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LEGAL POSITION OF INFORMED CONSENT IN CARRYING OUT MEDICAL ACTION BASED ON THE PRINCIPLES OF HUMAN RIGHTS IN THE FIELD OF HEALTH

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ABSTRACT : In health services, patients have the right to know the treatment procedures, risks, and available treatment alternatives. Doctors are obliged to provide information regarding the medical actions to be carried out, their benefits, and risks. This process is called informed consent, which is the consent given by the patient or his/her family based on complete information regarding the medical action. This study aims to determine the legal position of informed consent in medical actions and how the principle of human rights is applied in the health sector. This study uses a qualitative method with a normative legal approach. The qualitative method aims to understand the phenomenon in depth through the collection of non-numerical data such as interviews, observations, and document analysis.
Informed consent has a strong legal standing in medical practice in Indonesia, supported by various regulations such as Law No. 29 of 2004 concerning Medical Practice and Law No. 17 of 2023 concerning Health. This principle ensures that patients have the right to obtain complete information before agreeing to medical actions. If not implemented, doctors can face lawsuits, both civil, criminal, and administrative sanctions. In addition, informed consent is in line with the principles of Human Rights (HAM) such as autonomy, dignity, justice, and non-discrimination, ensuring that every patient has the same rights in medical decision-making.

Keywords : *legal status, informed consent, medical action*

I. INTRODUCTION

Every Indonesian citizen has the right to receive fair and professional health services without discrimination, as stipulated in Health Law No. 17 of 2023. The right to health includes physical, mental, and social aspects, which are basic rights of every individual. Increasing public awareness of their rights in health services reflects good legal awareness, although on the other hand it increases the risk of health workers facing lawsuits from patients.

In health services, patients have the right to know the treatment procedures, risks, and available treatment alternatives. Doctors are obliged to provide information regarding the medical actions to be carried out, their benefits, and risks. This process is called informed consent, which is the consent given by the patient or his/her family based on complete information regarding the medical action. Regulation of the Minister of Health Number 290 of 2008 stipulates that medical actions must obtain the patient's consent, either in writing or verbally. Without this consent, medical actions have no legal force. Informed consent is regulated in various regulations, including Law Number 29 of 2004 concerning Medical Practice, which affirms the patient's right to information before giving medical consent.

Informed consent creates a doctor-patient relationship based on trust, which is based on the right to information and the right to self-determination. This medical consent must be given freely, consciously, and rationally after the patient understands his/her health condition and the actions to be taken. The main purpose of informed consent is to protect the patient's rights and avoid unauthorized medical actions. In an emergency, the main priority remains saving the patient's life, although informed consent is still important. The Relationship between Informed Consent and Human Rights The right to health is part of the human rights guaranteed in Article 28H paragraph (1) and Article 34 paragraph (3) of the 1945 Constitution. This right is also emphasized in the Universal Declaration of Human Rights (UDHR), which emphasizes individual freedom in making decisions related to health. This declaration emphasizes that patients have the right to know clear medical information before accepting or rejecting treatment. Informed consent protects the patient's right to self-determination and ensures

that health services are provided transparently and without coercion. From a legal perspective, informed consent functions to protect the patient's bodily integrity and individual independence. The principle of equality and non-discrimination in human rights also applies in health services, ensuring that all patients are treated fairly without distinction of race, religion, or certain groups.

In addition to being a patient's right, informed consent also provides legal protection for medical personnel. If a medical procedure does not produce the expected results, informed consent can be used as evidence that the patient has agreed to the procedure after receiving sufficient information. Therefore, health workers must understand and apply informed consent in their practice to protect patient rights while providing legal certainty for medical personnel.

Thus, informed consent has a strong legal standing in medical practice and health services. In addition to guaranteeing patient rights, informed consent also creates a balanced legal relationship between doctors and patients based on a therapeutic agreement. Informed consent is not only a medical obligation, but also a fundamental principle in respecting human rights. This study aims to determine the legal position of informed consent in medical procedures and how the principle of human rights is applied in the health sector.

II. RESEARCH METHOD

This study uses a qualitative method with a normative legal approach. Qualitative methods aim to understand phenomena in depth through the collection of non-numerical data such as interviews, observations, and document analysis. Meanwhile, normative legal research focuses on the analysis of applicable legal norms or rules, including studies of laws and regulations, legal doctrines, court decisions, and relevant legal literature. This study aims to examine the interpretation and application of law and identify the legal principles underlying related regulations. This study uses a statute approach, a case approach, and a conceptual approach. Data collection techniques are carried out through literature analysis related to the research object. Data are analyzed using descriptive and systematic techniques so that the research results can be presented clearly and in detail.

To obtain a comprehensive understanding of the legal status of informed consent, this study uses three types of legal material sources, namely primary, secondary, and tertiary. Primary legal materials are legal sources that have direct binding force, including laws and regulations, court decisions, and international documents. The laws and regulations used include the 1945 Constitution which guarantees human rights, Law No. 39 of 1999 concerning Human Rights which regulates basic rights, Law No. 29 of 2004 concerning Medical Practice which includes medical ethics and legality, Regulation of the Minister of Health regarding medical services and medical ethics, and Law No. 17 of 2023 concerning Health which aims to improve public health. In addition, court decisions related to human rights cases in the medical context and medical ethics are used to understand the interpretation of the law in concrete cases. International documents such as the Universal Declaration of Human Rights (UDHR) are also used as references because they set general standards for human rights in the world.

III. RESULTS AND DISCUSSION

Informed Consent in Medical Practice

Informed consent is a basic principle in medical ethics that gives patients the right to understand their medical condition, treatment options, and the risks and benefits of medical procedures. The consent form is an important document that includes information about medical procedures, including available alternatives. Although this principle has been implemented, there are still various challenges in its practice.

Challenges in Implementing Informed Consent

Some of the main obstacles in implementing informed consent include the complexity of medical information, communication barriers, patient psychological factors, legal and regulatory aspects, socio-cultural factors, and developments in health technology. Complex medical terminology is often difficult for patients to understand, while doctors' limited time to explain information is another barrier. Communication barriers also arise due to differences in the patient's cultural and educational background, as well as language barriers.

Psychological factors such as fear and emotional conditions can affect patients' understanding of the information provided. From a legal perspective, complex regulations and medical personnel's fear of lawsuits can affect the delivery of information. Socio-cultural factors, such as social hierarchy and religious values, also play a role in medical decision-making. In addition, widespread access to health information on the internet can confuse patients in distinguishing valid information.

Basics of Claims for Informed Consent Cases

In certain conditions, especially in emergencies, doctors are often faced with ethical and legal dilemmas in making medical decisions without patient consent. Some of the bases for claims that can arise due to violations of informed consent include:

1. Absence of Valid Consent – If a medical procedure is carried out without valid consent, this is contrary to Law No. 29 of 2004 concerning Medical Practice which requires patient consent before the procedure is carried out;
2. Lack of Information Provision – Patients have the right to receive sufficient information regarding medical procedures, as regulated in Law No. 17 of 2023;
3. Patient's Lack of Understanding – If the patient does not understand the information provided, the consent is considered invalid, according to Law No. 17 of 2023 Article 276;
4. Violation of Medical Ethics and Standards – Doctors are required to practice according to professional standards, as regulated in Law No. 29 of 2004 Article 6;
5. Negative Consequences of Medical Actions – If patients suffer losses due to actions without proper informed consent, they have the right to claim compensation based on Civil Code Article 1365;
6. Abuse of Power – If doctors influence patients without respecting their rights, this violates Law No. 29 of 2004 Article 7 concerning patient rights in medical decision-making.

In conclusion, violations of informed consent can have serious consequences, both legally and ethically. Therefore, it is necessary to increase patient understanding, improve doctor-patient communication, and comply with regulations to ensure that patient rights remain protected.

IV. CONCLUSION

Informed consent has a strong legal standing in medical practice in Indonesia, supported by various regulations such as Law No. 29 of 2004 concerning Medical Practice and Law No. 17 of 2023 concerning Health. This principle ensures that patients have the right to obtain complete information before agreeing to medical actions. If not implemented, doctors can face lawsuits, both civil, criminal, and administrative sanctions. In addition, informed consent is in line with the principles of Human Rights (HAM) such as autonomy, dignity, justice, and non-discrimination, ensuring that every patient has equal rights in medical decision-making.

V. SUGGESTIONS

Hospitals need to strengthen internal policies, provide standard forms that are easy to understand, and communication facilities that support patients from various backgrounds. Patients should also better understand their rights related to informed consent, including the right to information and medical decisions. Further research can deepen specific aspects, such as the application of informed consent to certain medical procedures, patient groups with special needs, and comparisons of its application in various cultures and health systems.

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