

LEGAL RESPONSIBILITIES OF THE INDEPENDENT INSTITUTION AS THE ASSESSOR OF ACCREDITATION OF GOVERNMENT HOSPITALS

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Abstract

There are still cases of hospital accreditation manipulation, highlighting the importance of the existence of independent institutions as assessors of government hospital accreditation. Therefore, two research questions arise: the regulation of independent institutions as assessors of government hospital accreditation and the administrative legal accountability of independent institutions as assessors of government hospital accreditation. This study is normative legal research employing several approaches, including legislative approach, conceptual approach, and comparative approach. The results show that the authorization given to independent institutions in accrediting hospitals is regulated by Law Number 17 of 2023 concerning Health, aiming to create consistency, harmony, systematicity, and synchronicity in efforts to improve the quality of health services. These provisions are reinforced by regulations such as the Hospital Law, Minister of Health Regulation Number 12 of 2020, and Minister of Health Decree Number HK.01.07/MENKES/406/2020 jo. Minister of Health Decree Number HK.01.07/MENKES/6604/2021, and Minister of Health Decree Number HK.01.07/MENKES/1128/2022, demonstrating the accountability, consistency, and systematic nature of the legal basis needed. The administrative legal accountability of independent institutions as assessors of government hospital accreditation has administrative legal consequences, namely the revocation of the Minister of Health's decree that approves their status as hospital accreditation providers.

Keywords: legal responsibility; assessor of accreditation; government hospital

INTRODUCTION

A hospital is a medical institution that provides treatment and medical care to patients. Health power plays a crucial part in the public healthcare system, offering a wide array of services encompassing prevention, diagnosis, treatment, and rehabilitation (Organization et al., 2008; Tulchinsky & Varavikova, 2010). Hospitals typically encompass a diverse range of departments, including emergency units, surgical facilities, imaging units, and nursing rooms. Every poly hospital is equipped with a team of medical and paramedical professionals who are well trained to deliver exceptional patient care. Hospitals play a crucial role in bolstering public health. Hospitals serve not only as facilities for medical treatment, but also as platforms for educating individuals on preventive measures and promoting healthy lifestyles. Furthermore, hospitals frequently serve as hubs for medical research and the innovation of novel medical technologies, while also playing a crucial part in the progress of medical science.

According to Article 1 (10) of Act No. 17 of 2023 on Health (Health Act), a hospital is defined as a health service facility that delivers comprehensive and organised health services. This encompasses the execution of healthcare services ranging from the advancement of health, prevention of diseases, provision of curative treatments, rehabilitation, and palliative care. Hospitals fulfil the function of delivering nursing services, street care services, and emergency care, addressing diverse areas of patients' health need (Organization, 2015; Saraceno et al., 2007; Wennberg & Gittelsohn, 1973).

Article 178, paragraph (1) of the Health Act mandates that every Health Service Facility must consistently enhance the quality of Health Services it provides, both internally and externally. The internal approach emphasises the independent quality improvement efforts undertaken by the Health Service Facility. Alternatively, the external approach mentioned in the paragraph suggests that the accreditation process can also lead to quality enhancements. This means that an external assessment conducted by a health accrediting agency can assist in assessing and evaluating the level of quality provided by a health service facility (Organization, 2003; Rosenblatt, 1978; Wager et al., 2021).

The Ministry of Health has affirmed the importance of recognising the quality of services given by hospitals through the publication of the Hospital Accreditation Standard. This was done through the Decree of the Minister of Health Number HK.01.07/MENKES/1128/2022. The recognition procedure entails a comprehensive evaluation to verify that the hospital complies with all accreditation criteria established by the Government. In December 2021, the Ministry of Health collected data indicating that 78.8% of the 3,120 registered hospitals, specifically 2,482 hospitals, have obtained accredited accreditation. However, a total of 638 hospitals, which accounts for about 21.2% of the total, remain unaccredited according to the specific information provided in the Health Minister's Decree No. HK.01.07/MENKES/1128/2022.

Attaining full accreditation in a government hospital is a highly significant accomplishment within the realm of healthcare. The hospital's compliance with rigors standards in quality and patient safety, as well as adherence to all relevant rules and recommendations, is evident. The accreditation procedure is often conducted by an autonomous entity or health accrediting organisation with the power to evaluate and confirm the quality of health services (Greenfield & Braithwaite, 2008; Nandraj et al., 1999; Organization, 2022a; C. Shaw, 2015; C. D. Shaw et al., 2014a)

Government hospitals must undergo a comprehensive examination procedure in order to obtain full accreditation. A team of accreditation organisations will do a comprehensive audit of all facets of hospital operations, encompassing physical infrastructure, medical protocols, adherence to patient safety and security standards, and administrative governance. In addition, they will assess adherence to healthcare-related regulatory requirements. Furthermore, hospitals

are required to ensure that all medical and paramedical personnel possess certifications and credentials that are suitable for their assigned tasks and obligations.

It is imperative that all medical procedures and treatments adhere to the most up-to-date standards in clinical practice. Comprehensive and precise medical documentation is necessary to guarantee transparency and accountability in patient treatment. In order to obtain full certification, it is necessary to demonstrate a firm dedication to providing exceptional customer service. The hospital is responsible for ensuring that the patient receives a satisfactory treatment experience, which encompasses friendly service, effective communication, and prompt responsiveness to the patient's wants and concerns. It is imperative that the patient have a sense of being listened to and receiving assistance during the course of treatment. Moreover, the emphasis on risk management and patient safety has become crucial in attaining complete accreditation. Hospitals must possess strong and comprehensive processes to identify, analyse, and mitigate possible hazards to patient safety.

The significance of accreditation for a hospital is becoming more prominent and pertinent, particularly in the endeavour to curb the proliferation of doctor-related cases. A concrete illustration of this can be observed in the case of Susanto (48), who was convicted by the Chamber of Judges of the State Court (PN) Surabaya and sentenced to three years and six months of imprisonment for his fraudulent activities at PT Pelindo Husada Citra (PHC). This lawsuit pertains to Susanto's endeavour to secure a doctor post at PT Pelindo Husada Citra (PhC) by falsely representing himself as a practicing doctor with over two years of experience, although having only a high school diploma. He committed fraudulent activities by stealing data, identity, and documents of an actual doctor from Bandung. His objective was to defraud a hospital that is owned by the State Property Agency (BUMN). Susanto updated the stolen documents, which included a doctor's practitioner's licence (SIP), a medical degree, a citizenship card, and a Hyperkes certificate belonging to Dr. Anggi, without altering his true identity.

The recruitment procedure, including the interview stage, was handled online due to the ongoing Covid-19 pandemic. Due to the successful completion of a number of selection processes, Susanto was ultimately hired as an employee of PT PHC. He started working as a Fulltime Hyperkess Doctor at the PT K3 Clinic Pertamina EP IV Cepu, which is operated by Pt PHC, on June 15, 2020. Susanto, who worked as a doctor with a counterfeit licence for almost two years, received a monthly income of Rs.7.5 million, excluding other benefits and amenities. Nevertheless, Susanto's fraudulent activities were exposed on June 12, 2023, when PT PHC demanded the re-submission of employment application materials as a requirement for extending the contract. Upon conducting a re-evaluation, the company management discovered some discrepancies in the files provided by Susanto. PHC Hospital Surabaya has obtained Paripurna certification from the Hospital certification Committee (KARS) in November 2022.

This encompasses the tasks of documenting and examining patient safety occurrences, as well as developing procedural enhancements to prevent the recurrence of similar incidents in the future. Nevertheless, the current regulations still have inaccuracies when it comes to evaluating certification through a third-party organisation. Specifically, there are issues about the legal responsibility of the administrative agency of an independent institution acting as the evaluator for hospital accreditations. There appears to be a discrepancy between the accreditation results and on-site services, regarding whether the hospital or the independent entity responsible for assessing hospital accreditations should be held accountable. Next, we need to consider the degree to which the hospital is accountable for these inconsistencies. According to Article 193 of the Health Act, the Hospital bears legal responsibility for any financial damages caused by the negligent actions of its Health Human Resources department. Nevertheless, the degree to which the duty is assigned has not been further stated. The administrative legal certainty regarding the responsibility assigned to the hospital has not been

provided yet, despite the hospital having a pre-directorate of full accreditation. However, the hospital's services and workforce do not align with the accreditation results, resulting in patients not receiving the expected level of comfort.

This study focuses on the issue of the lack of regulation concerning administrative legal liability or sanctions when accreditation results do not align with reality. It examines the extent of responsibility held by hospitals and independent agencies that conduct accreditations when the qualifications of health personnel in a hospital do not meet the required standards, despite achieving perfect results. Given this vulnerability, it is crucial to address the "Legal Responsibilities of Independent Institutions Administrative Administrations as Assessors of Accreditation of Government Hospitals". The aim of this research is to analyse the legal obligation of independent institutions administrative administrations as assessors of government hospital certification, based on the provided backgrounds. .

RESEARCH METHOD

This study employs a normative juridical methodology. This research methodology, known as normative legal scientific logic, utilises scientific methods to uncover truth. It focuses on research techniques that involve positive legal norms, such as the Constitution, laws, government regulations, and similar sources (Negara, 2023). In addition to that, this research can also utilise other written legal rules that are produced by authorised entities or originate from the judiciary. Furthermore, legal standards can also be derived from interested parties, such as contracts, legal papers, legal reports, or draft laws. Primary legal materials, secondary legal materials, and tertiary legal materials are the legal sources used in normative juridical legal study.

Primary legal resources are legal items that possess legal binding force and encompass statutory requirements (Marzuki, 2021). In this study, "this" refers to the laws and regulations specified in Law Number 17 of 2023 regarding Health, which serve as points of reference. The text refers to the Hospital Accreditation Standards set by the Directorate General of Health Services under the Ministry of Health of the Republic of Indonesia. The user's text is a reference to two official documents related to hospital accreditation in Indonesia. The first document is Decree of the Minister of Health Number HK.01.07/MENKES/1128/2022, which specifies the hospital accreditation standards. The second document is Regulation of the Minister of Health of the Republic of Indonesia NO. 12 of 2020, which also pertains to hospital accreditation. The compilation of legal material for this research was conducted using various methodologies. One approach employed is to conduct an inventory of legal resources pertinent to the research's scope.

In addition, the research involved a comprehensive examination and analysis of a wide range of primary, secondary, and tertiary legal sources pertaining to the specific issue under investigation. Specifically, the focus was on the legal obligations of independent institutions acting as accreditation evaluators for hospitals. This research employs a descriptive-analytic methodology to analyse legal documents, encompassing evaluative, interpretive, systematic, constructive, and argumentative methods. The research employs a systematic and interpretive descriptive-analysis technique. Within this framework, the research will analyse the benefits and drawbacks of the legal product under investigation, while also examining the connections between the formulation of legal concepts or propositions found within different articles of the same legal product. This study aims to investigate the lack of regulations in the health Law, specifically on the legal obligations of independent institutions acting as assessors for hospital accreditation.

DISCUSSION**Legal Responsibility of the Administrative Independent Institution as the Assessor of Accreditation of Government Hospitals**

Responsibility in this context is a form of political responsibility that the government must assume to the parliament, which includes two main aspects: collective responsibility applied to the entire cabinet or group of senior government officials, and individual responsibility related to the performance and specific actions of a particular minister or official. In addition, there is a legal responsibility which binds the minister and his staff to the legal consequences of the actions carried out.

In the context of the maintenance of statehood and government, this concept of responsibility is closely linked to the position held, which is juridically associated with the granting of authority. From a legal perspective, the existence of this authority leads to accountability, in accordance with the principle: "geen bevoegheid zonder verantwoordelijkheid", which freely translates as "no authority without responsibility". The granting of special authority to carry out certain legal acts creates the basis for responsibility for the use of such authority, creating an inseparable relationship between authority and responsibility in the performance of governmental duties.

The accountability applied to the delegation of authority indicates that the delegator is not liable for any criminal responsibility arising out of such delegation. Meanwhile, paradoxically, the party that receives a delegation must bear the burden of criminal liability, even if the act or work performed is merely a direct consequence of the delegations granted by the delegate. This type of criminal liability model creates injustice in the law enforcement system, as it seems to place a burden of responsibility on those who only follow the instructions or authority given by the delegator (Chang & Lee, 2012; Organization, 2022b; C. D. Shaw et al., 2014b)

Bearing in mind that the basis of authorization to the independent institution organizing hospital accreditation is authority by mandate, whose responsibility remains with the mandate in this case is the Ministry of Health. As well as the position of the independent agency organizing the hospital Accreditation which is a legal body is established through the Decree of the Department of Law and Human Rights under the Act of Notaries. In other words, that the independent body organizing hospitals accreditations is not the Agency or the Office of TUN. As a result of the failure to comply with the administration in full and in detail but accredited in full, then the legal liability of the Ministry of Health is first the legal responsibility of the withdrawal of the Decree of the Minister of Health concerning the establishment of an independent body of hospital accreditation organizers, in this case is Kepmenkes No. HK.01.07/MENKES/6604/2021. Second, the application of the provisions of Article 20 Permenkes 12 Year 2020, which states that the independent agency of accrediting organizers does not meet the requirements of setting and obligations as prescribed in this Parmenkes, the Department of Health can revoke the establishing of an independent body of accreditation organizers. In other words, against some of the losses suffered by patients when obtaining health care in hospitals that have been well accredited but are not performing health care services in accordance with existing standards. The independent accreditation agency may then be held liable under this provision, which forms the waiver of the establishment of the independent accreditation agency.

The purpose of implementing accreditation is to enhance the quality of healthcare services in hospitals. According to Article 16 of Minister of Health Regulation Number 12 of 2020, both the Central Government and Regional Governments are mandated to provide support, motivation, encouragement, and facilitation for the implementation of accreditation in both government and private hospitals. In addition to the requirement of providing complete assistance in the execution of hospital accreditation, Article 17 of this ministerial regulation also mandates that ministers, governors, and/or regents/mayors oversee and supervise the

implementation of accreditation activities. This oversight is to be carried out in collaboration with hospital associations, under the coordination of the hospital association. The reason for this is that enhancing the calibre of healthcare services in hospitals will have a profound effect on the advancement of health, hence enabling the attainment of optimal public health.

In this scenario, it is the responsibility of the Ministry of Health to offer direction and oversight to autonomous organisations that are responsible for granting certification. In accordance with the stipulations outlined in Article 17, paragraph (4) of Minister of Health Regulation Number 12 of 2020, the minister provides guidance and oversight through the Director General. The advice and monitoring mentioned are intended to ensure that the Hospital can uphold and enhance the quality of its services. Coaching and supervision are conducted using the following methods:

1. Provision of support, communication, oversight, advice, and expert direction;
2. Formal instruction and skill development; and/or
3. Surveillance and assessment.

Legal reform in the health sector is a crucial component of national growth, particularly in the area of human resource development. Within this particular setting, the crucial factor for altering the health development paradigm in Indonesia is the necessity for comprehensive reform in all areas, not just limited to the legal domain. Additionally, it is imperative to enhance the involvement of both the government and public in monitoring the progress of development. The Ministry of Health has established a Development and Supervision Team for Independent Accreditation Organising Institutions. However, the Ministry of Health requires appropriate guidance and supervision tools for this team, which should align with the eight aspects of guidelines and standards prepared by ISQua. These guidelines and standards will serve as a reference for their implementation in Indonesia. Furthermore, the Ministry of Health has organised a Training of Trainers programme for qualified surveyors, who have been accredited by the Health Human Resources Development and Empowerment Agency (PPSDM).

Nonetheless, the Ministry of Health must establish a monitoring system to oversee the execution of training by each certification body for its surveyors. This system is necessary to verify that the surveyors have successfully achieved the required competency criteria. The legal relationship between hospitals and patients in medical service contracts is similar to the legal relationship between doctors and patients, with the distinction that the legal relationship between hospitals and patients exhibits greater diversity. Legal ties are established through the execution of a contract or by operation of law. In the context of legal obligations arising from a contract, there exists an agreement between the patient and the hospital to establish a medical service contract. In the context of legislative obligations, specifically Article 29 paragraph (1) letter c, it stipulates that hospitals are required to offer emergency services to patients based on their capacity to do so.

Article 32 paragraph (1) of the Health Law states that hospitals are required to offer emergency medical services in order to preserve lives and prevent disabilities in patients. The same principle is likewise acknowledged in Article 59 paragraph (1) of the Health Personnel Law. These two articles serve as the legal foundation for hospitals to create legal relationships with patients, in accordance with legislative restrictions. While hospitals do provide emergency services, it is nevertheless possible for people in critical condition to be present without any family support. For instance, individuals who are in a state of unconsciousness as a result of an accident or a natural calamity. In this particular setting, hospitals are obligated by law to offer medical services to patients. This legal requirement establishes the foundation of the legal connection between hospitals and patients, as stipulated by legislation.

The relationship that exists between hospitals and patients can be interpreted as a dynamic in providing health services, where hospitals act as providers of these services through the provision of facilities, infrastructure and various health resources. In this context,

individuals who need care or treatment can access these services at hospitals as institutions that have a major role in supporting optimal public health.

As a business organization in the health sector, hospitals have significant responsibilities in managing their activities. The main focus of this management is on the responsibilities of professionals in the health sector, especially medical personnel and care workers, who play a central role in carrying out their duties and authority in providing health services to patients. Thus, the participation and contribution of medical personnel and nurses is crucial in maintaining the quality and effectiveness of health services provided by hospitals to the community.

Hospital accountability in the field of administrative law is related to public authority and methods of testing its authority, as well as laws regarding control over that authority. The authority possessed by administrative bodies or officials in carrying out concrete actions, making arrangements or issuing decisions is based on authority obtained through attribution, delegation or mandate cannot be separated from administrative law.

The legal responsibility of hospitals towards patients in the implementation of health services arises from civil law relationships, however, in the implementation of health services there are also implications for administrative law. In connection with legal actions carried out by hospitals, as a corporation owned by a government-owned business entity (central or regional), the director (head) of a public hospital is a public official. So when he entered into a therapeutic agreement on behalf of the hospital he did so as a public official.

The Implementation of Administrative Law for Independent Institutions as Government Hospital Accreditation Assessors

The implementation of administrative law in the context of the legal relationship between hospitals and patients involves policies or regulations that are administrative prerequisites for the provision of quality health services. These policies or regulations regulate in detail the procedures for providing health services that are deemed appropriate and in accordance with hospital service standards, including established operational standards and professional standards. In other words, this administrative legal instrument establishes clear guidelines to ensure the provision of adequate and quality health services.

The regulations contained in the Medical Practice Law, Health Law and Hospital Law are designed with the main aim of providing comprehensive protection to patients, while ensuring that the standards of medical services provided by hospitals and doctors are maintained and maintained. continue to increase. This is also directed at providing comprehensive legal certainty to the public, health workers and hospital institutions. Related to this, Article 46 in the Hospital Law clearly states that a hospital has legal responsibility for all forms of negligence committed by health workers therein which can cause harm, both to the general public and the patients who receive it. medical services within the scope of the hospital.

Administrative law enforcement is carried out due to administrative violations of the hospital establishment or administrative violations of hospital ethics. To ward off things that have the potential to harm various parties related to health services in hospitals and to improve the quality of health services, it is necessary to increase the ability of health workers to resolve medical and non-medical problems in hospitals and create structures that support health services effectively. professional and quality. Other aspects of administrative law in hospital legal responsibility are seen in terms of:

1. Hospital Operations and Health Personnel Permits

Based on the provisions of Article 25 paragraph (1) of the Hospital Law, it is determined that every hospital operator must have a permit. If a hospital does not meet the hospital requirements for its establishment, it will not obtain a permit to operate. Apart from

permits, every hospital is required to carry out hospital accreditation to improve the quality of its services. Based on the provisions of Article 63 of the Hospital Law that: "in the case of criminal acts committed by corporations, apart from imprisonment and fines against their management, the punishment that can be imposed on corporations is in the form of a fine with a weighting of 3 (three) times the fine. "In addition to criminal fines, corporations can be subject to additional penalties in the form of revocation of business permits and/or revocation of legal entity status."

2. Hospital Obligations

As explained in Article 29 paragraph (1) of the Hospital Law, there are around 20 points that are obligations for hospitals. Violation of these obligations can result in administrative sanctions, such as warnings, written warnings, fines, and even revocation of the hospital's operational permit. Guidance and supervision of hospitals is carried out by the government or regional government. The actions mentioned above fall into the category of administrative malpractice, which occurs when doctors violate administrative law. It should be noted that the government has the authority to issue various regulations in the health sector as part of the implementation of police power (the state's power to protect the health, security, morals and general welfare of its citizens).

The quality of service in a hospital is the difference between the service received by patients and their expectations. In the healthcare industry, although the types of services provided by hospitals may be similar, the quality can vary. Patients, as customers, play an important role in the development of the health industry. The causes of low service quality can involve input factors, such as a lack of equipment and facilities, as well as support factors, such as the number and quality of nurses and allocation of funds that focus on physical aspects and equipment. The level of comfort felt by patients greatly influences their satisfaction or dissatisfaction with the health service process (Chang & Lee, 2012; Layman et al., 2022; Montagu, 2003)

In carrying out the health service process, hospitals must pay attention to the rights and safety of patients to ensure that all actions are in accordance with minimum service standards and the professional code of ethics for health workers. When a patient experiences a loss in health services, the hospital can be held civilly liable through a lawsuit, either as corporate responsibility (corporate negligence) or responsibility for the negligence of the health workers who work there (vicarious liability of respondeat superior). Apart from that, hospitals can also face administrative legal liability through legal proceedings in state administrative courts, which can result in sanctions in the form of revocation of accreditation certificates.

The quality of health services in hospitals has a significant impact on the level of patient satisfaction with the services received from health workers. Service quality is a critical factor that contributes to the accreditation process of health institutions, especially hospitals. High quality health services create satisfaction for patients or health service users. The existence of quality standards that are met in health services not only has a positive impact on improving people's quality of life, but is also able to form a positive perception and image of the company's products or services in the eyes of consumers.

High quality health services can increase the level of patient satisfaction, which is reflected in the conformity between patient expectations and the reality of the services received. Health service user satisfaction is closely related to health service outcomes, both medical aspects such as adherence to treatment, understanding medical information, and continuity of care. To maintain and improve the quality of health services and maintain the accreditation that has been obtained, cooperation between all elements in the hospital is very necessary. Starting from leaders to staff at various levels must have a uniform enthusiasm and commitment in creating high-quality health services.

CONCLUSION

Granting autonomous institutions, the power to conduct hospital certification, as stipulated by Law Number 17 of 2023 on Health, has the capacity to establish uniformity, standardisation, organisation, and coordination in endeavours to enhance the quality of healthcare. This provision is supported by various regulations, including the Hospital Law, Minister of Health Regulation Number 12 of 2020, and Minister of Health Decree Number HK.01.07/MENKES/406/2020 jo. Minister of Health Decree Number HK.01.07/MENKES/6604/2021, and Minister of Health Decree Number HK.01.07/MENKES/1128/2022. These regulations demonstrate the commitment to ensuring accountability, consistency, and systematicity in the legislation, which serves as the essential legal foundation. According to Article 40 paragraph (2) of the health Law, the government grants independent entities the power to conduct hospital certification in accordance with relevant requirements.

Jurisdiction is the power of an autonomous entity to perform specific legal activities, encompassing the initiation and termination of specific legal outcomes. The government's authorisation signifies its trust in the capacity of autonomous organisations to fulfil the task of hospital certification. The administrative legal obligations of independent institutions acting as assessors for government hospital accreditation carry administrative legal implications, such as the potential revocation of the Minister of Health's decision letter that confirms their status as hospital accreditation providers. This complies with the regulations outlined in Article 20 of Minister of Health Regulation Number 12 of 2020, as well as Minister of Health Decree Number HK.01.07/MENKES/6604/2021. The withdrawal of the designation of an independent institution as an administrative sanction was done because the institution was conducting hospital accreditation using the authority granted by the Ministry of Health.

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