



Legal Aspect of Handling of Covid-19 Suspected Patients in Health Services in Hospital

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ABSTRACT

Hospitals function as quarantine, prevention and control of the Covid-19 Pandemic era. However, the crucial issue is the hospital is lying; patients who have not confirmed Covid-19 but are considered positive by the hospital. This study discusses legal protection for hospitals to care for patients with suspected Covid-19. The research is compiled with the type of normative juridical research; namely, research focused on examining the application of the rules or norms in positive law. The result shows that the hospital as a legal entity (*recht* person) has risks under Article 58 (1) of the Health Law, namely compensating for errors/omissions of doctors and health workers. According to the Vicarious Liability doctrine, the hospital is legally responsible for all losses caused by its subordinates. According to the Hospital Liability doctrine, the hospital is responsible for taking over the mistakes or omissions of the hospital. With the right of regress, the hospital will ask for compensation back to the doctor who made a mistake. The Strict Liability Doctrine states that the hospital is responsible for the workhouse. The implementation of hospital legal protection has yet to be precise. Supervision and guidance by the government, including the government's authority on health, still need to be made clear. Medical audits could have gone better. Doctors have the right to obtain legal protection as long as they carry out their duties under professional standards and standard operating procedures under Article 50 of the Medical Practice Act.

Keywords: Legal protection, hospital, suspected Covid-19 patients

I. Introduction

One of the law's objectives is to guarantee legal certainty for the community. In the era of the Corona Virus Disease pandemic in 2019 (Covid-19), legal protection for hospitals that provide Covid-19 patient services as hospital quarantine is urgently needed to prevent and control Covid-19 (see Derek et al., 2021; Prieto Carrero et al., 2021). Likewise, legal certainty must be upheld so that all levels of society unite against Covid-19. Based on Republic of Indonesia Law No. 4 of 1984 concerning Communicable Disease outbreaks (hereinafter referred to as the Infectious Disease Outbreaks Law), an epidemic is an outbreak of an infectious disease in a community where the number of sufferers has increased significantly more than the usual conditions at a particular time and can wreak havoc. A pandemic is an epidemic that covers a large geographical area.

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On December 31, 2019, Wuhan, Hubei Province, China, identified Pneumonia of unknown etiology as a new strain of Covid-19. The World Health Organization (WHO) declared the status of Covid-19 as a Pandemic on March 11, 2020, at the WHO office in Geneva, Switzerland (Kementerian Kesehatan Republik Indonesia, 2020).

The increase in Covid-19 cases took place quickly, and there was a spread between countries. As a result, the Indonesian government declared Covid-19 a public health emergency by issuing Presidential Decree No. 11 of 2020. As of October 28, 2020, data distribution in Indonesia had reported 400,483 confirmed cases, 169,833 suspected cases, 13,613 death cases, and 325,793 recovered cases (PHEOC Kemkes, 2020; WHO, 2020). Excessive worry often leads people to isolate families of patients with suspected Covid-19, resulting in the rejection of patients who will be separated in the hospital and the rejection of Polymerase Chain Reaction (PCR) examinations.

Refusal of treatment in the Covid-19 isolation room by a patient with suspected Covid-19 occurred at Teuku Umar Calang Hospital. As a concrete example, at WSH Hospital, the patient (Mr. S), 55 years old, was escorted by his family with complaints of shortness of breath with weakness and was still conscious in the Emergency Room triage (IGD). He was given a ventilator as a breath aid because the oxygen saturation in Mr. S had gone down. Rapid reactive results and other laboratory examinations also support the diagnosis of suspected Covid-19; lung radiographs show bilateral pneumonia. The doctor explained that the examination results led to a suspicion of Covid-19 and had to be treated in a special Covid-19 isolation room while waiting for the results of the PCR swab. The family of Mr. S immediately shouted angrily at the officers with harsh words that did not deserve to be heard when he was suspected of Covid-19. The health workers called security because of the rowdy condition. The family of Mr. S refused the informed consent to the Covid-19 service protocol, refused to enter the isolation room, and threatened to infect everyone, even though in the ER triage room, six other patients were not necessarily covid-19 patients. Mr. S remained in the emergency room triage and did not want to enter the isolation room until there was a result of the swab, while the swab took 24 hours to 48 hours, according to the queue of the PCR machine. Finally, Mr. S died in the ER for 24 hours, leaving the risk of contact with other patients who came to the ER triage at WSH Hospital.

Another problem relates to the statement that there is no evidence that the hospital deliberately provides patients to pursue profits from claims for medical expenses to the government, further cornering and burdening hospitals and health workers. The chairman of the Indonesian Hospital Association said that this wrong perception and opinion resulted in misinformation and disinformation that was detrimental to hospital services in handling the Covid-19 pandemic, especially for people who did not understand (Prabowo, 2020). Unfortunately, the public will assume that Covid-19 doesn't exist; it's a lie. In addition, this accusation is undoubtedly a cause for concern for health workers (Kontributor Pamekasan, 2020); because the hospital has complied with the provisions of the Decree of the Minister of Health No. HK.01.07/MENKES/446/2020 concerning technical instructions for claiming reimbursement for certain emerging infection disease

patient services for hospitals that provide covid-19 services. In addition, the lack of understanding regarding the emergence of different symptoms in patients, such as clinical gastrointestinal symptoms when the virus attacks the digestive tract and the like (Hadi, 2020), has led some people to accuse doctors of diagnosing patients with Covid-19 status. Even though the SARS-CoV-2 virus that causes Covid-19 can attack organs other than the respiratory tract.

Some patients who are positive for Covid-19 come with various symptoms, such as heart or high blood sugar, caused by the virus's ability, said the chairman of the Indonesian Society of Respiriology. Patients who have comorbidities when the Coronavirus has infected the patient's body, it will cause the comorbidities to get worse and even lead to death due to the Covid-19 virus, which infects the disease. Conversely, many people with hypertension or blood sugar sufferers are not infected with Covid-19 and do not die. Therefore, the public does not prejudice against the doctor diagnosed with Covid-19. Doctors will not write a diagnosis of Covid-19 if there is no evidence (Hadi, 2020). Based on the description of the problem above, this study focused on analyzing the health services of patients with suspected Covid-19 by doctors in hospitals based on applicable regulations and legal protection for hospitals for handling patients with suspected Covid-19.

Furthermore, the study on the legal aspect of the handling of the covid-19 issue has been done previously by Aziz, et al. (2020); Firdaus (2022); Lemos, et al. (2021); Phattharapornjaroen et al. (2022); Putera et al. (2022); and Shah et al. (2021). Firstly, research was done by Aziz et al. (2020). This research analyzes how to curb the transmission and better manage the clusters; Malaysia imposed the Movement Control Order (MCO), which is now in its fourth phase. Secondly, Firdaus (2022) examines the issue of the refusal of the COVID-19 vaccine and the legal considerations. The results show that the application of sanctions in informed consent can be in the form of administrative sanctions and criminal sanctions adjusted to the study and observation of local governments. Thirdly, Lemos et al. (2021) examine the legal procedures for procuring corpses for use in higher education institutions' teaching and research. Despite recent technological advancements, this human material continues to be the primary teaching and learning technique for human anatomy. Likewise, Phattharapornjaroen et al. (2022) figured out that under some conditions, it is possible to employ community resources based on the flexible surge capacity idea, which lessened the strain on hospitals during the COVID-19 pandemic.

Then, research was conducted by Putera et al. (2022), in particular, on overcoming Covid-19 in Indonesia. The research results show that the institutional aspect prioritized handling the COVID-19 pandemic in Indonesia from the STI Policy perspective. Lastly, Shah et al (2021) investigate infection prevention and control (IPC) policies. The results show that to stop the transmission of infectious illnesses. Therefore, it may be crucial to make an effort to educate the HCP about the significance of these measures and to promote their use.

Based on the explanation of previous studies, this current study aims to examine the legal aspect of handling suspected COVID-19 patients in health services in the hospital.

II. Method and Legal Material

This type of research is normative juridical. Normative law is intended to examine positive legal provisions and positive legal instruments (Marzuki, 2017). In addition, the problem approach used in this study is the statutory approach, including the conceptual approach and comparative approach (Marzuki, 2017; Ali et al., 2009).

The legal materials used in this research are primary, secondary, and tertiary legal materials. Primary legal materials are sourced from the Act (Marzuki, 2017). Therefore, the primary legal materials in this study are the 1945 law, Law Number 36 of 2009 concerning Health; Law Number 44 of 2009 concerning Hospitals of the Republic of Indonesia; Law of the Republic of Indonesia Number 6 of 2018 concerning Quarantine; Law of the Republic of Indonesia Number 4 of 1984 concerning infectious disease outbreaks; Decree of the Minister of Health of the Republic of Indonesia Number HK. 01.07/MENKES/169/2020; Presidential Decree Number 11 of 2020 concerning the Determination of the Public Health Emergency for Corona Virus Disease 2019; Regulation of the Minister of Health number 4 of 2018 concerning Hospital Obligations and Patient Obligations and various laws and regulations related to the object of the research. Furthermore, secondary legal materials were sourced from literature, journals, and the doctrines and opinions of experts related to the discussion of this research. Finally, tertiary legal materials were sourced from the legal dictionary and the Big Indonesian Dictionary (KBBI).

Analysis of legal materials is carried out by systematizing written legal materials. Systematics means classifying these legal materials to facilitate the analysis and construction of legal materials (Soekanto & Mamudji, 2018). Analysis of legal entities was carried out using descriptive-analytic studies. This study does not intend to test hypotheses or theories but rather assesses legal concepts (analysis van jurisdiction gegevans), which includes legal definitions (derechtsbegrippen) (Rijadi & Priyati, 2011).

III. Results and Discussion

Health Services for Covid-19 Suspected Patients by Doctors in Hospitals based on Applicable Conditions

The legal basis for providing health services is generally regulated in Article 53 of the Health Law, namely individual and public health services. Thus, Covid-19 services include public health services because they impact the wider community. The legal basis for Covid-19 patient health services is Presidential Decree No.11 of 2020 concerning determining Covid-19 Public Health Emergencies. In addition, the management of Covid-19 patient services is guided by the Decree of the Minister of Health Number HK.01.07/MENKES/413/2020 concerning Guidelines for the Prevention and Control of

Covid-19 and the Guidelines for the Prevention and Control of Covid-19 by the Indonesian Ministry of Health Revision 5.

The basic principle of efforts to control Covid-19 focuses on the discovery of suspected/probable cases (find), which is followed by efforts to isolate (isolate) and laboratory tests (test). When the PCR test results are positive and the patient is declared a confirmed case, the next step is administering therapy according to the protocol (Astutik, year). Following the Decree of the Minister of Health Number HK.01.07/MENKES/413/2020 concerning Guidelines for the Prevention and Control of Covid-19, hospital health service facilities that treat suspects must carry out close contact monitoring reports for epidemiological investigations. The daily monitoring results are written in a form, then reported to the city/district health office to be recapitulated into an aggregate daily report. In addition, city/district health offices carry out aggregate daily news through the national Covid-19 daily reporting online application system and as a monitoring tool for city/district health offices to conduct rapid analysis of the development of Covid-19 cases in daily and monthly periods.

Covid-19 suspect service mechanism. If someone from the red zone or in contact with a positive patient with Covid-19 is suspected, then it is followed up with a PCR swab examination. If the result is positive, patient management is carried out based on symptoms or without symptoms experienced. However, the temporary Director General of the Health Services Ministry of Health, Prof. Kadir, said a patient who is confirmed positive for Covid-19 may not experience symptoms and experience moderate or severe symptoms.

The treatment of patients who have confirmed positive for Covid-19 is based on severe or mild symptoms. Therefore, only some patient services are the same. The handling of positive Covid-19 patients who are asymptomatic will be advised to isolate independently at home or in an emergency hospital isolation for at least ten days from diagnosis. After ten days of isolation, the patient is declared to have finished isolation.

It differs from positive patients with Covid-19 with mild-moderate symptoms. Patients are advised to self-isolate at home in Emergency Hospitals and Covid-19 Referral Hospitals. Isolate for at least ten days from the onset of symptoms plus three days free of fever and respiratory symptoms. After that, the patient is declared in complete isolation. Patients who are positive for Covid-19 with symptoms of severe illness will be isolated in a hospital or referral hospital. Patients were separated for at least ten days from the onset of symptoms, plus three days free of fever and respiratory symptoms. The patient will be tested again if the result is negative, the patient will be declared cured (Kementerian Kesehatan Republik Indonesia, 2020).

In the service of positive patients with Covid-19, there are non-isolation outpatient services. This service is intended for patients who have met the criteria for completion of isolation but still require further treatment for certain conditions associated with comorbidities, co-incidence, and complications. The transfer of care process is decided based on the results of a clinical assessment carried out by the doctor in charge of services according to service standards or standard operating procedure.

Patients who are isolated in the hospital, emergency hospital, or Covid-19 Referral Hospital can be discharged based on the consideration of the doctor in charge of the patient because of clinical improvement, comorbidities are resolved, and PCR follow-up is waiting for the results. Confirmed patients without mild, moderate, and severe/critical symptoms are declared cured if they have met the criteria for completion of isolation. A statement letter is issued after monitoring based on the doctor's assessment at the health facility where the monitoring is carried out or by the doctor in charge of the patient.

Confirmed patients with severe symptoms may have a positive, persistent RT-PCR follow-up examination because the RT-PCR test can still detect body parts of the Covid-19 virus even though the virus is no longer active (no longer infectious) in these patients. Therefore, the determination of recovery or not is based on the results of an assessment conducted by the doctor in charge of the patient, said Prof. Kadir. Meanwhile, patients can be discharged from hospital care if they meet the criteria for completion of isolation and the clinical standards.

The doctor in charge of the patient needs to consider the time for the patient's return visit in the context of the recovery period. Specifically, confirmed patients with severe/acute symptoms who have been discharged will continue to self-isolate for at least seven days to recover, be alert to the emergence of Covid-19 symptoms, and consistently apply health protocol. According to the Hospital Law, the central and regional governments are responsible for the administration, financing, guidance, supervision, and protection of hospitals in health services under article 6, paragraph (1) of the Hospital Law. In addition, hospitals, in the event of disasters and extraordinary circumstances, provide emergency services and health information the community needs.

The hospital, along with all human resources in it, strives to carry out epidemic control following article 5 paragraph (1) of the Contagious Disease Outbreaks Law, carry out epidemiological investigations; Examination, treatment, care, and isolation of patients, including quarantine measures; Prevention and immunity; Destruction of disease causes; Handling of corpses due to epidemics; and outreach to the community. In accordance with Article 56 of the Health Quarantine Law, hospital quarantine activity, in this case, the Covid-19 isolation room in a hospital, is a response to a public emergency that has been declared by the president of the Republic of Indonesia through a Presidential Decree of the Republic of Indonesia No. 11 of 2020 concerning the Determination of Covid-19 Public Health Emergencies. The quarantine in question is carried out by all people who visit the hospital, which has been proven based on laboratory results, namely a rapid test with a reactive result and a positive PCR swab. Furthermore, following 57 Health Quarantine Laws, it is stated that all those who have entered the Covid-19 isolation room are prohibited from leaving for the next 14 days. During the hospital quarantine, the basic necessity of the life of all people in the hospital is the responsibility of the central government or regional government following article 58 of the Health Quarantine Law.

Legal Protection for Hospital for Handling Covid-19 Suspected Patient

The legal basis for the legal protection of doctors in providing services is Article 50 of the Medical Practice Act, which states that doctors are entitled to legal protection as long as they carry out their duties following professional standards and standard operating procedures. Likewise, Article 27, paragraph (1) of the Health Law states that health workers have the right to receive compensation and duties according to their profession.

Approval of medical action in carrying out medical action can be done if the patient has received precise information about the medical action to be taken against him. In providing this information, the doctor must disclose and explain to the patient in a simple way about his illness, the recommended treatment, alternative treatment, the possibility of success, and the risks that can arise as well as complications that cannot be changed. If the approval requirements for medical action are not met, the doctor concerned may be subject to administrative sanctions (Komalawati, 1999). Furthermore, according to Soejatmiko, taking action without medical approval can lead to criminal malpractice charges due to carelessness (Isfandyarie, 2005).

The hospital is not responsible for suspected Covid-19 patients who refuse treatment in a particular Covid-19 isolation room and PCR swab examination. Article 45, paragraph (1) of the Medical Practice Law states that a hospital is not legally responsible if a patient and his family refuse or stop treatment which may result in the patient's death after a comprehensive medical explanation is provided. Furthermore, suppose the patient's condition is an emergency, and the doctor requires action to save lives without the consent of the patient's family. In that case, the doctor provides life assistance for the patient following article 45 paragraph (2), that hospitals cannot be prosecuted for carrying out their duties in saving human lives.

Hospitals dealing with suspected Covid-19 patients are entitled to legal protection in carrying out health services and receive compensation for services following Article 30 of the Hospital Law, which reads: hospitals have the right to receive compensation for services and determine remuneration, incentives, and awards following the provisions of the legislation. Furthermore, hospitals have the right to cooperate with other parties to develop services. In the service of covid-19 patients, the hospital is also entitled to receive assistance from other parties following the provisions of the legislation.

The technique for claiming services for Covid-19 patients is technically regulated in the Decree of the Minister of Health of the Republic of Indonesia Number Hk.01.07/Menkes/446/2020 concerning Technical Instructions for Claims for Reimbursement of Services for Certain Emerging Infectious Disease Patients for Hospitals Providing Covid-19 Services. These articles explain the completeness of the primary diagnosis and the suitability of data for online Covid-19 case updates to the relevant health offices and copies of data from the BPJS and the Ministry of Health. So, it is not easy to declare the patient has been positive for Covid-19 because the data must be verified by the BPJS, the Health Service, and the Ministry of Health.

Article 52 of the Hospital Law states that hospitals are required to make records and reports on all hospital operations in the form of a Hospital Management Information System, including recording and reporting of epidemic diseases or other certain diseases

that can cause outbreaks and carried out following with the provisions of laws and regulations. Rahardjo (2005) explained that the essence of law enforcement is a process of realizing legal wishes or ideas into reality. Legal desires are the thoughts of the law-forming bodies in the form of ideas or concepts regarding legal certainty formulated in the legal regulations. Efforts to handle cases of doctors or other health workers who are suspected of making negligence or errors in the actions or services of suspected Covid-19 patients so as not to be directly processed through legal channels, but first ask for an opinion from the Medical Code of Ethics Honorary Council (known as MKEK). Law enforcement includes administrative, civil, and criminal law enforcement.

1. Administrative Law Enforcement

The health law and the medical practice law, which regulates the practice of the medical and dental professions, are substantively administrative law with administrative sanctions (*berstafrecht*), although there are also criminal sanctions. This administrative law enforcement is carried out due to administrative violations of the medical or dental profession, as well as violations of medical ethics. The Indonesian Medical Discipline Honorary Council, or MKDKI, receives complaints and is authorized to examine and decide whether doctors make errors for violating the application of medical disciplines and applying sanctions.

Suppose there is a violation of medical ethics. In that case, the MKDKI will forward the complaint to the Indonesian Doctors Association's professional organization, IDI, then IDI will take action against the doctor. Recommendations for revocation of registration certificates are submitted to the Indonesian Medical Council. Meanwhile, the request for canceling the medical practice permit is submitted to the competent authority in the district or city. Thus, this administrative sanction can be in the form of a written warning, being required to attend further education or training, revocation of registration letter, revocation of practice license, postponement of periodic salary increases, demotion, and so on. The administrative sanction is related to the violation of medical ethics. Even if professional organizations and authorized officials give administrative sanctions, it does not rule out the possibility of civil or criminal lawsuits from the patient or the patient's family.

2. Civil law enforcement

The lawsuits or civil claims can be filed against the doctor or dentist and to a legal entity, health service centre, or hospital where the doctor or dentist works. Likewise, doctor or dentist who works in teams can also be sued or sued together, depending on how much responsibility each has, and is responsible for the actions of medical personnel under their orders (Machmud, 2009).

Types of lawsuits or civil claims can be filed against a doctor or dentist suspected of committing medical malpractice in the form of a claim or lawsuit for default based on contractual liability and against the law *onrechtmatigedaad*. It means that a lawsuit or claim can be filed solely based on default or an unlawful act (alternatively), and it can also be filed simultaneously, namely in default and against the law (cumulatively). The primary basis of a claim or lawsuit, whether based on default or against the law, is the

doctor's inaccuracy (*minderzorgvuldig*). Therefore, it is related to the professional standards of a doctor.

3. Criminal law enforcement

In Indonesian legislation, crime is a term that is often used. For example, Kansil (2004) formulates criminal acts as follows

- a. Human actions (*hendeling*)
- b. Human actions intended are not only “doing” (een doen) but also “not doing” (*nietdoen*).
- c. Human actions must be against the law (*wederrechtelijk*).
- d. The acts is punishable by law (*strafbaargesteld*).
- e. Must be done by someone who is able to take responsibility (*toerekeningsvatbaar*).
- f. The act must occur because of the perpetrator's fault (*schuld*). Mistakes can be intentional (*dolus*) or unintentional/negligent (*culpa*).

The parameter of an alleged violation of the law (criminal) if it has met the parameters as voorportal or front gate which is strict and limitative. The parameters are as follows.

- a. There is accuracy (*zorgvuldigheid*)
- b. Presence of diagnosis and therapy
- c. Professional standards such as:
 - 1) Average ability
 - 2) Same category and condition
 - 3) The fulfillment of the principles of proportionality and subsidiarity in the purpose of carrying out medical action (Adji, 2005).

The health law and the medical practice law, which regulates the practice of the medical and dental professions, are substantively administrative law with administrative sanctions (*berstafrecht*), although there are also criminal sanctions. Administrative law enforcement is carried out due to administrative violations of the medical or dental profession, as well as violations of medical ethics.

The Indonesian Medical Discipline Honorary Council (MKDKI) receives complaints. It is authorized to examine and decide whether or not a doctor has made a mistake for violating the application of medical discipline, and MKDKI apply sanctions. If found a violation of medical ethics, the MKDKI will forward the complaint to the professional organization of the Indonesian Doctors Association (IDI). Then, IDI will take action against the doctor.

The legal protection of health workers has stated in article 27 of the Health Law that every health worker has the right to legal protection in carrying out his professional duties. The forms of legal protection are as follows.

1. Protection by health authorities based on existing regulations
2. Protection by professional organizations based on organizational rules
3. Protection by workplace facilities based on hospital rules

4. Normative protection based on the principle of propriety of legal responsibility.

The government guarantees the financing of health services sourced from the State Budget, the Regional Budget, and community assistance following statutory regulations. Article 56, paragraphs (1) and (2) of the Health Law states that people with infectious diseases have no choice but to accept or refuse the aid measures given to them. The rights of health workers have indicated in Article 57 of the Health Law, namely health workers in carrying out their practice are entitled to obtain legal protection as long as they carry out their duties following Professional Standards, Professional Service Standards, and Standard Operating Procedures; obtain complete and correct information from Health Service Recipients or their families; receive service fees; obtain protection for occupational safety and health, treatment following human dignity, morals, decency, and religious values; get the opportunity to develop their profession; reject the wishes of Health Service Recipients or other parties that are contrary to professional standards, code of ethics, service standards, Standard Operating Procedures, or provisions of laws and regulations; and obtain other rights under the conditions of laws and regulations. Meanwhile, doctors have rights that are generally regulated in Article 50 of the Medical Practice Act, namely doctors obtain legal protection as long as they carry out their duties, provide medical services according to professional standards and standard operating procedures; obtain complete and honest information from patients or their families; and receive service fees.

Then, Article 9, paragraph (1) of the Infectious Disease Outbreak Law explains that certain officers who carry out efforts to control the epidemic, as described in Article 5, paragraph (1) of the Infectious Disease Outbreak Law, can be rewarded for the risks borne in carrying out their duties. The award given can be in the form of material and other conditions. Therefore, it can conclude that health workers and doctors who also play a role in efforts to overcome Covid-19 are entitled to a material award. In addition, article 14 of the Infectious Disease Outbreak Law states that anyone who hinders the implementation of epidemic control, in this case, the patient's refusal to be isolated and refuses to carry out a PCR swab examination, is subject to criminal sanctions in accordance with article 14 paragraph (1), namely whoever deliberately obstructs the implementation of epidemic control as regulated in this Law, is threatened with imprisonment for a maximum of 1 (one) year or a maximum fine of IDR. 1,000,000 (one million rupiah), paragraph (2) whoever, due to negligence, obstructs the implementation outbreak control as regulated in this Law, is threatened with imprisonment for a maximum of 6 (six) months or a maximum fine of IDR. 500,000 and paragraph (3), the crime as referred to in paragraph (1) is a crime, and the crime as referred to in paragraph (2) is a violation.

IV. Conclusion

In conclusion, hospitals in the era of the Covid-19 pandemic function as a place for holding Covid-19 patient quarantine following the Health Quarantine Act and the Infectious Disease Outbreak Act regulations. The basic principle of handling Covid-19

rests on discovering suspected or probable cases, followed by laboratory examinations (RT-PCR). When the PCR test results are positive (confirmed for Covid-19), the next step is isolation and therapy according to the protocol. Health service facilities/hospitals treating suspected COVID-19 must report close contact monitoring for epidemiological investigations following the Decree of the Minister of Health concerning Guidelines for the Prevention and Control of Covid-19 and the Infectious Disease Outbreak Act.

Furthermore, the hospital as a legal entity (*recht* person) has risks under Article 58 (1) of the Health Law, namely compensating for errors/omissions of doctors and health workers. According to the Vicarious Liability doctrine, the hospital is legally responsible for all losses caused by its subordinates. According to the Hospital Liability doctrine, the hospital is responsible for taking over the mistakes/omissions of the hospital. With the right of regress, the hospital will ask for compensation back to the doctor who made a mistake. The Strict Liability Doctrine states that the hospital is responsible for the workhouse. The implementation of hospital legal protection has yet to be precise. Supervision and guidance by the government, including the government's authority on health, still needs to be made clear. Medical audits could have gone better. Doctors have the right to obtain legal protection as long as they carry out their duties under professional standards and standard operating procedures under Article 50 of the Medical Practice Act.

References

- Adji, I. S. (2005). *Malpraktek Medik, Standar Profesi & Pertanggungjawaban Pidana, Makalah yang Disajikan pada Perkuliahan Hukum Kesehatan di Universitas Hasanuddin, Makassar, 18 Juli*.
- Ali, M. M., Sidi, L. P. S., Hadad, T., Adam, K., Rafly, A., & Sampurna, B. (2009). *Kemitraan dalam Hubungan Dokter-Pasien*. Jakarta: Lembaga Konsultan Peraturan Bisnis Indonesia.
- Aziz, N. A., Othman, J., Lugova, H., & Suleiman, A. (2020). Malaysia's Approach in Handling COVID-19 Onslaught: Report on the Movement Control Order (MCO) and Targeted Screening To Reduce Community Infection Rate and Impact on Public Health and Economy. *Journal of Infection and Public Health*, 13(12), 1823–1829. <https://doi.org/10.1016/j.jiph.2020.08.007>
- Derek, M., Tsai, F. J., Kim, J., Tejamaya, M., Putri, V., Muto, G., ... Park, D. U. (2021). Overview of Legal Measures for Managing Workplace COVID-19 Infection Risk in Several Asia-Pacific Countries. *Safety and Health at Work*, 12(4), 530–535. <https://doi.org/10.1016/j.shaw.2021.08.003>
- Firdaus, S. U. (2022). The urgency of legal regulations existence in case of COVID-19 vaccination refusal in Indonesia. *Journal of Forensic and Legal Medicine*, 91(July), 1–7. <https://doi.org/10.1016/j.jflm.2022.102401>
- Hadi, M. S. (2020). Manifestasi Covid-19 Makin Bervariasi. Retrieved November 11, 2020, from <https://majalah.tempo.co/read/wawancara/161122/ketua-umum-dokter-paru-agus-dwi-susanto-virus-corona-kini-menular-lewat-mikrodroplet>
- Isfandyarie, A. (2005). *Malpraktek dan Risiko Medik dalam Kajian Hukum Pidana*.

- Jakarta: Prestasi Pustaka Publisher.
- Kansil, C. S. T. (2004). *Pengantar Hukum Kesehatan Indonesia*. Jakarta: Rineka Cipta.
- Kementerian Kesehatan Republik Indonesia. (2020). *Pedoman Pencegahan dan Pengendalian Serta Definisi Coronavirus Disease (COVID-19)*. (L. Aziza, A. Aqmarina, & M. Ihsan, Eds.), *Germas*. Jakarta: Kementerian Kesehatan RI. Retrieved from https://infeksiemerging.kemkes.go.id/download/REV-04_Pedoman_P2_COVID-19__27_Maret2020_TTD1.pdf [Diakses 11 Juni 2021].
- Komalawati, V. (1999). *Peranan Informed Consent dalam Transaksi Terapeutik (Persetujuan dalam Hubungan Dokter dan Pasien): Suatu Tinjauan Yuridis*. Bandung: Citra Aditya Bakti.
- Kontributor Pamekasan, T. (2020). Pasien Covid-19 Menolak Diisolasi karena Anggap Corona Proyek Memperkaya Dokter. Retrieved October 27, 2020, from <https://regional.kompas.com/read/2020/07/06/20134851/pasien-covid-19-menolak-diisolasi-karena-anggap-corona-proyek-memperkaya?page=all>
- Lemos, G. A., Araújo, D. N., de Lima, F. J. C., & Bispo, R. F. M. (2021). Human Anatomy Education and Management of Anatomic Specimens During and After COVID-19 Pandemic: Ethical, Legal and Biosafety Aspects. *Annals of Anatomy*, 233(September), 1–6. <https://doi.org/10.1016/j.aanat.2020.151608>
- Machmud, S. (2009). *Penegakan Hukum dan Perlindungan Hukum Bagi Dokter yang Diduga Melakukan Medikal Malpraktek*. Bandung: CV. Karya Putra Darwati.
- Marzuki, P. M. (2017). *Penelitian Hukum*. Jakarta: Kencana Prenada Media Group.
- Phattharapornjaroen, P., Carlström, E., Sivarak, O., Tansuwannarat, P., Chalermdamrichai, P., Sittichanbuncha, Y., ... Khorram-Manesh, A. (2022). Community-Based Response to the COVID-19 Pandemic: Case Study of a Home Isolation Centre Using Flexible Surge Capacity. *Public Health*, 211(July), 29–36. <https://doi.org/10.1016/j.puhe.2022.06.025>
- PHEOC Kemkes, R. (2020). Situasi Terkini Perkembangan Coronavirus Disease (COVID-19). Retrieved October 29, 2020, from <https://infeksiemerging.kemkes.go.id/situasi-infeksi-emerging/situasi-terkini-perkembangan-coronavirus-disease-covid-19-28-oktober-2020>
- Prabowo, D. (2020). Saat Rumah Sakit Dituding “Meng-Covid-kan” Pasien.
- Prieto Carrero, J. L., Fondebrider, L., Salado Puerto, M., & Tidball Binz, M. (2021). The management of the deceased from the COVID-19 pandemic and its organizational challenges from the medico-legal services perspective. *Spanish Journal of Legal Medicine*, 47(4), 164–171. <https://doi.org/10.1016/j.remle.2021.01.001>
- Putera, P. B., Widianingsih, I., Ningrum, S., Suryanto, S., & Rianto, Y. (2022). Overcoming the COVID-19 Pandemic in Indonesia: A Science, technology, and innovation (STI) policy perspective. *Health Policy and Technology*, 11(3), 1–7. <https://doi.org/10.1016/j.hlpt.2022.100650>
- Rahardjo, S. (2005). *Masalah Penegakan Hukum: Suatu Tinjauan Sosiologis*. Bandung: Sinar Baru.
- Rijadi, P., & Priyati, S. (2011). *Membangun Ilmu Hukum Mazhab Pancasila, dalam Buku*

Memahami Hukum dari Konstruksi sampai Implementasi. Jakarta: Raja Grafindo Persada.

Shah, Z., Singh, V., Supehia, S., Mohan, L., Gupta, P. K., Sharma, M., & Sharma, S. (2021). Expectations of healthcare personnel from infection prevention and control services for preparedness of healthcare organisation in view of COVID-19 pandemic. *Medical Journal Armed Forces India*, 77(March), S459–S465. <https://doi.org/10.1016/j.mjafi.2021.03.013>

Soekanto, S., & Mamudji, S. (2018). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (18th ed.). Jakarta: Rajawali Pers.

WHO. (2020). Coronavirus Disease Coronavirus (COVID-19): Situation Report-31. Retrieved October 29, 2020, from <https://covid19.who.int/indonesia>