

The Patient was Returned at Demand In The Emerging Disease Case In Treatment Of Covid 19 Isolation In Indonesia

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ABSTRACT

This study the legal status and legal consequences of patients returning home at their request in cases of Emerging diseases who are under Covid 19 isolation treatment in Indonesia. The type of research used is normative legal research. The approaches used in this legal research are the comparative approach, statute approach) and conceptual approach. The results of the study show that the patient's return at his request is the right of the patient with medical risks and legal consequences will be borne by the patient and or the patient's family. The legal consequences of a patient returning home from his request do not cause legal consequences, but the legal consequences arise when the patient is proven to be suffering from an infectious disease including an epidemic, he can be charged with the criminal provisions stipulated in the Law of the Republic of Indonesia Number 04 of 1984 concerning Infectious Plagues and State Law of the Republic of Indonesia Number 06 of 2018 concerning Quarantine.

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1. INTRODUCTION

Hospitals as one health care facilities have a role in accelerating the improvement of public health status. Hospitals have an obligation and also a moral and legal responsibility to provide quality services according to standards for the patients they treat. Quality health services mean providing a product that truly provides health services according to individual and community needs. Quality service is an emotional experience for customers. If customers feel proud and satisfied or even surprised with the services received, they will show a great tendency to reuse the services offered by the company in the future. The direct impact of customer satisfaction is a decrease in complaints and an increase in customer loyalty. Likewise with the hospital as a service company, if the patient is satisfied with the quality of hospital services, there is a tendency to be loyal to the hospital's services.

To retain customers, the hospital is required to always maintain consumer trust carefully by paying attention to consumer needs to fulfill the desires and expectations of the services provided. Hospitals must be able to build a system on how the services provided can be on time and reach consumers by making various efforts to facilitate delivery by improving the quality or quality of services through (a) reliability, namely the ability to provide promised health services. accurately and satisfactorily, (b) responsiveness, namely the

ability to help patients and provide services quickly and responsively, (c) assurance, which includes knowledge, ability, courtesy, and trustworthiness of the staff free from danger, risk, and doubt, (d) empathy (empathy) ease of making good communication relationships, personal attention and understanding of patient needs and (e) tangibles, namely the appearance of physical facilities, equipment and employees.

The rapid development of medical science and technology as well as improving socio-economic conditions and education have resulted in changes in the community assessment system that demands quality services. The relationship between patients and health workers has changed so that patients do not hesitate to sue both health workers and health service providers if the services provided are not following professional standards and codes of ethics so hospitals need to be managed professionally.

Patient needs can be divided into needs in the field of direct health services and other supporting services. In terms of health services, it is generally desirable to have services that are fast, accurate, of high quality according to developments in medical science, friendly, and at a reasonable cost. In addition, it is often mentioned the need for a thorough explanation of the condition of the disease to patients and their families so that they understand their health condition and what treatment efforts they will undergo following Law No. 44 of 2009 on Hospitals. Consumer-oriented health services are a must.

However, there are times when the service received is not following the patient's expectations, this causes the patient to feel dissatisfied and finally decides to end the treatment for himself and the patient goes home before the completion of the treatment period, this is known as going home on his request (APS) or forced discharge.

Since the beginning of the COVID-19 pandemic in January 2020, almost all health experts said that such as the Association of Lung Disease Experts, Internal Medicine Experts, and other Public Health Experts where have advised the government to implement special handling of COVID 19. Then the President issued a Presidential Decree of the Republic of Indonesia Number 11 of 2020 concerning the Determination of the Corona Virus Disease 2019 Public Health Emergency, which stipulated that Covid 19 was a type of disease that caused a Public Health Emergency and stipulates a Covid 19 Public Health Emergency in Indonesia which is required to carry out mitigation efforts following the provisions and laws and regulations. - applicable invitation. And on March 31, 2020, the government issued Government Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions (PSBB) to accelerate the handling of Corona Virus Disease 2019 (COVID-19). In handling COVID-19, the term Patient Under Supervision (PDP) is now called a suspect and/or probable, where the patient is being treated in a hospital with full supervision by medical personnel. In which many suspects and/or probable cases were found to return at their request (APS) or to return home by force. Based on the thoughts above, the author is interested in raising the problem in a thesis entitled "Patients go home at their request in the *emerging disease* who are in isolation treatment for *Covid 19* in Indonesia."

2. METHOD

The type of research used is normative legal research, namely: a study of legal rules or regulations relating to certain legal events, in this case regarding the legal consequences of requests for discharge at the request of patients (APS) in cases of Emerging Disease who are in Covid 19 isolation treatment. This study uses the type of doctrinal research, namely research that is systematic in nature, by outlining the legal arrangements for requests for discharge at the request of patients (APS) in cases of Emerging diseases who are in COVID-19 isolation treatment.

The approaches used in this legal research are the comparative approach, statute approach) and conceptual approach. The importance of the legal science approach is because in the field of law it is not possible to experiment, as is usually done in empirical science. The comparative approach is one of the methods used in normative research to compare one legal institution (legal institution) from one legal system with other legal institutions (which are more or less the same as the legal system). From this comparison, elements of similarities and differences between the two legal systems can be found. The statutory approach describes the statutory approach starting from a constitution in terms of aspects of legal principles and legal concepts and their accompanying laws or organic regulations (Hadjon & Djatmiati, 2005). A conceptual approach is an approach that is used to obtain scientific clarity and justification based on legal concepts

derived from principles (Muhjad, 2008). In turn, ideas will be found that give birth to legal notions, legal concepts, and legal principles that are relevant to the legal issues at hand.

This research is prescriptive, which is research that aims to study the purpose of the law, values of justice, the validity of the rule of law, legal concepts, and legal norms. As an applied science, legal science establishes standard procedures, provisions, and guidelines signs in carrying out legal activities due to the law of requesting to go home at the request of the patient (APS) in cases of Emerging diseases (Marzuki, 2011). From this description, alternative solutions to the legal issues discussed can be proposed.

The sources of legal materials used in this study are as follows:

a. Primary legal materials, namely binding legal materials in the form of statutory regulations consisting of:

- 1) the 1945 Constitution of the Republic of Indonesia.
- 2) Law of the Republic of Indonesia Number 04 of 1984 concerning Infectious Plague, State Gazette of the Republic of Indonesia Year 1983, Number 20
- 3) Law of the Republic of Indonesia Number 36 of 2009 concerning Health, State Gazette of the Republic of Indonesia Year 2009, Number 144
- 4) Law of the Republic of Indonesia Number 44 of 2009 concerning Hospitals, State Gazette of 2009 Number 153
- 5) State Law of the Republic of Indonesia Number 06 of 2018 concerning Quarantine K, State Gazette of 2018 Number 128

b. Secondary legal materials, namely materials that are closely related to primary legal materials, in the form of textbooks, legal journals, legal expert opinions, legal articles, and others relevant to the subject matter.

c. Tertiary legal materials, namely legal materials that can provide explanations for primary legal materials, and secondary legal materials, namely legal dictionaries and encyclopedias.

3. FINDINGS AND DISCUSSION

3.1 Legal Protection for Patients

Legal subjects as bearers of rights and obligations (*de drager van de rechten en plichten*), whether human (*natuurlijke persoon*), legal entities (*rechtspersoon*), and positions (*ambt*), can take legal actions based on their ability (*bekwaam*) or authority (*bevoegdheid*). In the association in the community, many legal relationships arise as a result of the legal actions of the legal subjects. This legal action is the beginning of the birth of a legal relationship (*rechtsbetrekking*), namely the interaction between legal subjects that have legal relevance or have legal consequences.

For the legal relationship between subjects to run in a harmonious, balanced, and fair manner, in the sense that each legal subject gets what is his or her rights and carries out the obligations imposed on him, the law appears as the rule of the game in regulating the legal relationship. Law was created as a means or instrument to regulate the rights and obligations of legal subjects (Ridwan, 2003). In general, it is known that there are two basic human rights, namely basic social rights, and basic individual rights. From the existence of these basic social rights, the most prominent rights emerged, namely the right to health care (right health care) which then gave rise to other individual rights in the form of the right to medical service. According to Fred Ameln, between social and individual rights there is still a relationship in the form of (1). Support each other (2). Not contradicting each other (3). At least run parallel. In addition, several other basic rights are closely related to the right to health, for example, *the right to self-determination*, this right is essentially an individual right, which then gives rise to other rights, namely: 1. the right to privacy which is the right to freedom and privacy and, 2. The right to our bodies.

The right to health does not necessarily mean the right for everyone to be healthy and not get sick, or the government's obligation to provide expensive health care facilities beyond the government's capacity. But this right is more demanding than the government and public officials can make various policies and work plans that lead to the availability and affordability of health care facilities for all in all possibilities and as

much as possible in a relatively short time. Article 12 paragraph (1) of the *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, the right to health is explained as "the right of everyone to enjoy the highest attainable standard of physical and mental health" does not cover the area of health services.

On the other hand, the historical design and grammatical meaning of Article 12 paragraph (2) which states that the steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right, must include the things necessary to seek:

- a. Provisions for the reduction of rates of stillbirth and child mortality and the healthy development of children;
- b. Improvement of all aspects of environmental and industrial health;
- c. Prevention, treatment, and control of all infectious diseases,
- d. endemic, other occupational diseases;
- e. The creation of conditions that will guarantee all medical care and attention in the event of a person's illness.

In addition, the law also functions as an instrument of protection for legal subjects. According to Sudikno Mertokusumo, the law functions as the protection of human interests. For human interests to be protected, the law must be implemented. The implementation of the law can take place normally, and peacefully, but it can also occur due to violations of the law (Mertokusumo, 1996). Violation of the law occurs when certain legal subjects do not carry out obligations that should be carried out or because they violate the rights of other legal subjects. Legal subjects whose rights are violated must receive legal protection.

It is undeniable that several factors can affect the level of health of a person/individual, for example, genetic factors, a person's susceptibility to certain diseases, natural conditions (climate), or due to an unhealthy and risky lifestyle. Therefore, the government/state, in this case, cannot specifically provide protection against every possible cause of disease, or provide special guarantees for individual health, because in this case not all aspects can be directed separately regarding the relationship between the state and the individual. Thus, the right to health must be understood as a right – a state obligation – to the fulfillment of various facilities, services, and conditions that are important for the realization of adequate and generally affordable health standards by all levels of society.

The function of law as a regulatory instrument and an instrument of protection, in addition to other functions as will be mentioned below, is directed at a goal, namely to create an atmosphere of legal relations between legal subjects in a harmonious, balanced, peaceful, and just manner. There are also those who say that "*Doel van het rechts is een vreedzame ordening van samenleving. Het recht wil de vrede...den vrede onder de mensen bewaart het recht door bepaalde menselijke belangen (materialele zowel als ideale), eer, vrijheid, leven, vermogen enz. Tegen benaling te beschermen*"(the purpose of the law is to regulate society peacefully. Law requires peace...Peace between humans is maintained by law by protecting certain human interests (both material and *ideel*), honor, independence, life, property, and so on against those who harm it). These legal objectives will be achieved if each legal subject obtains their rights fairly and carries out their obligations by the applicable legal rules.

As an obligation of the state and a right of a citizen/citizen, the government's efforts initially were based on efforts to treat disease, then shifted to efforts to improve health standards and degrees to the highest possible level in the effort to cure the disease, then gradually developed towards integration of health efforts for the entire community by involving the wider community regarding promotive, preventive, curative and rehabilitative efforts that are comprehensively integrated and sustainable. The point lies in the involvement of all parties, both the government and the community, that every development effort must be based on health insight in the sense that national development must continue to pay attention to public health and remain a shared responsibility.

Legal protection for the people is a universal concept, in the sense that it is embraced and applied by every country that puts itself forward as a state of law, but as stated by Paulus E. Lotulung, "each country has its way and mechanism on how to realize the legal protection, and also to what extent the legal protection is provided" (Lotulung, 1993).

What is meant by legal protection is (in general terms) a guarantee given by the state to all parties to be able to exercise their legal rights and interests in their capacity as legal subjects. Furthermore, according to Koerniatmanto Soetoprawiro, legal protection is essentially an effort from the authorities to provide guarantees and facilities in such a way that every citizen or all citizens can actualize their rights and obligations optimally in a calm and orderly manner. From this understanding, the elements contained in the definition of Legal Protection can be formulated, namely:

a. A guarantee is given by the state;

The guarantee is given by the state (which in this case is the Government of the Republic of Indonesia) in the form of legislation, namely Law No. 23 of 1992 concerning Health, Law No. 29 of 2004 concerning Medical Practice, Human Rights Law No. 39 of 1999, Civil Code, and Government Regulations.

b. To all parties;

What is meant by all parties here are patients and service providers, who have an interest in matters that must be obtained, for example in the case of services that are not by procedures, the absence of approval for medical actions before taking action?

c. To be able to exercise their Legal Rights and Interests;

What is meant by rights is "the power to do something because it has been determined by other laws and regulations" (Soetoprawiro, 2002). The definition of power here is defined as "the authority to carry out a legal act". Law in carrying out rights and obligations under the law.

Based on this description, it can be concluded that legal protection is a guarantee given by the government of the Republic of Indonesia in the form of legislation to patients, and health service providers to be able to carry out authority to carry out actions aimed at causing legal consequences that are intentionally desired and interests regulated by law. law.

In everyday life, there is almost no area of public life that is not touched by law, both as a rule and a unique and regular attitude of human action. This is mainly because humans have a desire to live regularly. However, an order for one person is not necessarily the same as an order for another. Therefore, we need rules that regulate human life so that their interests do not conflict with the interests of fellow citizens.

In addition, efforts to administer health are always in tandem with the phenomenon of globalization and the development of the world of technology, which in turn – to a lesser extent – will affect the implementation of efforts to administer health as a whole. For this reason, Law no. 23 of 1992 concerning Health is considered to have not accommodated advances in technology and information in the health sector so it needs to be replaced with a new law (Law No. 36 of 2009). This new law in considering letter e states that Law Number 23 of 1992 concerning Health is no longer following developments, demands, and legal needs in society so it needs to be repealed and replaced with a new Law on Health.

Furthermore, Article 4 of the UUK states that "everyone has the right to health". The right to health as referred to in this UUK is the right to obtain health services and health service facilities to realize the highest degree of health. This means that anyone (to be able to live a healthy life) has the right to get access to proper health services whose form can be in the form of safe, quality, and affordable health services in the sense of not leaving the quality of service behind. Obtaining health services is a human right guaranteed by various legal instruments, therefore the government is obliged to;

a. Organizing health efforts that are evenly distributed and affordable by the community
b. To finance public goods and health services, such as immunization and eradication of various infectious diseases

c. Financing health services for the poor and the elderly. In addition, efforts to provide health services must be carried out based on the principles of non-discrimination, participatory, protection, and sustainability. Furthermore, these efforts are carried out in a harmonious and balanced manner by the government and the community, including the private sector.

One of the rules that humans need is the rule of law that regulates relations between humans to achieve peace through harmony between order and peace. Although humans always want the law to regulate life well so that peace can be achieved in society, the result may be the opposite. Due to certain factors that should have been taken into account from the start, the law can even result in an attitude of action that is not in

harmony with the law itself. In most cases, citizens obey the law, but on the other hand, there may be citizens who openly oppose it, ignore it or try to evade it.

If the law is obeyed by citizens, it is usually said that the law is effective because the purpose of the law is achieved to a degree certain, the existence of compliance can be interpreted as a condition where the law applies effectively. If that is the case, then it can also be said that the law has a positive influence because it has a good influence. However, if the law does not achieve its objectives because it does not receive social support, then the law has a negative on society.

Health is one of the basic human needs in addition to food and clothing. Without a healthy life, human life becomes meaningless, because when people are sick, humans cannot carry out daily activities properly. In addition, people who are sick, who cannot cure their illness, have no other choice but to ask for help from people who can cure their illness, namely asking for help from health workers who can cure their illness.

Referring to the sentence above, it is necessary to strive for legal protection of patients to get clear enough attention as stated in Law No. 29 of 2004 concerning Medical Practice which says that health development is aimed at increasing awareness, willingness, and ability to live healthy for everyone to realize optimal health degree as one of the elements of the general welfare as referred to in the Preamble to the 1945 Constitution of the Republic of Indonesia. That the implementation of medical practice which is the core of various activities in the implementation of health efforts must be carried out by doctors and dentists who have ethics and morals quality, expertise, and authority which quality must be continuously improved through continuous education and training, certification, registration, licensing, as well as guidance, supervision, and monitoring so that the implementation of medical practice is by developments. With science and technology and to provide legal protection and certainty to recipients of health services, doctors and dentists, it is necessary to regulate the implementation of medical practice.

The regulation of medical practice aims to provide protection to patients, maintain and improve the quality of medical services provided by doctors and provide legal certainty to the public and doctors. So in this article, it is clear that the community has the right to obtain quality medical services as written in Article 3 of Law No. 29 of 2004 concerning Medical Practice. Article 27-28 states that medical or dental education and training, to provide competence to doctors or dentists, is carried out by medical or dental professional education standards organized by professional organizations and other institutions accredited by professional organizations in the context of absorbing the development of medical or dental science and technology following the standards set by the medical or dental professional organization. So it is hoped that by conducting training and increasing knowledge, the doctor will become more competent and can provide more optimal services.

Protection of patients is also regulated in Article 1365 of the Criminal Code which reads as follows: every act that violates the law, which causes harm to another person, obliges the person who because of his mistake in issuing the loss, compensates for the loss. However, it is clear that for the Civil Code there must be violations and or omissions committed. Article 1320 of the Civil Code regulates the conditions for a valid agreement, it is said that for a valid agreement four conditions are needed:

- a. Agreed with those who remind themselves.
- b. The ability to make an engagement.
- c. A certain thing.
- d. A lawful reason.

The first condition of Article 1320 of the Civil Code requires that the parties agree to remind themselves. What is meant by agreement of the parties in the work of health services is the approval of the doctor to take medical action and the consent of the patient to take medical action on him. So *consent* given by the patient is a condition for the agreement for the implementation of medical services to be valid according to law and gives the doctor the right to take medical action. In addition to the legal arrangements in the Civil Code, there are also special regulations regarding *consent*, namely Permenkes No. 585/89, concerning Approval of Medical Actions. According to Permenkes No. 585/89 consent given by the patient must be based on the information received by the patient regarding several matters concerning medical procedures and the information provided by the doctor must be understood by the patient.

Patient legal protection has also received attention from the government with the issuance of Kepmenkes No. 631/SK/IV/2005 concerning Guidelines for Internal Regulations of Medical Staff (*Medical Staff bylaws*) in Hospitals with the consideration that improving the quality of medical health services in hospitals requires internal arrangements that regulate the roles and functions of owners, managers and medical staff and within the framework of the home. hospital composes *Medical Staff by Laws*. In this Kepmenkes, every hospital is required to draw up Internal Hospital Regulations

Medical Staff by Laws in hospitals to improve the quality of the medical profession and the quality of medical services. In the preparation of *Medical Staff by Laws* in hospitals, referring to the guidelines made in the form of 2 attachments, namely:

- a. Procedure for the preparation of *Medical Staff by Laws* in the hospital.
- b. Organizing medical staff and medical committees.

Medical Staff by Laws in hospitals is a reference for every hospital in compiling *Medical Staff by Laws* that is tailored to the situation, conditions, and needs of each hospital. The preparation and implementation of these guidelines will be *monitored* and evaluated by the Director-General of Medical Services, Provincial Offices, and District/City Health Offices in the context of fostering and supervising. With the existence of this Kep.Men.Kes, Kep.Men.Kes Number 772/MENKES/SK/VI/2002 concerning Guidelines for Hospital Internal Regulations (*Hospital by Laws*) regarding *Medical Staff by Laws* is declared no longer valid. One of the materials and substance of *Medical Staff by Laws* is to outline the duties and responsibilities of the medical committee, which in general are:

- a. Develop, evaluate, and if necessary propose changes to *Medical staff by laws*.
- b. Set medical service standards made by medical staff groups.
- c. Determine general policies in carrying out medical services professionally.
- d. Propose plans for developing human resources and technology for the medical profession. We realize that the organization of medical staff is currently growing, and the number and types of specialties in hospitals are increasing. Therefore, hospitals are expected to be able to compile *medical staff by laws* by referring to these guidelines.

Based on the above, to improve the quality of medical services, it is necessary to have *Medical staff by laws* that contain concepts and principles, examples or models of format, substance, and steps for their preparation. The purpose of making *bylaws* is so that doctors who join hospitals can be ascertained their competence and have complied with the rules and permits from professional associations and the Health Service.

Regarding procedures for serving things or those related to a healthy condition, both Law no. 36 of 2009 and Law no. 44 of 2009, did not find the meaning of the term health service. The two laws directly include various types of health services, including; promotive, preventive, curative, rehabilitative, and traditional health services, all of which are grouped under another term, namely "Plenary Health Services". Furthermore, Article 30 of Law no. 36 of 2009 put forward other terms that are grouped into Health Service Facilities, namely: Individual Health Services, Community Health Services, then First, Second, and Third Level Health Services. However, other terms can be used to understand the meaning of health services, namely Health Efforts. Health efforts in Law no. 36 of 2009 are defined as "any activity and/or series of activities carried out in an integrated, integrated and sustainable manner to maintain and improve the health status of the community in the form of disease prevention, health improvement, disease treatment, and health restoration by the government and/or the community".

While the understanding that can be drawn from the term "Health services" in its various forms (promotive, etc.) is that health services are an activity or a series of activities, thus "health services" are essentially all activities/a series of activities carried out in matters related to health services. related to health, including " medical services" which include health facilities and infrastructure. The series of service activities may include the following:

- a. Health promotion
- b. Health education
- c. Provision of facilities (facilities and infrastructure)

- d. Disease prevention
- e. Disease treatment
- f. Return of former patients with disease
- g. Treatment
- h. Supervision
- i. Protection etc.

Thus, what is meant by health service is every effort, either individually or jointly (in an organization) to improve and maintain health, prevent disease, treat disease and restore health aimed at individuals, groups, or communities.

Besides that, a service is essentially a form of activity whose implementation is mostly carried out by the government in the form of goods and services to meet the needs of the community by applicable regulations. As a form of activity carried out by the government, health services are included in public services. Public service itself is all forms of service activities carried out by public service providers to fulfill the needs of recipients as well as to implement the provisions of laws and regulations. (KEMENPAN No. 63/KEP/M.PAN/7/2003) .

Apart from the above definition, health services according to Law no. 36 of 2009 as in the explanation is, that in providing health services for both individuals and the community is guaranteed in the law, in several articles it is very clearly stated that to ensure public health, the government seeks health services to the community to achieve a healthy Indonesia. Health services provided by the government, whether in the form of providing health, providing drugs, or health services themselves are to ensure public health. The health service facilities according to the type of service consist of: as set out in Article 30 including:

- a. Individual Health Services. This individual health service is carried out by practicing doctors or health workers assisted by the government, both local and private. This individual health service must still get permission from the government by Law no. 36 of 2009 concerning Health
- b. Public Health Services In terms of individual health services Article 30 paragraph (1) is aimed at curing disease and restoring the health of individuals and families.

While public health services are aimed at maintaining and improving health and preventing disease in a group and society. This health service is to prioritize the safety of the patient's life over other interests. The implementation of health services is carried out in a responsible, safe, quality, equitable and non-discriminatory manner, in the language (of this regulation) the government is very responsible for health services, as well as ensuring quality standards of health services. Thus it is very clear normatively that in the implementation of health services, the government is very concerned with the provisions that apply according to Law no. 36 of 2009 concerning Health, thus the rights of citizens as recipients of these health services (should) be protected.

The problem that then arises is the implementation of the norms and legal rules contained in these various regulations because the facts on the ground are sometimes different from the ideal norms. Especially if the things to be regulated have their characteristics and specifications. Likewise, with health (services), some things are unique in themselves, namely:

- a. because of the uncertainty principle. This means that a person does not know for sure when they will need health services. No one wants to get sick and be hospitalized, what they want is to be healthy.
- b. because of the imbalance of information (information asymmetry). When someone falls ill, the decision to buy health services according to their needs is in the hands of the doctor or at the place where he is treated (clinic, hospital). When asked to follow a surgical procedure, the patient may be said to not know whether he needs the operation or not. Although informed consent is now known to involve patients in decisions on medical actions to be taken by doctors, patients are still not in the same position as doctors who treat them about their current health status.
- c. the impact on other parties (externalities). Approaches to dealing with health problems generally have an impact not only on the individual concerned but also on the wider community. For example, if a group of individuals has acquired immunity due to vaccination against a certain disease (eg: polio) then in aggregate immunity against a group of residents in a certain area. Finally, the country is free from polio, and in turn, it is hoped that the world will also be free from polio. Vice versa, if the treatment of certain diseases

is not immediately carried out, then a disease that initially only affects one particular community group will be able to spread to other areas.

In addition to the above, another factor that also causes health services to be expensive is labor-intensive (intensive). The provision of health services requires a multidisciplinary approach and cannot be simplified in production processes (automation) such as in-car or electronics factories. Doctor services for cataracts or mass circumcision can be used/performed in bulk, in contrast to hernias, for example, cannot or cannot be replaced by machines or computers so that hospitals can offer cheap and mass hernia surgery services.

In addition, implications sometimes arise along with the relationship between health service providers and service users, which is very little understood by the general public. Call it the Prita case (In Indonesia) or other malpractice cases. What is not understood by the community (perhaps also by service providers), is the existence of this legal relationship. An understanding of the emergence of legal relationships in individual or individual health services called medical services, the legal basis for medical service relationships, the legal position of the parties in medical services, and risks in medical services. The emergence of legal relations in medical services can be understood if the definition of health services, the principle of assisting in health services, and the purpose of providing health services can be understood as providing a sense of health or healing for the patient.

For people who do not understand, this can still be considered reasonable, because what is understood is that the relationship between a patient and a doctor in medical services is still paternalistic, that is, a patient will always follow the words of a doctor without asking anything. , assuming that a doctor knows everything well. However, it is different for health service providers (including health workers), so they are considered to know the existence of these legal relationships in addition to knowledge about their equal position before the law, which of course has legal consequences, both in the form of rights and obligations of the patient. as well as a doctor or hospital. Moreover, the actions taken by the health service implementers are legal acts that result in legal relations, although this is often not realized by the health service implementers at the time the actions concerned are carried out.

a. Health services do not only include professional activities or activities in the field of curative and preventive services for individual interests but also include, for example, service institutions, management systems, financing, management, general preventive measures, and information, all of which require a legal basis. Therefore, returning to the main providers of health services is clear based on the law. No. 36 of 2009, it is the government that is most responsible for the highest degree of health for all citizens.

By looking at the explanation above, the certainty of health services that are evenly available in all corners of Indonesia is a must so that people have access and their right to be healthy. Of course, this is the responsibility of the state, which in this case is the government as a representation of the power of the people. Because if the answer is loyal to the market mechanism, the consequence is that the private sector will become the main actor in providing services. Although this has the advantage of providing quality services, it is clear that not everyone has access to sophisticated and expensive health services.

From the description above, it appears that the legal protection of patients has received quite clear attention as stated in the 1945 Constitution of Law no. 23/1992, Law no. 29/2004, the Human Rights Law, the Criminal Code, the Civil Code, the Ministry of Health and the Minister of Health and, where the protection of patient rights is clear and the doctor's obligation to fulfill the patient's rights must be obeyed because if this is not done, the medical personnel will be subject to sanctions.

3.2 Legal Position Patient Goes Home At His Request

Any action taken by a person will have consequences or consequences. Thus, any legal action or act committed by a person will have juridical consequences or legal consequences for the perpetrator. The legal consequences can be in the form of criminal sanctions if the actions or actions taken are against the law so that the perpetrators can be subject to criminal sanctions. As stated by R. Soeroso that legal consequences are the result of an action taken to obtain a result desired by the perpetrator and regulated by law. This action is called a legal action. So in other words, legal consequences are the consequences of legal action. Examples: making a will, a statement to stop renting. The form of legal consequences can be (Soeroso, 2011):

a. The birth, change, or disappearance of a legal situation;

Example:

1) Age becomes 21 years old, the legal consequences change from incompetence to legal competence;

2) With forgiveness, the ability to take legal action disappears.

b. The birth, change, or disappearance of a legal relationship, between two or more legal subjects, where the rights and obligations of one party conflict with the rights and obligations of the other party;

Example:

A entered into a sale and purchase agreement with B, then a legal relationship was born between A and B. After being paid in full, the legal relationship disappeared.

c. The birth of sanctions if an action is taken against the law.

For example:

a thief being given a penalty is a legal consequence of the thief's actions taking other people's goods without rights and against the law.

Cases of patients going home at their request (PAPS) or going home at the request of the family are things that often happen in hospitals. The patient's return at his request is a sign of the patient's feeling of dissatisfaction with the services provided by the hospital. The reasons or causes for PAPS patients include: the services provided do not provide satisfaction for patients/families (such as employees are not friendly, service hours/visit doctors are not regular), the existing facilities and infrastructure are not optimal so that it interferes with patient comfort (such as air conditioner who often live and die, PDAM water that often dies, bathroom/toilet hygiene is still lacking), beds are not comfortable, communication between health workers in providing services is still lacking (such as lack of socialization about the rights and obligations of patients during treatment, education of patients returning home). at their request is not optimal), visitors who come sometimes do not match the scheduled time of visit so that it disturbs the patient who is resting.

Patient dissatisfaction with hospital services can cause patients to be forced to go home or be reluctant to reuse hospital services. This is certainly detrimental to both parties, the hospital will lose because of reduced income and the patient or family feels disadvantaged because the treatment has not been completed so they seek other alternative treatments that may increase losses such as disability and even death. Therefore, hospitals are required to continue to provide quality, effective and efficient health services so that public confidence in the hospital increases

. Patients who return at their request even though they are not medically stable enough to be treated at home can be interpreted as expressions of disappointment, dissatisfaction, and loss of trust. (mistrust) towards the hospital. This dissatisfaction will cause feelings of conflict between the patient and his family and there are frequent complaints about patient dissatisfaction in the mass media so that the hospital will get a claim if the act of going home at his request causes an adverse event. the number of hospital utilization and incomplete treatment/care can increase morbidity and mortality or have the potential to cause new problems for public health and can affect, place, promotion, people, and processes that are not in line with patient expectations. Hospital products in this case are treatment and care services that do not meet patient expectations, prices or service costs that are too high, places or places that are not comfortable, and promotion or information that is less accurate and adequate for patients, people, or medical/paramedical personnel. Unprofessional and unprofessional processes such as administrative or bureaucratic procedures that are too complicated are some examples of events/conditions that cause dissatisfaction so that patients ask to go home before the doctor declares recovery. This situation is often found in government and private hospitals.

Going home at one's request is the patient's autonomy right. If PAPS patients follow the SOP that has been determined by the hospital, namely Informed Consent, then in the future if there is a dispute, Informed Consent can be evidence. Meanwhile, if the cause of the PAPS patient is without other causes, then the patient bears the risk for his actions and cannot sue the hospital both civilly and criminally if the patient suffers a loss, because refusing to be treated and getting clear information on services following medical needs is a right. patient.

Quality service is an emotional experience for customers. If customers feel proud and satisfied or even surprised with the services received, they will show a tendency to reuse the services offered by the company

in the future. The direct impact of customer satisfaction is a decrease in complaints and an increase in customer loyalty. Likewise with hospitals as service companies, if customers or patients are satisfied with the quality of service at the hospital, there is a tendency to be loyal to hospital services.

Regarding the position of the hospital for PAPS patients, if the hospital has carried out all health service activities based on the applicable laws and regulations and has not committed any intentional deviation, then the hospital has the right to obtain legal protection in both civil and criminal terms. However, if a PAPS patient is caused by a hospital, such as a non-standard room, non-standard facilities and infrastructure, unfriendly services, and so on, then the patient can sue or complain because he is not satisfied civilly with the statutory unlawful act. in Article 1365 of the Civil Code.

Following the Regulation of the Minister of Health Permenkes Number 69 of 2014, regarding hospital obligations and patient obligations, in Chapter II it is stated, f. comply with the therapy plan recommended by the Health Workers in the hospital and approved by the patient concerned after receiving an explanation by the provisions of the legislation; g. accept all consequences for his personal decision to refuse the therapy plan recommended by the Health Worker and/or not to comply with the instructions given by the Health Worker in the context of curing his illness or health problem;

The main target in health service activities is patient satisfaction. Patients as consumers of health services in hospitals play an important role in the sustainability and growth of hospitals. Patients have needs that are expected to be obtained in the hospital. Expectations and needs that are met will lead to patient satisfaction and fulfillment of expectations with the performance obtained, if the performance is below expectations, the patient will be disappointed, and vice versa based on an agreement between the provider and the patient to maintain health, prevent disease, improve health, treat disease and restore health, satisfaction is measured by indicators of access to health services, satisfaction with quality services, health service processes and health care systems. Measuring the level of patience necessary to improve the quality of health services. Through these measurements, it can be seen how far the quality of services that have been carried out can meet patient expectations.

Patient satisfaction is a statement that is felt by patients after they receive health services and compares it with the fulfillment of performance expectations before getting these services. The patient's view or perception is very important because it will affect the marketing and reuse of health services in that place. Patient satisfaction is the main indicator of measuring the quality of health services which will have an impact on the number of visits that will affect the sustainability and growth of the health facility.

3.3 Patients who go home alone in cases of Emerging Disease in Covid 19 Isolation Treatment in the perspective of the theory of legal objectives

Hospitals as one health service facilities have a role in accelerating the improvement of public health status. Hospitals have an obligation and also a moral and legal responsibility to provide quality services according to standards for the patients they treat. Quality health services mean providing a product that truly provides health services according to individual and community needs. Quality service is an emotional experience for customers. If customers feel proud and satisfied or even surprised with the services received, they will show a great tendency to reuse the services offered by the company in the future.

The direct impact of customer satisfaction is a decrease in complaints and an increase in customer loyalty. Likewise with hospitals as service companies, if patients are satisfied with the quality of hospital services, there is a tendency to be loyal to hospital services. To retain customers, the hospital is required to always maintain consumer trust carefully by paying attention to consumer needs to fulfill the desires and expectations of the services provided. Hospitals must be able to build a system on how the services provided can be on time and reach consumers by making various efforts to facilitate delivery by improving the quality or quality of services through (a) reliability, namely the ability to provide promised health services correctly and satisfactory, (b) responsiveness, which is the ability to help patients and provide services quickly, (c) assurance, which includes knowledge, ability, courtesy and trustworthiness possessed by staff free from danger, risk and doubt, (d) empathy, ease of making good communication relationships, personal attention

and understanding of patient needs and (e) tangible, namely the appearance of physical facilities, equipment and employees.

Patient needs can be divided into needs in the field of direct health services and other supporting services. In terms of health services, it is generally desirable to have fast, accurate, high-quality services. In addition, it is often mentioned the need for a thorough explanation of the condition of the disease to patients and their families so that they understand their health conditions and what treatment efforts they will undergo by Law No. 44 of 2009 on Hospitals. Consumer-oriented health services are a must.

However, sometimes the service received is not to the patient's expectations, this causes the patient to feel dissatisfied and finally decides to end the treatment for himself and the patient goes home before the completion of the treatment period, this is known as going home on his request (APS) or forced discharge. In this case, especially asymptomatic patients will be uncomfortable and want to go home at their request. Under normal circumstances or there is no outbreak, APS may be done, provided that the patient or family fills out a statement letter to return APS, but what about this Covid 19 case? If we talk about the rights and obligations of the patient, the patient's right is a basic right and stems from the basic right of the individual, "The right of self-determination", the right to self-determination is closer in meaning to what is meant by personal rights. concerning life, body parts, health, honor, and the right to personal freedom (Rahman, 2020).

In-Law no. 29 of 2004 in Articles 52 and 53 concerning Medical Practices, it is stated that patient rights include: a. Get a complete explanation of medical action b. Seek the opinion of another doctor or dentist; c. Get services according to medical needs d. Refuse medical action e. Obtaining the contents of medical records Patients' rights are also regulated in Law Number 44 of 2009 concerning Hospitals in article 32 which states the rights of patients, namely: a. Obtaining information about the rules and regulations that apply in the hospital; b. Obtain information about the rights and obligations of patients; c. Obtain humane, fair, honest, and non-discriminatory services; d. Obtain services according to professional standards and standard operating procedures; e. Obtain effective and efficient services so that patients avoid physical and material losses; f. File a complaint on the quality of service obtained; g. Choose a doctor and treatment class according to his wishes and the regulations that apply in the hospital. h. Asking for a consultation about the disease he is suffering from other doctors who have a Practice License (SIP) both inside and outside the hospital; i. Get privacy and confidentiality of the illness, including medical data.

Regarding the patient's obligations, it is regulated in Law Number 29 of 2004 concerning Medical Practice in article 53 which states that the patient, in receiving services in medical practice, has obligations including a. Provide complete and honest information about their health problems; b. Comply with the advice and instructions of a doctor or dentist; c. Comply with the applicable regulations in health care facilities, and D. Providing compensation for services received Basically, everyone has the right to accept and reject part or all of the relief measures that will be given to him. The patient has the right to the action that will be taken by the health worker regarding the action to be taken, but the right to accept and refuse in the case of Covid 19 does not apply because the patient who is exposed to this disease can quickly spread to the wider community.

Regarding patients categorized as PDP who want to go home at their request (APS) by Article 56 paragraph (2) of Law Number 36 of 2009, the right to refuse patients does NOT APPLY because the Covid 19 pandemic has been designated by the government as a very serious New Emerging Disease. rapid transmission to the community (Rahman. 2020). If a Covid 19 patient refuses to be treated, and or has been confirmed positive, returns home at his/her request/forced return, and later has been proven to infect other people, then it can be considered a violation of the provisions of Article 154.157 of Law number 36 of 2009 in conjunction with Article 5 of Law No. 4 of 1984 can be threatened with a threat of 1 year in prison or a fine of 1 to 100 million as regulated in Article 14 of Law Number 4 of 1984 in conjunction with Article 93 of Law No. 6 of 2018. From the side of the hospital, the hospital is not legally responsible if the patient and/ or their families refuse or stop treatment which can result in the death of the patient after a comprehensive explanation from the medical team, and the hospital cannot be prosecuted for carrying out tasks to save human lives by article 45 of Law number 44 of 2009.

4. CONCLUSION

Based on the discussion that has been stated, then a conclusion can be drawn as follows:

1. The patient returns home due to The request itself being the right of the patient with medical risks and legal consequences will be borne by the patient and or the patient's family.
2. The legal consequences of a patient returning home from his request do not cause legal consequences, but the legal consequences arise when the patient is proven to be suffering from an infectious disease including an epidemic, he can be charged with the criminal provisions stipulated in the Law of the Republic of Indonesia Number 04 of 1984 concerning Infectious Plague and State Law of the Republic of Indonesia Number 06 of 2018 concerning Quarantine.

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