



LEGAL BASIS FOR DOCTOR PROTECTION IN EMERGENCY SITUATIONS WITHOUT A LICENSE TO PRACTICE

**Tri Susandhi Juliarto, Ade Riyanto, Didit Darmawan, Novritsar
Hasitongan Pakpahan, Khoirul Nur Kholis**

University of Sunan Giri, Surabaya

correspondence: dr.diditdarmawan@gmail.com

Abstract

This study aims to explore the legal safeguards for physicians performing emergency procedures in healthcare facilities without the appropriate practice permit. Additionally, it seeks to comprehend the types of legal protection available to doctors when the Practice License is not suitable. Employing a normative juridical approach with a qualitative nature, the research incorporates a Statutory Approach, an Analytical Approach, and a Conceptual Approach. Data collection involves literature review and interviews, followed by data reduction and display. The findings reveal that regulations concerning the legal protection of doctors conducting emergency procedures in health service facilities without a proper Practice License exhibit vertical alignment. This entails consistency between regulations of the lower hierarchy without consideration for regulations of the higher hierarchy. Apart from that, the form of legal protection for doctors during emergency actions involves guarantees to provide first aid outside their authority according to medical needs, guarantees for emergency actions outside their authority according to professional standards, as well as legal protection regulations, complete and correct information, compensation for services, and other rights.

Keywords: legal protection, emergency, practice license, health facilities.

Introduction

Health is the most vital aspect of human life, because health conditions directly affect productivity and daily activities. The ability to actively participate in daily life is highly dependent on a person's well-being and health. In the context of Indonesian legislation, Law Number 36 of 2014, specifically addressing Health Personnel, establishes distinct categories of medical professionals, such as doctors, dentists, specialist doctors, and specialist dentists (Article 11, paragraph 2). This legal framework serves to define and delineate the roles of various healthcare practitioners. Moreover, the legal connection between doctors and patients is robustly outlined in Law Number 29 of 2004, which extensively governs the practice of medicine in Indonesia. This legislation provides a comprehensive framework for regulating the relationship dynamics between medical professionals and their patients within the country. In this framework, doctors and patients become legal subjects who form medical and legal relationships. This medical relationship involves maintaining health and treating disease as the main object of the relationship (Nugroho et al., 2021). Thus, the existence of this regulation emphasizes the importance of health in ensuring individual welfare and productivity, as well as providing a strong legal basis for the medical relationship between doctors and patients.

In the legal interaction between physicians and patients, doctors are legally obligated to deliver high-quality healthcare services that align with professional standards (Hidayat et al., 2023). Conversely, patients possess legal entitlements, encompassing the right to access accurate and comprehensive information about their health status, along with the right to receive appropriate medical treatment. When in a legal relationship with a doctor, patients have the right to understand the medical procedure, the risks involved, and the alternatives available. Doctors, as those providing services, have an obligation to communicate clearly and provide the information needed so that patients can make informed decisions regarding their care.

A person's unhealthy condition can become very worrying when the individual experiences an emergency condition that requires fast and appropriate medical assistance. Situations like this cause anxiety and concern because there is a serious potential for death or disability that could occur if action is not taken immediately. In an emergency, time is a critical

factor, and proper medical attention can make the difference between life and death. For example, a heart attack, serious accident, or other medical condition that requires immediate intervention can create a very life-threatening situation. This situation can increase the level of anxiety and uncertainty around the patient and his family.

Immediate medical assistance is closely related to efforts to prevent death or disability. Medical treatment given quickly can reduce the negative impact and provide a chance for better recovery. Worry is not only related to a person's physical health condition, but also consists of the psychological impact of uncertainty and anxiety that arises. For this reason, public awareness of emergency treatment, first aid training, and fast and efficient access to medical services are very important to maintain the health and safety of individuals in emergency situations (Widodo et al., 2023).

Healthcare establishments play a crucial role in delivering health services to the community. These facilities consist of various places, ranging from large hospitals, clinics, health centers, to individual doctor's practices (Ratnawati, 2018). Every health service facility has the responsibility to provide quality and safe medical services to patients (Delbon, 2018). Hospitals, as a type of health service facility, are usually equipped with a variety of diagnostic facilities, treatments and sophisticated medical equipment. They also have a variety of medical personnel, including specialist doctors, nurses and other health workers.

Hospitals are often the first place for handling emergency cases and intensive care. On the other hand, clinics and community health centers play a role in providing more specific health services, serving the needs of the community. Clinics can focus on certain specialist services, while community health centers generally provide basic services such as immunizations, routine health checks and health education. In this research, health service facilities are the center of attention because they are the place where doctors carry out their duties and obligations. This study investigates the manner in which physicians administer emergency treatment in healthcare facilities lacking the requisite Practice License. In situations like this, the legal, ethical and protective aspects of doctors are essential to understand to ensure that patients receive appropriate medical attention, while doctors remain within the appropriate legal framework.

In accordance with Article 51 of Law Number 29 of 2004 regarding Medical Practice, it is stipulated that physicians are duty-bound to offer emergency aid on humanitarian grounds, unless they are confident that another competent individual on duty can fulfill this responsibility. This context provides a foundation for exploring the legal protection aspects for doctors conducting emergency procedures in healthcare facilities without possessing the requisite Practice License. For this reason, the aim of this research is to understand and identify the legal protection provided to doctors in situations where they provide emergency treatment in health care facilities without an appropriate Practice License. Apart from that, reviewing the Indonesian medical code of ethics looks at doctors' actions in emergencies and without a practice permit.

Method

This research employs a normative juridical approach, emphasizing positive legal analysis as its primary methodological framework. Research specifications are carried out through a positive legal inventory, including mapping and reviewing relevant regulations within the applicable legal framework. This research focuses on primary legal materials, such as laws from legislative institutions, together with secondary legal materials involving interpretation and analysis of primary legal sources, as well as tertiary legal materials in the form of expert opinions and related legal literature.

The data collection method involves literature study where information is obtained from various written sources. The data processing process involves data reduction, data display, and data categorization, with the aim of simplifying, clarifying the structure, and grouping information. The data is presented descriptively, revealing the research results narratively and in detail.

In the data analysis method, the approach used is normative qualitative, focusing on understanding and interpreting legal norms without involving quantitative elements. Analysis is carried out by considering the relevance, consistency and implications of identified legal norms, to produce understanding regarding the research topic.

Result and Discussion

Vertical Compatibility of Doctors' Legal Protection for Emergency Procedures in Facilities Without a Practice License in accordance with Indonesian Law

Harmonization of vertical legal regulations is very important to ensure that applicable regulations in a field do not conflict with each other. This phenomenon can result in differences of opinion regarding which regulations are more appropriate to use in certain cases. Therefore, law enforcers must pay attention to the principles of the application of statutory regulations. Ensuring coherence between broader and more detailed regulations and comprehending the hierarchy among these rules is a crucial measure in upholding legal clarity and certainty. By complying with the principles of regulatory enforcement, law enforcers can minimize the risk of incidents and increase the effectiveness of the legal system.

One of the relevant principles in this case is the principle of *lex superior derogate legi inferiori*. This principle explains that if there is a conflict between legal regulations that are hierarchically lower, then the lower legal regulations must be set aside. In other words, rules that have a higher hierarchy have the power to override rules that have a lower hierarchy. In Indonesia, this principle emphasizes the importance of respecting the hierarchy of statutory regulations. For example, laws are considered higher in the hierarchy than government regulations or ministerial regulations. If there is a conflict between the Law and the Government Regulation, then the Law which has a higher hierarchy will override the provisions of the lower Government Regulation. This underlines the importance of clarity and consistency in the legal system, so that legal actors, including law enforcers, can apply regulations appropriately in accordance with the applicable hierarchy and principles.

Vertical alignment is a process carried out based on the provisions of Article 7 paragraph (1) and paragraph (2) of Law Number 12 of 2011 concerning the Establishment of Legal Regulations. This article clearly states the hierarchy and types of statutory regulations which are the basis for the vertical alignment process. According to Article 7 paragraph (1) of the Law, the types and hierarchy of Legal Regulations consist of:

- a. Constitution of the Republic of Indonesia.
- b. MPR decision.

- c. Law/Perppu (Law/Government Regulation in Lieu of Law).
- d. Government Regulations.
- e. Presidential Regulation.
- f. Provincial Regional Regulations.
- g. Regency/City Regional Regulations.

Subsequently, Article 7, paragraph (2), specifies that the legal authority of the Law Regulations aligns with the intended hierarchy outlined in paragraph (1). This means that the level of applicability of a statutory regulation is determined based on its position in the hierarchy explained in paragraph (1). For this reason, in the vertical alignment process, each regulation must be in line with and not be in conflict with regulations that have a higher hierarchical level. For example, a provincial regional regulation may not be related to the 1945 Constitution. This vertical alignment provides a clear legal basis for ensuring harmony and consistency between the various levels of statutory regulation.

A positive law inventory is a very important initial stage in carrying out legal research. This process provides a solid foundation for understanding the legal framework that regulates a particular domain. In a research study concerning the legal protection of doctors performing emergency procedures in healthcare facilities without a Practice License, the outcomes of the positive legal inventory conducted can be outlined as follows:

- a. The 1945 Constitution is the main foundation consisting of basic principles that regulate all aspects of state life, including the health sector. The 1945 Constitution provides a constitutional framework for the establishment of further laws and regulations regarding medical practice.
- b. Law Number 29 of 2004 concerning Medical Practice is an important reference for regulating aspects of doctor's practice. This law contains provisions relating to the requirements for practicing doctors, including the possibility of emergency actions outside the Practice License.
- c. The legal framework established by Law Number 36 of 2009 regarding Health encompasses a broader scope, addressing various aspects of public health, and includes provisions for the legal protection of doctors in delivering emergency treatment

- d. Law Number 36 of 2014, which pertains to Health Workers, specifically concentrates on regulations governing health professionals, including doctors. This legislation establishes a legal foundation for safeguarding doctors when conducting emergency procedures that fall beyond the confines of a Practice License.
- e. Minister of Health Regulation Number 512/ Minister of Health/PER/IV/2007, which addresses Practice Permits and the Execution of Medical Practice, is a set of regulations that provides a more detailed framework governing doctors' practice permits. This encompasses various aspects related to the execution of medical practice, including protocols for emergency measures.

By referencing these regulations, this research establishes a robust legal foundation for examining and comprehending the legal safeguards for doctors undertaking emergency procedures in healthcare facilities that deviate from their Practice License (Sumeru & Tanawijaya, 2023). Provisions concerning legal protection for healthcare practitioners in the medical field, particularly concerning the execution of emergency measures without a practice permit, are articulated in Article 17, paragraphs (3) to (5), of Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007 concerning Practice Permits and Implementation of Medical Practice. These provisions delineate specific rules that serve as exceptions, allowing leeway for health workers, notably doctors and dentists, to conduct emergency measures even in the absence of an appropriate practice permit.

According to Article 17 paragraph (3), in situations where doctors or dentists experience obstacles in carrying out their practice, they are allowed to appoint a replacement doctor or dentist. This is a strategic step to ensure the smooth running of health services in emergencies. Article 17 paragraph (4) states that a substitute doctor or dentist must have an equivalent Practice License (SIP), but is not required to have a SIP at the relevant practice place. This provides substitute physicians the flexibility to contribute at specific locations without significant administrative barriers.

Meanwhile, Article 17 paragraph (5) emphasizes special situations where, in order to fulfill urgent service needs, a doctor or dentist who has a SIP can replace a specialist doctor or specialist dentist. This step can be taken provided that notification of reimbursement will be delivered to the

patient concerned. This shows that there is a balance between legal protection for health workers and meeting urgent needs in emergency situations (Sari, 2021).

Regulations pertaining to the legal protection of doctors conducting emergency procedures not aligned with their practice license are grounded in Article 8, paragraphs (1) and (2), of Law Number 12 of 2011 concerning the Establishment of Legal Regulations. The interpretation of this article suggests that Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007 concerning Practice Permits and Implementation of Medical Practice holds a hierarchical position below Presidential Regulations and above Regional Regulations, thereby possessing legal validity and binding obligations. This implies that Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007 concerning Practice Permits and Implementation of Medical Practice formally results from the implementation of Article 8 of Law Number 12 of 2011 concerning the Establishment of Legal Regulations. As outlined in the provisions, Ministerial Regulations, such as Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007, are regulations established by the Minister and crafted based on legal mandates, categorizing them as statutory regulations originating from the delegation process (delegated legislation). In essence, delegated statutory regulations refer to regulations formed based on directives from statutory regulations holding a superior position.

Article 23, paragraphs (3) and (5), of Law Number 36 of 2009 concerning Health includes stipulations that establish the necessity for the formulation of a Minister of Health Regulation addressing Practice Permits and the Execution of Medical Practice. According to the content of this Article, there exists a legal foundation mandating the issuance of Minister of Health Regulations. Consequently, Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007 was promulgated, specifically governing Practice Licenses and the Execution of Medical Practice. This regulation can be viewed as an instrumental tool for implementing Law Number 36 of 2009 concerning Health. In this context, the Minister of Health's regulation is seen as a specific directive or instruction aligning with the more general provisions of the law. The creation of Minister of Health Regulations stems from the necessity to

elucidate the specifics of implementing the legal mandates. In essence, Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007 represents a tangible measure by the government to ensure the practical application of the stipulations outlined in the Law within the health sector, particularly concerning Practice Permits and the Execution of Medical Practice.

Interpreting regulations pertaining to the legal protection of doctors conducting emergency actions outside the scope of their practice license can be approached by considering the legal regulatory hierarchy, particularly in reference to Article 7, paragraph (1) and paragraph (2), of Law Number 12 of 2011 concerning the Establishment of Legal Regulations. In this context, Law Number 36 of 2009 concerning Health is regarded as a legal regulation with specific legal status and authority.

Article 7, paragraph (1) and paragraph (2) of Law Number 12 of 2011 essentially delineates three categories of statutory regulations: laws, government regulations, and regional regulations. In this context, Law Number 36 of 2009 concerning Health is classified as a Law, possessing legal authority as stipulated by the provisions. Considering the hierarchy of statutory regulations, Law Number 36 of 2009 regarding Health is acknowledged as the highest level of regulation within the health sector. Consequently, doctors conducting emergency actions outside the scope of their practice license may encounter legal consequences specified in Law Number 36 of 2009. The enforcement of the Health Law follows a formal structure, stemming from the implications of Article 7, paragraph (1) and paragraph (2) of Law Number 12 of 2011 concerning the Establishment of Legal Regulations.

Article 27, paragraph (1) of Law Number 36 of 2009 regarding Health holds legitimacy and legal obligation, and its systematic interpretation can be deduced by referencing Article 10 of Law Number 12 of 2011 concerning the Establishment of Legal Regulations. This interpretation affirms that Law Number 36 of 2009 is deemed valid and obligatory as it fulfills the criteria set for a Law based on its substantive content.

The establishment of Law Number 36 of 2009 concerning Health is grounded in the legal foundation outlined in Article 8 of Law Number 10 of 2004 concerning the Formation of Laws. This article has since been

replaced by Article 10, paragraph (1), letter a of Law Number 12 of 2011 concerning the Establishment of Legal Regulations. Law Number 36 of 2009 is recognized as a regulation that serves as an elaboration on the provisions of the 1945 Constitution of the Republic of Indonesia.

In accordance with Article 10, paragraph (1), letter a of Law Number 12 of 2011 concerning the Establishment of Legal Regulations, the regulations pertaining to legal protection for health workers, as previously elucidated, can be understood as an endeavor to address legal requirements within society. This specifically relates to the stipulations set forth in Law Number 36 of 2009 concerning Health.

Article 21 paragraph (3) of Law Number 36 of 2009 concerning Health confirms that provisions relating to health workers are regulated by law. For this reason, the regulations contained in this Law reflect a commitment to providing a comprehensive legal framework to protect health workers.

Article 27, paragraph (1) of Law Number 36 of 2009 concerning Health specifies that health workers possess the entitlement to receive compensation and legal protection while performing their professional duties. This entitlement encompasses compensation for the services rendered and the necessary legal protection during the execution of health-related responsibilities.

Article 11, paragraph (1) letter a of Law Number 36 of 2014 regarding Health Workers specifies that medical personnel are encompassed within a category of health workers. Paragraph (2) further elaborates that the group of medical personnel comprises doctors, dentists, specialist doctors, and specialist dentists. Hence, doctors, dentists, specialist doctors, and dental specialists are regarded as integral components of the health workforce.

Article 57 of LAW Number 36 of 2014 concerning Health Workers regulates legal protection for health workers. If you interpret this article systematically with Article 7 paragraphs (1) and (2) LAW Number 12 of 2011 concerning the Establishment of LEGAL Regulations, then LAW Number 36 of 2014 concerning Health Workers can be categorized as types and have a hierarchy within LEGAL regulations, and have legal force.

The implementation of LAW Number 36 of 2014 concerning Health Workers can be explained as a direct result of Article 7 of LAW

Number 12 of 2011 concerning the Establishment of Legal Regulations. This means that the Law on Health Personnel has valid and binding legal force, in accordance with the formal structure regulated by the law establishing Legal regulations in Indonesia. For this reason, as part of the law that regulates health workers, Law Number 36 of 2014 provides a strong basis for legal protection for health workers, including doctors, dentists, specialist doctors and specialist dentists.

Article 57 and Article 75 of Law Number 36 of 2014 concerning Health Workers form a strong legal basis, and when interpreted systematically with reference to Article 10 of Law Number 12 of 2011 concerning the Establishment of Law Regulations, the application of the Law The Health Workers' Law can be recognized as valid and binding. This interpretation is based on criteria that are fulfilled in accordance with the content contained in the Law, so that it can be considered to meet the requirements as a valid Law.

Law Number 36 of 2014 concerning Health Workers has a strong legal basis, especially strengthened by Article 21 paragraph (3) Law Number 36 of 2009 concerning Health. Article 21 confirms that provisions regarding health workers are regulated through LAW. Thus, in accordance with Article 10 paragraph (1) letter b Law Number 12 of 2011 concerning the Establishment of Law Regulations, Law Number 36 of 2014 concerning Health Workers is considered as a Law order to be further regulated through Laws. Invitate. If you look at Article 10 paragraph (1) letter e Law Number 12 of 2011 concerning the Establishment of Legal Regulations, regulations regarding legal protection for doctors in carrying out emergency actions that are not in accordance with their practice permits, as mandated in Law Number 36 2014 regarding Health Workers, can be seen as fulfilling legal needs in society. In other words, the existence of this regulation can be interpreted as a legal response to the public's need for legal protection for emergency medical procedures carried out by doctors without an appropriate practice license.

Interpretation of Legal Regulations, in particular Regulation of the Minister of Health Number 512/Minister of Health/PER/IV/2007 concerning Practice Permits and Implementation of Medical Practice, Law Number 36 of 2014 concerning Health Personnel, Law Number 36 of 2009 concerning Health, and the 1945 Constitution of the Republic of

Indonesia, can be described using the legal ladder theory according to Hans Kelsen and Hans Nawiasky. In this interpretation, it can be explained as follows:

- a. Regulations related to Practice Licenses and the Implementation of Medical Practice, such as Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007, as well as the broader legal framework consisting of Law Number 36 of 2014 concerning Health Workers, Laws Law Number 36 of 2009 concerning Health, and the 1945 Constitution, can be interpreted through the lens of the legal ladder theory proposed by Hans Kelsen and Hans Nawiasky. In this view, the provisions form a structured legal hierarchy.
- b. According to Hans Kelsen's legal ladder theory, these regulations can be seen as a "pyramid" or legal pyramid, where the 1945 Constitution of the Republic of Indonesia is at the top as the basic norm or *grundnorm*. Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007, Law Number 36 of 2014 concerning Health Workers, and Law Number 36 of 2009 concerning Health, are located at a lower level in this pyramid structure.
- c. With a view that is in line with Hans Nawiasky, this legal hierarchy can be interpreted as a structured level, where the norms at the top (the Constitution) become guidelines for the norms at the bottom. In other words, higher regulations in this hierarchy become the foundation or basis for the formation of lower regulations.
- d. In the legal framework, the principle of legal hierarchy ensures that lower regulations must be in line with and do not conflict with regulations at the level above them. For this reason, Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007, Law Number 36 of 2014 concerning Health Workers, and Law Number 36 of 2009 concerning Health must be in accordance with the principles contained in the Law Republic of Indonesia 1945. This conformity ensures consistency and integrity in the legal system in the health sector.

The system of harmony in statutory regulations relating to health workers and doctors has very significant consequences, especially when reviewed further. At the basic level, these regulations are laid down and enforced based on the 1945 Constitution of the Republic of Indonesia. The 1945 Constitution of the Republic of Indonesia is recognized as the

main legal source that regulates all aspects of law in Indonesia. Legal protection for doctors in emergency procedures, especially when they do not comply with their practice license, cannot be separated from the provisions in the 1945 Constitution of the Republic of Indonesia. Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia is the key point which defines individual rights regarding legal protection. This article stipulates that everyone has the right to fair legal recognition, guarantees, protection and certainty, as well as equal recognition before the law. This means that when a doctor carries out emergency procedures without a practice permit, the principles contained in Article 28D paragraph (1) become an important basis. Doctors have the right to be legally recognized, receive guarantees and protection, and ensure fair legal certainty. The principle of equal recognition before the law also indicates that every individual, including doctors, must be treated fairly and equally by the legal system.

Legal Position for Doctors in Emergency Procedures in Health Facilities Without a Valid Practice Permit according to Indonesian Law

Based on the 1945 Constitution of the Republic of Indonesia Article 28D paragraph (1), every person has the right to recognition, guarantees, protection and fair legal certainty as well as equal treatment before the law. This research explores aspects of legal protection for health workers, especially doctors, when carrying out emergency actions that are not in accordance with their practice license. In the national positive legal system, several Basic Laws relating to the legal protection of doctors are:

- a. Law Number 29 of 2004 concerning Medical Practice provides a legal basis for medical practice. This Basic Law consists of provisions relating to doctors' practice permits, professional standards, and other legal aspects relevant to emergency actions.
- b. Law Number 36 of 2009 concerning Health provides a broader legal basis for health services. In this case, legal protection for doctors can be understood through regulations consisting of aspects of health policy, including handling emergencies.
- c. Law Number 36 of 2014 concerning Health Workers provides a special legal basis related to the protection and regulation of health workers,

including doctors. This consists of responsibilities, practice permits, and other legal aspects related to the activities of health workers.

- d. Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007 concerning Practice Permits and Implementation of Medical Practice provides further details regarding doctor practice permits and their implementation. This consists of practice permit procedures, requirements and other provisions that doctors need to follow in carrying out their practice.

Based on Article 50 of Law Number 29 of 2004 concerning Medical Practice, if the doctor concerned carries out his duties and provides services in accordance with professional standards and standard operational procedures, then the doctor can obtain legal protection. In case of emergency actions in health service facilities that do not comply with the Practice License, both the emergency room attending doctor and the dentist providing emergency treatment have complied with applicable professional standards and standard operational procedures.

If a doctor meets the requirements, he will receive legal protection, in accordance with the provisions contained in Article 50 of Law Number 29 of 2004 concerning Medical Practice. This shows that in cases of emergency actions, doctors can obtain legal protection as long as the actions carried out are in accordance with established professional norms and operational procedures (Sunggu, 2016).

Article 17 paragraph (3) to paragraph (5) in the Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007 concerning Practice Permits and Implementation of Medical Practice regulates procedures for replacing doctors or dentists in situations where they are unable to practice. Paragraph (3) states that if a doctor or dentist is unable to practice, they can appoint a replacement doctor or dentist. Paragraph (4) explains that a substitute doctor or dentist must have an equivalent Practice License (SIP) and does not have to be local. However, for emergency procedures in health service facilities that do not comply with the Practice License, the emergency room attending doctor or dentist who carries out emergency procedures already has a Registration Certificate (STR). In certain conditions, such as in cases where the emergency room doctor on duty is unable to provide action because he is involved in observing with the dentist on a pediatric patient, and is then called to treat

other emergency room patients, the emergency room doctor on duty can appoint a dentist (relative of the emergency room doctor) as the doctor. replacement teeth. For example, when the emergency room doctor on duty is carrying out observations with the dentist on a pediatric patient, and suddenly there is a new emergency room patient with another emergency condition who requires stitches on his head, the emergency room doctor on duty can appoint a dentist (the emergency room doctor's brother) as a substitute dentist. This is done to ensure smooth service and handling of emergency measures without having to wait for a replacement official doctor or dentist (Mangkey, 2014). This means that in this situation, the emergency room doctor takes the decision to appoint a dentist as a replacement by considering the patient's urgent needs and the availability of competent medical personnel.

Article 19 paragraph (2) Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007 concerning Practice Permits and Implementation of Medical Practice gives doctors and dentists the authority to carry out medical and dental procedures outside their authority in emergency situations in order to save lives. or prevention of disability, according to medical necessity. In this case, there is a case of emergency action in a pediatric patient that requires special consideration. If pediatric patients are referred for emergency treatment, this is considered ineffective because of the risk of causing disability in pediatric patients. According to Article 17 paragraph (5), an important element is notification of the replacement of doctors providing services to patients. In this concrete case, the emergency room doctor on duty at Hospital After discussion, the emergency room doctor on duty gave notice that he was unable to provide treatment for pediatric patients. Next, he asked and asked for approval from the child patient's guardian who was also the child's mother. After obtaining approval, the substitute dentist provides emergency measures to stop bleeding in pediatric patients. This procedure consists of suturing and removing the remaining tooth fragments. This action was taken in response to the pediatric patient's emergency condition, taking into account the patient's medical needs and safety.

Doctors, as a profession in the health sector, are included in the category of medical personnel in accordance with the rules contained in Article 75 of Law Number 36 of 2014 concerning Health Personnel. Thus,

in carrying out their practice, doctors have the right to obtain legal protection in accordance with the regulatory provisions of the applicable law. Article 57 of Law Number 36 of 2014 concerning Health Workers provides details regarding the form of legal protection for doctors as health workers. This legal protection can be described as follows:

- a. Legal protection guarantees regulations.
- b. Regulatory protection regarding the completeness and accuracy of information.
- c. Payroll system protection.
- d. Regulations on worker safety and health guarantees.
- e. Protection of ethics and morals.
- f. Protection of professional development regulations.
- g. Regulatory protection of denial of requests for health services.

Legal protection for doctors in carrying out emergency measures in health service facilities that do not comply with the Practice License, as regulated in Article 19 paragraph (2) and paragraph (3) of Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007 concerning Practice Licenses and Implementation of Medical Practice, consisting of mechanisms and legal protection measures. Doctors and dentists are permitted to carry out medical and dental procedures outside their authority in order to provide assistance in emergency situations to save lives or prevent disability, in accordance with medical needs. Confirmation in paragraph (3) states that the exercise of authority must be carried out in accordance with professional standards. In this case, the legal protection procedures for doctors when carrying out emergency measures in health facilities that do not have a Practice License, as mandated by the Minister of Health Regulation, involve efforts that are in accordance with the regulations and standards of the medical profession which can be stated as follows:

- a. Providing first aid in emergency situations outside of one's authority, in accordance with medical needs, is guaranteed to be carried out by considering safety aspects and patient needs.
- b. Providing guarantees for carrying out emergency actions outside the limits of authority in accordance with medical needs and professional standards.

Based on the description above, the form of legal protection for doctors who carry out emergency procedures in health service facilities without a Practice License, is in accordance with Minister of Health Regulation Number 512/Minister of Health/PER/IV/2007 concerning Practice Licenses and Implementation of Medical Practice, Law Number 36 2009 concerning Medical Practice, Law Number 36 of 2014 concerning Health Workers, and Law Number 29 of 2004 concerning Medical Practice, involve various aspects of protection. This consists of guarantees to provide first aid in emergency situations outside of one's authority in accordance with medical needs, involvement in emergency actions outside one's authority by following professional standards, as well as guarantees of legal protection regulations, complete and correct information, compensation for services, safety and health work, treatment in accordance with human dignity, professional development, the possibility of rejecting the wishes of health service recipients, and other rights that may arise during emergency actions. This reflects a comprehensive framework to protect doctors from carrying out their duties in emergency situations without an appropriate Practice License.

The Indonesian Medical Code of Ethics views doctors' actions in emergencies and without a practice permit

The Indonesian Medical Code of Ethics is a guide that regulates the behavior and practice of doctors in Indonesia. This code of ethics contains ethical principles that doctors must follow in carrying out their duties. One of the aspects regulated in this code of ethics is the actions of doctors in emergencies and without a practice permit.

The main principle of the Indonesian Medical Code of Ethics in emergencies is to provide emergency assistance as a humanitarian duty. Doctors are expected to consider their competence and maintain patient confidentiality when providing medical services in emergency situations. The Indonesian Medical Code of Ethics does not specifically regulate forms of emergencies. The Indonesian Medical Code of Ethics focuses more on the ethical principles that doctors must follow in carrying out their duties. Article 17 of the Indonesian Medical Code of Ethics states that every doctor is obliged to provide emergency assistance as a form of humanitarian duty, unless he is sure that there are other people who are

willing and able to provide such assistance. This shows that in an emergency, doctors have a moral obligation to provide help even without a practice permit.

However, the Indonesian Medical Code of Ethics also emphasizes the importance of doctors' moral competence and freedom in providing medical services. Article 8 of the Indonesian Medical Code of Ethics states that a doctor is obliged to provide services competently with complete technical and moral freedom, accompanied by compassion and respect for human dignity. This means that doctors must consider emergencies by ensuring that they have sufficient competence to provide the necessary help. Apart from that, the Indonesian Medical Code of Ethics also emphasizes the importance of medical confidentiality. Article 16 of the Indonesian Medical Code of Ethics states that every doctor is obliged to keep everything he knows about a patient confidential, even after the patient dies. This shows that doctors have an obligation to maintain the confidentiality of patient information, including in emergency situations.

In the context of doctors' actions in emergencies and without a license to practice, the Indonesian Medical Code of Ethics provides guidelines that prioritize emergency assistance as a humanitarian duty. However, doctors are also expected to consider their competence and maintain patient confidentiality. The Indonesian Medical Code of Ethics also emphasizes the importance of doctors being honest in their relationships with patients and colleagues.

The Indonesian Medical Code of Ethics functions as an ethical guideline that is not legally binding, but plays an integral role in maintaining the professionalism and integrity of doctors in medical practice. By providing guidelines regarding ethical behavior, norms, and values, the Code of Ethics helps ensure that physicians carry out their duties with a high level of professionalism, behave with integrity, and adhere to ethical norms in their relationships with patients, colleagues, and society. Even though it does not have binding legal force, compliance with the Code of Ethics is expected to build and maintain public trust in the medical profession, as well as serve as a guideline for resolving ethical disputes and professional development of doctors.

Conclusion

Based on research, legal protection regulations for doctors when carrying out emergency procedures show vertical and parallel alignment. Vertical alignment reflects the relationship between regulations with lower and higher degrees, while parallel alignment shows the relationship between parallel regulations. Legal protection for doctors in emergencies includes guarantees of first aid according to medical needs, actions according to professional standards, as well as aspects such as complete information, compensation for services and work safety. This regulation also involves treatment in accordance with human, moral and decency values. Meanwhile, the Indonesian Medical Code of Ethics regulates the behavior of doctors in emergencies without a practice license by emphasizing assistance as a humanitarian duty, considering competence, maintaining confidentiality and being honest. Even though it is not a binding law, the Indonesian Medical Code of Ethics has a vital role in maintaining the professionalism and integrity of doctors.

The author recommends adding provisions regarding the presence of dentists in hospital emergency installations by the Minister of Health. This is because the presence of a dentist in emergency situations can have an important role. For this reason, the author proposes the addition of special regulations regarding the presence of dentists in hospital emergency installations so that they can be clearly regulated in the applicable regulations.

References

- Delbon, P. 2018. The Protection of Health in the Care and Trust Relationship Between Doctor and Patient: Competence, Professional Autonomy and Responsibility of the Doctor and Decision-Making Autonomy of the Patient. *Journal of Public Health Research*, 7(3), 97-100.
- Hariani, M., N. A. Aaliyah, & F. Issalillah. 2021. Legal Guarantee of Children's Rights in Education and Health, *Journal of Social Science Studies*, 1(2), 177 - 180.
- Hidayat, S., O. K. Haris., & N. Y. Linda. 2023. Pertanggungjawaban Pidana terhadap Kelalaian Dokter Muda (Co-Assistant) dalam Penanganan Kegawatdaruratan. *Halu Oleo Legal Research*, 5(2), 692-703.
- Issalillah, F. 2022. Exploring the Interconnection Between Periodontal Health and Systemic Disease Progression in Chronic Conditions, *Journal of Social Science Studies*, 2(1), 173 - 178.

- Mangkey, M. D. 2014. Perlindungan Hukum Terhadap Dokter dalam Memberikan Pelayanan Medis. *Lex et Societatis*, 2(8), 14-21.
- Nalin, C. 2021. Comprehensive Legal and Policy Approaches to Reproductive Health and Women's Rights in Access Equity, *Journal of Social Science Studies*, 1(2), 285-290.
- Nalin, C., S. A. B. Saidi, M. Hariani, V. Mendrika, & F. Issalillah. 2022. The Impact of Social Disparities on Public Health: An Analysis of Service Access, Quality of Life, and Policy Solutions, *Journal of Social Science Studies*, 2(1), 39 - 46.
- Nugroho, T., E. Chaidir., M. Musa., & Z. Akrial. 2021. Perlindungan Hukum Terhadap Profesi Dokter Atas Dugaan Melakukan Tindak Pidana Medik. *Konstitusi*, 15(1), 61-70.
- PERMENKES Nomor 512/MENKES/PER/IV/2007 tentang Izin Praktik dan Pelaksanaan Praktik Kedokteran.
- Ratnawati, E. T. R. 2018. Perlindungan Hukum Terhadap Profesi Dokter dalam Pelayanan Medik Berdasarkan Undang-Undang Praktek Kedokteran. *Widya Pranata Hukum Jurnal*, 1(2), 166-187.
- Sari, B. R. 2021. Perlindungan Hukum Terhadap Tenaga Kesehatan Berdasarkan Undang-Undang RI Nomor 36 Tahun 2014. *Dinamika*, 27(21), 3035-3040.
- Setiawan, S., R. Hardyansah., R. K. Khayru., A. R. Putra, & S. Suwito. 2023. Consumer Protection in the Health Sector: The Legal Responsibilities of Pharmacists, *Journal of Social Science Studies*, 3(2), 131 - 138.
- Sumeru, F. A. K. & H. Tanawijaya. 2023. Perlindungan Hukum terhadap Diskresi Tindakan Medis dalam Kondisi Kedaruratan yang Dianggap sebagai Tindakan Malpraktek Berdasarkan Undang-Undang Praktik Kedokteran. *Jurnal Pendidikan dan Konseling (JPDK)*, 5(1), 460-467.
- Sunggu, A. C. O. 2016. Perlindungan Hukum Bagi Dokter Pada Pelayanan Kegawatdaruratan di Rumah Sakit Umum Daerah Abdul Wahab Sjahranie Samarinda. *Jurnal Idea Hukum*, 2(1), 63-75.
- Undang-Undang Nomor 29 Tahun 2004 tentang Praktik Kedokteran.
- Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan.
- Undang-Undang Nomor 36 Tahun 2014 tentang Tenaga Kesehatan.
- Vitrianingsih, Y. & F. Issalillah. 2021. The National Legal System's Effectiveness in Handling Public Health Crises Responsively and Fairly, *Journal of Social Science Studies*, 1(2), 203 - 208.
- Widodo, N., A. P. Putera., & N. Nugraheni. 2023. Tindakan Gawat Darurat oleh Dokter Akibat Kecelakaan Pada Pasien yang Tidak Kompeten dan Tanpa Keluarga. *Collegium Studiosum Journal*, 6(1), 350-359.