

Action Violation of Norm Conducted By The Hospital For Medical Action Refusal To Patients

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Abstract. Emergency service is one of the health services and is a human right as well as an obligation that must be given important attention by everyone. Hospitals have 24 hours a day to provide health services in the emergency room. An emergency department is a place for emergency care, and the function of an emergency department is very important to save the patient's life. The hospital as a supporter of health should not be able to refuse emergency patients, because one of the hospital's obligations is emergency services, therefore emergency patients must get services from the hospital. And if there is a refusal of an emergency patient, the hospital can be held criminally responsible. The criminal obligation of a clinic as a lawful substance in the event that it denies clinical benefits to crisis patients can be borne by the chief or potentially wellbeing laborers at the medical clinic with criminal assents as fines against the medical clinic as well as detainment for medical clinic executives. This depends on the type of corporate obligation that the partnership is the producer, then, at that point, the administration is capable. 2) Criminal arrangements that can be applied to clinics that will not offer clinical types of assistance to crisis patients are Article 304 of the Crook Code and Article 531 of the Crook Code, as well as the lawbreaker arrangements of Article 190 passage (1) and (2) of Regulation Number 36 of 2009 Concerning Wellbeing.

Keywords: Crime, Health, Legislation

1. Introduction

Humans, as social beings, cannot be separated from the help of others in communicating. The significant job of others is required in different human exercises and should be visible between wellbeing laborers and patients.[1] A wellbeing laborer is any individual who has devoted himself to the wellbeing area and has information or potentially abilities through schooling in the wellbeing area which for specific sorts requires a position to complete wellbeing endeavors. It is trusted that clinical activity can lessen torment in patients, broaden the patient's life or check out at the security of the patient's life. Health services can be obtained at the hospital

The type of carrying out guidelines for wellbeing administrations is Regulation Number 36 of 2009 concerning Wellbeing, here in after alluded to as the Wellbeing Regulation. This guideline is one more prosperity rule, replacing Guideline Number 23 of 1992 Concerning Prosperity, which has been denied and articulated at this point not authentic. In this Wellbeing

Regulation, it commands the state to satisfy the standards of wellbeing improvement as expressed in Article 2 of Regulation Number 36 of 2009 concerning Wellbeing, in particular:

“Health development is carried out based on the principles of humanity, balance, benefits, protection, respect for rights and obligations, justice, gender and non-discrimination and religious norms.”

Since pre-Industrial society, hospitals have been religious or charitable institutions, which have cared for sick people.[2] Until around 1960, when the emergency clinic was only for a noble cause (good cause). In this period the medical clinic is liberated from claims, one might say that it is resistant from the law. Since the cash that is gotten from gifts has a particular reason to help experiencing people who are wiped out without hoping to get anything consequently. The old psyche was as yet unadulterated in the assessment that cash got from gifts was to help individual people who were experiencing disease. Around then, it was not in that frame of mind of the patient to sue the medical clinic or the specialist if something startling occurred. This has been acknowledged not entirely set in stone by God.[3]

The improvement of science and innovation in the field of medication, which is applied in clinics, has made emergency clinic the board more mind boggling. Society is progressively reproachful of the clinical benefits gave. In this way, it is important to get ready strides for the lawful effect that might emerge on medical clinic the board because of common and criminal requests from patients.[4]

Arrangements viewing clinics as wellbeing administration organizations in Indonesia have been directed in legal guidelines, specifically in Regulation Number 44 of 2009 concerning Clinics, hereinafter alluded to as the Emergency clinic Regulation. Clinic game plans in this regulation make the situation with the emergency clinic a legitimate subject (recht individual) so the emergency clinic is likewise considered by regulation as a lawful substance that has its own freedoms and commitments. Thusly, the clinic is legitimately answerable for all misfortunes brought about because of carelessness committed by wellbeing laborers at the clinic. Seen according to an administration perspective, in each association including the medical clinic association there should be a top chief who bears the most elevated liability and authority.[5]

As a rule, the privileges and commitments of emergency clinics are recorded in Part VIII Article 29 and Article 30 of Regulation Number 44 of 2009 concerning Emergency clinics. What's more, it has additionally been figured out in the Indonesian Emergency clinic Set of rules (KODERSI) of 2000. The arrangements with respect to the arrangement of wellbeing administrations by clinics are directed in Article 32 of Regulation Number 36 of 2009 concerning Wellbeing.

Article 32 of Law Number 36 of 2009 Concerning Health.[5]

- (1) In an emergency situation, prosperity organization workplaces, both government and private, are obliged to give prosperity organizations to save the patient's life and thwart handicap early.
- (2) In an emergency, prosperity organization workplaces, both government and private, are blocked from excusing patients and moreover mentioning settlements somewhat early.

As per the request for Article 28 H section (1) of the 1945 Constitution of the Republic of Indonesia, it has been highlighted that everyone has the honor to get prosperity organizations. Then, in Article 34 area (3), it is communicated "The state is responsible for the provision of proper health service facilities and public service facilities". Therefore, Article 2 of Law Number 44 of 2009 concerning Hospitals states that "Hospitals are organized based on Pancasila and are based on human values, ethics and professionalism, benefits, justice, equal rights, and anti-discrimination, equity, protection, and safety." patients, and has a social function.

What is implied by "human qualities" is that the association of the emergency clinic is completed by giving great and compassionate treatment without victimizing identity, religion, country, economic wellbeing, and race. In the mean time, the importance of "moral and expert qualities" is that the association of the medical clinic is done by wellbeing laborers who have proficient morals and expert demeanor, and conform to medical clinic morals.

The purpose of managing the organization of the hospital is regulated in Article 3 of Law Number 44 of 2009 concerning Hospitals, namely:

- a. Facilitate free to wellbeing administrations;
- b. Provide assurance for the wellbeing of patients, society, the medical clinic climate and HR in medical clinics;
- c. Improving quality and keeping up with emergency clinic administration guidelines; And
- d. Providing legitimate assurance to patients, networks, medical clinic HR, and medical clinics.

There are as yet numerous medical clinics that don't complete their commitments as expressed parents in law and guidelines or the Emergency clinic Set of rules.[6] One of the responsibilities that are not finished by the center is to offer clinical kinds of help to emergency patients without requiring a front and center portion quite a bit early. It is entirely expected for clinics to give crisis administrations, expecting patients to finish organization first, which is firmly connected with an initial installment or certifications for clinical costs. Whether or not the patient can't complete the definitive requirements, the center won't offer clinical sorts of help to emergency patients. This refusal is regularly joined by various reasons, one of which is the unavailability of void treatment rooms or the setback of clinical staff or experts who can treat patients.

The action of a hospital that refuses to provide medical services to emergency patients is a form of poor health services to patients. Because the hospital has been seen as a legal subject (recht person) in the form of a legal entity and has rights and obligations where the hospital can be held criminally responsible in the event of an unlawful act. One of them is when the hospital refuses to provide medical services to emergency patients or asks patients for advance payments before providing medical services. Medical clinics are institutionally liable for all results that emerge concerning infringement of their commitments in completing wellbeing administrations.

Clinics are coordinated in light of Pancasila and depend on human qualities, morals and amazing skill, benefits, equity, equivalent privileges and hostile to separation, value, patient assurance, and wellbeing, and have social capabilities. The social functions referred to include providing service facilities for patients who can't afford the services. It is incorporated crisis administrations without an initial installment, free ambulances, survivors of catastrophic events administrations and remarkable occasions, or social administrations for missions to humankind. In receiving hospital patients, you must know what forms of responsibility must be accepted and carried out. These provisions formulate the right to obtain health protection for everyone without distinction of race, status, skin color, gender, political beliefs, and so on. In Indonesia, the state policy regarding hospitals is very concrete, but the awareness of hospitals to participate in their success is quite low. For instance, the passage of Law No. 24 of 2011 regarding the Social Security Administration Agency, Law No. 44 of 2009 about hospitals, and Law No. 36 of 2009 on health.

2. Method

According to Soerjono Soekanto, the standardized juridical technique is used in this review. [7] In this genuine assessment, the maker endeavors to examine the guidelines and rules associated with the issue being thought of, explicitly associated with the criminal obligation of facilities that decline clinical advantages to emergency patients.[8]

Regularizing juridical assessment uses helper data sources. Helper data in the kind of controlling juridical assessment is data gotten from real materials, containing fundamental legal materials, discretionary legal materials, and tertiary authentic materials.[9]

Lawful materials as auxiliary information used to dissect legitimate issues in this postulation are as per the following:

- a. Essential Legitimate Materials, specifically limiting authentic materials, as legitimate rules, regulation, plans, normal courses of action of the social affairs, and others associated with arrangement and purchase plans.[10] The essential lawful materials utilized in this study incorporate:
 - 1) The 1945 Constitution of the Republic of Indonesia
 - 2) Law Number 1 of 1946 concerning Criminal Regulation Guidelines
 - 3) Law Number 29 of 2004 concerning Clinical Practice
 - 4) Law Number 36 of 2009 concerning Wellbeing
 - 5) Law Number 44 of 2009 concerning Clinics
 - 6) Regulation of the Pastor of Wellbeing of the Republic of Indonesia Number 69 of 2014 concerning Patient Freedoms and Commitments
 - 7) Indonesian Clinic Implicit set of rules (KODERSI) Year 2000
- b. Discretionary Genuine Materials, explicitly materials that give explanations with respect to fundamental legitimate materials, for instance, draft guidelines, research results, or evaluations of legal subject matter experts.[8]
- c. Tertiary Authentic Materials, explicitly genuine materials that give headings and explanations of fundamental real materials and helper genuine materials, for example word references (guideline, English and Indonesian), reference books and others.[11]

3. Findings and Discussion

3.1 Criminal Liability of Hospitals Refusing to Provide Medical Services

The center is an establishment in the chain of the Public Prosperity Structure that makes prosperity organization tasks for the entire neighborhood besides unendingly gives present second and long stretch clinical advantages containing discernment, expressive, and rehabilitative exercises for people who are cleared out, hurt, and for individuals who considered a posterity. As per WHO World Wellbeing Association, the clinic is a necessary piece of a social and wellbeing association with the capability of offering complete types of assistance, corrective infection recuperating, and preventive sickness counteraction to the local area, the medical clinic is likewise an instructional hub for wellbeing laborers and a clinical exploration community.

Criminal responsibility for criminal acts in the medical field is regulated in Article 304 of the Criminal Code (KUHP) which states "Anyone who deliberately places or allows someone to be in a miserable condition, according to the law that applies to him or because of his consent

is obliged to give life, treatment or maintenance of said person, shall be punished with imprisonment for a maximum of two years and eight months or a maximum fine of three hundred rupiahs". This analysis of Article 304 can be applied to hospitals that do not assist patients at that time they must immediately get help because of sick wounds and if help is not immediately carried out it will endanger the life or soul of the patient. It is expressly stated that hospitals that reject emergency patients will be subject to criminal sanctions.

Since it has been seen as a legal substance that has honors and responsibilities, the crisis facility can be viewed as proficient expecting an unlawful exhibit occurs, especially criminal obligation. Emergency clinics are institutionally liable for all results that emerge with respect to infringement of their commitments in completing wellbeing services.[12] An emergency clinic should give the status of wellbeing laborers, the accessibility of wellbeing administration offices and administrations, and prepared to utilize. Furthermore, the emergency clinic is answerable for the upkeep of all wellbeing administration offices and offices. For this situation, the obligation of the medical clinic can be founded on:

- 1) Violation of commitments by wellbeing laborers (an infringement by a representative of the worker's obligations)
- 2) Violation of medical clinic obligations (an infringement of medical clinic's obligations). The medical clinic is answerable for preparing all the vital hardware for the conclusion and therapy of patients.

In this manner the infringement of commitments by wellbeing laborers will bring forth the obligation of wellbeing laborers. In the mean time, infringement of the medical clinic's commitments will bring forth the obligation of the clinic in giving offices and conveniences. On this premise, lawful obligation in wellbeing administrations is fundamentally borne by wellbeing laborers and medical clinics.

One of the responsibilities, not did by the facility, is to offer clinical sorts of help to emergency patients without requiring an underlying venture quite a bit early. As a matter of fact, while giving crisis administrations, clinics frequently expected patients to finish organization first, which is firmly connected with the initial investment or certifications for clinical costs. Whether or not the patient can't complete the administrative requirements, the center won't offer clinical kinds of help to emergency patients. This refusal is commonly joined by various reasons, one of which is the unavailability of void treatment rooms or the deficiency of clinical work power or experts who can treat patients. So that giving references to various crisis centers is one more choice or a phase given to patients to get further prosperity organizations.

The hospital's refusal of patients who need medical services, as stated in the cases above, is an act that tarnishes the image of the hospital in providing medical services to the people in Indonesia. Health services are rights for citizens in the life of the nation and state, regardless of the financial ability of a patient. As meant in Law Number 36 of 2009 concerning Health Article 5 paragraph (2), which states that: "Every person has the right to obtain safe, quality and affordable health services".[12]

Clinics that decline clinical benefits to crisis patients are viewed as disregarding the law, as well as criminal demonstrations. Clinics reject patients not transparently, however because of multiple factors, medical clinics deny patients who are less wealthy monetarily. The refusal of clinical benefits for crisis patients plainly abuses the arrangements of Article 32 of Regulation Number 36 of 2009 concerning Wellbeing, specifically:

- (1) In an emergency situation, prosperity organization workplaces, both government and private, are obliged to give prosperity organizations to save the patient's life and hinder handicap early.
- (2) In an emergency, prosperity organization workplaces, both government and private, are denied from excusing patients or possibly mentioning settlements early.

In response to the refusal of medical services for underprivileged patients, this shows that the government in supervising and developing health service technical implementing units is not optimal so there are still refusals of medical services by hospitals for various reasons, as mandated by Law No. 36 of 2009 concerning Health Article 14 paragraph (1), which reads: "The government is responsible for planning, organizing, organizing, fostering and supervising the implementation of health efforts that are equitable and affordable to the people."

Crisis facility authentic obligation is coordinated in Article 46 of Guideline Number 44 of 2009 concerning Centers which states "Crisis centers are legally liable for all setbacks achieved via imprudence committed by prosperity workers at the clinic".[12] Assuming you take a gander at this article, it shows that all misfortunes caused by the clinic are because of moves made by wellbeing laborers as a result of their carelessness. The activities of wellbeing laborers, can be represented by the emergency clinic, are all wellbeing activities both in the interest of and without for the patient.

In Guideline Number 36 of 2009 concerning Prosperity, Article 14 related to Article 16 expresses that the public authority is liable for further developing general wellbeing status. This administration obligation incorporates the errand of controlling, encouraging, and directing the execution of wellbeing endeavors. Following these arrangements, the public authority controls wellbeing endeavors and wellbeing assets.

Prosperity resources, especially prosperity workers and prosperity workplaces expect a section in the execution of prosperity. The execution of prosperity organizations in centers is impacted by the status and openness of prosperity workers, for this present circumstance, subject matter experts and clinical chaperons. The preparation of specialists and attendants in completing their obligations in the field of wellbeing administrations as expressed above is connected with the power moved by these specialists and medical caretakers. The execution of the power had will bring forth liability regarding the execution. Along these lines, the lawful obligation of wellbeing laborers, for this situation, specialists and medical attendants, implies their status to do the wellbeing administration obligations relegated to them.

The obligation of specialists while completing their obligations in government clinics, the public authority (for this situation as bosses) is additionally dependable. As per Daly Iskandar, the obligation of bosses for the activities of specialists depends on the thought that the specialist works for and for the benefit of the clinic being referred to, and in doing his work he is limited by the work guidelines that exist in that medical clinic.

Specialists and medical caretakers who work in government emergency clinics, as expressed prior, are representatives who are paid by a medical clinic. These are government employees who are state contraptions who do their freedoms and commitments, not the privileges and commitments of the device, but rather the privileges and commitments of the state as a legitimate subject. These privileges and commitments are not the freedoms and commitments of the device but rather the privileges and commitments of the state as a legitimate element. Thusly, specialists who work in government medical clinics don't do the freedoms and commitments of the device, yet the privileges and commitments of the clinic as a public lawful element. Since the obligation regarding all activities starting from freedoms and commitments

is the obligation of the medical clinic. By and large, blunders/carelessness can be accused on the clinic as a legitimate substance, specifically:

- a. If there is a choice/guidance from the administration giving their obligations and because of the choice bringing about a case. For this situation, the creator can give an illustration of the event of instances of refusal of clinical benefits to crisis patients. If wellbeing laborers, for this situation, specialists, medical attendants, or different officials don't offer clinical types of assistance before the patient has finished regulatory costs that require an initial investment in light of the fact that these arrangements have become rules set by the emergency clinic which are generally framed in the Articles of Affiliation and Local laws (Promotion/Craft) of the clinic, so that specialists, medical caretakers or other medical clinic staff are expected to do the principles that still up in the air. So for this situation the obligation regarding the activities of specialists, medical caretakers, or other staff at the clinic can be borne by the medical clinic.
- b. In the event that there is no decision/direction from the administrator, by then, the screw up/recklessness can be blamed on the Supervisor for the facility, as long as it might be shown that he has outperformed the power given to him. Then again that he had committed some net wrong that he should have known about and not have done.
- c. Managers can likewise be accused assuming they know, however don't forestall it, even have acknowledged an activity that contains a component of mistake/carelessness.
- d. If a crisis facility conducts investigates that are unlawful, the crisis center can be thought of as criminally skilled.
- e. The medical clinic (Chief) could in specific cases at any point be expected criminally to take responsibility assuming he in requesting something knew or ought to have realized that the guidance contained a serious gamble for outsiders. One model incorporates on the off chance that medical clinic rules require an initial investment prior to offering types of assistance to crisis patients. Notwithstanding, obviously, these cases should be analyzed.

The obligation of the emergency clinic depends on the regulations and guidelines that apply in Indonesia. This emergency clinic regulation remembers legitimate standards in regards to hospitalization and specialist co-ops for emergency clinics by wellbeing laborers and their lawful results. Hence the obligation of the clinic is indistinguishable from the connection between patients, wellbeing laborers (for this situation specialists and medical caretakers or different officials) and the emergency clinic.

More than that, there are many delegations of authority in carrying out tasks in hospitals. Therefore, in outline, the responsibility of the hospital when viewed from the point of view of the perpetrators can be grouped into three groups:

- a. The responsibility of the hospital sector, the person in charge is the head of the hospital (Director).
- b. Responsibilities in the medical field are responsible for each medical staff in the hospital.
- c. Responsibilities in the field of nursing, the individual in control is each medical caretaker, maternity specialist and non-care surgeons at the clinic.

The legitimate liability of a clinic is connected with the commitment to give care (obligation of care). Here the law expects that everybody complete their own issues and do their

expert exercises in a sensible way. Care should be taken so others, for this situation, the patient, don't experience pointless misfortunes or wounds.[13] A specialist is viewed as liable for proficient slip-ups in the event that his mentalities and activities don't conform to proficient principles so patients endure wounds and even pass on. In like manner, the clinic is viewed as mindful in the event that the commitment to offer great support isn't adhering to the clinic's clinical benefit guidelines. Hence an arrangement that medical clinics should give wellbeing administrations to patients should be kept up with so these capabilities are completed. As indicated by the Indonesian Medical clinic Set of rules (KODERSI) of 2000 a few emergency clinic commitments to be specific:

- a. Public commitments. Clinics should focus on great and quality administrations on a continuous premise and not focus on issues of cost. Great, quality and reasonable administrations are fundamentally the conveyance of administrations overall, which are firmly connected with each other so that emergency clinic administrations are executed.
- b. Obligations to society. Clinics should constantly adjust their administration arrangements to the assumptions and necessities of the nearby local area. Clinic administration approaches should continuously be arranged to the requirements of the nearby local area, considering, in addition to other things, the local area's financial level, training level, local area culture, populace sythesis, sickness designs, etc.
- c. Responsibilities to victims. Clinics should regard patient freedoms. Patient privileges are extremely basic freedoms that patients have as God's animals, particularly those connecting with privileges connected with medical clinic administrations.
- d. Responsibilities of wellbeing laborers working in clinics. Emergency clinics should guarantee that their chiefs, staff, and representatives generally agree with their individual expert morals. A significant undertaking of the medical clinic is to encourage an administrative environment that is helpful for representative character instruction and preparing. Emergency clinics should lead staff choice of specialists, attendants, and other work force in light of the qualities, standards, and principles of business. Emergency clinics should guarantee that great coordination and connections between all staff in the emergency clinic can be kept up with. Clinics should give open doors to all medical clinic staff to improve and add as far as anyone is concerned and abilities.
- e. Obligations to related establishments. Emergency clinics should keep up with great relations with proprietors in view of the qualities and morals that apply in Indonesian culture.

Emergency clinic obligation depends on the corporate risk regulation as specified in Article 46 of Regulation Number 44 of 2009 concerning Clinics expresses that: "Clinics are lawfully answerable for all misfortunes brought about by carelessness committed by wellbeing laborers at the medical clinic". Assuming you take a gander at this article, it shows that all misfortunes, borne by the emergency clinic, are because of the moves initiated by wellbeing laborers as a result of their carelessness.

In light of the clarifications that have been advanced by the creator above, it very well may be seen that the demonstration of rejecting clinical benefits did by the medical clinic against crisis patients, then, at that point, the full criminal obligation lies with the top of the wellbeing office assuming that on a position request on the grounds that in a clinic there should be a

pioneer (Chief) or mindful clinical staff. On the off chance that the person who rejects clinical benefits to a crisis patient is just a conventional representative who isn't a wellbeing laborer (specialist) in the emergency clinic, then, at that point, criminal obligation likewise lies with the administration of the wellbeing office or clinical staff. Hence, all orders made by these workers or subordinates are completely considered at the desire of the top of the wellbeing office or clinical staff in the event that this is for the sake of a request for office directed in the law. Furthermore, on the off chance that the request is for the sake of an individual, the worker's staff can likewise be dependent upon criminal responsibility. With respect to the arrangements in regards to the discipline of heads of wellbeing offices (clinics) and additionally wellbeing laborers who decline clinical benefits to crisis patients, they are directed in Regulation Number 36 of 2009 concerning Wellbeing. Also, the maker will analyze in full the going with discussion concerning the culprit plans that can be applied to centers that deny clinical advantages to emergency patients.

Medical clinic activities that don't offer great support as per the writer can be said that the medical clinic isn't completing its commitments as contained in the arrangements of Article 29 section (1) of Regulation Number 44 of 2009 concerning Medical clinics. One of the activities of a clinic that doesn't complete its commitments is to give crisis administrations by requiring an initial investment, and on the off chance that the patient can't satisfy the up front installment or doesn't have an assurance, the patient won't be furnished with administrations or dismissed by the emergency clinic. Despite the fact that the arrangements express that a medical clinic giving crisis administrations may not need settlements ahead of time or advance certifications to patients. Medical clinic activities that don't complete their commitments will be likely to sanctions as controlled in Article 29 section (2) of Regulation Number 44 of 2009 concerning Emergency clinics. That: "Violations of the obligations referred to in paragraph (1) are subject to administrative sanctions in the form of" :

- a. Warning;
- b. Written warning; or
- c. Fines and revocation of hospital licenses.

So that as per the Lawbreaker Code it is recognized in the primary discipline and extra discipline. Principal discipline and extra discipline are additionally isolated into a few kinds as referenced previously. The lawbreaker request depends on the seriousness of the crook endorse. The heaviest sentence is put at the top, like capital punishment, while the sentence that is lighter than capital punishment, in particular detainment, is put second. Etc, the grouping closes with the lightest discipline. The primary discipline is a fine, while the extra punishment is the declaration of the adjudicator's choice.

4. Conclusion

A facility that won't offer clinical sorts of help to emergency patients is an unlawful exhibition and a hoodlum act. Since this has been controlled in the game plans of Guideline Number 36 of 2009 concerning Prosperity. Concerning the criminal commitment of a center that won't offer clinical kinds of help to emergency patients, it will in general be borne by the clinical facility drive (Boss) or possibly prosperity workers at the crisis facility with criminal consents as fines against the crisis facility and moreover confinement for crisis center chiefs. Criminal courses of action that can be applied to centers that won't offer clinical kinds of help to emergency patients are the general law breaker game plans of Article 304 of the Culprit Code

and Article 144 531 of the Crook Code and the extraordinary culprit courses of action of Article 190 section (1) and (2) of Guideline Number 36 of 2009 About prosperity.

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