

Legal Responsibility of Accreditation Institutions for the Fulfillment of Patient Rights at Plenary Accredited Hospitals in Indonesia

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Abstract- Hospital accreditation encourages change toward higher-quality hospital services and increases interdisciplinary cooperation in patient care. In this case, the Ministry of Health has established 6 Independent Hospital Accreditation Organizing Institutions to improve the quality of hospital services and patient safety to achieve good hospital governance and clinical governance. The division of duties, authorities, and responsibilities of each Independent Hospital Accreditation Organizing Institution must support establishing these six institutions. The type of research used in this study is legal research conducted by examining legal norms in an applicable law relating to the subject matter. This study analyzes the authority and legal responsibility of the Independent Hospital Accreditation Organizing Institution for hospital accreditation. The results of the study show that granting authority to the Independent Hospital Accreditation Institution still requires fundamental arrangements related to the distribution of duties of each institution to have legal certainty and a stronger position, as well as to some losses experienced by patients when receiving health services at hospitals that have been fully accredited, the legal responsibility of the Independent Hospital Accreditation Institution for Hospital accreditation status has implications for administrative law. Hospitals can be held civilly liable, namely hospital liability due to hospital negligence as a corporation and hospital liability due to health workers in the hospital.

Keywords- Quality of Medical Services, Hospital Accreditation, Hospital Accreditation Providers.

I. INTRODUCTION

In line with the times, problems related to the quality of health services and improving the quality of health services are essential for hospitals to provide optimal services according to patient standards. Various quality improvement efforts have been developed by the Ministry of Health, including the Accreditation of health service providers. Therefore, the momentum of Accreditation is the primary strategy to improve the quality of hospital services. Based on the provisions of Article 40 of the third part of Law Number 44 of 2009 concerning Hospitals (herein referred to as the Hospital Law) states that all hospitals in Indonesia are required to carry out Accreditation where it is

expected that the quality of hospitals will increase, the quality of services provided by each profession greatly determines the survival of hospitals. The primary purpose of hospital accreditation is that the quality of services provided is integrated and becomes the culture of the service system in the hospital. In particular, the objectives of Accreditation activities are: (Poerwani dan Evle Sopacua, 2006).

- a) Obtain an idea of how far hospitals in Indonesia have met various specified standards so that the quality of hospital services can be accounted for;
- b) Provide recognition and appreciation to hospitals that have achieved health service levels in accordance with established standards.;
- c) Assure hospital staff that all necessary facilities, manpower, and environment are available so that they can best support healing and treatment efforts;
- d) Provide assurance and satisfaction to individuals, families, and communities as customers that the services provided by the hospital are provided as well as possible.

As stipulated in the provisions of Article 5 of the Regulation of the Minister of Health of the Republic of Indonesia Number 12 of 2020 concerning Hospital Accreditation (hereinafter referred to as Permenkes Number 12 of 2020) related to the granting of hospital accreditation given by an independent institution providing Accreditation determined by the minister, therefore in order to improve the quality of health services carried out in hospitals, the Ministry of Health through the Decree of the Minister of Health of the Republic Indonesia Number HK.01.07 / MINISTER of HEALTH / 406/2020 concerning the Establishment of the Hospital Accreditation Commission as an Independent Institution for Hospital Accreditation Number HK.01.07 / MINISTER OF HEALTH / 406/2020) jo. Decree of the Minister of Health of the Republic of Indonesia Number HK.01.07 / MINISTER OF HEALTH / 6604 / 2021 concerning Independent Institutions Organizing Hospital Accreditation Number HK.01.07 / MINISTER OF HEALTH / 6604 / 2021). The independent institutions appointed by the government are :

- a. Hospital Accreditation Commission;
- b. Indonesian Health Facility Accreditation Institute;
- c. Damar Husada Plenary Hospital Accreditation Institute;
- d. Hospital Accreditation Institute;
- e. Hospital Patient Safety Quality Accreditation Institute;
- f. The Indonesian Hospital Accreditation Institute.

The importance of Accreditation for a hospital is as a tool to determine whether the hospital meets standards designed to improve safety and quality of service, where Accreditation standards are in the form of optimal and achievable requirements. (Angelia W. Keles, G. D Kandou, and Ch. R. Tilaar, 2015). Accreditation demonstrates a hospital's real commitment to improving the safety and quality of patient care, ensuring that its service environment is safe and that the hospital constantly strives to reduce risks to patients and hospital staff. Thus, accreditation is needed as an effective way to evaluate the quality of a hospital and at the same time acts as a means of management.

The impact of Accreditation for Hospitals is that Hospitals can find out the extent to which services at the Hospital meet nationally applicable standards. Accreditation status can also increase public confidence in services at the Hospital and as a tool to prevent malpractice cases, Karen in carrying out their duties, personnel at the Hospital already have clear Standard Operating Procedures. (Brigitte David, 2020)

In practice, many independent institutions organize hospital accreditation graduate plenary accredited hospitals which, in fact, elements of the assessment are carried out by taking into account the completeness of documents, search results, field visits, simulations to officers, interviews, and clarifications that are not met. This will have a positive impact on the hospital because accreditation can increase public confidence in hospital services. However, this also has a negative impact on patients, which does not rule out the possibility of malpractice cases because in carrying out its duties, the hospital does not have clear Standard Operating Procedures.

Hospital accreditation in Indonesia is carried out to assess conformity with Accreditation standards. That, against that legal fact, logically requires clarity in the form of legal rules related to the duties, authorities, and responsibilities of each independent hospital accreditation institution. And there needs to be a continuous assessment by an independent institution organizing hospital accreditation. It aims to collect various information and experiences related to hospital accreditation standards. If the standard no longer reflects the latest healthcare practices, common technologies, quality management practices, etc., the standard will be revised or scrapped. However, awareness of the importance of Accreditation for improving the quality of patient care, despite its increasing prevalence, is still not understood.

II. METHOD AND THEORITICAL FRAMEWORK

The type of research used in this study is legal research. Peter Mahmud Marzuki, *Legal Research*, Revised Edition, Kencana, Jakarta, 2016, h.56. This type of research is carried out by reviewing legal norms in applicable laws and regulations related to hospitals, hospital accreditation, hospital accreditation standards, and hospital accreditation institutions. The approach in this study is the Statute Approach, Conceptual Approach, Legal Reform Approach, and Comparative Approach. The sources of legal materials used in this study are primary legal material sources, secondary legal material sources, and tertiary legal material sources. Collection and processing of legal

materials using literature studies and identification of laws and regulations related to the subject matter in this study.

III. RESULT AND FINDINGS

A. Legal Rules for the Implementation of Accreditation

Accreditation by language comes from the English "Accreditation," which means recognition. Accreditation to hospitals in Indonesia is given by an independent hospital accreditation agency, while international accreditation is given by the International Society for Quality in Health Care (ISQua). (Kamalia, 2022) Hospital accreditation based on the provisions of Article 1 paragraph (1) of the Minister of Health Number 12 of 2020 states that Hospital Accreditation, hereinafter referred to as Accreditation, is an acknowledgment of the quality of hospital services after an assessment is made that the hospital has met the Accreditation standards. In other words, Accreditation is a form of recognition given by the Government of the Republic of Indonesia to hospitals because it has met predetermined standards with the status of Primary, Madya, Utama, or Plenary Accreditation. (Widajat, 2021)

The main purpose of Accreditation is to improve the quality and quality of hospital services and promote the performance of hospital management effectively and efficiently; through Accreditation can also guarantee the improvement of hospital classes, make hospitals safe from lawsuits, and can satisfy all parties. (Kamalia, 2022) This objective is stated in the provisions of Article 2 of the Regulation of the Minister of Health Number 12 of 2020 mentions several objectives for regulating the Accreditation of hospitals, including:

- a. Improve the quality of hospital services on an ongoing basis and protect the safety of hospital patients;
- b. Improve protection for the community, human resources in hospitals, and hospitals as institutions;
- c. Improve hospital governance and clinical governance;
- d. Support government programs in the health sector

The success of an Accreditation can be assessed from the commitment of all human resources in the hospital to achieving the success of Accreditation, not infrequently this is interpreted as a formal evaluation process by an external body with the aim of providing assurance and quality improvement. (Solehudin and Sancka Stella Ganianda Sihura, 2023) Referring to the so-called Minister of Health Regulation Number 12 of 2020, it can be found that the implementation of Hospital Accreditation as stipulated in Articles 7 to Article 14 is carried out through various stages, including:

- a. Accreditation Preparation
- b. Accreditation Assessment
- c. Implementation of Post-Accreditation

Hospital Accreditation Standards are used as an advantage for independent institutions organizing hospital accreditation in accordance with the provisions of laws and regulations. Hospital Accreditation Standards are grouped

according to important functions that are common in hospital organizations. Changes in the pattern of hospital quality and efficiency from time to time continue to be carried out by the government in an effort to improve services to the people of Indonesia by issuing various policies that encourage both government-owned and local government-owned hospitals to continue to improve themselves.

Various regulations from the government were formed and expanded in scope that encouraged the hospital; in this case, the management looked for the right strategy in developing hospital facilities and infrastructure in order to meet the demands of the community. In fact, the standards used as assessment components in Accreditation surveys are to be met and implemented in the long term, not only during Accreditation surveys. With the same cooperation and enthusiasm from all parties in the hospital, it is not impossible to create high-quality health services that last for the community.

B. Authority of Accreditation Organizing Institutions

Juridically, the definition of authority is the ability given by laws and regulations to cause legal consequences. (Indrohato, 1994) There are 2 (two) types of authority, including free authority (*verijebevoegdheid*), authority originating in the *freisermessen* or attached to the government as a state administration. Bound authority (*gebonden bevoegdheid*), authority derived from applicable laws or regulations both by attribution, delegation, and mandate. Attribution is the authority of the government to carry out actions that come directly from the law materially, which means that the authority is actually contained in the material of the law, and the authority is attached to a position. Delegated authority is the delegation of authority from one organ of government to another, while mandate is an internal working relationship between the ruler and his employees; in certain cases, an employee obtains authority for and on behalf of the ruler. In the event of a mandated transfer of authority, there is no new grant of authority or delegation of authority from one State Administrative Agency or Officer to another. But the responsibility still rests with the mandate to give. (Hadjon, 2022) These three are the authority given by the state to run a wheel of government so that the government runs according to the objectives mandated by the constitution.

Based on the construction of professionalism, the demands on the expertise and dedication of independent institutions organizing Accreditation with the granting of authority must be in line with the provision of income and proper facilities. Independent institutions organizing Accreditation with their authority are entitled to adequate facilities proportionally; it should also be noted that the authority possessed by independent institutions organizing Accreditation is the authority of the mandate. Mandate authority is the transfer of authority owned by the recipient of the mandate without the granting of new authority or delegation of authority from one State Administrative Agency or Officer to another. In other words, the responsibility still rests with the mandate giver. This can be

seen from several laws and regulations that have regulated it, including:

- a. The regulation of Hospitals and the provisions of Article 40 paragraph (2) are the legal basis for granting authority to independent institutions organizing Accreditation in the implementation of Hospital Accreditation. This provision also orders the minister of health to establish an independent institution for accreditation providers to assist the government in terms of improving the quality of hospital services in a sustainable manner, improving hospital governance and clinical governance, and supporting government programs in the health sector.
- b. Regulation of the Minister of Health Number 12 of 2020, as well as the provisions of Article 40 paragraph (2) of the Hospital Law, that in the event that the implementation of Accreditation is carried out by an independent institution that organizes Accreditation from within or outside the country.
- c. Chief Minister of Health Number HK.01.07/MINISTER OF HEALTH/406/2020) jo. Chief Minister of Health Number HK.01.07/MINISTER OF HEALTH /6604/2021. This decision follows up on existing provisions in both the Hospital Law and the Chief Minister of Health number 12 of 2020. The Ministry of Health through this decree has established 6 independent institutions organizing hospital accreditation, as non-governmental institutions under the auspices of the ministry of health.
- d. Chief Minister of Health Number HK.01.07/MINISTER OF HEALTH /1128/2022, In line with the establishment of an independent institution providing Accreditation, the Ministry of Health establishes hospital Accreditation standards, which can be used as a reference for institutions in providing Accreditation to hospitals.

Granting authority to independent institutions organizing Accreditation has consequences and has no coercion. In other words, the regulation on granting authority to independent institutions organizing Accreditation must be in line with the objectives of the law, namely creating a balance between justice, certainty, expediency, and order, which in this case is in the health sector. Such formulations at least produce understanding as follows.:

 - 1) The granting of authority to independent institutions providing Accreditation in the health sector is closely related to the competence of hospitals in providing health services;
 - 2) The granting of authority to independent institutions organizing Accreditation is closely related to the involvement of several stakeholders, such as the ministry of health;
 - 3) Granting authority to independent institutions providing Accreditation is the target of the National Medium-Term Development Plan in an effort to increase the coverage of hospital accreditation;

The background of granting authority accumulatively has the main juridical footing in the Hospital Law, while the operational regulation of granting authority is regulated in the Regulation of the Minister of Health Number 12 of 2020, Kepmenkes Number HK.01.07 / MINISTER OF HEALTH / 406/2020jo. The chief minister of health Number HK.01.07/ MINISTER OF HEALTH /6604/2021, and Chief Minister of Health Number HK.01.07/MENKES/1128/2022. Strictly speaking, various laws and regulations related to granting authority to independent institutions organizing Accreditation can be accounted for consistently, harmoniously, systematically, and synchronously, both at the vertical and horizontal levels. Kepmenkes Number HK.01.07/ MINISTER OF HEALTH /406/2020jo. The Chief Minister of Health, Number HK.01.07 / MINISTER OF HEALTH / 6604 / 2021, is still very general, so it needs to be further regulated and specifically related to the division of duties of each institution so that the implementation of Accreditation runs with the division of.

Granting authority to several institutions with the same action, namely the implementation of hospital accreditation, logically requires clarity in the form of a legal basis related to the division of duties and authorities of each institution. Granting authority is only possible if it has a strong legal basis; without clarity on the legal basis related to the authority of each independent institution administering Accreditation, it will only add to problems as well as confusion in the community.

C. Comparative Study of Accreditation Arrangements in Hospitals Between Countries in Asia

Hospital accreditation is the recognition of hospitals given by an independent accreditation provider established by the minister of health after it is assessed that the hospital meets applicable hospital service standards to improve the quality of hospital services on an ongoing basis. Accreditation is mandatory for all hospitals, both public / government hospitals and private/private hospitals and State-Owned Enterprises. The Government of Indonesia, in this case, has made a policy related to quality improvement that must be carried out by hospitals, namely the hospital accreditation system and independent institutions organizing hospital accreditation. Each country has a hospital accreditation system that varies according to country conditions, which causes differences in the quality of services and the level of health status produced. The following hospital accreditation systems in several countries include:

1. Accreditation Agencies and Hospital Accreditation Systems in Malaysia

Related to the health service quality assurance program, especially in terms of hospital accreditation, the Ministry of Health Malaysia in KMK. KPK.5305.20/11 dated 27 November 2006 stated that the Ministry of Health Malaysia is very pleased with the collaborative relationship between the Malaysian Society for Quality in Health and the board of the Accreditation federation and would like to reaffirm the support of the initiative undertaken by The Ministry of Health Malaysia in this regard recognizes MSQH as the national Accreditation body for healthcare facilities and

services in Malaysia, with the expectation that relevant stakeholders in the healthcare field will collaborate with MSQH to develop standards and implement Accreditation programmes for healthcare facilities. This recognition aims to expand and strengthen MSQH's role as the premier Accreditation body for healthcare facilities and services in Malaysia.

There are six areas that are the focus of the Malaysian Society for Quality in Health program in measuring standards in namely, organization and management, safety quality improvement activities and special requirements, facilities and equipment, human resource development and management, policies and procedures. Safety aspects are the most important part of hospital accreditation standards, in which case hospitals that meet all standards but do not meet safety requirements will not be accredited. Malaysian Society for Quality in Health standards apply to all types of hospitals both public and private, and in rural areas as well as in urban areas. Hospital Accreditation levels are divided into 3, namely:

- a. 4Year Accreditation
- b. 1Year Accreditation
- c. Non Accreditation

2. Accreditation Agencies and Hospital Accreditation Systems in India

The Right to Information Act 2005 states that health services provided by various public and private providers must be subject to various regulations, with varying degrees of compliance. India has enacted several laws to regulate healthcare providers. Diantaranya yakni Undang-Undang Dewan Medis India Tahun 1956 (the Medical Council of India Act, 1956), Undang-Undang Dewan Pusat Kedokteran India Tahun 1970 (The Indian Medicine Central Council Act, 1970), Undang-Undang Kehamilan Tahun 1971 (The Medical Termination of Pregnancy Act, 1971), Undang-Undang Teknik Diagnostik Pra-Kelahiran (Peraturan dan Pencegahan Penyalahgunaan) Tahun 1994 (The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994), Undang-Undang Pendirian Klinis Tahun 2010 (The Clinical Establishments Act, 2010), Undang-Undang Perlindungan Konsumen Tahun 1986 (The Consumer Protection Act, of 1986), dan Undang-Undang Hak atas Informasi Tahun 2005 (The Right to Information Act, 2005).

Hospital accreditation in this regard refers to The Clinical Establishments (Registration and Regulation) Act of 2010 which mandates the registration of all clinical institutions and provides guidance on specific standards and processes that must be met. The National Accreditation Board for Hospitals & Healthcare Providers is a Constituent Council of the Quality Council of India, set up to run Accreditation programmes for healthcare organisations..

National Accreditation Board for Hospitals Formed to meet consumer needs and set benchmarks for the progress of the health industry. National Accreditation Board for Hospitals is supported by all stakeholders including industry, consumers, government, has full functional autonomy in its operations. NABH is a member of ISQua, in addition National Accreditation Board for Hospitals is a

member of the ISQua Accreditation board, and National Accreditation Board for Hospitals also joins the Asian Society for Quality in Healthcare (ASQua). The scope of National Accreditation Board for Hospitals's authority consists of, Accreditation of health facilities, Quality promotion, Public lecture activities, advertising, workshops/seminars, Quality & Patient Safety Education and Training, and Endorsement of various health service quality courses/workshops..

National Accreditation Board for Hospitals standards cover almost all important aspects of medical institutions, guidelines range from how hospitals should uphold patient rights to effective facility management to ensure safety for staff and patients. The National Accreditation Board for Hospitals Accreditation System is a multilevel system, with progressive Accreditation levels ranging from pre-entry, to full Accreditation. This provides an opportunity for smaller hospitals to apply for Accreditation, and seeks to improve the quality of care regardless of hospital size, and resources.

The Accreditation System that applies in both Malaysia and India has similarities, namely first, the implementation of Accreditation is only carried out by one organizing institution, namely MSQH is a hospital accreditation provider in Malaysia, and National Accreditation Board for Hospitals is a hospital accreditation provider in India. Second, hospital standards and service standards are cumulative and not alternative, in other words that the applicable standards must be met in whole not in part or one, if not met then the hospital is not accredited. Third, safety is the most important part of hospital accreditation standards in these two countries, in which case hospitals that meet all standards but do not meet safety requirements will not be accredited. Against Accreditation standards applicable in various countries, in this case Malaysia and India, can be a reference in hospital accreditation standards in Indonesia, accreditation standards must be projected in accordance with existing health service facilities in Indonesia.

D. ACCREDITATION AGENCY

1. Legal Responsibility of Accreditation Organizing Institutions for the Results of Hospital Accreditation Determination

Independent institution that organizes hospital accreditation as one of the authorized institutions in improving the quality of hospital services on an ongoing basis. The relationship between the independent institution providing Accreditation and the Ministry of Health, based on the authority of the mandate. This authority is a transfer of authority owned by the recipient of the mandate without the granting of new authority or delegation of authority from one State Administrative Agency or Officer to another. In other words, granting authority to independent hospital accreditation providers to be able to assist the government in terms of improving the quality of hospital services in a sustainable manner, improving hospital governance and clinical governance, and to support government programs in the health sector. However, the responsibility still lies with the mandate giver in this case is the Ministry of Health

The relationship between the independent institution that organizes Accreditation and hospitals is based on Article 40 paragraph (1) and paragraph (2) Regulation of the Hospital which states that in an effort to improve the quality of hospital services, Accreditation must be carried out periodically at least once every 3 (three) years, and carried out by an independent institution both from within and from abroad based on applicable Accreditation standards. An independent institution that organizes hospital accreditation is trusted as an authorized institution in providing recognition of the quality of hospital services, after an assessment is made that the hospital has met the Accreditation standards. While in this case the hospital is trusted as an institution that has medical personnel, who are able to provide health services to patients.

In administrative law theory, the principle of liability based on negligence or fault is known. Liability based on negligence or negligence is a subjective principle of liability, that is, a liability determined by the behavior of the perpetrator. This subjective nature can be found in the formulation of the theory of negligence, with the following formulation: "*the failure to exercise the standard of care that reasonably prudent person would have exercised in a similar situation*". (Bryan A. Garner, 2009). The nature of subjectivity appears in the category that a person who is prudent (prudent person) prevents harm to society.

Based on this theory, the negligence of government officials resulting in losses to their citizens is a determining factor in the right of citizens to file claims for compensation with the government. In addition to the factor of negligence or fault of government (officials), claims for compensation based on negligence are also submitted with other evidence, namely first, the defendant is a government official who really has an obligation to take actions that can avoid harm to its citizens. Second, government (officials) do not carry out their obligations to ensure the quality of their work, third, their citizens suffer losses, fourth, negligence (officials) of the government is a factor that causes losses to its citizens (causal relationship between negligence and loss).

Responsibility is a form of government accountability to parliament politically which includes shared responsibility and individual responsibility. Another form of responsibility is the legal responsibility of ministers and their employees for their actions. In the administration of statehood and government, responsibility is attached to office, which is juridically attached to authority. In a legal perspective, it is this authority that gives rise to accountability, in line with the principle: "geen bevoegheid zonder verantwoordelijkheid, there is no authority without responsibility". Granting certain powers to perform certain legal actions, giving rise to liability for the use of such authority.

Given that the basis for granting authority to independent hospital accreditation providers is mandated authority, where the responsibility remains with the mandate giver in this case is the Ministry of Health. Therefore, legal responsibility for the non-fulfillment of patient rights in plenary accredited hospitals has implications for

administrative law. The implications of administrative law in this case concern policies or provisions that are health service standards that must be met in the context of providing quality health services. The policy or administrative law provisions regulate the procedures for providing appropriate and appropriate health services in accordance with applicable Accreditation standards.

Given that the basis for granting authority to independent hospital accreditation providers is mandated authority, where the responsibility remains with the mandate giver in this case is the Ministry of Health. And the position of the independent hospital accreditation provider which is a legal body is determined through a Decree of the Ministry of Law and Human Rights based on a Notary Deed. In other words, the independent institution organizing hospital accreditation is not a body or official.

In the event of non-fulfillment of patient rights in plenary accredited hospitals, the flow of administrative legal accountability is first, the legal responsibility of the Ministry of Health in the form of revocation of the Decree of the Minister of Health related to the establishment of an independent institution organizing hospital accreditation, in this case, namely Kepmenkes Number HK.01.07 / MINISTER OF HEALTH / 6604 / 2021. The second is the enactment of the provisions of Article 20 of the Regulation of the Minister of Health 12 of 2020, which states that the independent institution providing Accreditation does not meet the requirements of the determination and obligations as stipulated in this Minister of Health Regulation, the Ministry of Health can revoke the determination of the independent institution providing Accreditation. In other words, some of the losses experienced by patients when receiving health services at hospitals that have been accredited well but the implementation of health services is not in accordance with applicable standards. Therefore, the independent institution administering Accreditation can be held legally liable based on this provision, which form of responsibility is in the form of revocation of the determination of the independent institution organizing Accreditation.

2. Civil and Administrative Law Responsibility of the Hospital for Non-Fulfillment of Patient Rights

The relationship between the hospital and the patient, commonly called the therapeutic agreement, can be categorized in the inspanningverbintenis agreement. Regarding the form of achievement that is the obligation of the hospital, of course, it cannot be separated from the concept of the type of engagement itself, namely inspanningsverbintennis and not resultaatsverbintennis. With this concept, health care providers (hospitals) are not required to provide healing considering that healing is the resultant of various factors; Starting from factors that are under the control of the hospital so that it becomes his responsibility to factors that are beyond the control of the hospital so that it is not his responsibility.

Not always medical services provided by health workers in hospitals can provide results as expected by all parties. There are times when the service occurs negligence of health workers that causes medical disputes, for this medical

dispute then the hospital will be held legally responsible which is an effort that can be taken by patients.

3. Hospital Liability for Non-Fulfillment of Patients' Rights in Health Services

Liability is stated in the provisions of Article 58 regulation of the Health which states that:

- 1) Everyone has the right to claim compensation against a person, health worker, and/or health provider who causes losses due to errors or negligence in the health services he receives.
- 2) The claim for compensation as referred to in paragraph (1) does not apply to health workers who take lifesaving measures or prevent disability of a person in an emergency.

In order to protect patients, the law provides a lawsuit to patients, in the event of a doctor's failure to fulfill contractual obligations. Liability, is a specific form of liability, liability refers to the position of a person or legal entity, which is considered to have to pay some form of compensation or indemnity after a legal event. (Dimas Fannyrza Yuriant Putra, 8 C.E.)

Regarding responsibility, Moegni Djojodirdjo explained that there is a responsibility for a perpetrator of unlawful acts, the perpetrator must be responsible for his actions and because of this responsibility the perpetrator must be held accountable for his actions in a lawsuit filed before the court by the sufferer against the perpetrator. Based on the above view, hospital liability for losses suffered by patients can be divided into two types, namely hospital liability due to hospital negligence as a corporation (corporate negligence), and hospital liability due to negligence of health workers in the hospital (vicarious liability of respondeo superior).

According to Emmanuel O. Iheukwumere, hospitals are directly liable based on the doctrine of corporate negligence if they do not carry out their obligations as follows: (Emmanuel O. Iheukwumere, 2001).

- 1) Maintain safe and adequate facilities and equipment for patients;
- 2) Selecting and placing competent doctors;
- 3) Supervise all persons providing medical services in the hospital;
- 4) Formulate, adopt, enforce adequate rules and policies to ensure quality medical care for patients

According to J. Guwandi, basically hospitals are only required to provide reasonable, safe, and adequate facilities and equipment in accordance with the standards or classes carried. In other words, hospitals are not required to equip with sophisticated or up-to-date facilities and equipment. In addition, hospitals are also required to always maintain their facilities and equipment, so that they are always in good condition and ready to be used at any time to provide medical services (Guwandi, 2005)

If the hospital does not properly maintain the facilities used to provide medical services to patients, so that when used in a damaged condition and then causes losses to patients, the hospital is directly responsible on the basis of corporate negligence. The hospital is declared liable for providing damaged equipment that causes injury to patients, the hospital is also directly responsible on the basis of

corporate negligence if it does not implement a referral system when it does not have adequate facilities (Guwandi, 2005).

Benchmarks for the occurrence of unlawful acts are described as acts or omissions that violate certain rights, violate legal obligations, or violate unwritten norms that apply in society. There are several elements of unlawful acts then divided into 4 criteria for unlawful acts of hospitals including: Violating Subjective Rights of Patients, Violating Legal Obligations of Doctors or Hospitals, Violating Decency in Medical Services, Violating Accuracy in Medical Services. Therefore, every action that causes harm to others, then he must pay compensation, as a form of responsibility for the losses that have been caused.

The regulation of law does not confirm or even regulate in detail about certain damages or about one aspect of compensation, so the judge in this case has the freedom to apply the compensation in accordance with the principle of propriety, as long as it is requested by the aggrieved party, namely the patient. This justification for the judge's freedom is because the interpretation of the words damages, costs and interest is very broad and can include almost anything related to damages.

4. Legal responsibility of hospital administration for patient rights

The hospital's legal responsibility to patients in the implementation of health services is born from civil law relations, but in the implementation of health services there are also implications for administrative law. In connection with legal actions committed by hospitals, as a corporation owned by government-owned enterprises (central or regional), the director (leader) of a public hospital is a public official. So when he entered into a therapeutic appointment on behalf of the hospital he did so as a public official (Erikson Sihotang, 2021).

Administrative law enforcement is carried out due to administrative violations of the establishment of hospitals and administrative violations of hospital ethics. To counteract 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 improve the ability of health workers to solve medical and non-medical problems in hospitals and create structures that support health services in a professional and quality manner. Other administrative law aspects in the legal responsibility of the hospital are seen in terms of the operation of the hospital and its health worker licenses, the obligations of the hospital (Erikson Sihotang, 2021).

IV. FINDINGS

Relying on the description above, the hospital is directly liable on the basis of corporate negligence if it does not carry out its obligations to the detriment of patients. But based on the provisions of Article 45 of the Hospital Law, the hospital's liability will be erased if the patient or his family refuses or stops medical services after the hospital provides a comprehensive medical explanation. The hospital is also not responsible for carrying out its duties in order to save the lives of patients. Elimination of hospital liability if

As for some losses suffered by patients when receiving health services, hospitals can be held legally responsible based on administrative law, Judges through the state administrative court in this case are authorized to provide sanctions in the form of concrete, individual, and final written determinations, which cause legal consequences for the hospital, namely in the form of revocation of business licenses and / or revocation of legal entity status and Accreditation certificates.

5. Legal Protection of Patients Against Non-Fulfillment of Patient Rights

Health service providers managed by the government and private parties offer various types of health services, especially hospitals aimed at all levels of society. The increase in medical technology and other components, forcing the hospital to think and try economically in managing its hospital. Hospitals are faced with competitive challenges and a competitive environment. Responding to the challenges of competition in the future, hospitals must be able to create new services and products that are high-tech, innovative and creative.

Hospitals are required to provide quality health services that include several things, namely adequate physical appearance, reliability, responsiveness, guarantees, feelings of safety and trustworthiness, empathy and affordability of hospitals both in terms of cost and location. Customer satisfaction measurement is one way to measure the appearance of hospitals in providing health services to the community. Monitoring of services provided to patients must continue. This condition is carried out as a step to see whether quality service has been provided to hospital service users or not. Continuous monitoring is part of continuous improvement of quality services and continuously improving in order to achieve quality health services.

Taking into account the rights possessed by patients, legally patient protection is guaranteed in laws and regulations. As stipulated in hospital rules, as the legal basis for health services in hospitals. House Rules have adopted the principles of good hospital governance, namely the principle of legality, the legal principle of human rights protection which is implemented in the principle of equality, the principle of justice. Furthermore, the principle of transparency, the principle of professionalism, the principle of legal protection, the principle of legal responsibility, and the principle of social function adopted by hospital rules are not yet known in the general principles of good hospital governance, and this will certainly affect the perfection of health services by hospitals.

the patient or his close relatives do not cooperate with the hospital to undergo diagnosis and treatment in accordance with existing guidelines.

Hospital liability due to negligence of health workers in the hospital (vicarious liability of respondeat superior). According to Hermien Hadiati Koeswadji, medical services in hospitals are generally carried out by teams that are usually led by experts who are not permanent hospital personnel. This kind of employment relationship contains

the principle of respondeat superior or captain of the ship. (Koeswadji, 2018). The doctrine of superior respondeat was described by Fred Moore as a universal rule that the principal or employer is liable for all wrongs committed by his servant while acting on the conduct of his business. This doctrine is based on the pattern of legal relations between superiors and subordinates that give birth to vicarious liability. (Fred Moore Whitney, 1891).

The application of the doctrine of superior respondeat may not be problematic if the legal relationship between hospitals and medical staff is an employment relationship. Not all medical staff who provide medical services in hospitals are domiciled as hospital employees, thus causing differences in views in understanding hospital responsibility. Ewoud Hondius argues, if it is difficult to identify whether doctors (not hospital employees) or nurses (hospital employees) are responsible for medical interventions that harm patients in hospitals. So the solution is to make hospitals directly responsible for failures in providing medical services, rather than being held accountable on the basis of the actions of their employees. (Hondius, 2010)

Soetodjo Prawirohamidjojo and Marthalena Pohan argue that risk liability puts hospitals in a disculperen position for unlawful acts of their employees, even though hospitals cannot prevent the actions of their employees. (R. Soetodjo Prawirohamidjojo dan Marthalena Pohan, 1979). Therefore, the hospital is always responsible for the actions of its employees, even though it turns out that it has tried its best to prevent its employees from committing unlawful acts. Referring to R. Wirjono Prodjodikoro's view, the legal logic is based on the hospital's negligence, which is not careful in selecting employees. (R. Wirjono Prodjodikoro, 2000).

The above view is in line with the provisions of Article 46 of the Hospital regulation, which confirms that the hospital is legally responsible for all losses incurred due to negligence committed by health workers in the hospital. In other words, the hospital is considered always liable for losses arising from the negligence of health workers in the hospital. Unlike the formulation of Article 1367 paragraph (3) of the Civil Code which still uses the pattern of legal relations between superiors and subordinates, the formulation of Article 46 regulation of the Hospital regulation no longer distinguishes the legal position of health workers in hospitals. The phrase "by health workers in hospitals" is a general sentence. This means that the health workers in question are not only health workers who are hospital employees, but also include independent contractors. As long as health workers commit negligence in the hospital, the hospital is liable for losses incurred. Negligence as referred to is divided into 2, namely, default and unlawful acts.

The benchmark for default can be seen from the agreement or agreement that occurs, and can only be done if there is a doctor's agreement with the patient. According to R. Wirjono Prodjodikoro, default criteria can be classified into three types, namely: a) Not fulfilling promises at all, b) Late fulfillment of promises, c) Fulfilling promises but not as they should. The above forms of doctor and hospital defaults are alternative, not cumulative, so committing one

of the two forms of default above without force majeure is already a default.

V. CONCLUSION

Granting authority to independent institutions providing Accreditation still requires a regulatory basis related to the distribution of duties of each institution, in order to have legal certainty, a stronger position and to build consistency, harmonization, systematic, and synchronization in terms of improving the quality of health services. Indonesia can implement a hospital accreditation system in countries that have succeeded in improving the quality of health services, including Malaysia and India. Of the two countries, the Accreditation system used is that there is only one national Accreditation body and the safety aspect is the most important part of hospital Accreditation standards, in which case hospitals that meet all standards but do not meet safety requirements will not be Accredited..

The position of the independent institution organizing hospital accreditation which is a legal entity determined through the Decree of the Ministry of Law and Human Rights based on a Notary Deed is not as an Agency or Official. Therefore, in the event of non-fulfillment of patient rights in plenary accredited hospitals, the flow of administrative legal accountability is first, the legal responsibility of the Ministry of Health in the form of revocation of the Decree of the Minister of Health regarding the establishment of an independent institution organizing hospital accreditation, in this case, namely the Chief Minister of Health Number HK.01.07 / MINISTER OF HEALTH / 6604 / 2021. The second is the enactment of the provisions of Article 20 of Permenkes 12 of 2020, which states that for some losses experienced by patients when getting health services at hospitals that have been fully accredited, the independent institution that organizes Accreditation can be held legally responsible in the form of revocation of the determination of the independent institution that organizes Accreditation.

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