
LEGAL PROTECTION FOR HEALTHCARE PROFESSIONALS AND HOSPITALS AGAINST PATIENT' COMPLAINTS ON SOCIAL MEDIA

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stephanieglorylai@gmail.com^{1*}, andikapersada@hangtuah.ac.id², Asmuni@hangtuah.ac.id³**Abstract**

In the digital era, social media platforms have evolved into potent communication tools; however, they also present novel obstacles, particularly for healthcare professionals and institutions. The reputation and operations of medical institutions can be substantially influenced by the increase in patient complaints that are shared online. This research was made by using normative legal research type, namely research that focuses on examining legal norms in applicable laws and regulations relating to the subject matter. The aim of this research is to analyze existing complaint services in hospitals as well as legal protection for hospitals and health workers against patient complaints on social media. The result of this research shows that there are still complaint services in hospitals that are not yet well provided, and other factors that cause patients to complain on social media. It also shows that legal protection against defamation in corporations has not been able to serve its purpose well, as well as Indonesian penal law which is oriented towards retributive justice rather than restorative justice.

Keyword: Legal Protection; Complaints; Social Media

INTRODUCTION

The advancement of information and communication technology, particularly social media, has brought about significant changes in various aspects of life, including the healthcare sector. Social media has now become a highly popular platform for the public to voice complaints, criticism, and grievances regarding public services, including healthcare services (Alfajri et al., 2019; Ulum, 2018). Patients who are dissatisfied with the services provided by hospitals or healthcare professionals often choose to express their dissatisfaction through social media platforms such as Facebook, Twitter, Instagram, and others. This phenomenon presents new challenges for hospitals and healthcare professionals.

On one hand, social media provides patients with the opportunity to quickly and directly share their experiences; on the other hand, it also poses risks to the reputation and legal standing of healthcare institutions and medical personnel. Complaints or criticisms openly shared on social media can have negative impacts, both on the image of the hospital and the healthcare professionals involved (Ariadi, 2019; Kholisoh & Yenita, 2015; Nugrahani & Arifputri, 2023). In some cases, these situations may even lead to a loss of public trust and detrimental legal actions.

In the legal context, protection for hospitals and healthcare professionals against complaints made on social media has become increasingly relevant and urgent to discuss. Legal protection is necessary to ensure that any criticism or complaint voiced by the public, especially through social media, is done proportionally and does not harm others without a clear basis (Bakhtiar et al., 2020; Guntara & Herry, 2022; Harahap & Hidayat, 2023). Conversely, hospitals and healthcare professionals must also understand their rights and obligations when facing complaints on social media, as well as the legal mechanisms they can utilize to protect themselves from harmful actions.

The services provided to patients are subject to evaluation. Patient satisfaction is a primary indicator in public hospital services. Hospitals are expected not only to achieve patient recovery but also to ensure satisfaction with the healthcare professionals and facilities available within the hospital (Harahap & Hidayat, 2023; SONDAKH et al., 2022). Quality indicators of hospital complaint management include the availability of complaint submission facilities.

Complaint management facilities include complaint channels such as complaint desks, complaint forms, dedicated phone lines, websites, comment cards, satisfaction surveys, and social media platforms (Instagram, email, TikTok, X, etc.). A clear complaint procedure with mechanisms for swift and accurate resolution is crucial. The availability of hospital staff who handle complaints efficiently, promptly, and responsively is also essential (Yuke, 2022). Mass media, including social media, has developed rapidly, creating avenues for expression and being well-received by both the public and the government. However, in some cases, social media is misused as a platform for venting grievances, turning it into a public space that can cause harm to certain parties and potentially lead to defamation cases.

This article aims to analyze the forms of legal protection that can be provided to hospitals and healthcare professionals in addressing patient complaints on social media. Furthermore, this study will explore existing regulations and evaluate whether these regulations are adequate in protecting the interests of hospitals and healthcare professionals in the current digital era. The findings of this research are expected to contribute significantly to the development of better policies to protect the parties involved in the healthcare service sector.

RESEARCH METHOD

The research methodology employed is a normative juridical approach, which involves the examination of written law from various perspectives, including theoretical, historical, philosophical, comparative, structural, compositional, material, consistency, general explanations, and article-by-article analysis (Peter, 2017, p. 87). The study seeks to address

legal issues using several approaches: the statute approach, the historical approach, the comparative approach, and the conceptual approach (Marzuki, 2021). This research specifically utilizes the statute approach and the conceptual approach. Primary legal sources referenced include legislation, rulings from relevant governmental bodies or organizations, while secondary legal sources encompass textbooks, journals, news articles, papers, articles, and literature pertinent to this study.

RESULT AND DISCUSSION

Legal Protection for Healthcare Workers Against Patient Complaints on Social Media

Healthcare workers and medical personnel play crucial roles in delivering healthcare services. In practice, they face various challenges, including risks such as violence, harassment, and bullying (Nadhif, 2023; Pratama & Farina, 2021; Rangkutir & Risdawati, 2024). Legal protection is necessary during their service to avoid harm while on duty, and it is equally important to provide legal protection for those accused of criminal and civil offenses in healthcare services. Acts of violence, harassment, and bullying can hinder healthcare delivery. The enactment of Law No. 17 of 2023 on Health is evidence of the government's commitment to addressing and protecting healthcare workers and medical personnel from violence, harassment, and bullying.

Legal protection, as defined in the Indonesian language, means being under something, which indicates that the law consists of regulations that are established and agreed upon, either in written or unwritten form, and are binding on a specific community. In hospitals, many interactions between patients or their families and medical personnel (doctors and nurses) are unsatisfactory or unpleasant, such as communication issues between patients or their families and the hospital staff, particularly doctors or other medical personnel. Legal protection provides a sense of safety, security, and legal certainty.

There are two forms of legal protection for doctors working in hospitals: preventive legal protection and progressive legal protection (Emilzon, 2022). Preventive legal protection occurs when there are Standard Operating Procedures (SOPs) and legal protection policies containing ethical and legal guidelines for hospitals, as well as sub-ethics within the medical committee. Progressive legal protection occurs when a doctor makes a mistake, and legal assistance is provided through mediation. If the issue escalates to court, legal assistance is provided by either the hospital's legal team or an external lawyer. This is stipulated in Article 189, letter (s) of the Health Law, which states, "protect and provide legal assistance to all hospital staff in carrying out their duties," and Article 193 of the Health Law, which states, "The hospital is legally responsible for all losses caused by negligence committed by the hospital's healthcare human resources." Legal protection for doctors is a human right protected by the state, including the obligation to respect, fulfill, and protect (Koswara, 2018).

Every legal issue faced by healthcare workers within the healthcare system, such as interactions between doctors and patients, has specific elements. These elements include medical and non-medical staff in hospitals, both personally and collectively, following certain norms. The healthcare system is a noble profession, but the implementation of medical practice is still inadequate, with a significant need for professional resources. Doctors, with their specialized knowledge, have unique characteristics that can be legally justified, allowing them to perform medical procedures on humans to maintain and improve health status.

Patients have rights protected by law to file complaints, as regulated and protected by Law No. 8 of 1999 on Consumer Protection. Patients also have the right to advocacy, protection, and dispute resolution in consumer protection. However, complaints made on social media can lead to defamation cases. Social media is not a private space but a public one that can be freely accessed by others or the public. A person's good name is a valuable asset that

every living person possesses. Anyone can be charged with criminal defamation on social media.

Defamation, whether directly or on social media, is a complaint-based offense. A complaint-based offense can only be processed by the police if there is a complaint from the victim. Without a complaint from the victim, the police cannot process the complaint. Statements or words containing insults or defamation can be criminally charged if certain elements are met, such as being in public with more than two people. If it occurs on social media, it must be in a place visible to many people, such as a Facebook wall, group posts, Instagram comment sections, or TikTok content. Insulting messages sent to an inbox or chat do not fall under defamation because the public element is not met.

The Supreme Court Decision No. 2290/K/pid.sus/2015 states that defamation can cause immaterial harm that cannot be measured in monetary terms. Healthcare work is a service-oriented profession, making public trust essential. When a complaint is filed, investigators will conduct searches and seizures of evidence in accordance with the Criminal Procedure Code (KUHAP). Victims can request protection from the Witness and Victim Protection Agency (LPSK) under Article 28, paragraph (1) of Law No. 31 of 2014 on Witness and Victim Protection, which provides protection based on four criteria:

- a) The importance of the witness's and/or victim's testimony.
- b) The level of threat posed to the witness and/or victim.
- c) The results of medical or psychological analysis of the witness and/or victim.
- d) The criminal record of the witness and/or victim.

Defamatory content on social media can be deleted at the victim's request or voluntarily. If defamation is proven, the perpetrator may face criminal penalties and fines under Article 310 of the Criminal Code and Article 27 of the ITE Law. Various forms of protection are provided to victims of defamation, including:

- a) The state enacting policies to protect individual and public interests, with penalties of imprisonment and fines.
- b) The state providing technical protection through the Witness and Victim Protection Agency.
- c) The state providing law enforcement officers who will protect victims, including special cyber investigators.
- d) Notifying victims of the case's progress through the prosecutor's office.
- e) The state recognizing that defamation cases involve immaterial harm that cannot be measured in money, but the perpetrator must also serve a criminal sentence and pay fines as determined by the court.
- f) The electronic system may close accounts containing defamatory content with or without the account owner's consent.

Legal Responsibility Related to Patient Complaints on Social Media

Health is a fundamental human need guaranteed by the state. Article 28H, paragraph (1) of the 1945 Constitution of the Republic of Indonesia states, "Everyone has the right to live in physical and mental prosperity, reside, and obtain a good and healthy environment, and receive healthcare services." Article 34, paragraph (3) of the 1945 Constitution states, "The state is responsible for providing adequate healthcare facilities and public service facilities." Healthcare facilities are places that provide promotive, preventive, curative, and rehabilitative healthcare services.

The legal position of doctors as hospital employees gives rise to hospital liability for unlawful acts committed during their duties. According to Soetojo Prawirohamidjojo and Mathalena Pohan, this liability is based on the legal relationship between the business owner and the worker, where the employer is liable for unlawful acts committed by subordinates while

performing their duties, and the employer cannot be excused (*disculperen*). This liability is also based on Article 1367 of the Civil Code, which includes the doctrines of vicarious liability and *respondeat superior*. The position of doctors as independent contractors makes them partners of the hospital, but this position does not absolve the hospital of liability for damages caused by the doctor's negligence. Seven factors determine a doctor's position as an independent contractor:

- a. Who is the patient being treated?
- b. Who owns the equipment used?
- c. Does the practice exercise any control or discretion over the doctor or their work?
- d. Is the doctor free to provide similar services to others?
- e. Who sets the schedule?
- f. How is the doctor compensated?
- g. What benefits, if any, does the doctor receive from the practice?

Patient complaints worldwide continue to increase yearly. This increase is also felt in Indonesia's hospitals. Hospitals must respond to customer (patient) needs and strive to know, serve, and satisfy patients' desires while improving service quality in line with the times. Hospitals that cannot adapt or respond will lose patients. Saidah's study at the Tangerang Selatan City General Hospital found that complaint handling was not optimal due to the lack of trained complaint handlers, inadequate facilities and infrastructure for complaint handling, and insufficient solutions. Complaint handling had not been properly and maximally implemented. A 2016 study at a private hospital found that complaints due to communication errors were a potential source of legal claims.

Every action produces a response, either satisfaction or dissatisfaction. Satisfied patients are likely to be loyal, while dissatisfied patients may complain or withdraw from the hospital. Many corporations, including hospitals, view complaints negatively. However, corporations that encourage complaints usually have a different perspective. Complaints can drive a corporation to improve and listen to the needs of the surrounding community. Public relations serve as the corporation's image savior in the community, acting as a communication bridge between the corporation and the public. Poor complaint handling can lead to negative publicity on social media, highlighting the need for strategies to create positive publicity and minimize negative issues in the community.

According to Amalia, three important aspects of complaint handling are human resources, media, and team networks. Human resources handling complaints include relevant staff, heads of departments, or customer service. If the complaint cannot be resolved, public relations acts as the third party to mediate and provide further handling. There is also a customer service hotline for handling complaints. However, there is no specific training on complaint handling at hospitals; training only covers soft skills, with some content on dealing with complaints, but no specialized training to enhance staff skills in complaint handling.

The lack of specialized complaint handling training means that public relations often become the third party in mediation and resolution. Specialized complaint handling training is one of the hospital's responsibilities to improve itself. Training can sharpen staff skills in better complaint handling. Formal complaint handling training is known as handling complaints. Poor complaint handling can have negative consequences, such as reduced public trust and possible compensation claims. Proactive, structured, and well-trained complaint handling and investigation can lead to patient loyalty and a positive hospital image.

The provision of media services can significantly ease the relationship between patients and hospitals. Establishing social media platforms to handle complaints is relatively simple and cost-effective, allowing patients easy access. These platforms can include hotline calls, SMS, WhatsApp, Instagram, and email. Additionally, complaint media can be facilitated through suggestion boxes provided in every outpatient unit. When patients are unaware of how to file

complaints, it indicates a lack of information regarding complaint handling services, which is one of the factors leading to patient dissatisfaction and a reduction in patient loyalty.

A customer survey in Turkey showed that when a corporation facilitates a platform for expressing feelings, opinions, or complaints, it positively impacts service satisfaction, recovery, and trust. Approximately 96.4% of patients desire a complaint service in hospitals, with a preference for easily accessible complaint media. The essence of a complaint is:

1. Weakness in responsibility (responsiveness),
2. Weakness in staff assistance (helpfulness),
3. Availability of services/products,
4. Policy,
5. Service recovery.

Currently, there is no specific division dedicated to complaint handling. Complaints are categorized as serious, major, moderate, minor, or minimal. Serious complaints include those with severe impacts, sentinel events, long-term damage, sub-standard care, professional errors, or cases involving death. If the public relations department cannot handle a serious complaint or if it remains unresolved, it is escalated to the director. If the patient is still unsatisfied with the proposed solution, the matter may be referred to the authorities if not properly addressed. Major complaints concern the quality of care or rejection and can cause significant damage if not appropriately managed, thus requiring investigation.

Moderate complaints necessitate investigation but do not result in significant harm to the patient. Minor complaints can be easily resolved and are non-impactful, while minimal complaints typically arise from misunderstandings or annoying behavior. The absence of a specialized complaints division leads to unclear and unstructured complaint handling. This lack of structure poses a challenge as involved parties prioritize their primary duties over complaint resolution. Therefore, there is an urgent need for a dedicated division specializing in complaint handling, staffed with experts to avoid ambiguity in resolution and task execution. The low level of complaint handling in public services in Indonesia stems from the lack of a structured, dedicated complaints division.

Social media has become a platform where patients seek justice when normative pathways are perceived as difficult to pursue. The contribution of social media can sometimes serve as a means of addressing such issues, as illustrated in the case of harassment at a renowned private hospital in Surabaya, where a male nurse was accused of inappropriate behavior towards a female patient under anesthesia post-surgery. The hospital responded by dismissing the nurse, and legal proceedings were initiated. From the patient's perspective, legal protection should have been provided as she was a victim whose identity was clearly stated in the court's decision, contrary to the Witness and Victim Protection Law Article 1, Paragraph (3). The hospital also failed to offer legal protection to its healthcare staff by merely terminating the nurse's employment without providing any form of repressive legal protection, which should have been implemented when a dispute arises.

Complaints are not exclusively negative but can also have positive impacts. Positive outcomes of complaints for hospitals include serving as feedback for identifying areas requiring improvement, contributing to a positive hospital image when handled and resolved effectively, and offering honest insights that can lead to constructive changes. A strong hospital image can enhance patient loyalty, increase visits, and influence patient interest. Patient satisfaction creates a strong bond, encouraging patients to return to the hospital. According to Krisantus, Chriswardani, and Hardi, key inputs for effective complaint handling include:

- 1) Commitment,
- 2) Responsiveness in handling complaints—delayed or prolonged complaints handling negatively affects the hospital's trust and patient satisfaction levels,
- 3) Facilities,

- 4) Easy access to lodge complaints and receive attention from the hospital,
- 5) Human resources,
- 6) Specialized training in complaint handling to improve skills,
- 7) Learning,
- 8) Record-keeping, documentation, and evaluation,
- 9) Guidelines,
- 10) Standard Operating Procedures (SOPs) in complaint handling

According to Krisantus, Chriswardani, and Hardi, three major obstacles in complaint handling are:

1. The complaint handling system has not been fully optimized.
2. There is no formal training for staff in handling complaints.
3. Complaint handling evaluations have not been conducted.

Improperly managed complaints can negatively affect the hospital's image, particularly when complaints are raised on social media, leading to potential damage to the hospital's reputation. Freedom of expression can become a criminal issue if not used appropriately, as defamation in complaints can result in immaterial harm that cannot be quantified monetarily.

The process of dialogue and mediation aims to create agreements for resolving criminal acts that are fair and balanced between the victim and the perpetrator. Solutions in criminal cases oriented towards victims can be approached through restorative justice. Restorative justice is a victim-oriented approach that emphasizes justice and balance, rather than an adversarial system that pits winners against losers. It focuses on facilitating dialogue among all affected parties, including the victim, the perpetrator, their supporters, and the community. The essence of restorative justice principles is the respect for human dignity and the acknowledgment that people can make mistakes. Restorative justice offers values such as:

- a. Moving from punishment to reconciliation,
- b. Shifting from retribution against the perpetrator to healing the victim,
- c. Transitioning from isolation and violence to community participation,
- d. Turning from negative destruction to constructive improvement and forgiveness filled with compassion.

The difference between criminal law and restorative justice lies in the approach: criminal law seeks to create a deterrent effect on the perpetrator and prevent similar actions by others, while restorative justice focuses on victim orientation, aiming to restore the victim's losses and ensure a sense of justice. In the legal structure, Indonesia is more familiar with the Criminal Justice System (CJS), which seeks to rehabilitate wrongdoers or at least prevent future wrongdoing. However, CJS is formally designed to focus on retributive justice, where the state punishes the perpetrator on behalf of the victim, but the victim does not directly benefit from this process. In contrast, restorative justice involves the victim directly in determining the perpetrator's responsibility, fulfilling the sense of justice.

According to Musu et al. (2020), two systems for complaint handling can be developed:

1. Developing a transparent complaint handling mechanism.
Transparency must be open, easily accessible to all parties in need, adequate, and easily understood. This includes providing social media services for complaints and establishing a dedicated handling team.
2. Developing a complaint handling strategy:
 - a) Effective policies to create a more cooperative, communicative, and responsible hospital management organization.
 - b) Supporting facilities and infrastructure for complaint handling to ensure the process runs smoothly and as expected. This includes assigning staff and providing a dedicated space for direct complaints, while indirect complaints can be made via phone, complaint

forms, suggestion boxes, email, or social media platforms like Facebook, Instagram, X, WhatsApp, TikTok, etc., ensuring patients can easily submit complaints.

- c) A complaint handling model where the hospital appoints public relations as the responsible party, with staff or customer service as the frontline in addition to the relevant unit. Their tasks include handling complaints, answering questions, providing information, and monitoring/responding to the relevant unit. They also report to leadership so that the leadership is aware of the issues occurring in the hospital.

CONCLUSION

From the discussion above, it can be concluded that complaints are feedback from patients to hospitals arising from the legal relationship between the hospital, healthcare workers, and patients, as regulated by the Health Law and Consumer Protection Law. Complaints usually stem from inadequate service, insufficient facilities, or suboptimal human resources. Social media is often used as a complaint platform because it is quick and easily accessible, but it can also potentially lead to defamation cases. Hospitals and healthcare workers, as legal entities, may suffer losses due to social media complaints and fall under the category of secondary victimization.

Legal protection for them is stipulated in the Witness and Victim Protection Law and the Health Law, which gives hospitals the right to sue the responsible parties and protect healthcare workers from defamation. However, legal protection in Indonesia for corporations against defamation is still insufficiently guaranteed. To address complaints, hospitals are advised to have social media accounts as a complaint platform and establish a specialized division experienced in complaint handling and knowledgeable about relevant regulations, similar to the compliance divisions in banking. Moreover, clearer regulations regarding corporate defamation and the application of restorative justice concepts that involve the victim more directly in the recovery process are needed.

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