, which is increasingly challenging to avoid various kinds of problems in the work environment, especially in hospitals—efforts to improve the quality of life, particularly knowledge of medical or health law. Health law is all provisions or statutory regulations in the health sector that regulate the rights and obligations of individuals, groups, or communities as recipients of health services. On the other hand, that binds each party in a therapeutic agreement and the provisions or regulations other laws and regulations in the health sector that apply locally, regionally, nationally, and internationally.[2]

The Hospital Law is a set of laws and regulations that regulate hospital activities in providing health services to the community. This is in line with the condition of Indonesian law, which is legally positivistic that the law must be positive-written in stages and leads to a ground norm, namely "Pancasila as the source of all legal symbols." Every law must not conflict with the values of Pancasila. One of the main aspects of the law, including the Law on Pain Management, is the existence of rights and obligations. The existence of hospital rights means obligations for patients and vice versa. Indonesia is classified as a modern legal state, whose main characteristic is that the state is obliged to promote public welfare.

As an Indonesian citizen, he has fundamental rights related to health, among which it is stipulated that "everyone has the right to live in physical and spiritual prosperity, to live, to have a good and healthy environment, and to have the right to obtain health services" (UUD 1945 as

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the Basic Law of the State, stipulates the realization of human rights, namely the right to obtain health services, according to Article 28 H.

Meanwhile, related to the doctor's work contract as regulated in the Regulation of the Minister of Health Number 1199/Menkes/Per/X/2004, in this case, it is regulated related to the work performance of doctors, the level of expert and individual fulfillment, and future vocations will be altogether impacted by the kind of training, area, and clinical nature of the gathering the specialist takes an interest in, as well as by the harmoniousness between the doctor's training style and the gathering's clinical practice style. Therefore, it is crucial for practicing physicians and candidates to communicate their wishes and expectations regarding the position effectively.

Therefore, employment contracts define working conditions and significantly affect future professional satisfaction and personal happiness. A doctor needs to carefully read and fully understand every aspect of the employment agreement. Contract law terminology, such as 'restrictive agreement' and 'assignment,' can be confusing, and some binding contract terms, if not understood, can cause problems in the future. Other terms may need to be negotiated. Thus, legal assistance from a qualified health lawyer can assist in making an employment contract.

As stated in Article 50 of Law No. 29 of 2004 concerning Medical Practice, a specialist or dental specialist in doing clinical practice has the right, among others, to get legitimate assurance insofar as completing obligations under proficient principles and standard working strategies, offering clinical types of assistance as indicated by proficient norms and standard systems. Activities acquire total and legitimate data from patients or their families and get remuneration for administrations. Obviously, for this situation, specialists are qualified for lawful assurance as long as they complete their obligations per proficient methods while confronting clinical debates.

2 Research Methods

Empirical legal research is based on realities in the field or through direct observation. According to Syamsudin, regarding typology and research classification, normative law is equated with doctrinal law research, while empirical legal research is equated with non-doctrinal research.[3] Standardizing lawful exploration is a logical examination technique to observe reality in view of the rationale of legitimate grant from the regularizing side. Likewise, regularizing has an exploration definition in view of legal materials (library based), which focuses on reading and studying primary and secondary legal materials.[4]

This type of research is empirical legal research. According to Soejono Soekanto[5], empirical sociological, legal research includes legal identification research and legal effectiveness. Sociological or empirical legal research wants to measure specific laws and regulations regarding their effectiveness. Operational definitions can be taken from these laws and regulations. A hypothesis is not always needed in sociological or empirical legal research, except in explanatory research.[6]

Sources of data in this study use free empirical data. Namely, this research material uses Primary and Secondary data types (Library Research). Primary data is mainly from empirical research conducted in the community based on direct observation/observations and interviews. According to Peter Mahmud Marzuki, this essential lawful material is legitimate, meaning it has authority, coming about because of activities or exercises completed by the approved organization for the problem. Secondary data is a source of data obtained through a literature review of scientific works, research results, or theories of experts related to the problem to be discussed.

Tertiary data are encyclopedias, materials from the internet, bibliographies, etc.[7] While the data used comes from Primary, Secondary data and is also supported by Tertiary data. On the other hand, if the data source is directly from the respondent, the data obtained is primary data (Field Research). Determination of respondents is included in writing an understanding of sampling techniques. The sample is part of the population. The research tools or instruments used are observation, interviews, questionnaires, document studies, and others.[8]

The data is obtained in the form of secondary and primary data. The information assortment procedure utilized is through documentation studies or writing searches, and meetings or perceptions. As per Soerjono Soekanto in research, there are typically three information assortment devices: the investigation of archives or library materials, perceptions or perceptions, and meetings or meetings. Documentation Studies are the first step of any legal research (both normative and sociological).

The data collection through observation or observation, according to Ashshofa, is divided into two types, namely direct and indirect observation techniques.[9] Meanwhile, according to Fred Kerlinger in Scientific Truth and Principles of Normative Legal Research, the interview technique is an up close and personal relational job circumstance, specifically when a questioner poses inquiries intended to acquire addresses pertinent to the examination issue. Document study is a data collection tool carried out through written data using "content analysis."

3 Results and Discussion

The word hospital comes to our mind. There is a place or building in which someone is sick. The sick party comes to the hospital for treatment to obtain medical health services based on needs and beliefs. For this reason, it is necessary to explore the legal form of the hospital as an institution or institution that produces and sells health products. Hospital law is closely related to other fields of law, namely company law, employment law, health law, medical law, consumer protection law, business competition law4, contract law, administrative law, and other legal fields. The system can function as private law or public law.

Hospitals may be called business actors because their mission is, in addition to the moral-humanitarian mission, it is also socio-economical. It also pursues profit even though it is not the primary goal. Business entertainer, in particular "each individual or business element, both legitimate substance and non-lawful element, which is laid out and domiciled or completes exercises inside the purview of the Republic of Indonesia, either alone or together through an understanding, does monetary exercises.

Legal bases give legitimate assurance to specialists in completing the clinical calling, things specialists should do to keep away from claims, and purposes behind taking out disciplines for specialists associated with committing clinical negligence. The legal basis that provides legal protection to doctors is in Law No. 44 of 2009 concerning Hospitals and Law No. 29 of 2004 concerning Medical Practice. In Running the Medical Profession, Legal provisions that protect doctors in the event of suspicion of malpractice are contained in Article 50 of Law 29 of 2004 concerning Medical Practice, Article 24 paragraph (1), in conjunction with Article 27 paragraph (1) and Article 29 of Law Number 36 of 2014 on Health, and Article 24 paragraph (1) of Government Regulations concerning Health Workers. Things Doctors Must Do To Avoid Lawsuits.

In carrying out his profession, informed consent is an obligation that a doctor must fulfill. Educated assent comprises regarding two words, to be specific "informed," and that implies clarification or data (data), and "assent," and that implies endorsement or giving authorization.

Accordingly, educated assent suggests an arrangement given by the patient or his family in the wake of getting data on the clinical activity against him and every one of the dangers. In addition to Informed Consent, doctors are also obliged to make "Medical Records" in every patient's health service activity. The regulation of medical records is contained in Article 46 paragraph (1) of the Medical Practice Act. A clinical record is a record that contains records and archives about tolerant character, assessment, treatment, activities, and administrations gave to patients. Clinical records are made with different advantages: patient treatment, working on the nature of administrations, schooling and exploration, supporting, wellbeing insights, and demonstrating legitimate, disciplinary, and moral issues.

Medical accidents are often considered the same as medical malpractice because these conditions cause harm to patients. The two circumstances ought to be recognized in light of the fact that specialists try to recuperate as opposed to hurting the patient in the clinical world. In case of a clinical mishap, the specialist's liability alludes to how the mishap happened, or the specialist should demonstrate the event of the mishap. The doctor cannot be blamed if the doctor fails or is unsuccessful in handling his patient if the patient doesn't make sense of really the historical backdrop of the illness he has endured and the drugs he has used during his illness or does not obey the instructions and instructions of the doctor or refuses the method of treatment that has been prescribed. This is viewed as a patient's shortcoming, known as commitment carelessness, or the patient is additionally liable. Trustworthiness and submitting to the specialist's recommendation and directions are viewed as the patient's commitments to the specialist and himself.

The field of medicine is complex. There is many times conflict or a similar assessment on the suitable treatment for a specific clinical circumstance in a treatment exertion. Clinical science is a workmanship and science in addition to technology that is matured inexperience. So the approach to a disease may differ from one doctor to another. However, it must still be based on accountable science. Based on the above situation, a lawful hypothesis arose by the court called the good minority rule, specifically that a specialist isn't viewed as careless assuming he picks one of the many perceived treatment strategies. Clinical activity on the patient, another hypothesis seems called blunder of (in) judgment, otherwise called a clinical judgment or clinical mistake. The decision of clinical activity from a specialist in view of expert norms ends up being some unacceptable choice.

Then what if the doctor is only a contract doctor? Without a permanent employment bond, will the doctor's work contract become a legal force in the case of medical disputes? Doctors need knowledge of health law, the medical profession, and hospital law to carry out their duties according to their profession.

The Supreme Court, through its Circular Letter of 1982, has provided guidance to the appointed authorities that the treatment of instances of specialists or other wellbeing laborers associated with carelessness or errors in performing clinical activities or administrations ought not be handled straightforwardly through legitimate channels yet first look for the assessment of the Honorary Council. Medical Ethics. Currently, the MKEK has been replaced by the Indonesian Medical Discipline Honorary Council, an independent institution under the Indonesian Medical Council Article 29 of the Health Law which states that assuming a wellbeing specialist is associated with being careless in doing his calling, the carelessness should be settled first through intervention.

His clarification was not obviously expressed to what office the intercession would be finished. In any case, the Medical Practice Law commanded the foundation of a clinical discipline settlement establishment which was subsequently known as the Indonesian Medical Discipline Honorary Council. This organization isn't an intercession foundation in that frame of

mind of debate goal intervention; notwithstanding, MKDKI is a state establishment approved to decide if there were blunders made by specialists or dental specialists in the use of clinical or dental teaches and set sanctions for specialists or dental specialists who were viewed as liable.

The procedure for handling cases by MKDKI has been regulated in the Indonesian Medical Council Regulation Number 2 of 2011 concerning Procedures for Handling Cases of Alleged Violations of Discipline of Doctors and Dentists. The handling of cases of alleged violations is carried out after a complaint is made. The requirements for the complaint are contained in Article 3 of Perkonsil Number 2 of 2011.

After the complaint is registered in MKDKI/MKDKI-P, the complainant can provide supporting data in the form of evidence owned, and a statement about the truth of the complaint after that clarification will be carried out by a special officer from MKDKI/MKDKI-P. Then enter the handling of cases in the form of "Preliminary Examination." This initial examination stage is discussed in Articles 13-18 of the Council's Regulation No. 2 of 2011. The MKDKI checks whether the complaint is accepted, not accepted, or rejected at this examination stage. If the complaint is received, the Chairperson of the MKDKI forms an MPD, namely the Disciplinary Examination Board. Members of this MPD are from MKDKI. The MPD may decide that the complaint cannot be accepted, be rejected, or terminated from the examination. MPD then conducts an investigation. Examinations are done to gather data and proof connected with the revealed episode. After the examination, a disciplinary it be held to hear will.

If the disciplinary examination session of the doctor or dentist is completed, the MPD will decide against the defendant. Suppose it is proven that he has committed a disciplinary violation, then after the decision of the doctor or dentist who is complained about it. In that case, he can file an objection to the decision of the MKDKI to the Chairperson of the MKDKI within 30 days of reading it. Or acceptance of the decision by submitting new evidence to support the objection19. In terms of ensuring the neutrality of the MKDKI, Article 59 paragraph (1) of the Medical Practice Law, it is stated that the MKDKI consists of three doctors and three dental specialists from their individual associations, a specialist and a dental specialist addressing the medical clinic affiliation, and three regulation alumni. So there is compelling reason need to stress that the specialist will shield his partners.

Indonesian Doctors Association that can be done, among others, by negotiation. There are two types of negotiations in the mediation process: positional-based dealing and interest best-based haggling. Positional-based dealing always starts with a solution. The parties propose solutions and bargain until they find a good point. Meanwhile, negotiations based on interests begin with developing and maintaining relationships. The parties educate each other on their needs and jointly solve problems based on needs/interests. In that strategy, the negotiators are problem solvers.

The goal is to reach an agreement that reflects the needs/interests of the parties, separate between people and problems, be soft on people and hard on problems, trust is built based on situations and conditions, focus on interests and not on positions, prevent/avoid from the bottom line, make choices as much as possible, discuss options intensively, the agreement refers to a common desire, uses arguments and reasons and is open to the reasons of the opponent's negotiator. In a medical dispute, the disputing party other than the patient is a doctor/or hospital.

Thus a clinical debate is a question that happens between users of medical services and medical service actors, in this case, patients and doctors. Usually, the patient demands the doctor who handles it because the patient considers that the doctor did not act according to the procedure and caused harm to the patient, either material loss or even worsening the patient's condition.

4 Conclusion

Legal protection for the doctor profession in resolving medical disputes with patients in hospitals is based on the principle of justice. Specialists who have completed their obligations as indicated by proficient norms, administration principles, and standard working methodology are qualified for lawful security. In completing clinical practice, specialists should satisfy Informed Consent and Medical Records as proof that can liberate specialists from all claims in case of suspicion of malpractice. There are a few purposes behind the cancelation of the sentence to liberate specialists from claims. Meanwhile, from the side of the doctor's work contract in the hospital, of course, it also has legal force on the condition that each wellbeing specialist who works in the clinic should work under proficient guidelines, emergency clinic administration principles, material standard working strategies, proficient morals, regarding privileges. Patients and put patient wellbeing first.

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