

Legal protection of the midwife profession in carrying out medical actions in hospitals

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Article Info

Article history:

Received: Jan 07, 2025

Revised: Jan 12, 2025

Accepted: Jan 29, 2025

Keywords:

Legal Protection;
Medical Actions;
Midwives.

ABSTRACT

Legal Protection of Midwives Working in Hospitals is regulated in Law No. 17 of 2023 concerning Health Workers Law Number 4 of 2019 concerning midwifery determines that: "The obligation of midwives to provide maternal, child, women's reproductive, and family planning health services." Article 75 stipulates that: "health workers in carrying out their work are entitled to legal protection in accordance with statutory provisions". Likewise, in the Minister of Health Regulation (Permenkes) Number 28 of 2017 concerning Licenses and Midwife Practices Article 19 determines that: "in carrying out practice / work, midwives have the right to obtain legal protection in carrying out practice / work as long as it is in accordance with the standards". This paper will explain the authority of midwives in the implementation of midwives working in hospitals and legal protection for midwives in the implementation of independent practice midwives. In addition to Law Number 4 of 2019, there is also Law Number 17 of 2023 concerning Health which regulates midwifery services. Law Number 17 of 2023 regulates several things, including: Education, competence of midwifery graduates, efforts to improve the quality of midwifery services, licensing of registration certificates for health workers that are valid for life. The purpose of this paper is to analyze the authority of independent practice midwife services and examine the form of legal protection of midwives in the implementation of independent practice midwives. The author uses

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1. INTRODUCTION

Health workers have an important role to improve the quality of maximum health services to the community so that the community is able to increase awareness, willingness, and ability to live healthy so that the highest degree of health will be realized as an investment for the development of socially and economically productive human resources and as one of the elements of public welfare as referred to in the 1945 Constitution of the Republic of Indonesia. Health workers must have minimum qualifications, and in organizing health services are carried out in accordance with their fields of expertise and abilities, and must have a license from the government for certain health workers.

Health is a state of complete physical, mental and social well-being, and not just freedom from disease or infirmity/disability (Fertman, & Allensworth, 2010). Health is an important aspect of human

rights. Indonesia through Article 28H Paragraph (1) of the 1945 Constitution of the Republic of Indonesia (UUD 1945) explains that “everyone has the right to obtain health services”. Furthermore, Article 34 paragraph (3) of the 1945 Constitution explains that “the state is responsible for the provision of proper public service facilities”. One of the implementations of these laws and regulations is the provision of health services in hospitals (Basuki, 2020).

RSIA (Mother and Child Hospital) is located in Sidoarjo with facilities available in this Hospital including Pharmacy, Ambulance, Outpatient Installation, Emergency Unit, Home Care, and so on. Hospitals have complex human resource needs in providing health services. The function of the hospital is stated in the Article of the Law (UU) on hospitals, Law Number 44 of 2009 concerning Hospitals (UU RS), which explains that hospitals have the function of providing health services in accordance with hospital service standards, as well as maintaining and improving individual health through comprehensive second and third level health services according to medical needs. In general, hospitals have a vital role in handling individuals who need action, so they require medical personnel who play a role in the management of the hospital.

2. METHOD

Normative juridical research is in accordance with the peculiarities of the character of legal science, which lies in legal studies of positive law which includes three layers of legal science consisting of a review of legal doctrine, legal theory, and legal philosophy. Research using laws and regulations that lead to the type of research used is normative juridical research. “The normative legal research method is a detailed scientific research procedure to find the truth and is based on the logic of legal science from its normative side.”

Science that has its own and distinctive way of working in order to help solve legal problems faced by society is found in the science of law. “Therefore, legal science is understood as a science of rules (norms) is a science that examines law as a rule or system of rules, with legal doctrine or legal system in such a way that it can be clearly understood law as a science of rules.” “As a normological science, normative legal science is directly related to legal practice which concerns two main aspects, namely the formation of law and the application of law.”

3. RESULTS AND DISCUSSION

3.1. Public Welfare in Indonesia

Satjipto Rahardjo argues that “the law protects a person's interests by placing a power that is measured (certain and deep) to act in the framework of these interests.” (Satjipto Rahardjo, 1991: 53) Similarly, Salmond said that “legal protection aims to integrate and coordinate various interests in society because in the traffic of interests, protection of certain interests can only be done by limiting the interests of others.” As a midwife is a health worker, it is appropriate that midwives, including independent practicing midwives, have the right to obtain legal protection in carrying out their duties and responsibilities in midwifery services. In Law No. 36 of 2014 concerning Health Workers hereinafter referred to as (Health Workers Law) Articles 57 and 75 have been explained, in Article 57 which reads: “personnel in carrying out their practice are entitled to legal protection as long as they carry out their duties in accordance with professional standards, professional service standards, and standard operational procedures.” And Article 75 which reads: “health workers in carrying out their practice are entitled to legal protection in accordance with statutory provisions.” Likewise, in the Minister of Health Regulation on Midwife Licenses and Practices Article 19 it is also said that “in carrying out their practice / work, midwives have the right to obtain legal protection in carrying out their practice / work as long as it is in accordance with the standards.

Protection of midwives in carrying out midwifery practice has the right to obtain legal protection as long as they carry out their duties in accordance with their competence, authority and fulfill the code of ethics, standard operational procedures, according to Law Number 4 of 2019 concerning midwifery Article 60. (Subsequently in Law Number 17 of 2023). Permenkes No. 1464 of 2010 Article 19 also states that in carrying out practice / work, midwives have the right to obtain legal protection in carrying out practice / work as long as it is in accordance with standards.

3.2. Legal Aspects of Health

Health services are clearly regulated and outlined in the form of legislation. Of course, the existence, role and responsibility of health workers are very important in health development activities and are protected both for the health workers themselves and for the people who receive health services as

the main element component. "Legal norms are social engineering tools that are expected to be appropriate not only to solve various problems in society but can shape a social function in the desired direction." "When dealing with various problems that require decisive action and not just a certain moral appeal, whether we want it or not, a binding provision with strict, clear and enforceable sanctions is needed for health services."

3.3. Midwife's authority

Health is the main human capital in carrying out daily activities (Safitri Hariyan, 2005: 1). The success of health efforts depends on the availability of health resources in the form of health workers (Safitri Hariyan, 2005: 1). The basic word for authority is *wenang* or *wewenang*. "Wenang is the right to carry out something, meaning that literally authority is the basis of rights or the basis of power" (Safitri Hariyan, 2005: 1). The root word of authority is *wenang* or *wewenang*. "Wenang is the right to carry out something, meaning that literally authority is the basis of rights or the basis of power." (Soerjono Soekanto and R. Otje Salman, 1996: 16) The granting of broader authority to midwives is intended to bring obstetric and neonatal emergency services closer to every pregnant / pregnant woman, postpartum and newborn so that early treatment or first aid before referral can be done quickly and on time. Midwives have the authority to provide information and counseling, Midwives carry out guidance and guidance of other health workers who also work in midwifery services, Midwives serve maternal cases for pregnancy supervision, Midwives serve infants and pre-school children, Midwives also have the authority to administer medicines.

3.4. Midwife Responsibilities

According to the professional organization of the Indonesian Midwives Association, hereinafter abbreviated (IBI) in Masrudi Muchatar (2015), a midwife is a woman who has followed and has completed a midwife education that has been recognized by the government and passed an exam in accordance with applicable requirements. It is also further explained that: Midwifery is a science formed from the synthesis of various disciplines or multi-disciplines related to midwifery services including medical science, nursing, social science, behavioral science, cultural science, public health science, and management science to be able to provide midwifery services to mothers in pre-conception, pregnancy, childbirth, post partum, and newborns. The responsibilities of midwives are as follows: Responsibility to laws and regulations, Responsibility to professional development, Responsibility for irregularities in midwifery records, Responsibility to the family served, Responsibility to the profession, Responsibility to society.

3.5. Midwife Ethics

Midwife ethics are standards of behavior that must be followed by midwives in carrying out their professional duties. Midwives' ethics serve as guidance, consideration, evaluation, feedback, and professional standards.

Here are some midwife ethics: Upholding the oath of office and human dignity, Be guided by the role of duties and responsibilities, Putting the interests of clients, family and society first, Maintain client privacy, Provide appropriate services as needed, Creating a harmonious atmosphere in the relationship of task implementation, Encouraging community participation to improve their health status, Maintain the autonomy of each individual, Perform acts of kindness and prevent acts that harm or endanger others, Provide opportunities for patients to be accompanied by their husbands or families.

3.6. Rights and Obligations of Health Workers

What is meant by the rights and obligations of nurses is "Rights in a general sense: a person's demand for his personal needs in accordance with legality, justice and morality". Efforts to provide health services carried out by professional nurses in the form of providing nursing care are adjusted to the needs of clients or patients in health facilities, especially in health service centers that have inpatient facilities such as hospitals, main health centers, clinics, nurses are always near patients for 24 hours, carrying out nursing activities with their assignment schedule divided into 3 shifts, namely, morning, afternoon and night.

3.7. Roles and Functions of Health Workers

The role and function of a nurse are those who have competence and are declared to have (STR) Registration Certificate of competence in their field of expertise. In performing professional nursing care to patients. If there are nurses who perform medical actions, such things are a form of collaboration function activities of nurses with doctors. Of course, as a provider of nursing care (ASKEP), providing nursing services using the nursing process carried out by nurses by paying attention to the state of basic human needs needed.

3.8. Midwife Registration and Practice

Midwife registration and practice includes the process of registering, documenting, and recognizing midwives who have met minimum competency and appearance standards. Midwives who are registered and meet the requirements will get a Midwife Registration Certificate (STRB) and a Midwife Practice License (SIPB). In the provisions of the Decree of the Minister of Health of the Republic of Indonesia Number 900 / Menkes / SK / VII / 2002 concerning Registration and Midwife Practice

3.9. Delegation of Authority

The delegation of authority of doctors to health workers as it currently occurs is not appropriate. The procedure for delegation of medical action authority from doctors to nurses should be preceded by the issuance of a certificate of delegation of authority signed by the doctor's instruction who is the party giving the overflow and the nurse who is the party receiving the overflow, as well as what authority will be delegated by the doctor in this case the medical action to be carried out by the nurse should also be clearly stated in the certificate of delegation and in writing or in the consul when admitting new patients.

4. DISCUSSION

LEGAL PROTECTION OF THE MIDWIFE PROFESSION IN CARRYING OUT MEDICAL ACTIONS IN HOSPITALS

Legal Protection of the Midwife Profession in Performing Medical Actions in the Hospital. Midwifery is the application of midwifery science through midwifery services or care to patients with a midwifery approach. The midwifery environment includes independent/autonomous care for girls, young women, and adult women before, during, and after pregnancy. This means that midwives supervise, provide necessary care and advice to women during pregnancy, childbirth, and the postpartum period. Midwifery practice is carried out in a patient-oriented health care system in hospitals consisting of doctors, nurses, and specialists in referral centers. services in hospitals.

Midwives who will run independent practices and/or work in health care facilities must take a minimum education of Diploma III (DIII) midwifery. This provision is regulated in Article 2 paragraph (2) of the Permenkes concerning Permits and Implementation of Midwife Practice. After taking this education, midwives must apply for registration to have a Midwife Practice Permit (SIPB) for midwives who will carry out independent practice, as stipulated in the Permenkes on Midwife Practice Permits and Implementation.

4.1. Legal Relationship between Parties in Midwifery Services

Some experts in health law (Szasz and Hollder theory), suggest three patterns of relationships between health workers and patients, namely (Cecep Triwibowo and Yulia Fauziah, 2012: 2): Activity-Passivity Relation: There is no interaction between physician and patient because the patient is unable to contribute activity. Socially, this relationship is not a perfect relationship because this relationship is based on the activities of one person (midwife) towards another person (patient) in such a way that the patient cannot actively perform functions and roles. The patient is merely a recipient of services, unable to respond and unable to play a role.

Guidance-Cooperation Relationship: Although the patient is ill, he is conscious and has the feeling and aspiration of his own. Since he is suffering from pain, anxiety and other distressing symptoms, he seeks help and is ready and willing to cooperate. The physician considers himself in a position of trust. In this relationship pattern, health workers (midwives) play a role in providing advice and guidance to patients and the patient's role in the form of cooperation is to carry out what is expected by health workers (midwives). This pattern of relationship is similar to the relationship between parents and adolescents. Parents give advice and guidance while children who are teenagers will cooperate and follow the advice and guidance of their parents.

Mutual Participation Relation: The patient thinks he is juridically equal to the doctor and that the relationship with the doctor is in the nature of a negotiated agreement between equal parties is uncooperative and difficult, where as the patient regards the physician as unsympathetic and lacking in understanding of his unique personality needs. Philosophically, this pattern is based on the opinion that all humans have equal rights and dignity. This relationship is based more on a democratic social structure. In this relationship pattern, patients can share their own experiences related to their illnesses/complaints and can actively assist health workers (midwives) in determining the actual situation and providing appropriate medical advice and actions.

4.2. Legal Aspects of Midwives' Relationship with Patients

The relationship between patients and midwives is a close and complex relationship between patients because it requires mutual trust and openness. In a legal perspective, patients and midwives each have rights and obligations. Therapeutic relationship between patients and midwives legal principles / principles that apply in contractual relationships, namely: Consensual Principle, Principle of Good Faith, Principle of Freedom of Contract, Pacta Sunt Servanda Principle

4.3. Hospital

In carrying out health or medical service actions when performing surgery, sometimes there is no preparation for sterilization of equipment. Due to too many patients in carrying out the operation. So that it does not run according to the specified time. Sometimes lack of suitability may be an element in medical action. Due to the lack of equipment infrastructure as well so that the time is prolonged in the operation stage. The principle of a hospital where patients are given fair service according to the procedures that apply in the hospital and aims for the hospital to provide services and protection to patients as much as possible well.

The duties and functions of the hospital provide services in accordance with certain procedures in improving the standard of integrated health services. Approval of Medical Action or informed consent can be given in writing by the supervisor, namely the doctor for high-risk actions, given after the patient has received adequate information beforehand. In the hospital as an institution that provides itself to provide health services as much as possible and according to SOP (Standard Operating Procedure) procedures. Treatment and care (cure and care) are also responsible for all events that occur of course in the hospital. First of all, the hospital is responsible and of course the main responsibility there is the role of the doctor because the one who is authorized when giving instructions is the doctor after that those who carry out their duties are nurses who are in accordance with their profession when a patient enters and carry out further actions in accordance with the doctor's procedures and previously there were provisions from the hospital. (Source of Principles, Objectives, Functions summarized in the Hospital Law).

5. CONCLUSION

In carrying out the authority of midwives, it is regulated in the Regulation of the Minister of Health (Permenkes) of the Republic of Indonesia Number 28 of 2017 concerning Licenses and Implementation of Midwife Practice. In Article 18 of the Permenkes. The role of midwives is divided into four, namely, midwives as implementers, managers, educators and researchers. The legal relationship between midwives and patients gives birth to rights and obligations between the midwife and the patient. Midwives as service practitioners must maintain the development of evidence-based practices (existing facts) so that various ethical dimensions and how close to ethics are important things to explore and understand. In order to comply with the standards of the code of ethics, a midwife in carrying out her profession must pay attention to the applicable norms and rules.

Midwives who work in hospitals or health services must take a minimum education of Diploma III (DIII) midwifery. These provisions are regulated in the license and implementation of midwife practice regulated in the Minister of Health Regulation (Permenkes) Number 28 of 2017 concerning Licenses and Implementation of Midwife Practice. The form of midwifery services must be guided by midwifery service standards issued by the government through the Decree of the Minister of Health of the Republic of Indonesia Number HK.01.07 / MENKES / 2020/2020 concerning Professional Standards for Midwives. In relation to health, the general explanation of Law No. 17 of 2023 concerning Health, states that health development as one part of national development is directed towards achieving awareness, willingness, and ability to live healthy for each population in order to realize optimal health status.

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