

## LEGAL REVIEW OF PATIENT'S CONSENT FOR HOSPITAL MEDICAL ACTION IN THE CITY OF MEDAN

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### ABSTRACT

*The legal basis for the relationship between medical personnel and patients can be seen in article 1313 of the Civil Code, namely "an agreement is an act whereby one or more people bind themselves to one or more people". Based on this, every patient has the right to know the treatment procedure to be experienced, including the risks that must be borne as a result of certain treatment methods. The patient also has the right to know whether there are other alternatives, including the risks. There are those who argue that patients have the right to know things that are outside the scope of health, such as social factors called "informed consent", namely consent given after obtaining complete information. This research is more of an empirical juridical research, although it is preceded by normative research first. Normative legal research is research that uses secondary data, while empirical / sociological legal research is legal research that uses primary data. The impact arising from the patient's consent for medical treatment is a risk that must be borne alone as a result of an agreement or agreement between the medical team and the patient, all consequences that arise are not malpractice of the medical team but are medical risks. The legal view of the consent of the patient's medical action is actually as well as the legal protection for the patient himself. Legal protection for patients related to medical treatment approval has been regulated in a medical regulation and the ministry of health uses written legal protection agreements, oral legal protection agreements and sign legal agreements. It is advisable for the medical team to work professionally and carefully and still pay attention to the prevailing laws and regulations, especially those concerning the issue of legal protection for doctors themselves and patients, to the public to be careful in making an agreement for medical action. Because all risks that occur will be their own responsibility, on the other hand, Medical Personnel cannot be blamed because it is a medical risk.*

**Keywords:** Crime Management, Fake News, Pandemic, Corona Virus

### INTRODUCTION

The relationship between medical personnel and patients has a legal basis as seen in article 1313 of the Civil Code, namely "an agreement is an act whereby one or more people bind themselves to one or more people". Based on this, every patient has the right to know the treatment procedure that will be experienced, including the risks that must be borne as a result of certain treatment methods. The patient also has the right to know whether there are other alternatives, including the risks. There are those who argue that patients have the right to know things that are outside the scope of health, but which are related to social factors called "informed consent", which is consent given after obtaining complete information.

Approval of medical action has been regulated in Law of the Republic of Indonesia Number: 29 of 2004 concerning Medical Practice Article 45 which basically states that any medical or dental action to be performed by a doctor or dentist on a patient must be approved after the patient has received a detailed explanation. complete and any medical or dental action that contains a high risk must be given with a written consent signed by the person entitled to give consent.

The obligation to provide an explanation or information to the patient is the person in charge of the patient's care, namely the doctor. In certain circumstances, doctors can delegate their authority to other health workers, but the legal responsibility remains with the doctor so that juridically, the nurse is not authorized to carry out the "informed consent" process. Mistakes or negligence committed by health workers can be prosecuted criminally if they fulfill criminal elements. In both criminal and civil law, patients can file claims or claims for compensation against doctors and against related parties because they feel aggrieved and treated inhumanely.

From the description above, it can be seen that consent to medical action is very necessary, but on the other hand it also has an impact on the patient itself where this comes from the laws in force in the country of Indonesia so based on this study aimed to determine Legal Review Of Patient's Consent For Hospital Medical Action In The City Of Medan.

### RESEARCH METHOD

This research uses a normative juridical approach, namely by reviewing or analyzing secondary data in the form of secondary legal materials by understanding law as a set of regulations or positive norms in the statutory system that governs problems in research, so that this research is understood as library research, namely research on secondary data. The research approach carried out by researchers is a statutory approach (Statue Approach) in normative legal research and a qualitative approach in empirical legal research. The statutory approach is an approach that is carried out by examining all laws and regulations related to the legal issue being handled. A qualitative approach is a method of analyzing research results that produces descriptive analysis data, namely data stated by respondents in writing or orally as well as real behavior, which is researched and studied as a whole. Data collection

used in conducting research in the field of information interview techniques by asking directly to respondents who have been previously determined, namely several patients and officers at one hospital in Medan City. The data analysis was conducted qualitatively by collecting primary, secondary and tertiary legal materials related to the research. The data obtained is compared with the results of the study, which conclusions will be drawn. Data analysis using deductive and inductive methods. Data analysis was carried out systematically, qualitatively, comprehensively and completely.

## RESULTS AND DISCUSSION

The health law, including the law "lex specialis", specifically protects the duties of the health professional (provider) in the human health care program towards the goal of the "health for all" declaration and the special protection of "receiver" patients to get health services. By itself, this health law regulates the rights and obligations of each service provider and service recipient, either as an individual (patient) or a community group. The Indonesian Health Law Association in its articles of association states "Health law is all legal provisions that are directly related to health care or service and its application as well as the rights and obligations of both individuals and all levels of society as recipients of health services and from health service providers in all aspects of the organization; means of national or international medical guidelines, medical law, jurisprudence and medical and health sciences. What is meant by medical law is the part of health law which concerns medical services". Article 4 of Law Number 36 Year 2009 concerning Health explains that "everyone has the right to health". The right to health as referred to in this article is the right to obtain health services from health service facilities in order to realize the highest degree of health. So informed consent is the consent or permission by the patient or family with the right to the doctor to perform medical actions on the patient, such as physical examinations and other examinations to establish a diagnosis, administer drugs, administer injections, assist in childbirth, perform anesthesia, perform surgery, perform follow-up in case of difficulties, and so on. Furthermore, the word Informed is related to information or explanation. It can be concluded that Informed Consent is the consent or permission by the patient (or the entitled family) to the doctor to perform medical treatment on him, after which the doctor concerned is given complete information or explanation about the action. According to the Minister of Health Regulation No. 290 / Menkes / Per / III / 2008 concerning Approval of Medical Action, Approval of medical action is an approval given by a patient or immediate family after receiving a complete explanation of the medical or dental action to be performed on the patient. In the event that the patient agrees to medical action, in this case, the patient has actually entered into an agreement, meaning that he already has a legal agreement where the patient and the medical team have entered into an agreement, then everything that is caused by unexpected things cannot be blamed on the medical team because already at the risk of the patient himself. The impact that arises from the consent of the patient's medical action in terms of protecting the patient against all medical actions carried out without the patient's knowledge, therefore, in this agreement it has a legal effect such as the occurrence of malpractice, which is a form of harm to the patient being handled by the doctor. In accordance with statutory regulations, patients may sue a doctor who does something deemed to violate the provisions of medical ethics. In an emergency situation Informed consent remains the most important thing even though it has the lowest priority. The main priority is action to save lives. Although it is still important, informed consent should not be a barrier or obstacle to the implementation of emergency care because in a critical condition where a doctor is racing with death, he does not have enough time to explain until the patient is fully aware of his condition and needs and makes a decision. Doctors also do not have much time to wait for the patient's family to arrive. Even if the patient's family is present and then they do not agree with the doctor's action, then based on doctrine of necessity, the doctor still has to take medical action. This is spelled out in the Minister of Health Regulation Number 585 / Menkes / Per / IX / 1989 concerning Medical Action Approval, that in an emergency, informed consent is not required. In accordance with the Regulation of the Minister of Health Number 290 / Menkes / Per / III / 2008 concerning Approval of Medical Action, that in an emergency situation, to save a patient's life and / or prevent disability, approval of medical action is not required. According to Law Number 36 of 2009 concerning Health, it is one of the laws whose material also protects the interests of consumers. With the construction of Article 64 of the transitional rules it can be understood implicitly that Law Number 8 of 1999 concerning Consumer Protection is a special provision against the provisions of the existing laws and regulations, in accordance with the principle of *lex specialis derogat legi generali*.

## CONCLUSION

1. The legal basis for the relationship between medical personnel and patients has a legal basis as seen in Article 1313 of the Civil Code, namely "an agreement is an act whereby one or more people bind themselves to one or more people". Based on this, every patient has the right to know the treatment procedure that will be experienced, including the risks that must be borne as a result of certain treatment methods. The patient also has the right to know whether there are other alternatives, including the risks. There are those who argue that patients have the right to know things that are outside the scope of health, but which are related to social factors called "informed consent", which is consent given after obtaining complete information.
2. The legal view of the patient's consent for actual medical action as well as providing legal protection for patients with an agreement between the patient and the medical team on this agreement, in this case the doctor must comply with all forms arising from the agreement, so that the doctor or medical staff can carry out their duties professionally.
3. Legal protection for patients related to medical treatment approval has been regulated in a medical regulation and the Ministry of Health uses written legal protection agreements, oral legal protection agreements and sign legal agreements.

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