

JURIDICAL REVIEW OF HOSPITALS WITHOUT SUPERVISORY BOARDS BASED ON LAWS AND REGULATIONS

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Abstract

Hospitals in improving service quality must have autonomy, hospitals are one form of public service reform so that public services can improve. Therefore, in an effort to improve hospital performance, it is necessary to provide guidance and supervision through the establishment of a Supervisory Board. The purpose of this study is to analyse the urgency of establishing a hospital supervisory board and the legal consequences for hospitals that do not have a supervisory board by using normative research methods and using statutory and conceptual approaches. In accordance with statutory provisions, hospitals that do not have a supervisory board do not violate statutory provisions as long as they do not fulfil the criteria required to form a supervisory board. However, legal protection of patients for hospitals that do not have a supervisory board must be guaranteed by the government through supervisory efforts by external supervisors and other stakeholders.

Keywords: Hospital, Hospital Supervisory Board, Legal Consequences

INTRODUCTION

The establishment of a hospital is regulated by related laws and regulations. In Article 7 of the Hospital Law it is emphasized that "Hospitals established by the private sector as referred to in paragraph (2) should be in the form of legal entities whose business activities are only engaged in the hospital sector." This article emphasizes that the private sector that establishes a hospital must be a legal entity whose activities are only engaged in the hospital sector, in other words, the hospital activity sector is a special hospital activity area that cannot be mixed with other activity areas.

In order to improve the quality of service, hospitals should have autonomy, hospitals are a form of reform for public services so that public services can improve. In this way, the public will have more trust in hospitals as government institutions in providing services and in hospitals with private status. Therefore, in an effort to improve hospital performance, it is necessary to provide guidance and supervision from regional and central governments, one of which is regulated in Article 56 of the Hospital Law and stated in Minister of Health Regulation No. 10 of 2014 concerning the Hospital Supervisory Board (hereinafter referred to as Minister of Health Regulation No. 10 of 2014), as well as in Minister of Home Affairs Regulation No. 79 of 2018 concerning Regional Public Service Bodies (BLUD), hereinafter referred to as Minister of Home Affairs Regulation No. 79 of 2018, specifically the Supervisory Board formed in hospitals that implement the Public/Regional Service Agency Financial Management Pattern (PPK BLU/BLUD), where apart from carrying out the duties as intended in Article 4 paragraph (1) of Minister of Health Regulation No. 10 of 2014, it also carries out supervision of the Agency's financial management Public Services or Regional Public Service Bodies in accordance with the provisions of laws and regulations at Regional Public Hospitals (RSUD) Regional Public Service Bodies (BLUD).

In Article 56 (1) of the Hospital Law, Hospital owners can form a Hospital Supervisory Board. More details on the formation of a hospital Supervisory Board can be seen and have been regulated in Minister of Health Regulation No. 10 of 2014 Article 12. The Hospital Supervisory Board is a non-structural unit that is independent and responsible to the hospital owner. Supervision is a systematic effort to establish standard performance in planning for designing information feedback systems, to compare actual performance with predetermined standards, to determine whether deviations have occurred, and to take necessary corrective action to ensure that all company or government resources have been used as effectively and efficiently as possible to achieve company or government goals. Hospitals are an important integral part as a place for health services for the community, so special monitoring efforts are needed to improve the performance of the hospital.

The Hospital Supervisory Board carries out internal non-technical guidance and supervision of the hospital involving elements of the community. It is the obligation of every hospital to have a Supervisory Board that carries out its duties and functions well. The role of the Hospital Supervisory Board cannot simply be considered as a formality requirement to avoid non-compliance in implementing the orders of the Law. The existence of this Supervisory Board is very strategic considering its duties and functions are based on Minister of Health Regulation No. 10 of 2014 Article 4 (1) which reads:

(1) In carrying out the functions as intended in Article 3, the Supervisory Board is tasked with:

- a. determines the direction of Hospital policy;
- b. approves and supervise the implementation of strategic plans;
- c. assesses and approve the implementation of the budget plan;
- d. supervises the implementation of quality control and cost control;
- e. supervises and maintain patient rights and obligations;
- f. supervises and maintain the rights and obligations of the Hospital; And

g. supervise compliance with the implementation of Hospital ethics, professional ethics, and statutory regulations;

Meanwhile, hospitals that implement PPK BLU/BLUD have additional duties and functions as stated in Minister of Health Regulation No. 10 of 2014 Article 4 (2) "Supervisory Boards formed at hospitals that implement PPKBLU/BLUD, apart from carrying out the duties as intended in paragraph (1) also carry out supervision of the financial management of the Public Service Agency or Regional Public Service Agency (BLUD) in accordance with the provisions of statutory regulations." The specific duties and functions of the Hospital Supervisory Board that implements PPKBLU/BLUD are stated in Minister of Home Affairs Regulation No. 79 of 2018 Article 18. In Article 18 (1) the Supervisory Board has the following duties:

- a) Monitoring the development of BLUD activities;
- b) Assess the financial and non-financial performance of the BLUD and provide recommendations on the assessment results to be followed up by the BLUD Management Officer;
- c) Monitoring the follow-up to the results of evaluations and performance assessments from the results of government external audit reports;
- d) Providing advice to Management Officers in carrying out their duties and obligations; And
- e) Providing opinions and suggestions to regional heads regarding:
 - 1) RBA proposed by the Managing Officer;
 - 2) Problems that become obstacles in managing BLUD; And
 - 3) BLUD performance.

From the contents of *Permendagri* (Minister of Home Affairs regulations) No.79 of 2018 Article 18 above, it is very clear that the Supervisory Board has a very important role in ensuring the services provided by hospitals to the community. For government-owned hospitals, the duties and functions of the Supervisory Board are clear apart from ensuring what is contained in the statutory regulations. Likewise, private hospitals must also pay attention to the regulations and demands of society which are currently very high, starting from hospital human resources which are required to be professional, hospital facilities which meet accreditation standards, and what is no less important is friendliness and concern that every hospital human resource must have. Currently, hospitals are required to fulfill what health service users want by prioritizing patient safety and service quality. Service quality is closely related to patient satisfaction, based on the Regulation of the Minister of Health of the Republic of Indonesia Number: 129/Menkes/SK/II/2008 concerning Minimum Hospital Service Standards, where one indicator of service quality is patient satisfaction.

Services are basically a series of activities or processes that take place regularly and continuously, including all human life in society.¹ To ensure the implementation of services provided by the hospital, the role of the Hospital Supervisory Board is required to provide internal non-technical hospital guidance and supervision involving elements of the community. Initial observations of hospitals in West Nusa Tenggara Province, especially Mataram City, show that some hospitals do not have a Supervisory Board and some do have a Supervisory Board but do not comply with the elements specified in the Hospital Law, Minister of Health Regulation No.10 of 2014 and Minister of Home Affairs Regulation No.79 of 2018, as seen in the table below:

¹ Muliaty, Faktor-Faktor yang Mempengaruhi Kualitas Pelayanan pada Politeknik Negeri Media Kreatif Makassar, *Jurnal Administrasi Publik*, 2016, h. 34-46.

Hospitllas	Board of Advisors	Number of Advisors
Rumah Sakit Biomedika	Non Avilable	-
Rumah Sakit Ibu dan Anak Permata Hati	Non Avilable	-
Rumah Sakit Metro Medika	Non Avilable	-
Rumah Sakit Risa Sentra Medika	Non Avilable	-
Rumah Sakit Ibu dan Anak Kuncup Bunga	Non Avilable	-
Rumah Sakit Islam Anggoro	Non Avilable	-
Rumah Sakit Ibu dan Anak Bumi Bunda	Non Avilable	-
Rumah Sakit Cahaya Medika	Available	1 advisor

Source: Hospital observation data in Mataram City, information taken from Hospital Management carried out in February 2023.

From the initial observation data, it was found that several hospitals had not formed or did not have a Supervisory Board, especially hospitals with private status. Currently, hospital service orientation must be more responsive to customers (patients) through efforts to know, serve and fulfill the needs and desires of patients to recover and improve the quality of service. Hospitals are required to be more responsive in responding to every change that occurs. If a hospital is not responsive, then the hospital is left behind or neglected.²

Meanwhile, based on facts in the field, there are often complaints or complaints from the public against hospitals, such as patients being rejected and patients being held hostage by the hospital. Complaints are a problem in all countries which can be seen from the increase in patient complaints in the world, in the National Health Service (NHS) in the United Kingdom (UK) in 2015-2016 there were 198,739 complaints and continued to increase in the following year by 4.9% to 208,415 complaints. Data from Hospital and Community Health Services (HCHS) 2017-2018, the total number of written complaint reports was 113,989. The largest proportion was related to inpatient outpatient services at 32.7%. This figure shows an increase from the previous year of 31.3% and complaints also increased based on the clinical treatment category, behavior of medical personnel providing services and internal communication services. These cases show that hospital services are still a problem that must be addressed, and one of the elements that plays the most role is the Supervisory Board.³ This is stated in the Hospital Law that the Hospital Supervisory Board is tasked with supervising various policies made by hospitals, one of which is taking action on complaints from hospital patients as an effort to fulfill the community's right to health.

Apart from the data from the initial observations above, it is known that several hospitals that already have Supervisory Boards still receive many complaints, for example as contained in electronic media reports regarding the large number of patient complaints about

² Hartono, B. *Manajemen Pemasaran Untuk Rumah Sakit*, Rineka Cipta, Jakarta, 2010, h.

³ Millani N, Semiarty R, dan Machmud R., Gambaran Tingkat Kepuasan Pasien dalam Penanganan Keluhan(Service Recovery) Rawat Inap di RSUD Rasidin Kota Padang, *Jurnal Kesehatan Andalas*, 2019, h. 599-606.

services at a government hospital. The report stated "As the Council found, the only BLUD owned by the Mataram City Government has often provided poor service to the community. It's not just about medicines, but often patients using BPJS are sent home before they recover. Due to the large number of rooms not being available." ⁴This indicates that the role of the Supervisory Board is still not optimal, and this is of course a benchmark for hospitals that do not yet have a Supervisory Board which is likely to have more problems without supervision by the Supervisory Board.

Based on the description presented in the background above, the aim of this research is to analyze the urgency of establishing a hospital Supervisory Board and to analyze the legal consequences for hospitals that do not have a hospital Supervisory Board.

RESEARCH METHODS

This research is normative research which provides a systematic explanation of the regulations governing a particular legal category, analyzes the relationships between regulations, describes areas of difficulty and predicts future developments. This research will provide a systematic explanation of the juridical review of hospitals that do not have a hospital supervisory board based on Law No. 44 of 2009 concerning Hospitals.⁵ The approaches taken are a statutory approach (Statute Approach) and a conceptual approach. First, a legislative approach will be carried out by reviewing all statutory regulations related to the legal issue being handled, thereby opening up the opportunity to examine whether there is consistency and suitability between one law and another.⁶ Second, the conceptual approach originates from the views and doctrines that develop within legal science, thereby finding ideas that give rise to legal understanding, legal concepts and legal principles that are relevant to the problems faced.⁷

RESULT AND DISCUSSION

Legal consequences for hospitals that do not have a supervisory board according to statutory regulations

The existence of a hospital Supervisory Board refers to statutory regulations as the legal basis for its formation. In accordance with Article 56 paragraph (1) of the Hospital Law which states that "Hospital Owners can form a Hospital Supervisory Board", this gives rise to the interpretation that the formation of a Supervisory Board is a right or choice for the hospital owner, not a hospital obligations or requirements. Likewise, with the provisions contained in Permendagri No.79 of 2018, Permenkeu No.09 of 2006 and Permenkeu No.129 of 2020, the formation of a Supervisory Board is said to be "able to be formed" if it meets the required criteria.

The Hospital Supervisory Board, hereinafter referred to as the Supervisory Board, is a non-structural unit in a hospital that carries out internal hospital guidance and supervision of a non-technical hospital nature that involves elements of the community. From this definition, it can be interpreted that the Supervisory Board functions to provide guidance and supervision to the hospital internally regarding non-technical hospital matters. Moreover, the Supervisory Board is the Governing Body of the hospital owner, so the Supervisory Board must be independent, formed and responsible to the hospital owner.

In Minister of Health Regulation No. 10 of 2014 there is no clarity on the article that requires or requires hospitals to form a Supervisory Board. This creates uncertainty for

⁴ <https://radarlombok.co.id/soal-layanan-rsud-mataram-ombudsman-tunggu-aduan-warga.html>, Diakses 3 maret 2023, pukul 21.50 wita.

⁵ Danny Wiradharma, *Penuntun Kuliah Hukum Kedokteran*, Binarupa Aksara, Jakarta, 1996, h. 122.

⁶ Peter Mahmud Marzuki, *Penelitian Hukum Edisi Revisi*, Prenadamedia Group, Jakarta, 2014, h. 32.

⁷ *Ibid*, h. 135.

hospitals as to whether they should form a Supervisory Board or not, resulting in a blurring of norms. On the other hand, enforcement of Minister of Health Regulation No. 10 of 2014 has not been fully adhered to in accordance with the Transitional Provisions in Article 16 which require the formation of a Supervisory Board to take effect one year after its promulgation, namely from 14 February 2015.

Furthermore, Chapter IV of Minister of Health Regulation 10 of 2014 contains regarding Formation, Dismissal and Replacement which regulates that "The Supervisory Board for Hospitals that implement the Public Service Agency Financial Management Pattern is formed by Decree of the Minister/Head of the Institution with the approval of the Minister of Finance" (Article 12 paragraph (1)). This indicates that the formation of a Supervisory Board in hospitals that implement the Public Service Agency Financial Management Pattern must be in accordance with the Minister of Finance Regulation which regulates the Establishment of a Supervisory Board which in this case is regulated in Minister of Home Affairs Regulation No. 79 of 2018, Minister of Finance Regulation No. 129 of 2020 and Minister of Finance Regulation No. 09 of 2006, so it is interpreted that this regulation is the *lex specialis derogat legi generalis* of Minister of Health Regulation Number 10 of 2014 concerning Hospital Supervisory Boards.

Article 2 paragraph (1) Minister of Finance Regulation No. 09 of 2006 concerning the Formation of Supervisory Boards in Public Service Bodies, contains the phrase "can be formed", this means that the formation of a Supervisory Board does not absolutely have to be carried out by all BLU (BLU Hospitals). Furthermore, Article 2 paragraph (2) regulates in more detail that the formation of a Supervisory Board can only be carried out at BLU (BLU Hospitals) which have an annual turnover of Rp. 15,000,000,000,- (fifteen billion rupiah) and/or asset value according to the balance sheet, a minimum of Rp. 75,000,000,000,- (seventy five billion rupiah). So, for BLU Hospitals which have an annual turnover of less than Rp. 15,000,000,000 (fifteen billion rupiah) and assets less than Rp. 75,000,000,000,- (seventy five billion rupiah) does not have to have a Supervisory Board.

Thus, the formation of the Hospital Supervisory Board in accordance with the Legislative Regulations has two interpretations, namely:

1. According to the Hospital Law, Minister of Home Affairs Regulation No. 79 of 2018, Minister of Finance Regulation No. 129 of 2020 and Minister of Finance Regulation No. 09 of 2006: "can be established". According to the Hospital Law, the formation of a Supervisory Board is a right or choice for the hospital owner, not an obligation or necessity for the hospital. Meanwhile, in Minister of Home Affairs Regulation No. 79 of 2018, Minister of Finance Regulation No. 129 of 2020 and Minister of Finance Regulation No. 09 of 2006, a Supervisory Board can be formed if it meets the criteria stated in these regulations and is only binding on regional hospitals that implement the BLUD financial management pattern.
2. According to Minister of Health Regulation No.10 of 2014: there is no clarity. There is no article that requires or requires hospitals to form a Supervisory Board. This creates uncertainty for hospitals as to whether they should form a Supervisory Board or not, resulting in a blurring of norms.

As is known, legal consequences are the consequences given by law to an event or legal action from a legal subject, starting with the existence of a legal relationship, legal event, and legal object. Legal relations in constitutional law are more about government administration activities in a country which are activities and are limited by legislation which, if violated, is subject to sanctions. Meanwhile, legal events are preceded by legal acts which in state administration will result in administrative legal sanctions if they do not comply with state administrative law norms. In constitutional law, actions and citizens are

bound to do or fulfill something, if they are negligent and do not carry it out, then constitutional law can impose sanctions without the intermediary of a court.

Legal consequences begin with the existence of legal relations, legal events, and legal objects. The existence of legal regulations gives rise to legal consequences. The legal consequences in this research are the legal consequences of state administration, in the form of regulations which serve as guidelines or references for state officials in carrying out their duties as administrators which are used as a source of state law. Legal relations in constitutional law are more about government administration activities in a country which are activities and are limited by legislation which, if violated, is subject to sanctions. In carrying out legal acts, state administrative bodies or officials also enter into legal relations with other subjects in private law, which can also be regulated outside of public law, so that they are regulated in civil law.

In terms of the formation of a Supervisory Board, the provisions of the legislation that regulates it do not require hospitals to form a Supervisory Board. Thus, for a hospital that does not have a Supervisory Board, it means that it has not taken any legal action so there will be no administrative or other sanctions.

Legal Responsibility of Hospitals That Do Not Have a Board of Trustees

The government's obligation to fulfill the right to health is stated in Article 7 of the Health Law which states that the government is tasked with implementing health efforts that are equitable and affordable for the community. Article 9 of the Health Law states that the government is responsible for improving the level of public health. Efforts to fulfill the right to health can be carried out in various ways, including prevention and cure. Prevention efforts include creating conditions that are suitable for good health, ensuring the availability of food and work, good housing and a healthy environment. Meanwhile, healing efforts are carried out by providing optimal health services. Health services include aspects of social security for health, adequate health facilities, qualified medical personnel, and affordable service financing for the community.⁸

Hospital facilities and infrastructure are essential in improving patient services, especially for their safety. This is important to prove that the patient can be protected from dangers that could threaten him while undergoing treatment at the hospital, such as the risk of falling on the floor and fire. Apart from patient health, ensuring patient safety while in the hospital environment is something that is also a concern for hospitals in providing services. Hospitals must follow various regulations relating to equipment safety standards, building facilities, and Standard Operating Procedures (SOP) to protect patients from dangers that threaten them. All of this must be realized by hospital management to ensure patient satisfaction.

Basically, patient rights have been regulated in Article 32 of Law no. 44 of 2009 concerning Hospitals which states that every patient has the right to:

- a. Obtain information regarding the rules and regulations that apply in the hospital;
- b. Obtain information about patient rights and obligations;
- c. Obtain services that are humane, fair, honest and without discrimination;
- d. Obtain quality health services in accordance with professional standards and standard operational procedures;
- e. Obtaining effective and efficient services so that patients avoid physical and material losses;
- f. File a complaint regarding the quality of service received;

⁸ Hafid Abbas, et.al., *Pedoman Hak Asasi Manusia bagi Dokter dan Pasien Dalam Mencegah Malpraktek Kedokteran*, Badan Penelitian dan Pengembangan HAM Departemen Hukum dan HAM RI, Jakarta, 2008, h. 1.

- g. Choose a doctor and treatment class according to his wishes and the regulations applicable in the hospital;
- h. Request a consultation about the illness he is suffering from from another doctor who has a Practice License (SIP) both inside and outside the hospital;
- i. Obtain privacy and confidentiality of the disease you are suffering from, including your medical data;
- j. Obtain information that includes the diagnosis and procedures for medical procedures, the purpose of medical procedures, alternative procedures, risks and complications that may occur, and the prognosis for the procedures carried out as well as estimated treatment costs;
- k. Give approval or reject the action to be taken by health workers regarding the disease they are suffering from;
- l. Accompanied by his family in critical condition;
- m. Carry out religious services according to the religion or belief he adheres to as long as it does not disturb other patients;
- n. Obtain security and safety while undergoing treatment in hospital;
- o. Submit proposals, suggestions, improvements to the hospital's treatment of him;
- p. Refuse spiritual guidance services that are not in accordance with the religion and beliefs held;
- q. Suing and/or suing the hospital if the hospital is suspected of providing services that do not comply with standards, whether civil or criminal; And
- r. Complaining about hospital services that do not comply with service standards through print and electronic media in accordance with statutory provisions.

There are four principle elements for fulfilling the right to health, namely availability, accessibility, quality and equality. Availability can be interpreted as the availability of a number of health services such as facilities in the form of facilities (hospitals, health centers and clinics) and health infrastructure (medicines, health workers and health financing) for the population as a whole. Accessibility requires that health services be affordable both economically and geographically for everyone, and culturally, so that they respect the cultural traditions of the community. Quality requires that health services meet appropriate standards. And finally, equality requires that health services can be accessed equally by everyone, especially vulnerable groups in society.⁹

A very important obligation related to the patient's right to obtain optimal health services is the provision regarding patient safety. Article 43 of the Hospital Law states that:

- (1) Hospitals are obliged to implement patient safety standards.
- (2) Patient safety standards as referred to in paragraph (1) are implemented through reporting incidents, analyzing and determining problem solutions in order to reduce the number of unexpected events.
- (3) The hospital reports the activities referred to in paragraph (2) to the committee in charge of patient safety determined by the Minister.
- (4) Reporting of patient safety incidents as intended in paragraph (2) is made anonymously and is intended to correct the system in order to improve patient safety.
- (5) Further provisions regarding patient safety standards as in paragraph (1) and paragraph (2) are regulated by ministerial regulations."¹⁰

⁹ Kementerian Hukum dan HAM, *Laporan Akhir Kelompok Kerja Analisis Evaluasi Hukum Nasional Mengenai Pemenuhan Kesehatan Nasional*, Pusat Analisis dan Evaluasi Hukum Nasional, 2017.

¹⁰ Endang Wahyati Yustina, *Mengenal Hukum Rumah Sakit*, Keni Media, Bandung, 2012, h. 44.

Thus, hospitals are a form of government effort in developing health facilities which have an important role in improving health services for the community. A qualified health service organization is needed that is able to provide quality and affordable health services.¹¹

According to law, responsibility is a consequence of the consequences of a person's freedom regarding his actions which are related to ethics or morals in carrying out an action.¹² The concept of responsibility was also put forward by the originator of pure legal theory, namely Hans Kelsen. According to Hans, responsibility is closely related to obligation, but is not identical. These obligations arise because of the existence of legal rules that regulate and provide obligations to legal subjects. Legal subjects who are burdened with obligations must carry out these obligations as ordered by legal rules. The consequences of not carrying out obligations will result in sanctions. This sanction is a forced action from legal rules so that obligations can be carried out properly by legal subjects. According to Hans, the legal subject who is subject to these sanctions is said to be "responsible" or legally responsible for the violation.

Based on this concept, it can be said that responsibility arises from the existence of legal rules which provide obligations to legal subjects with the threat of sanctions if these obligations are not carried out. Such responsibility can also be said to be a legal responsibility, because it arises from the orders of legal rules/laws and the sanctions given are also sanctions stipulated by law, therefore the responsibility carried out by legal subjects is a legal responsibility.¹³

Every person's action towards other people, including actions carried out by the government, must be legally responsible. If this responsibility falls into the realm of law, then such government responsibility is referred to as legal responsibility. That the government must be legally responsible to its people appears in two theories as follows:

- a) General legal theory, which states that every person, including the government, must be responsible for every action, whether due to fault or no fault (strict liability). From this theory, legal responsibility emerges in the form of criminal, civil and state administrative responsibility. The legal responsibility of the government like this is carried out before the court.
- b) Democratic theory, which states that every person who governs must be accountable for their actions to those they govern, because the power that governs comes from those they govern (the people). From this theory arises responsibility which results in "impeachment".

The government's responsibility towards citizens or third parties is adhered to by almost all countries based on law. As an example, several countries can be mentioned that expressly place the burden of responsibility on the government, based on jurisprudence and positive legal provisions. Based on the jurisprudence of the Conseil d'Etat, the government or state is burdened with paying compensation to a citizen or citizen who is a victim of the implementation of administrative duties. The government's legal actions are then outlined in and used by several policy legal instruments such as statutory regulations (reegling), policy regulations (beleidsregel), and decisions (beschikking). In addition, the government also often uses civil legal instruments such as agreements in carrying out government duties. Every use of authority and implementation of legal instruments by government officials will definitely give rise to legal consequences, because it is intended to create legal relations and legal consequences. There are internal legal relationships (interne rechtsbetrekking), namely

¹¹ Dumilah Ayuningtyas, *Manajemen Strategis Organisasi Pelayanan Kesehatan*, Raja Grafindo Persada, Depok, 2022, h.78.

¹² Soekidjo Notoatmojo, *Etika dan Hukum Kesehatan*, Rineka Cipta, Jakarta, 2010, h. 62.

¹³ Hans Kelsen, *Pure Theory of Law*, Terjemah, Raisul Muttaqien, *Teori Hukum Murni: Dasar-Dasar Ilmu Hukum Normatif*, Cetakan Keenam, Nusa Media, Bandung, 2008, h. 136.

relationships in terms of external legal relationships, the resulting legal consequences are general in nature, in the sense of every citizen, and specific legal consequences, namely regarding a person or legal entity certain civil law.¹⁴

In terms of the formation of a Supervisory Board, the provisions of the legislation that regulates it do not require hospitals to form a Supervisory Board. So the responsibility of a hospital that does not have a Supervisory Board is the same as the responsibility of hospitals in general, namely related to problems that occur in the hospital, it can be in the form of administrative, civil or criminal responsibility, but not responsibility for the absence of a home Supervisory Board. Sick.

Limitations of hospital actions that may result in civil liability include:

1. Default as stipulated in Article 1239 of the Civil Code
2. Actions against the law as stipulated in Article 1365 of the Civil Code
3. Negligence that causes losses as stipulated in Article 1366 of the Civil Code.

Criminal liability for healthcare offered by hospitals must provide evidence of professional errors committed in the provision of healthcare services in hospitals, so that they can be subject to criminal sanctions for health professionals who make these errors. In addition, legal liability can be assessed in accordance with administrative law on the basis of the requirements specified for operational activities.

Administrative responsibility applies if the responsibility for administrative rights is related to hospital functions, the responsibility for health development is not only the responsibility of the government, but is the responsibility of all. Everyone must make efforts to achieve, maintain and improve the level of public health, taking into account social values, religion, culture and morality.¹⁵

CONCLUSION

Based on the presentation of research findings and results, the author can conclude that the urgency of establishing a Supervisory Board is an indispensable element in supervising hospital performance in an effort to fulfill and legally protect the health rights of citizens. The Supervisory Board, which carries out its role optimally, will guarantee and protect the public's right to health. Hospitals that do not have/do not form a Supervisory Board do not violate statutory provisions as long as they do not meet the criteria required for the formation of a Supervisory Board. However, the legal protection of patients for hospitals that do not have a Supervisory Board must be guaranteed by the government through monitoring efforts by external supervisors, from the Central/Regional Government and all other stakeholders.

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¹⁴ Ridwan HR, *Hukum Administrasi Negara*, PT. Raja Grafindo, Jakarta, 2011, h. 339.

¹⁵ Hanna Wijaya, Muhammad Ali Hanafiah Selian, Tanggung Jawab Hukum Rumah Sakit Terhadap Hak Pasien di Era Pandemi Covid-19, *Jurnal Medika Utama*, Vol.03 No.02, 2022, h. 1800.

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