

LEGAL PROTECTION FOR COMMUNITY HEALTH CENTERS THAT DO NOT HAVE PHARMACISTS IN PROVIDING PHARMACEUTICAL SERVICES

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ABSTRACT

Puskesmas is a very important basic health care facility in Indonesia. One of the health services available at puskesmas is pharmaceutical services. The legal relationship between health workers who provide pharmaceutical services and patients in health centers is basically also a relationship born on the basis of a therapeutic agreement, which is an agreement where health workers who provide pharmaceutical services try their best to help the patient's recovery. The legal relationship between health workers who provide pharmaceutical services and patients in health centers is basically also a relationship born on the basis of a therapeutic agreement, which is an agreement where health workers who provide pharmaceutical services try their best to help the patient's recovery. However, often patients demand health workers both doctors and other health workers involved in their treatment in the Health Center because the disease is not successfully cured, even though in the therapeutic contract the object of the agreement is the best effort or effort of health workers be it doctors or other health workers to heal (inspanning verbitenis) and in no way cured or not cured of patients (resultaat verbitenis). The main problem is how legal protection for health centers that do not have pharmaceutical personnel in providing pharmaceutical services to patients is connected with Decree No. 74 of 2016 on Pharmaceutical Service Standards in Health Centers, and how the implementation of pharmaceutical services for health centers that do not have pharmaceutical personnel in practice in Sukadami Health Center.

Keywords : *Legal Protection, Public Health Centers, Pharmaceutical Services*

ABSTRACT

Puskesmas adalah fasilitas pelayanan kesehatan yang menyelenggarakan upaya Kesehatan masyarakat dan upaya kesehatan perseorangan tingkat pertama, dengan lebih mengutamakan upaya promotif dan preventif di wilayah kerjanya. Dalam melaksanakan upaya kesehatan masyarakat dan upaya kesehatan perseorangan, Puskesmas harus menyelenggarakan kegiatan manajemen puskesmas, pelayanan kefarmasian, pelayanan keperawatan kesehatan masyarakat, pelayanan laboratorium dan kunjungan keluarga. Pekerjaan kefarmasian harus dilakukan oleh tenaga kesehatan yang mempunyai keahlian dan kewenangan untuk itu. Permenkes Puskesmas telah menetapkan standar yang terkait dengan standar pelayanan kefarmasian di Puskesmas sebagai acuan untuk dapat memberikan pelayanan kefarmasian yang optimal kepada masyarakat. Namun dalam prakteknya, masih terdapat Puskesmas yang belum memenuhi ketentuan-ketentuan yang diterapkan dalam Permenkes Puskesmas tersebut, Pokok permasalahannya adalah bagaimanakah perlindungan hukum Puskesmas Non BLUD yang tidak memiliki tenaga apoteker dalam memberikan pelayanan kefarmasian dan apakah akan ada perbedaan pelayanan kefarmasian bila Puskesmas Non BLUD tidak memiliki tenaga

apoteker (studi kasus di Puskesmas Sukadami Non BLUD Dinas Kesehatan Kabupaten Bekasi) adalah sumber daya manusia yang sangat terbatas dan penempatan tenaga apoteker yang tidak merata oleh pemerintah. Dengan adanya program BPJS, akan banyak pasien yang tidak mendapatkan pelayanan kefarmasian yang optimal di Puskesmas apabila tidak didukung oleh ketersediaan tenaga apoteker yang memadai yang sesuai standar, sementara Puskesmas dituntut untuk melakukan pelayanan secara optimal karena Puskesmas dianggap sudah mendapatkan kapitasi, hal ini akan menimbulkan persepsi pasien yang buruk tentang pelayanan kesehatan di Puskesmas dan berpotensi dapat menimbulkan tuntutan atau gugatan pasien sehingga diperlukan adanya perlindungan hukum terhadap Puskesmas yang tidak memiliki tenaga apoteker dalam memberikan pelayanan kefarmasian.

Kata kunci : Perlindungan Hukum, Puskesmas, Pelayanan Kefarmasian

A. INTRODUCTION

Health service efforts carried out by the government to the community cannot be separated from the role of the Community Health Center.¹ In Indonesia, Community Health Centers are the backbone of first-rate health services. The concept of Community Health Center was born in 1968 when the First National Working Meeting (Rakernas) was held in Jakarta, health services at that time were felt to be less profitable from activities such as the Maternal and Child Health Center (BKIA) and the Medical Center (BP) were still running independently and were not interconnected. Through the National Meeting came the idea of uniting all first-level services into a trusted organization called the Community Health Center. The Community Health Center is the spearhead of health services for the community, because it is quite effective in helping the community in providing first aid with health service standards.²

Community Health Center is an important and affordable form of health services and facilities for all levels of society, especially for middle to lower economic communities. The factor of cheaper examination and drug costs, as well as its location that is easily accessible (located in each kelurahan or sub-district) are the main reasons people choose the Community Health Center as a place for treatment.³

Community Health Center is a very important basic health service facility in Indonesia. The Community Health Center is a strategic unit in supporting the realization of changes in public health status towards improving optimal health status. To realize an optimal degree of health, efforts are certainly needed to build a basic health service system that is able to meet

¹ Community Health Center hereinafter referred to as Puskesmas.

² Nor Sanah, *Implementation of the Function of Puskesmas (Community Health Center) in Improving the Quality of Health Services in Long Kali District, Paser Regency*, eJournal of Government Science, Volume 5, Number 1, 2017.

³ Th.A. Radito, *Analysis of the Effect of Service Quality and Health Facilities on Puskesmas Patient Satisfaction*, Journal of Management Science, Volume 11, Number 2, Yogyakarta, April 2014.

the needs of the community from these basic health services.⁴ Community Health Center is a health service facility that organizes public health efforts and first-level individual health efforts, prioritizing promotive and preventive efforts in their work areas.⁵ The Community Health Center was established to be able to provide comprehensive, complete and integrated basic health services for all residents living in the working area of the Community Health Center. Health programs and efforts organized by the Community Health Center are the main programs (UHC) that must be implemented by the Government to realize community welfare.⁶ In carrying out public health efforts and individual health efforts, the Community Health Center must organize community health center management activities, pharmaceutical services, public health nursing services, laboratory services and family visits.

One of the activities, namely pharmaceutical services, is not a new concept in health services, but the introduction and development of pharmaceutical services in primary health care, in this case the Community Health Center has its own challenges.⁷ Pharmaceutical service is a direct and responsible service to patients related to pharmaceutical preparations with the aim of achieving definite results to improve the quality of life of patients.⁸ Pharmaceutical services include two activities, namely managerial in the form of pharmaceutical preparation management and clinical pharmacy service activities which must be supported by human resources, facilities and equipment in order to improve therapeutic outcomes and minimize the risk of drug side effects for patient safety.⁹

In pharmaceutical services at first-level health facilities (Community Health Centers), there are still obstacles or problems that can arise, both in health service facilities that have not met the standards, the readiness of facilities and infrastructure including health resources, namely pharmacists as direct service providers to the community.

Health resources as referred to are funds, energy, health supplies, pharmaceutical preparations and medical devices as well as health facilities and technology used to carry out

⁴ Hadi Mahmud, Suparwi, *Legal Protection of Patient Services at Puskesmas Jaten District, Karanganyar Regency*, Journal of Serambi Hukum Vol.08 No.02, Surakarta, August 2014

⁵ Regulation of the Minister of Health of the Republic of Indonesia Number 43 of 2019 concerning Community Health Centers.

⁶ Riadi, Muchlisin (2022), Community Health Center (Puskesmas), Accessed on 3/25/2023 from <https://www.kajianpustaka.com/2022/04/Pusat-Kesehatan-masyarakat-puskesmas.html>.

⁷ Andi Leny Susyanty et al, "*The Suitability of Pharmaceutical Service Delivery in Puskesmas*" Journal of Conformity of Pharmaceutical Service Implementation at Puskesmas (Andi Leny Susanti et al), February 29, 2020.

⁸ Regulation of the Minister of Health Number 74 of 2016 concerning Pharmaceutical Service Standards in Puskesmas

⁹ Ibid.

health efforts carried out by the government, local governments, and / or communities¹⁰. In this case, the government is responsible for planning, organizing, organizing, fostering and supervising the implementation of health efforts that are equitable and affordable to the community¹¹.

As a form of government responsibility, the implementation of community health centers needs to be reorganized to improve accessibility, affordability, and quality of services in order to improve the degree of public health¹².

Pharmaceutical service facilities are facilities used to provide pharmaceutical services, namely pharmacies, hospital pharmacy installations, Community Health Centers, clinics, drug stores, or joint practices.¹³ Pharmaceutical work must be carried out by health workers who have the expertise and authority to do so. Pharmaceutical work is carried out based on scientific values, justice, humanity, balance, and the protection and safety of patients or the public related to pharmaceutical preparations that meet the standards and requirements of safety, quality, and benefit. The purpose of pharmaceutical work arrangements is to provide protection to patients and the public in obtaining and/or determining pharmaceutical preparations and pharmaceutical services; maintain and improve the quality of pharmaceutical work in accordance with the development of science and technology and laws and regulations; and provide legal certainty for patients, the public and pharmaceutical personnel.¹⁴

With not optimal health resources, including pharmacists in first-level health facilities (Community Health Centers), it can certainly cause problems in pharmaceutical services. Limited resources must be confronted with the fulfillment of unlimited human needs.

Equitable health services to the community require the availability of health service facilities and health workers that are evenly distributed in the sense that their utilization and distribution must be evenly distributed throughout the region to remote areas so as to make it easier for people to obtain safe and affordable health services. Thus, it is necessary to plan, procure, utilize, guide and supervise the quality of health workers in providing health services.

Health workers have an important role to improve the maximum quality of health services to the community so that the community is able to increase awareness, willingness and ability to live healthy so that the highest degree of health will be realized as an investment

¹⁰ Soekidjo Notoatmodjo, *Health Ethics and Law*, Rineka Cipta 2010.

¹¹ Ibid.

¹² Minister of Health Regulation No.75 of 2014 concerning Community Health Centers.

¹³ Government Regulation Number 51 of 2009 concerning Pharmaceutical Work.

¹⁴ Ibid

for the development of socially and economically productive human resources and as one of the elements of general welfare as referred to in the Preamble to the Constitution of the Republic Indonesia in 1945.¹⁵

The implementation of health efforts must be carried out by health workers who are responsible, have high ethics and morals, expertise, and authority which must be continuously improved through continuous education and training, certification, registration, licensing. A permit is an approval from the authority based on a Law or Government Regulation¹⁶. Guidance, supervision and monitoring of health service facilities must be carried out so that the implementation of health efforts meets a sense of justice and humanity and is in accordance with the development of health science and technology.

Health workers can be grouped according to their expertise and qualifications, including medical personnel, pharmaceutical personnel, nursing personnel, community and environmental health workers, nutrition personnel, physical therapy personnel, medical technicians, and other health workers¹⁷. Pharmaceutical personnel are personnel who carry out pharmaceutical work, consisting of pharmacists and pharmaceutical technical personnel.¹⁸

The development of health human resources is one of the main issues that get attention, both in terms of number, type and distribution¹⁹. The number and type of health workers continue to increase but the needs and equity of these health workers have not been met. This certainly has an impact on the low access of the community to quality services²⁰.

The quality of health services at the Community Health Center is one of the factors that encourage patient satisfaction with the health services they receive. Patient satisfaction is a level of feeling that arises as a result of the performance of health services, one of which is pharmaceutical services obtained after patients compare with what is felt. Patients will feel satisfied if the performance of pharmaceutical services obtained equals or exceeds expectations.²¹

Regulation of the Minister of Health Number 43 of 2019 concerning Community Health Centers has regulated how a Community Health Center provides its services which include personnel, facilities and other infrastructure and and Regulation of the Minister of Health

¹⁵ Law of the Republic of Indonesia No. 36 of 2014 concerning Health Workers.

¹⁶ Ridwan HR, *State Administration Law*, PT Raja Grafindo, 2013.

¹⁷ Soekidjo Notoatmodjo, *Opcit*.

¹⁸ Law Number 36 of 2014 concerning Health Workers.

¹⁹ *Ibid*

²⁰ *Ibid*

²¹ Catur Budi Wisudaningsih, *Overview of Patient Satisfaction with Pharmaceutical Services at Dukuhwaru Health Center*, Paper, Harapan Bersama Polytechnic in Tegal City, 2021.

Number 76 of 2014 concerning Pharmaceutical Service Standards in Community Health Centers. In the implementation of pharmaceutical services at the Community Health Center, at least 1 (one) pharmacist must be carried out as the person in charge, who can be assisted by Pharmaceutical Technical Personnel as needed. The number of Pharmacist needs in the Community Health Center is calculated based on the ratio of patient visits, both inpatient and outpatient and pays attention to the development of the Community Health Center. The ratio to determine the number of Pharmacists in Community Health Centers whenever possible is sought by 1 (one) Pharmacist for 50 (fifty) patients per day.²²Community Health Centers in Bekasi Regency are still required to meet the required criteria.

Health service efforts, especially in the pharmaceutical sector, are increasingly complex, thus requiring pharmacists to provide orientation to patients²³. The level of patient satisfaction for services is higher at Community Health Centers that have pharmacists compared to Community Health Centers without pharmacists.²⁴ The quality of health services at the Community Health Center is one of the factors that encourage patient satisfaction with the health services they receive.

B. RESEARCH METHODS

This research is descriptive analytical, namely by describing a condition or situation that is happening or ongoing which aims to provide as thorough data as possible about the object of research so as to be able to explore things that are ideal, then analyzed based on legal theory or applicable laws and regulations. The approach used in this study is juridical normative, namely legal research carried out by examining data and library materials which are secondary data. This research is often also called doctrinal legal research, which is legal research that reviews or looks at itself from its own point of view as a value system, as a conceptual system and as a positive legal system. The data used in this normative juridical research are secondary. Secondary data is data obtained in finished form, in the form of publications or reports. "Secondary data in the field of law are divided into 3 (three) types based on their binding power', namely: "First Primary legal material is written rules enforced

²² Regulation of the Minister of Health Number 74 of 2016 concerning *Pharmaceutical Service Standards in Puskesmas*.

²³Rr. Shinta Lian Hanggara et al, " *The Influence of the Existence of Pharmacists on the Quality of Pharmaceutical Services in Puskesmas Daerah Kabupaten Banyumas*, , Indonesian Journal of Pharmacy, Vol.7 No.1-February 2017.

²⁴ Ibid.

by the state, all of which can be found in written decisions enforced by the state, all courts with permanent legal force, laws established by parliament, and decisions of administrative agencies". "Consists of: Basic Pancasila Norms, Basic Regulations, Laws and Regulations, Uncodified Legal Materials, Jurisprudence, Treaties". Second "Secondary Legal Material (legal material that has no force, and only serves as an explanation of primary legal material), which consists of: Draft legislation, Scientific work results of scholars, Research results. Third, tertiary legal material, is legal material that provides information about primary legal material and secondary legal material, for example: bibliography". The technique used in retrieving this data is through literature study. Literature study is a series of activities related to methods of collecting library data, reading and recording and processing research materials. In addition, in this study researchers also use field studies to obtain primary data as secondary data support, carried out by looking for data or documents in the place that is the object of research. The data obtained from this study is analyzed qualitatively, which is a way of research that produces descriptive data analysis because it does not use formulas and numbers using deductive thinking methods. The deductive method is a way of thinking that starts from general knowledge and ends in new, specialized knowledge.

C. RESULTS AND DISCUSSION

Based on the description in the first identification above, the Community Health Center based on Articles 1 and 2 of the Ministry of Health Regulation is one of the health service facilities that organizes public health efforts and first-level individual health efforts, prioritizing promotive and preventive efforts, to achieve the highest degree of public health in their work area. Pharmaceutical services are basically one form of health services in the Community Health Center. Health services in Community Health Centers must meet the minimum service standards set by the government in order to provide maximum health services to the community which is also a benchmark for the performance of health services provided at Community Health Centers.

In providing maximum services as regulated by the Ministry of Health of the Community Health Center, the government has established various regulations to support the maximum performance of a Community Health Center which includes human resources (energy) and supporting facilities and infrastructure in carrying out a health service action that must at least exist in the Community Health Center, including the facilities and infrastructure of pharmaceutical services at the Health Center Community. This regulation is indirectly a

form of legal protection for Community Health Centers and health workers who provide maximum health services at Community Health Centers because without it, it is likely that the services provided will cause patient dissatisfaction to get health services at Community Health Centers.

In health services at Community Health Centers based on the Permenkes Community Health Centers, various standards have been determined that must be met by a Community Health Center in the city and / or district in order to provide maximum health services to the community. This standardization must be owned by every Community Health Center starting from minimum service standards, standard operational procedures, and also labor standards and supporting facilities and infrastructure available at a Community Health Center to carry out a health service action including pharmaceutical services.

Based on data from the results of research conducted, the Sukadami Community Health Center is one of the Community Health Centers in the Bekasi Regency area which is included in the category of urban Community Health Centers with a working area coverage of the Sukadami Community Health Center with a population of 102,329 people. As for administratively, the Sukadami Community Health Center is an urban Community Health Center that only conducts outpatient services, which has 3 (tiga) types of health services, namely public health efforts, individual health uipaya, and other supporting services, where one of the supporting services available at the Sukadami Community Health Center is pharmaceutical services.

Based on table 3.2, data on patient visits to pharmaceutical services at the Sukadami Community Health Center in 2021, the number of patients per day who came to get pharmaceutical services at the Sukadami Community Health Center averaged approximately 300 (three hundred) patients. With the average number of patients, pharmaceutical services at the Sukadami Community Health Center are carried out by 1 (one) health worker. This is because the number of health workers in the Sukadami Community Health Center is based on table 3.1. regarding the standard of personnel in the Community Health Center, the standard of health workers in the Sukadami Community Health Center has not met the standards of both the number and competence stipulated in the Ministry of Health of the Community Health Center. For pharmaceutical services, it is not supported by the number and competence of officers, for the number required to be calculated based on the ratio of patient visits, namely 1 (one) Pharmacist for 50 (fifty) patients per day and can be assisted by pharmaceutical technical personnel as needed and for the competence of officers not in accordance with competence, namely Pharmacists as the person in charge and Pharmaceutical Technical Personnel.

In addition, for supporting facilities and infrastructure available in the pharmacy service room at the Sukadami Community Health Center, in this case regarding the equipment and equipment of the pharmacy service room. Based on the results of the study in table 3.2., the availability related to this is compared to what is regulated in the Ministry of Health, the Sukadami Community Health Center also does not meet the standards set in the Ministry of Health Regulation of the Community Health Center. This is contrary to the number of service visits in existing pharmacies. With an average number per day reaching 300 (three hundred) patients per day, pharmaceutical services at the Sukadami Community Health Center cannot be said to have provided optimal services because in terms of human resources and supporting facilities and infrastructure at the Sukadami Community Health Center which includes the Urban Community Health Center has not met the standards set by law.

In terms of pharmaceutical services at the Community Health Center, the provision of pharmaceutical services carried out is supported by the Standard Operating Procedures (SOP) of the Sukadami Community Health Center which has been issued by the leadership of the Community Health Center. As explained in the previous sub-chapter regarding the importance of Community Health Centers as health service facilities in providing health services according to minimum service standards and health workers in carrying out their duties in accordance with professional standards and standard operational procedures, where by following this, Community Health Centers and health workers are entitled to legal protection if in the future disputes occur with patients as consumers.

However, seeing that human resources do not support according to their competence (health workers) which in this case pharmaceutical services are carried out by a health worker, namely nurses, as well as advice and supporting infrastructure in providing pharmaceutical services at the Sukadami Community Health Center based on data collected in this study. Although basically health workers who are ordered to provide pharmaceutical services have carried out their duties in accordance with standard operational procedures but not in accordance with professional standards, so the possibility of the risk of Community Health Centers or health workers who provide pharmaceutical services facing a lawsuit or lawsuit for patient dissatisfaction with the health services they receive is very likely.

Because pharmaceutical services carried out by health workers assigned by the Head of the Community Health Center are not optimal, where the performance of health workers to be able to provide optimal pharmaceutical services at the Sukadami Community Health Center is not supported by human resources and adequate supporting facilities and infrastructure in

carrying out pharmaceutical services as stipulated in the Ministry of Health of the Community Health Center.

D. CONCLUSION

Pharmaceutical services at the Sukadami Community Health Center have not met the minimum standards set by the Minister of Health Regulation on Community Health Centers and the Minister of Health Regulation on Pharmaceutical Service Standards at Community Health Centers. This happens because it is not supported by human resources that should be in every Community Health Center to provide pharmaceutical services. The Community Health Center only provides a warrant or letter of assignment to health workers outside the pharmacy or pharmacy personnel to carry out pharmaceutical services at the Community Health Center, so there is no legal protection for Community Health Centers that do not have pharmacists if there is an error in carrying out pharmaceutical services. Policymakers or legislators should immediately revise regulations on pharmaceutical services by health workers other than pharmacists and pharmaceutical personnel with a more specific and detailed explanation of limitations.

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