

The Rights of Patients as Consumers of Health Care Services In The Transaction of The Therapeutic

Deetje Christy Anggraini, Ety Marjati

Faculty of Law, Hang Tua University Surabaya

E-mail: deetjeanggraini@gmail.com, ettymarjati00@gmail.com

ABSTRACT

The therapeutic is a legal relationship between the doctor with patient medical services professionally based whose competence in accordance with sophistication and skill in particular in medical field (Komalawati, 1999:1). As a legal relationship and has rights and duties of the parties which were elements of that cannot be separated from the therapeutic. In contrast to engagements in general have, similarity in it so frequently in the therapeutic imbalance each other parties as the seat of the knowledge and understanding of, engagements hence the legal duty to provide balance through recognition and protection laws against rights patients in the underlying transactions law. was therapeutic. The rights of patients that rises of two the basic rights of the right to health care and the right of self determination In the implementation have to reflect the values of human rights back, in addition to fulfill their rights these patients also could become one of the indicators to obligation that should be adopted by a doctor.

Keyword: Therapeutic, Transactions The Right Patients, Basic Human Rights Inform Consent, Engagements.

1. INTRODUCTION

Medical health service (medic) is the important ones have to be in take care and be increased in accordance with quality standard service is done the citizens as the consumer could feel is provided in the benefits of especially one that is the field of work doctors and cannot be separated from various sectors in life a human being whom interlock hooked moreover for a developing country like Indonesia (komalawati, 1993: 1. In the relationship between doctor, hospitals and patients protected by law. To create harmony of the law is a means of interests between the doctor, hospitals and patients in order to support the success of medical services or known as therapeutic, transactions which have the potential to transactions this is transitions involving the origin of conflict. Usually as a result of conflict when the parties not to run their role as expected by the another party (Yustianti & Roesli, 2018). Reviewed in terms of patients that patients often in a very tenuous position so that often do not preside over the senate “ law can be determined only in relation to the just “ (Kurnia, 2007:2).

Legal aspects, the relationship between doctor with a patient is the subject of relations with his subjects law in that legal norms that is basically done on the basis of a collective agreement, so in this relationship there are the rights and obligations of which are reciprocal; the obligations of the patients, the right of a physician the right of the patient becomes an obligation doctor. The research is normative juridical law and with the approach systematic of law.

2. DISCUSSION

Therapeutic Agreement

Understanding the covenant therapeutic or that which more commonly called therapeutic transactions is the relationship between the doctor with patients who should be conducted by a feeling of trust of the patients against doctors (purwohadiwardoyo, 1989: 14.). Which become object of therapeutic in a transaction it was healing patients, is not healing patients. It is the relation therapeutic transactions health services (medical service) Or with other terms is the act of medical research of health services (health provider) With service recipients (health receiver). The relationship between doctor with a patient growing into a more balanced, where there the doctor and the patient has the rights and obligations of each of which must be fulfilled. In the science of law therapeutic transactions known two types of agreements that is sought agreements “ *inspannings verbinten*is “ and the results of agreements “ *resultaat verbinten*is “.On agreements sought so achievement that must be administered by a doctor is in the form of efforts to as much as possible against healing patients whose outcome is not occur. Thus in the implementation of the agreement between doctor and patient, therapeutic doctor does not promise healing the patient but to do their best cure while in the case of agreements the result is a feat that must be provided in the form of a specified outcome where engagements this attached to the patient.

Patients who come into the hospitals to then see a considered can help of health problem that had happened to him want to tell from the doctor about what that are complained regarding healthiness. Doctor will provide a reasonable explanation is quite wide on complaints the patient. An explanation of the act of medicine has to be given directly to the patient or the family patient are good or remain asked behind. Explanation must be given in complete and with the use of comprehensible language or perceptible to the patient or the patient family are easier to understand an explanation the act of medicine that will be taken. The act of medicine explanation among other things these contain;

The diagnosis and procedures of the act of medicine.

The purpose of the act of medicine by.

Other actions, alternative and the risk.

The risk and its potential complications.

Against the action of prognosis.

An estimate of payments.

Information or the most authoritative who administered by a doctor is the right of patients as the subject of law that is protected by the law number 29 / 2004 about practices medicine and act no 8 years 1999 about consumer protection.

Based on the above analysis above, relating to transactions to therapeutic between doctor with a patient can be drawn following; sense (Isfandyarie,2005:69-70).The act of making it compulsory for therapeutic transactions valid as good for patients and doctors, where is the act of placing a duty on the parties meet the rights and obligations of each of which corresponds to it they had agreed on.

Therapeutic transactions can not be drawn back without an agreement the other hand, for example in this case as doctors did not work cure the patients or the patient condition to deteriorate after they won an handled, a doctor should not be off responsibility with take over to has another without clear medical indication to take over patients to other wives the doctor is have got to get the consent of the patient or his family.

Both sides the doctor as well as the patient has to together acted in good faith in carrying out therapeutic transactions. Interview in the treatment of to do based on good faith and great precision who is worthy to be doctor stated and patient must be help to answer with good faith so that the result of that is in reach in accordance with made a transactions therapeutic.

Therapeutic transactions should be conducted in accordance with the agreement made a healing patients, with reference to custom or propriety who prevails among both conventions in the field of medical services or propriety patients. Doctor must keep the quality of service with according to standard medical services of the contest with hospitals and organizations a conventions.

Therapeutic transactions this has some special features compared to another agreement, the following; (Komalawati,1993:44). On the subject of therapeutic transactions it consists of doctor and patient. Doctor act as service providers medic professional that the service was based the principle of the provision of help. Qualification for the doctor to have certain and authority as a professional in medical field have competent to help it takes patients, while the patients due to the have no qualifications and authority as we have in the doctor pay an honorarium from the doctor over all things have been given.

An object agreement in the form of medical efforts professional characterized by the provision of help. The purpose of the agreement is the maintenance and the increase in oriented health, it is just of increasing the health service promotional activities (, the prevention of disease(preventive), the healing of diseases (curative), and recovery of disease (rehabilitative).

Based on a code of ethics of medicine mukadimah indonesia which was manifested in the minister for health decree of the republic of indonesia number 434 / men.kes / x / 1983 about the entry into force of the code of conduct of medicine for the physician indonesia, that the relationship kodeki specifically the doctor with patient is following; It is therapeutic specially regulate the legal relationship between doctor and patient Done in shades of mutual trust or confidence with that patients or the patient relatives had to believe in is doctors who do healing against efforts to the treatment of sick at the name, this doctor also have to trust a patient. The patient has to honest told me about all their complaints had been and all against certain medicines have idolater seeks asylum so that a doctor can give the correct therapy.

Legal relationships between the doctor with special patients these involve the emotional ties hope, and worry between creature over healing patients.

Informed Consent In Medical Procedures

In therapeutic transactions between the doctor with patients, the parties shall to mutually agree about the efforts to treatment or health services that would given doctor. The form of therapeutic transactions this is informed consent of those who do not translates as approval the act of medicine. Informed consent that was after having the right to information and then right to give the consent of the patient for its effort of a physician in do health care.

Informed consent in an etymological derived from a “ informed “ Which means already provided information or already described or have been outlined and the “ consent “Which means approval or permission. Jadi Informed consent Is consent the act of medicine in favor of the patient or his family who going to happen to himself or his family after briefed which fulfills the requirements of a doctor. (Dalami,2010:113). The consent of the patient or his family are a must or obligation before the doctors do medical services or the act of medicine. This is reflected in the provisions of article 45 paragraph (1 and 2) the act of the practice of medicine that mention as following; Any act of medicine that will be conducted by doctor towards patients must have approval from the patients or family.

Approval as referred to in paragraph (1) given after the patient briefed in an incomplete manner. An explanation that must be administered by a doctor to the patient or the patient family are based on article 45 paragraph (3) at least includes;

The result the diagnoses and procedures of the act of medical.

The purpose of the act of medical do.

An alternative form of the action of another and risk.

The risk and its potential complications.

Against the action of prognosis.

Basically approval the act of medical derived from patients rights in relation to the doctor with patients, namely;(Dalami,2010:114)

The right to determine of his own.

The right to get the information

The existence of informed consent is very important to have an agreement of parties who, health services in order to know that the presence of informed consent is very important and necessary. at the hospital.

Agreement and engagement

An agreement is an event in which a promised one another or that the other two people that there can be no promised to implement something. (Subekti,1990:1). From an agreement would give rise to a relationship between two men who were afterwards called with engagements; which the which one is entitled has demanded something things from the other party, and the other party had an obligation to meet the suit, in other words the agreement are one source of engagements because the most generated a lot of testament law adheres to the open system so that members of the community free to entered into a covenant and the act of only function to furnish the agreements by the public.

According to Wirjono Probodikoro stated that the agreements is a transportation law concerning the possessions or parties, in which one party promised or promise in order to implement something, and the other is entitled demanded the implementation. (Macmud,2008:73). An agreement it is said shall be valid if it has fulfilled 4 (four) places the requirements as determined article 1320 KUHPperdata, are ;

They agreed that fastens himself.

That there be an agreement there must be a will that reached an agreement or consensus.Without an agreement there is no possible treaty.An agreement or the consensus containing the understanding that the parties stated their own will to make each other of an agreement, where the will of parties which one should according to the will the money other in a reciprocal.The government took a followed by a revenue that the birth of a covenant.

Ability to make an agreement: Article to 1329 KUHPperdata states that each of us is capable to make agreements if he expressed by the act of skillful architect and master builder. It means people considered capable to make an agreement with the exception of those in a resolute manner are considered not skillful architect and master builder by the provisions of a statute as claimed by article 1330 KUHPperdata. Permenkes about approval the act of medicine have suggested that parties giving its approval namely patients in terms of the patient 21-year-old (some are to either the upper or has been married in the waking state and healthy sense.

A particular thing; Is the principal of a particular thing or an object of the covenant that are in the form of achievement and or objects as stipulated in section 1333 and 1334 KUHPperdata. An agreement shall have a particular object; at least can be determined an object that may be in the form of objects that which is now and that there will be.

Some reason that halal; KUHPperdata in not firmly give an understanding on for things. Article 1337 KUHPperdata introduces a prohibited for it has seemed good when prohibited by the act or opposite to decency or public order. Of the said article this 1337 a conclusion can be drawn in *a contrario* that, for lawful is an agreement shall not contradict the laws, decency and public orderliness.

The act of rejection of medicine (Informed Refusal) In the transactions of therapeutic

After communicated medical procedures will be conducted by doctors, then afterward his patient can be exercised this right to select, approve or reject the measure. The right to refuse the act of medical offered by doctor called informed refusal, but in this situation is a doctor also have to go into in detail a result of the refusal was, if the patient so the patient has to still refused to sign the form the rejection letter medical procedures have been prepared by a doctor. So at perceptible to the right with the agreement of the act of medicine this is the right of base upon health services and the right to self-determination which both are the right patients over poor health must be acknowledged and respected.

The right granted legislation to the patient arranged in article 52 the act of the practice of medicine which states that services that patients in the way of the practice of medicine has the right; Briefed in a complete manner of an act of medical as intended under article 45 paragraph (3) the act of practice of medicine.

Ask another doctor or dentist opinion.

Resists the action of medical.

Got the contents of the medical record; In addition the patient for resists the action of medicine arranged also in indonesia kodeki (Kode Etik Kedokteran Indonesia), *medical codes of conduct* said; as follows The right to life, the right to her own body and the right to die. Fairly the right to obtain human medical services meet the standards of the profession, the right to obtain a description of the diagnosis and therapy which treat from a doctor, the right to refuse a procedure planned, diagnosis and therapy or even withdraw from therapeutic contract, the right to obtain an explanation about research to medical titles and prevent or accept the. participation in medical research, the right to be referred to medical doctors a specialist if necessary and returned back to physician who take them back when he was done a treatment for treated or follow up this proposal. The rights over secrecy that has sort of personal medical record

The rights to obtain an explanation of hospital regulations.

The right to related families, adviser, or an ecclesiastic, etc that are necessary during the treatment at the hospital.

The right to obtain an explanation about details, expenses for in patients , medicine, laboratory examination, roentgen examination, ultrasonography (USG), CT scan, Magnetic Imaging (MRI), and others (If its needed) Surgery coast, maternity room, doctors' fees and others.

According to soerjono soekanto (1989: 161) in general gives an account of the rights of patients in the service of health is as follows;

The patients for treatment and management.

The right of choosing health workers and hospital that going to be taking care of a patient.

The right to refuse certain treatments.

The right to get information

The right to security and not interfered with

The right to terminate treatment

Bahder Johan nasution (1999:33) A description of the about the rights of a patient in health services in general following;

The rights of patients to take care of

The right to refuse certain treatments.

The right of choosing health workers and hospital that going to be taking care of a patient.

The right to get information

The right to refuse treatment. without permission

The right to feel saved

Rights over a limitation on the arrangement freedom care.\

The right to terminate treatment

The right to obtain permission to accept visitor twenty four hours a day.

The right of patients to sue or prosecute.

The right of patients on the aid law.

The right of patients to get advice on experiment by health workers or his family To the rights of patients to refuse the diagnostic procedures and therapeutic planned is a human right for accepting or rejecting something that is offered. Hence patients who have any basic right or decide how to rights runs (the right of self determination) , Should be given right to give his agreement about the medicine to do with. Himself

2. CONCLUSION



The practice of medicine is a complex system and vulnerable will of the accident so that it should be done with brothers by those competent and has the authority for people who know. The recognition of the rights of patients in the implementation of transactions in a therapeutic constitutes one of the elements which cannot be ignored in in the process increase of degree health. The government through his normative instrument made an effort to provide legal protection through various law and rule that serve as a platform the fulfillment of the rights of patients by health administrators (health providers). Although until now law and rule that contain about the rights of the patient still is complex in the sense of spread in various the act, but still trying to reflect the human right and protection of basic civil rights. The basic rights of patient can be is categorized as a right social and individual. In terms of a fundamental principle of the rights of a patient in a transaction therapeutic can serve as reflection recognition was born to the right to health care and the right of self determination. Hence substance the mechanism to fulfill their rights must remain puts forward the human right. The rights of patients also serves as an indicator of the determinants of the whereabouts of medical error which was carried out by a physician in run the practice of medic.

Legal protection to the patient as a consumer health service basically to start since, therapeutic transactions made meaning that transactions / engagement on the basis of equality between the two sides, in addition to this communication between the two sides must always keep, in this is meant to minimize, a deliberate act , act of omission unwarranted or anything of the health service patients. Loss

Suggestions

To comment on the importance of the function the rights of the patient and the government should be immediately realize the message of healthcare legislation to should immediately establish legislation which are stronger in the hierarchy of the laws governing the concerning the protection of patients, so that efficient legal certainty and justice and effective, in addition to the because in Indonesia has not been having standard medical service and standards profession of medicine that adequate But it only increases the protection of the law towards patients as consumers can be achieved. health service

REFERENCES

Al purwohadiwardoyo,etika Medis, Kanisius,(1989) yogjakarta.hlm. 14.

Anny isfandyarie.(2005). Malpraktek & Resiko Medik Dalam kajian Hukum Pidana,Prestasi pustaka publishe,Jakarta.,hlm. 69 – 70.



- Bahder Johan Nasution. (1999). Hukum kesehatan pertanggungjawaban Dokter, rineka cipta, Jakarta, hlm.33
- Ermawati dalam, (2010). etika Keperawatan, Trans Info media, jakarta, hlm.113
- Subekti. (1990). hukum perjanjian. PT Intermasa, jakarta, hlm. 1
- Syahrul Macmud, Penegakan hukum dan Perlindungan hukum Bagi Dokter Yang Diduga Melakukan Medical Malpraktek, mandar maju, Oktober, 2008, hlm.73
- Soerjono Soekanto, Hak dan Kewajiban pasien, Ind-Hill-Co, Jakarta, 1989, hlm.161
- Titon Slamet kurnia. (2007). Hak Atas Derajat Kesehatan optimal sebagai HAM di Indonesia; PT Almuni: bandung: hlm.2
- Veronica Komalawati. (1999). Peranan Informed Consent dalam Transaksi Terapeutik, PT. Citra Aditya Bakti, Bandung, hal. 1.
- Veronioca komalawati. (1993). peranan Informed Consent Dalam Transaksi Terapeutik, suatu Tinjauan Yuridis Persetujuan dalam hubungan dokter dengan Pasien; Citra aditya bakti; bandung, hlm.1
- Yustianti, S., & Roesli, M. (2018). Bank Indonesia Policy in the National Banking Crisis Resolution. *YURISDIKSI: Jurnal Wacana Hukum Dan Sains*, 11(1), 77–90.