



Construction of Hospital by Laws in Realizing Hospital Clinical Governance

Iklima Anggarani Purbaningrum^{1*}, Gayatri Dyah Suprobowati²

^{1,2}Sebelas Maret University Surakarta, Indonesia

E-mail: Iklimaanggaranip@gmail.com¹, gayatridyah@staff.uns.ac.id²

*Corresponding Author: Iklimaanggaranip@gmail.com

Abstract. Every hospital is required to have an obligation to prepare and implement its internal hospital regulations or hospital by laws. The implementation of hospital by laws is regulated in detail in the Decree of the Minister of Health long before the enactment of Law Number 44 of 2009 concerning Hospitals. This study analyzes in more depth the construction of regulations on hospital by laws in Indonesia and the implementation of hospital by laws as internal regulations in Hospitals.

Keywords: Construction, Hospital by Laws, Hospital.

1. INTRODUCTION

Health is a major aspect and needs to be considered properly in order to form a reflection of a developing and prosperous society. The government must strive for the development of public health to ensure the welfare of the nation's life. This is certainly in line with the creation of development in the health sector which aims to focus more on increasing awareness in forming a good level of health as stated in the 1945 Constitution that public health is part of general welfare and is the right of every community (Sulastris & Astuti, 2020).

Talking about public health, of course, it cannot be separated from the concept of health services provided where a good level of health is certainly represented by providing the best efforts for the community, especially in fulfilling the necessary health services. The health services provided must not only be on target but must also be safe. Especially in terms of actions implemented in various health institutions such as hospitals where people who come have various health problems that are very varied and complex. Health is a fundamental thing in human life because without health life will be meaningless and a person will not enjoy the sweetness of life without a healthy body and soul (Tjong, 2020).

Therefore, along with the development of the era, especially in the midst of the MEA era, in these times, law has a fairly vital contribution to all aspects of human life. In order to organize a good level or intensity of health for each individual or group, there needs to be integration from all parties to realize welfare and definite legal support for the organizers of activities related to health (Leenen H.J.J and Lamintang P.A.F, 2020).

In the scope of health services, especially in hospitals, of course, it is inseparable from the various problems encountered in it, both conflicts between health workers and patients, where these problems cannot be resolved with a code of ethics and legal assistance is needed to resolve them. So this is what then drives the emergence of new findings along with the development of technology and science, which has increased public knowledge and the fulfillment of their rights so that they become very sensitive, especially connoting the actualization of human rights (Ginting, 2018).

Quoted from a study journal conducted by Arif Budiman, it was found that at present there are many conflicts that arise in the realm of the world of health. There are many phenomena of patients in hospitals complaining about the health services provided, demanding their rights to the issue of malpractice which has become a frightening phenomenon and has often occurred recently. Malpractice cases themselves have always increased from year to year, causing disability to death, so that complex polemics have arisen in hospitals as health service providers (Arif Budiman, 2023).

Responding to existing problems, it then becomes very urgent if the health law profession is formed to then be actualized in all lines of the hospital organizational structure in order to be able to create effective and appropriate services and make a positive contribution with valid legal force to reduce the number of malpractice and various conflicts that exist in health services.

Hospital By Law or internal hospital regulations are basic rules that regulate procedures regarding services in hospitals. Internal hospital regulations or "Hospital By Laws" are specifically regulated in Law Number 17 of 2023 concerning Health, Article 189 Paragraph 1 Letter (R) states that: every hospital must prepare and implement internal hospital regulations (hospital by laws) and are specifically regulated in the Decree of the Minister of Health Number 772/Menkes/SK/VII/2002 concerning Guidelines for Internal Hospital Regulations (Hospital By Laws).

The existence of Hospital by Laws has an important role in regulating order and ensuring legal certainty in hospitals, hospital by laws are also considered as "rules of the game" in hospital management (Pasrah K, 2021).

Hospital Internal Regulations (Hospital By Law) include various rules related to health services. To create effective services, regulatory developments were created which were then formulated by the government as an effort to strengthen the legal position of hospitals, especially in every medical dispute involving patients and medical personnel on duty in them, which was then issued by the Minister of Health Regulation Number 42 of 2018 concerning

the Hospital Ethics and Legal Committee, this is more specific because it is an effort to form hospital service governance (Good Clinical Governance) to be better and improve the quality of health services and patient safety in hospitals (Tadda A, 2022).

In an effort to improve the quality and achievement of good government performance in hospitals, the application of the Good Government principle is one solution in addressing problems related to hospital performance, which will later refer to: participation, legal certainty, transparency, responsibility, consensus-oriented, fair, effective efficient, accountability and strategic vision (Johannes K, 2020). By establishing the concept of good clinical governance, it can improve the quality of clinical services and minimize complaints in hospitals and can guarantee patient safety, which can later become a framework for improving the quality of clinical services in hospitals.

2. LITERATURE REVIEW

As previously mentioned, there is something very fundamental in the development of a country, namely the level of public health so that each country is required to have a set of rules that fully guarantee the health of its people so that a healthy and prosperous society is formed. A series of these rules are then applied in laws and regulations which will later become a legal guideline regarding the provision of health services to the community. So we must really understand the health law which is actually very fundamental which is not only aimed at the health profession but also includes academics and legal practitioners. How important it is to understand the health law so that the health services obtained by the community are truly with the right procedures, the appropriate proportions and avoid the malpractice system (Leenen H.J.J and Lamintang P.A.F, 2020).

Hospital Internal Regulations (Hospital By Law) include various rules related to health services, administration and management. The forms of material in these Hospital By Law regulations include: inpatient procedures, patient identity, patient rights and obligations, doctors and hospitals, informed consent, medical records, and obligations in keeping medical secrets, medical committees, medical ethics committees, hospital ethics committees, doctors' access rights to hospital facilities, work requirements, safety and health guarantees, work contracts with health workers and partners (Rikomah S, 2017).

3. METHODS

This research is a type of library research where the basis used is a theory or study that is related to the discussion theme, namely regarding the legal construction in hospitals. By using library data, this study utilizes data collection techniques using library studies to then be analyzed using interactive analysis in the form of data sorting, narrative presentation and drawing conclusions to obtain study results in the form of Hospital By Laws Construction in Realizing Hospital Clinical Governance

4. RESULTS

In short, it can be said to be an internal regulation made by the hospital and therefore only applies to the hospital that made it. The preparation of hospital by laws is not just copy paste from other hospitals, but hospital by laws are prepared based on the vision and mission of each hospital. As its meaning, by-laws are parliamentary law a rules or laws adopted by an organization for its internal governance and its external dealings. Thus, hospital by laws in a broad sense are all provisions, either in the form of statutes or Articles of Association/Bylaws (AD-ART), regulations or standards made by and enforced for a particular hospital. The definition of hospital by laws in the narrow sense is a provision that explains the relationship between the hospital owner, hospital management and the medical committee (three historical furnaces).

Hospital by laws are basic rules that regulate the procedures for organizing a hospital which include internal corporate regulations and internal regulations s medical staff According to Jacobalis, hospital by laws or statutes or constitutions or so-called articles of association are regulations that are set by themselves to regulate the actions of parties within the hospital. These regulations are guidelines for implementing management and obeying the law, in which the hospital strives to carry out its mission properly and legally.⁷⁵ In line with these conditions, so that health services at the Regional Public Hospital to the wider community have standards and procedures in providing the expected health services. Therefore, the Decree of the Minister of Health of the Republic of Indonesia Number 228/Menkes/SK/II/2002 concerning Guidelines for the Preparation of Minimum Service Standards (SPM) for Hospitals was issued.

Following these regulations, hospital by laws which are specifically regulated in the Decree of the Minister of Health of the Republic of Indonesia Number 772/Menkes/SK/VI/2002 concerning Guidelines for Internal Hospital Regulations (Hospital By Laws), hospital by laws comes from two words, namely hospital which means hospital and by laws which means local or internal regulations. Internal hospital regulations or hospital by

laws must meet various criteria, including being able to answer all challenges that arise in medical practice in the era of globalization, being able to answer all challenges that arise in hospital management, a well-integrated form of regulation, and a clear form of supervision and guidance that can optimize performance in empowering the potential of the profession and related institutions. Related to the preparation of hospital governance patterns (hospital by laws), Article 29 paragraph (1) letter r of the Hospital Law explicitly states that every hospital in Indonesia in particular has the obligation to prepare and implement internal hospital regulations (hospital by laws).⁷⁷ Almost all hospitals have prepared and have internal regulation documents (hospital by laws). This is aware that in addition to supporting the accreditation requirements for hospitals and as an administrative requirement for the implementation of PPK-BLU for government hospitals in accordance with the provisions of Article 4 paragraph (4) letter b of Government Regulation Number 23 of 2005⁷⁸ and Article 11 letter b of the Regulation of the Minister of Home Affairs Number 61 of 2007.⁷⁹ Hospital by laws is also used as a means to improve the quality of hospital services that have clear direction and objectives in carrying out their activities. Hospital by laws is an obligation of hospitals that is expressly stated in the Hospital Law. The basic concepts and principles regulated in the Decree of the Minister of Health of the Republic of Indonesia Number 772/Menkes/SK/VI/2002 concerning Guidelines for Internal Hospital Regulations (Hospital By Laws) contain:

- 1) Definition.

- 2) Function of internal hospital regulations.

The functions of internal hospital regulations include:

- a. As a reference for hospital owners in supervising their hospitals.
- b. As a reference for hospital directors in managing hospitals and formulating technical operational policies.
- c. Means to ensure effectiveness, efficiency and quality.
- d. Means of legal protection for all parties related to the hospital.
- e. As a reference for resolving conflicts in the hospital between the owner, hospital director and medical staff.
- f. To meet hospital accreditation requirements.

- 3) The purpose and benefits of internal hospital regulations.

- 4) The legal framework that regulates hospital life, namely in the form of regulations on the implementation of the hospital, includes:

- a. Corporate Basis:
 - a) Articles of Association of a Limited Liability Company.
 - b) Articles of Association of the Foundation.
 - c) PP of a State-Owned Company.
 - d) Other regulations related to the form of legal entity of the hospital owner.
- b. Legislation related to health and hospitals:
 - a) Law on Health and other related laws.
 - b) Regulations and legislation governing hospitals
- c. Local government health policies.
 - a) Licensing policies.
 - b) Reporting policies.
- d. Internal hospital regulations.
- e. Hospital operational technical policies, including:
 - a) Standard Operating Procedure (SOP).
 - b) Jobs description.
- f. General legal rules, for example:
 - a) Criminal Code
 - b) Law on the Environment.
 - c) Law on Employment.
 - d) Law on Consumer Protection.

Hospital by laws regulate how the interests of the owner are represented in the hospital, how hospital policies are made, how the relationship between the owner and hospital management and how the relationship between the owner and medical staff and the relationship between management and medical staff. These relationships are described in static and dynamic conditions. Hospital by laws also regulate efforts that must be made to achieve the performance of professionals so that they are always of high quality in caring for their patients, especially through acceptance signs, periodic reviews, and performance evaluation of each practitioner in the hospital. In that context, the hospital by laws can also order the medical committee to organize education and training in order to achieve and maintain service standards and towards improving professional knowledge and skills.

Hospital by laws are prepared by the owner or representative or director of the hospital with the assistance of the medical committee and determined by the hospital owner (governing body). The draft of the hospital by laws is prepared by referring to the legal entity of the hospital owner, laws and regulations on health and hospitals and based on the results of the legal audit

conducted. Therefore, the hospital by laws are not standard regulations that apply or can be applied simply to every hospital. However, it is also a regulation that contains provisions that are very individual or even contradictory to hospital by laws in general. Hospital by Laws are made by referring to applicable laws and regulations, especially in the fields of civil and employment law.

5. DISCUSSION

The construction of hospital by laws in realizing hospital clinical governance is rooted in the existence of the 1945 Constitution, Article 28H and Law No. 36/2009 which contains health as part of human rights and as the main element of development in achieving community welfare. Therefore, health development is something that cannot be separated from national development and aims to increase awareness in realizing the highest intensity of public health. The discussion regarding the construction of health law has previously been described by legal political experts as follows (Takdir, 2018):

- a. According to Satjipto Rahardjo, legal politics aims to determine choices regarding the right strategy to achieve a just community law.
- b. According to L.J. Van Apeldorn, legal politics is a legal policy that determines the objectives and contents of statutory regulations.
- c. According to Moh. Mahfud MD, law is interpreted very diversely but still adheres to its substance with its implementation guided by standard rules.

So related to the construction of hospital by laws in realizing clinical governance of hospitals related to Law No. 17/2007 concerning the National Long-Term Development Plan (RPJPN) which places the period of the national long-term development plan 2005-2025 which is then known as the National RPJP for a period of 20 years in order to realize competitive competitiveness in the fields of economy, natural resources, and superior human resources.

As in Law Number 17 of 2023 concerning Health where health truly provides total healing to patients, health efforts are every activity or series of activities that are integrated with efforts to form and improve health levels continuously in the form of disease prevention, health improvement, treatment and recovery by the government and/or community. This is what then forms the basis of hospital by laws which are indeed compiled as regulations to regulate all health institutions to provide health services or establish hospitals with facilities in accordance with the specified standards. This hospital by laws has become a hospital culture that of course upholds appropriate and effective public services as stated in Law No. 44 of 2009 article 29 (Joni Afriko, 2016). In relation to the legal basis of health, hospital by laws have also

been created, the basis for the implementation of which is determined based on the provisions of the Ministerial Regulation No. 755/Menkes/PER/IV/2011 concerning the implementation of medical committees in hospitals which aim to regulate proper governance in order to realize good medical services and high professionalism of medical personnel. So related to hospital services in this scope, every health worker has a great responsibility to carry out their duties professionally by ensuring the fulfillment of patient rights properly. The existence of health laws that regulate hospital services is a manifestation of achieving optimal public health. Providing good health services, proper treatment, no discrimination and good integration between patients and medical personnel, then everything must run inherently to create a prosperous society.

6. CONCLUSION

Hospital by laws that apply in Indonesia in accordance with the construction of Hospital by Laws in the Clinical governance of Hospitals has been running properly. Hospital by Laws is a set of rules used as a reference for hospitals in managing health services, an internal corporate regulation, especially in the field of hospital business. Hospital by laws are required for every hospital in Indonesia. This is implied in Article 29 paragraph (1) letter r of Law Number 44 of 2009 concerning Hospitals. Previously, the Decree of the Minister of Health of the Republic of Indonesia Number 772/Menkes/SK/VI/2002 concerning Guidelines for Internal Hospital Regulations (Hospital By Laws) was issued.

7. LIMITATION

This study is limited to a description of the construction of hospital by laws in the scope of hospitals in theory only. It is hoped that in the future there will be studies that examine similar matters contextualized in field objects. There needs to be further studies that discuss the application of health law construction in several health institutions in Indonesia to see how far the application of health law in community services by each health worker.

REFERENCES

- Afriko, J. (2016). *Health law: Theory and applications complete with health law*. In Media.
- Budiman, A. (2023). Hospital responsibility for the actions of doctors who commit medical malpractice [Doctoral dissertation, Muhammadiyah University of Surakarta]. *ePrints UMS*. https://eprints.ums.ac.id/116834/2/Front_Page.pdf
- Ginting, C. (2018). Factors affecting the quality of promotive and preventive services. *Journal of Public Health Pearls*, 3(2).
- Johannes, K. S. (2020). The effect of government governance and public hospital services on the performance of government public hospitals in the city and regency of Bandung. *Search-Informatic, Science, Entrepreneur, Applied Art, Research, Humanism*, 19(1), 73–83.
- Kitta, P. (2021). Implementation of internal hospital regulations by the medical committee in improving good clinical governance in hospitals [Doctoral dissertation, Hasanuddin University].
- Leenen, H. J. J., & Lamintang, P. A. F. (2020). *Health services and law*. Bina Cipta.
- Rikomah, S. E. (2017). *Hospital pharmacy*. CV Budi Utama.
- Sulastri, E., & Astuti, D. P. (2020). Health education to improve adolescents' knowledge and attitudes about reproductive health and sexually transmitted diseases. *Scientific Journal of Nursing Health*, 16(1), 93. <https://doi.org/10.26753/jikk.v16i1.427>
- Tadda, A., Indar, I., & Ilyas, A. (2022). Legal review of the existence of the hospital ethics and law committee (KEHRS) in resolving medical disputes. *Ecosystem Scientific Journal*, 22(1), 120–135.
- Takdir. (2018). *Introduction to health law*. IAIN Palopo Campus.
- Tjong, R. (2020). *Ethical problems of health efforts*. Gramedia Pustaka Utama.
- Valeri, D. (2017). Regulation of legal protection of patient rights in health legislation in Indonesia. *Diponegoro Law Journal*, 6(2).