

RINGKASAN

PERLINDUNGAN HUKUM BAGI PASIEN

TERHADAP KELALAIAN DIAGNOSA DAN TERAPI OLEH DOKTER

DITINJAU DARI ASPEK HUKUM PIDANA

OLEH : WAHYU TRIS HARYADI

Profesi dokter merupakan profesi yang mulia dan terhormat. Tugas mulia dan terhormat dokter adalah melakukan pengobatan serta perawatan guna penyembuhan suatu penyakit dan pemulihan kesehatan atas diri seseorang (pasien) yang dilakukan berdasarkan ilmu kedokteran dan ilmu keperawatan. Dari tugas mulia inilah banyak pasien yang mempercayakan penyembuhan penyakit dan pemulihan kesehatan kepada dokter tanpa tahu hak-hak akan pelayanan medis. Bahkan, pasien atau keluarganya kadang-kadang pasrah saja bila terjadi sesuatu yang tidak diinginkan misalnya kematian atau cacat badan akibat kesalahan dalam pengobatan (*medical malpractice*).

Dalam menjalankan profesinya tersebut seorang dokter bertanggung jawab dalam tiga hal yaitu pertanggungjawaban etik, pertanggungjawaban profesi dan pertanggungjawaban hukum. Ketiga pertanggungjawaban tersebut memiliki kualifikasi yang berbeda-beda dalam mencari bentuk-bentuk kesalahannya. Pertanggungjawaban hukum dokter terhadap pasien harus didasarkan pada tanggung jawab profesional. Hal ini untuk memisahkan secara tegas batas tanggung jawab hukum dokter sebagai pribadi dan sebagai seorang profesional. Seorang dokter yang tidak dalam kapasitas atau kualitas sebagai dokter bisa saja melakukan kesalahan yang berimplikasi pada pertanggungjawaban hukum. Pertanggungjawaban pidana terkait kesalahan diagnosa dan terapi dokter maka harus didasarkan pada unsur kesalahan dokter dalam menjalankan praktik mediknya dan unsur pidana tidak sebatas diatur dalam Undang-Undang No. 29 Tahun 2004 saja namun Undang-Undang Kesehatan dan KUHP juga mengatur sanksi pidana bagi dokter yang melakukan kesalahan diagnosa dan terapi. Diagnosa adalah langkah medis dalam rangka menemukan penyakit dan teraphy merupakan langkah pengobatan dalam rangka penyembuhan setelah penyakit berhasil diidentifikasi. Unsur kesalahan mengandung maksud tidak dipenuhinya kewajiban dokter secara etik, profesi dan hukum.

Apapun keputusan Majelis Kehormatan Disiplin Kedokteran Indonesia (MKDKI) yang mengadili tindakan indisipliner dokter tidak mempengaruhi jalannya pemeriksaan pidana karena antara penyelesaian kasus jalur pidana dengan kewenangan Majelis Kehormatan Disiplin Kedokteran Indonesia (MKDKI) merupakan sesuatu yang terpisah dalam konteks kelembagaan ataupun *out put* yang dihasilkan. Institusi ataupun personel penegak hukum yang terlibat dalam pemeriksaan pidana dokter mempunyai otoritas mandiri untuk mencari, menemukan dan menentukan kesalahan dokter sehingga mampu memberikan putusan yang adil bagi pencari keadilan.

SUMMARY

THE LAW PROTECTION FOR THE PATIENT TOWARD THE NEGLIGENCE OF DIAGNOSA AND THERAPY BY THE PHYSICIAN ACCORDING TO CRIMINAL LAW

BY: WAHYU TRIS HARYADI

Doctor profession represent the excellency profession and respectable. respectable and August duty of doctor is do the medication and also treatment utilize the healing of an disease and convalescence for somebody self (pasien) done by pursuant to medical science and treatment science. From august duty this is a lot of patient entrusting healing of disease and convalescence to doctor without soybean cake of service rights will be medical. Even, patient or its family sometime just surrenderness if/when happened by the something that is not wanted by for example death or handicap of body of effect of mistake in medication (medical malpractice).

In running its profession a doctor hold responsible in three things that is responsibility etik, responsibility of profession and law responsibility. Third of the responsibility own the qualification which different each other in searching its mistake forms. Responsibility punish the doctor to patient have to be relied on by a professional responsibility. This matter to dissociate expressly responsibility boundary punish doctor as person and as a professional. A doctor which do not in capacities or quality as doctor might possibly do the mistake which have implication to responsibility punish the. related/relevant Crime responsibility of mistake of diagnosa and teraphy doctor hence have to be relied on by element of doctor mistake in running its praktik sis and crime element do not limited to arranged in Act. Number 29 just year 2004 but Act. of Health and KUHP also arrange the crime sanction for doctor doing mistake of diagnosa and teraphy.

Any is decision MKDKI judging action of indiscipliner doctor do not influence the way crime inspection of because between solving of case of crime band by kewenangan is MKDKI represent the separate something that in institute context and or yielded out put. Institution and or personel enforcer punish in concerned in inspection of doctor crime have the self-supporting authority to look for, to finding and determining doctor mistake so that mempu give the fair decision for justice searcher.

ABSTRACT

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Keywords : *Protection,Diagnosa,Terapy,Patient, The Physician,Criminal.*