

A Study on the Falsification of Health Certificates: Perspective of Criminal Law and Professional Ethics

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ARTICLE INFO

Article history:

Received 7 August 2023

Revised 1 September 2023

Accepted 8 September 2023

Key words:

Lawful responsibility,

Doctor,

Health certificate,

Civil,

Criminal,

Administration.

ABSTRACT

The law responsibility of doctors in issuing patient health certificates is an important issue that has a broad impact on community trust and the health system. This research aims to analyze the synchronization of regulations and forms of law responsibility of doctors based on Indonesian legislation. Research uses a normative law method with an analytical and conceptual approach, as well as secondary data from literature and legislation. The results show that vertical synchronization of regulations already exists, however horizontal harmonization still needs to be improved. Doctors' responsibilities cover civil, criminal, and administrations aspects, with the main challenges in implementation being weak supervision and inconsistent sanctions. To improve the effectiveness of regulations, it is necessary to harmonize rules, provide law education for doctors, and strengthen supervision. As a result, this research contributes to efforts to improve integrity and professionalism in medical practice.

INTRODUCTION

The law responsibility of doctors in issuing patient health certificates is an important issue that requires further research, given its significant role in various aspects of life. In practice, doctor's certificates are often used for various purposes, ranging from administrative and law enforcement matters to determining a person's eligibility to perform certain tasks or responsibilities. There are, however, many issues surrounding the issuance of these certificates, particularly in relation to the law, ethics, and professionalism in the role of doctors.

Law No. 17 of 2023 concerning Health, specifically Article 306 paragraph (1) and Article 308 paragraph (2), emphasizes the obligation of doctors to provide health services based on professional standards and standard operating procedures. In practice, however, there have been many cases where medical certificates have been forged, misused, or issued without adequate examination. This raises doubts about the integrity of doctors and the potential for law violations that could result in criminal, civil, and administration liability.

According to Fadhilah et al. (2023), the low level of law awareness among some doctors is one of the main causes of this problem. Some doctors issue health certificates based solely on patient requests without verifying the actual health condition. This

situation contradicts the principles of professionalism and violates the medical code of ethics as stipulated in Minister of Health Regulation No. 2052/MENKES/PER/X/2011.

Guwandi (2016) revealed that issuing medical certificates that do not reflect the actual condition can have serious consequences, not only for patients but also for third parties who rely on the validity of these certificates. For example, in law cases, inaccurate medical certificates can mislead judges in their decision-making process.

This phenomenon also reflects weak supervision and law enforcement against violations committed by medical personnel. Hendrik (2018) highlights that there is a regulatory vacuum regarding direct supervision mechanisms for the issuance of medical certificates. There are differences in law interpretation among law enforcers regarding the form of doctor responsibility in such cases.

Bahder (2005) adds that in civil law, the issuance of an inappropriate medical certificate can be considered an unlawful act (PMH) as stipulated in Article 1365 of the Civil Code. This provides an opportunity for the injured party to claim compensation. In reality, however, only a few cases reach the courts due to difficulties in proving the case and low community awareness of their law rights.

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From a criminal law perspective, Ali (2012) asserts that issuing a false medical certificate can be categorized as document forgery as stipulated in Article 263 of the Criminal Code. Law No. 17 of 2023 provides a law basis, besides prosecuting doctors who are proven to have negligently or intentionally provided false information in medical certificates.

According to Ibrahim (2007), this problem is also closely related to doctors' lack of understanding of the law implications of their actions. Medical education in Indonesia tends to focus more on clinical aspects without providing adequate understanding of health law. This results in many doctors being unaware of the law risks of their actions.

Alexandra (2012) also states that medical ethics as regulated in the Indonesian Medical Code of Ethics (KODEKI) should be the main guideline for doctors in carrying out their professional practice. Violations of this code of ethics, however, are often not followed by strict sanctions, thus failing to provide a deterrent effect.

From an administrative perspective, Ridwan (2003) explains that doctors' administrative law responsibilities relate to compliance with practice licenses and standard operating procedures. Minister of Health Regulation No. 2052/MENKES/PER/X/2011 regulates doctors' obligations to record every medical action performed, including the issuance of health certificates. The implementation of this regulation is, however, often suboptimal due to a lack of monitoring and enforcement mechanisms.

Beside regulations, Machmud (2008) emphasizes the importance of establishing a more transparent and accountable system for issuing medical certificates. This system could include the use of digital technology to record and verify every certificate issued (Kholis et al., 2023). The dilemma between patient interests and regulatory compliance is also an important issue. Seran and Setyowati (2010) reveal that in some cases, doctors feel pressured to issue medical certificates to meet patient demands, while they know that doing so could potentially violate the law.

This issue is further complicated by differences in standards and interpretations among doctors, health institutions, and regulators. Satriawan (2014) shows that weak coordination between these institutions is often a major obstacle to law enforcement. Jayanti (2002) suggests that to resolve this issue, there needs to be synchronization of regulations between the various law provisions governing the responsibilities of doctors. The implementation of such synchronization, however, requires time and commitment from all parties involved.

Previous studies, such as those conducted by Fadhilah et al. (2023), have focused more on the ethical aspects and law awareness of doctors in issuing health certificates. In-depth research on the synchronization of regulations and the forms of law responsibility of doctors in accordance with Indonesian positive law is still very limited. This research attempts to fill this gap by examining the vertical and horizontal synchronization of related laws and regulations.

This research offers a new perspective by conducting research on the synchronization of law regulations governing doctors in issuing health certificates through a normative law approach that focuses on inventorying regulations and analyzing the level of law synchronization. This differs from previous research, which tended to discuss ethical aspects or practical issues without comprehensively analyzing the regulatory structure. This research aims to analyze the synchronization of doctors' law responsibility in issuing patient health certificates based on Indonesian law, as well as to identify the forms of doctors' law responsibility.

RESEARCH METHOD

This research uses a normative law approach with a focus on inventorying and analyzing laws and regulations related to the law responsibility of doctors in issuing patient health certificates. This approach includes legislative, analytical, and conceptual methods. The data used in this research is secondary data obtained through literature research. Data sources include laws and regulations, books, scientific journals, and other relevant documents. The data collection technique was carried out by identifying, classifying, and analyzing law documents to find similarities and synchronizations between regulations. The data validation technique was carried out by triangulating sources to ensure the consistency and validity of the data used. This method involved verifying information from various sources to ensure the accuracy of the analysis results. Data analysis was carried out qualitatively with a normative approach. The collected data was analyzed to find relationships, synchronizations, and inconsistencies between regulations governing the law responsibilities of doctors. Content analysis techniques were used to understand the law's substance, while comparative analysis was used to compare relevant rules in the national law system. The results of this method are expected to provide a comprehensive picture of the synchronization of regulations and the form of law responsibility of doctors in issuing patient health certificates.

RESULT AND DISCUSSION

Synchronization of Law Responsibility Regulations for Doctors

The synchronization of doctors' law responsibilities in issuing patient health certificates reflects the vertical hierarchy of regulations in the Indonesian law system. Article 306 paragraph (1) and Article 308 paragraph (2) of Law No. 17 of 2023 concerning Health emphasize that doctors' responsibilities are based on applicable professional standards and operational procedures. The implementation of these provisions, however, often faces challenges, particularly in ensuring consistency between higher-level regulations and their implementing regulations.

For example, Minister of Health Regulation No. 2052/MENKES/PER/X/2011 concerning Medical Practice Licenses and Implementation clarifies the obligation of doctors to record and document every medical action. Ridwan (2003), however, highlights deficiencies in the supervision of the implementation of this regulation, thereby opening the door to administrative violations. Bahder (2005), on the other hand, points out that this regulation does not provide strict sanctions for violations committed by doctors, thus failing to provide a deterrent effect.

According to civil law, Article 1365 of the Civil Code provides the basis for injured parties to claim compensation for damages resulting from the issuance of a medical certificate that does not reflect the patient's condition. Fuady (2013) explains that the civil liability of doctors is based on the principle that any unlawful act that causes harm must be compensated by the perpetrator. The difficulty in proving negligence, however, often prevents injured parties from obtaining justice.

Article 1365 of the Civil Code states that any act that violates the law and causes harm to another person obligates the perpetrator to compensate for the harm. Issuing an inaccurate medical certificate can be considered an unlawful act. When a doctor issues a certificate that does not correspond to the patient's condition, this action can cause harm to the patient, both materially and immaterially.

The losses suffered by patients can include additional medical expenses incurred as a result of misdiagnosis or inappropriate treatment. In addition, patients may also suffer distress or lose valuable opportunities as a result of incorrect information in the medical certificate. Therefore, in order to claim compensation, the injured party must be able to prove that they have suffered losses as a result of the doctor's actions.

One of the challenges faced by those who feel they have been wronged, however, is the difficulty of proving negligence. In practice, proving that a doctor has made an error in issuing a medical certificate often requires strong evidence. Such evidence may include medical records showing that the information provided in the certificate does not correspond to the patient's medical condition. The opinions of other medical professionals are also often needed to provide an objective assessment of whether the doctor's actions were in line with applicable medical practice standards.

The difficulty in proving this element of fault can be an obstacle for patients or parties who feel they have been wronged in obtaining justice. Without sufficient evidence, claims for compensation may be rejected by the court, while there are indications that harm has occurred. As a result, Article 1365 of the Civil Code provides a lawful basis for injured parties to seek compensation for unlawful acts, including those related to the issuance of inaccurate medical certificates. The challenge of proving medical malpractice, however, is a significant obstacle in the process of enforcing patients' rights. It is therefore important for the law and medical practice to continue to strive for greater transparency and accountability in healthcare services.

From a criminal law perspective, Article 263 of the Criminal Code (KUHP) provides a strong law basis for prosecuting doctors who are proven to have falsified medical certificates. The falsification of medical certificates by doctors is not a trivial matter; according to Ali (2012), this act can be considered a serious crime due to its widespread impact and harm to many parties. When a doctor falsifies a health certificate, it not only harms patients who may rely on this information to obtain certain treatments or services, but it can also have a negative impact on health institutions and the community as a whole.

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Law No. 17 of 2023 also imposes criminal sanctions on doctors who are negligent in performing their duties. This law emphasizes that

negligence in performing professional duties can result in legal sanctions, demonstrating that the Indonesian law system is committed to maintaining standards of professionalism in medical practice. With this provision in place, it is hoped that doctors will be more careful and responsible in performing their duties, and avoid actions that could harm patients and the community.

Overall, both Article 263 of the Criminal Code and Law No. 17 of 2023 reflect the law's efforts to uphold justice and protect patients' rights. The forgery of health certificates and negligence in performing professional duties constitute serious violations that not only carry criminal penalties but can also damage the reputation and community trust in the medical profession. It is therefore crucial for every doctor to understand and comply with applicable laws, and to perform their duties with full responsibility and integrity.

This research found that while theoretically there is vertical synchronization between laws and regulations governing the responsibilities of doctors, in practice there are still gaps that require further attention. Machmud (2008) emphasized the importance of revising implementing regulations to better suit modern law requirements and provide optimal law protection for all parties involved.

Coordination between various institutions responsible for supervising medical practices is also a key issue in ensuring regulatory synchronization. Hendrik (2018) mentions that ineffective coordination between the Ministry of Health, the Indonesian Medical Association (IDI), and law enforcement agencies often leads to overlapping authorities, which ultimately results in weak law enforcement.

Alexandra (2012) besides emphasizes the need for law education for doctors as part of the medical curriculum to improve their understanding of the law's responsibility attached to this profession. This is in line with Ibrahim's (2007) view that increasing law awareness among doctors can help reduce violations that occur due to ignorance or negligence.

This analysis also found that horizontal synchronization between laws and regulations is often less than optimal. For example, there are differences in interpretation between Article 306 paragraph (1) of Law No. 17 of 2023 and Minister of Health Regulation No. 2052/MENKES/PER/X/2011 concerning the procedure for issuing health certificates. This shows the need for regulatory harmonization to avoid confusion in the field.

Overall, the research results indicate that while efforts have been made to synchronize the regulation of doctors' law responsibilities, there are still many aspects that need improvement, particularly in terms of regulatory harmonization, implementation oversight, and effective sanctions.

Forms of the Lawful Responsibility of Doctors

The law responsibility of doctors in issuing patient health certificates can be classified into three main forms, namely civil, criminal, and administrative law responsibility. These three forms of responsibility have a clear law basis; however, their implementation often faces various challenges.

According to civil liability, Article 1365 of the Civil Code is the main reference governing the obligation of doctors to compensate for losses arising from negligence or actions that do not comply with professional standards. Harahap (1986) explains that doctors can be held civilly liable if it is proven that their actions have caused harm to patients or third parties. Fuady (2013), however, emphasizes that the burden of proof in civil cases is often a major obstacle for the injured party.

The criminal liability of doctors is regulated in Article 263 of the Criminal Code and several provisions in Law No. 17 of 2023. Ali (2012) states that doctors who are proven to have falsified health certificates can be subject to severe criminal sanctions, including imprisonment and fines. Bahder (2005) besides emphasizes that criminal liability also covers negligence on the part of doctors that results in serious harm to patients.

From an administration perspective, doctors' responsibilities are regulated in Minister of Health Regulation No. 2052/MENKES/PER/X/2011, which requires doctors to comply with standard operating procedures (SOPs) in every medical action, including the issuance of health certificates. This regulation aims to ensure that every medical procedure is carried out correctly and in accordance with applicable regulations, thereby protecting patients and improving the quality of healthcare services.

Ridwan (2003) notes that violations of these provisions can result in the revocation of a doctor's license. This shows that there are serious consequences for doctors who do not comply with SOPs, which can result in the loss of their right to practice. The revocation of a license not only affects the doctor himself, but can also affect patients who depend on the medical services provided by that doctor. There are clear provisions regarding the administration of sanctions, however the implementation of these sanctions is often

inconsistent. Uncertainty in the enforcement of sanctions can reduce the effectiveness of these regulations and fail to provide a sufficient deterrent effect for doctors who violate them. In many cases, doctors may feel that the risk of violating these provisions is relatively low, because the sanctions imposed are not always strict or applied evenly.

This situation creates challenges in maintaining professional standards among medical personnel. To improve compliance with regulations and ensure that doctors perform their duties properly, it is important for authorities to enforce sanctions consistently and transparently. As a result, a safer and higher-quality medical practice environment will be created and community trust in the medical profession will be enhanced.

Seran and Setyowati (2010) state that besides law responsibilities, doctors also have moral and ethical responsibilities that must be upheld in every professional action. These responsibilities include the obligation to provide the best care for patients, respect patients' rights, and maintain integrity and professionalism in medical practice. When doctors violate these moral and ethical responsibilities, the impact is not only felt by the patients who are harmed, but can also damage community trust in the medical profession as a whole.

Violations of this responsibility can take many forms, such as providing inaccurate information, ignoring patient needs, or performing medical procedures that do not comply with ethical standards. When the public loses trust in doctors, this can lead to a decline in the quality of healthcare, where patients become hesitant to seek medical help or follow the advice of medical professionals.

It is important for every doctor to realize that their responsibilities are not limited to law, but also include the very important moral and ethical dimensions. By upholding these responsibilities, doctors can contribute to improving the quality of healthcare services and rebuilding community trust in the medical profession. In the long term, this will create a better environment for patients and medical personnel, as well as enhance the integrity of the medical profession as a whole.

This research found that the law responsibility of doctors has been comprehensively regulated in various laws and regulations. The implementation, however, still faces various obstacles, especially in terms of law enforcement and regulatory harmonization. Alexandra (2012) suggested the need to strengthen the monitoring mechanism and sanctions to ensure that the law responsibility of doctors can be effectively implemented.

Overall, the results of this research indicate that while there is a clear national law framework regarding physician liability, its implementation still requires improvement, particularly in terms of oversight, regulatory harmonization, and the imposition of appropriate sanctions. This is important to ensure that physician liability can be effectively enforced in order to protect patient rights and maintain the integrity of the medical profession.

CONCLUSION

This research shows that the regulation of doctors' law responsibility in issuing patient health certificates has been regulated through legislation in force in Indonesia. The synchronization of these regulations, while quite good vertically, still needs improvement in terms of horizontal harmonization. The laws governing doctors' responsibilities cover civil, criminal, and administrative aspects, each of which has a clear legal basis. The implementation of these regulations, however, is often hampered by weak oversight, poor coordination between agencies, and inconsistent sanctions.

To improve the effectiveness of regulating doctors at law, it is recommended that regulations be harmonized. It is necessary to strengthen oversight mechanisms, impose strict sanctions, and ensure consistency in law enforcement. Law education for doctors is also important to increase their law awareness regarding the implications of their actions in professional practice. With these measures, it is hoped that doctors' law responsibility can be carried out more optimally to protect patients' rights and maintain community trust in the medical profession.

REFERENCES

Alexandra, I. (2012). *Etika dan Hukum Pelayanan Kesehatan*. Yogyakarta: Grasia Book Publisher.

Ali, M. (2012). *Dasar-Dasar Hukum Pidana*. Sinar Grafika, Jakarta.

Bahder, J. N. (2005). *Hukum Kesehatan Pertanggungjawaban Dokter*. PT. Aneka Cipta, Jakarta.

Fadhilah, A., Absori, A., Yuspin, W., & Setiyawan, W. (2023). Kesadaran Hukum Dokter di dalam Memberikan Keterangan Sakit Kepada Pasien di Karesidenan Surakarta. *Soepra Jurnal Hukum Kesehatan*, 9(2), 157-168.

Febrian, T. T., & Shinta. (2010). *Perlindungan Hukum bagi Pasien*. Prestasi Pustaka, Jakarta.

Fuady, M. (2013). *Perbuatan Melawan Hukum: Pendekatan Kontemporer*. Citra Aditya Bakti, Bandung.

Guwandi, J. (2016). *Dokter, Pasien, dan Hukum*. Balai Penerbit Fakultas Kedokteran Universitas Indonesia, Jakarta.

Harahap, Y. (1986). *Segi-Segi Hukum Perjanjian*. Alumni, Bandung.

Hayck, F. A. V. (2001). *Tanggung Jawab Individu*. Pradnya Paramitha, Jakarta.

Hendrik. (2018). *Etika dan Hukum Kesehatan*. EGC, Jakarta.

Ibrahim, J. (2007). *Teori dan Metode Penelitian Hukum Normatif*. Bayumedia Publishing, Malang.

Ishak. (2012). *Dasar-Dasar Ilmu Hukum*. Sinar Grafika, Jakarta.

Jayanti, N. K. I. (2002). *Penyelesaian Hukum dalam Malpraktik Kedokteran*. Pustaka Yustisia, Yogyakarta.

Johan, B. (2005). *Hukum Kesehatan Pertanggungjawaban Dokter*. PT. Rineka Cipta, Jakarta.

Kholid, K.N., N. Chamim, J. A. Susanto, D. Darmawan, & M. Mubarak. (2023). Analyzing Electronic Medical Records: A Comprehensive Exploration of Legal Dimensions within the Framework of Health Law, *International Journal of Service Science, Management, Engineering, and Technology*, 4(1), 36-42.

Kusuma, A. E. (2009). *Transaksi Terapeutik dalam Upaya Pelayanan Medis di Rumah Sakit*. Citra Aditya Bakti, Bandung.

Machmud, S. (2008). *Penegakan Hukum dan Perlindungan Hukum bagi Dokter yang Diduga Melakukan Medikal Malpraktek*. Mandar Maju, Bandung.

Mandar Maju. Mamudji, S. S., & Sri, M. (2012). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Raja Grafindo Persada, Jakarta.

Maria, F. (1998). *Ilmu Perundang-Undangan*. Kanisius, Yogyakarta.

Miru, A. (2004). *Hukum Perlindungan Konsumen*. Raja Grafindo Persada, Jakarta.

Moegni, D. (1979). *Perbuatan Melawan Hukum: Tanggung Gugat (Aansprakelijkheid) untuk Kerugian yang Disebabkan Karena Perbuatan Melawan Hukum*. Pradnya Paramitha, Jakarta.

Moeloeng, L. J. (1996). *Metodologi Penelitian Kualitatif*. PT Remaja Rosdakarya, Jakarta.

Nalin, C., S. A. B. Saidi, M. Hariani, V. Mendrika, & F. Issalillah. (2022). The Impact of Social Disparities on Public Health: An Analysis of Service Access, Quality of Life, and Policy Solutions, *Journal of Social Science Studies*, 2(1), 39 – 46.

Nasution, B. J. (2005). *Hukum Kesehatan: Pertanggungjawaban Dokter*. Rineka Cipta, Jakarta.

Notoatmodjo, S. (2010). *Metodologi Penelitian Kesehatan*. Rineka Cipta, Jakarta.

Ridwan, H. R. (2003). *Hukum Administrasi Negara, Cetakan Kedua*. UII Press, Yogyakarta.

Satriawan, D. (2014). *Tanggung Jawab Rumah Sakit terhadap Kerugian yang Diakibatkan oleh Tenaga Kesehatan*. Universitas Lampung, Bandar Lampung.

Seran, M. & Setyowati, A. M. W. (2010). *Dilema Etika dan Hukum dalam Pelayanan Medis*. CV. Mandar Maju, Bandung.

Setiawan, R. (1999). *Pokok-Pokok Hukum Perikatan Putra A Bardin*, Bandung.

Shinta, T. T. (2010). *Perlindungan Hukum bagi Pasien*. Prestasi Pustaka, Jakarta.

Soemitro, R. H. (1990). *Metodologi Penelitian Hukum dan Jurimetri (Cet. Ke-4)*. Ghalia Indonesia, Jakarta.

Sudarto. (1983). *Hukum dan Perkembangan Masyarakat*. Sinar Baru, Bandung.

Sugiyono. (2009). *Metode Penelitian Kuantitatif dan Kualitatif*. Alfabeta, Bandung.

Sumaryono, E. (1995). *Etika Profesi Hukum: Norma-Norma bagi Penegak Hukum*. Kanisius, Yogyakarta.

Triwibowo, C. (2015). *Etika dan Hukum Kesehatan*. Nuha Medika, Yogyakarta.

Vitrianingsih, Y. & F. Issalillah. (2021). The National Legal System's Effectiveness in Handling Public Health Crises Responsively and Fairly, *Journal of Social Science Studies*, 1(2), 203 – 208.

Widiyono. (2004). *Wewenang dan Tanggung Jawab*. Ghalia Indonesia, Bogor.

*Hartika, Y., R. Saputra, N. H. Pakpahan, D. Darmawan, & A. R. Putra. (2023). A Study on the Falsification of Health Certificates: Perspective of Criminal Law and Professional Ethics, *Journal of Social Science Studies*, 3(2), 175 – 180.