LEGAL PROTECTION OF PATIENTS DURING PANDEMIC COVID-19

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ABSTRACT

This legal research aims to determine the implementation of legal protection for health services during the outbreak of the Corona Virus Disease (Covid-19) pandemic which spreads to all countries in the world without exception in Indonesia, including to various regions, one of which is in the Blora Regency, where patients, especially non-Covid-19 patients, need health service providers, both in health centers and in hospitals. This legal research uses empirical legal research that is descriptive in nature to review the implementation of applicable laws and regulations and compare it with the reality in the field. The research sources take primary data based on facts in the field and secondary data based on applicable laws and regulations Based on the results of research that has been done, it shows that during the Covid-19 pandemic the implementation of health services for non-Covid 19 patients in Blora Regency, several things were in accordance with health protocol standards and legal protection that patients received in the form of legal protection. both preventively and repressively based on Law Number 36 of 2009 concerning Health.

Keywords: Legal Protection, Patients, Covid-19 Pandemic

Introduction

At the end of 2019 the world was hit by the emergence of a new disease such as pneumonia originating from China in the form of Covid-19. Based on information from local Chinese authorities. the majority of patients infected with the disease came from the largest animal market in Wuhan City, China which sells various species of live animals (Paules, 2020). On March 11, 2020, WHO (World Health Organization) stated that Covid -19 is classified as a pandemic as stated in Presidential Decree Number 12 of 2020 concerning the Designation of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (Covid-19) as a National Disaster. recorded that there were 13,446,538 confirmed cases of Covid-19 on April 12, 2021 with deaths reaching 2,927,922 people (WHO, 2021). April 11, 2021, the confirmed victims of Covid-19 were 1,566,995 people with the death toll of as many as 1,566,995 people 42,530 people (Indonesian Ministry of Health, 2021). In all countries affected by the Covid-19 pandemic, fatalities were not only for patients affected by the Covid-19 virus but for non-Covid-19 patients, where according to BBC research, 130,000 non-Covid patients were found. 19 died as a result of not getting proper health services, this number is quite a lot when compared to the period before the Covid-19 pandemic (Main, 2020). This problem is no exception in Indonesia, where the Covid-19 pandemic period with the relatively long period of spreading the Covid-19 virus causes an increasing number of visitors who need health service facilities in intensive care units while the available facilities

are not proportional to the number of patients who need it, especially for patients. non-Covid-19 because the health service is fulfilled by Covid-19 patients, even if there are facilities for non-Covid-19 patients in the intensive care unit, the patient is required to run tests as a condition to obtain health services from these problems resulting in the impression of rejection of non-Covid patients. 19, but when a non-Covid-19 patient is in a critical condition who urgently needs help immediately if not helped it can cause death for the patient, All-Indonesian according to the Association stating that when a patient is affected by a positive case of Covid -19 in Indonesia continues to grow, all health service providers who provide intensive care units in both Java and Bali will no longer be able to accommodate patients both Covid-19 and non-Covid-19 who need health services in intensive care units (Anugerah, 2021) Another impact due to the spread of Covid-19 in various regions as health service providers during the Covid-19 pandemic the number of non-Covid-19 patients has decreased, unlike the situation before the Covid-19 pandemic where if this situation occurs it can harm the financial condition of health service providers which can lead to services. health collapses or stops (Ika, 2021).

The number of confirmed cases in Indonesia has not decreased due to several factors, including many people who do not comply with the health protocols set by the government, the dishonesty of patients affected by Covid-19 towards health workers, which causes health workers to be affected, for example in Dr. Kariadi Semarang because of the lying act of one

of the patients infected with Covid-19, causing as many as 46 health workers to be declared positively affected by Covid19 (Dwiputra, 2021).

In Blora Regency, the impact of the spread of Covid-19 was no exception affected by the spread of Covid-19, there were the first few cases, namely the number of non-Covid-19 patients at the Puskesmas and Blora Hospital during the Covid-19 pandemic decreased compared to before the Covid-19 pandemic. In addition, there is a rejection of non-Covid-19 patients. In addition, there was a rejection of non-Covid-19 patients infected with Dengue Fever (DB) with evidence in the form of a referral letter from a hospital in Jakarta assisted by a local health center that helped the patient to get intensive care, but as many as four hospitals in Blora Regency refused. These patients (Mustofa, 2021). These various problems are evidence of a decline in health services during the Covid-19 pandemic for patients, especially non-Covid19 patients in Blora Regency. An analysis of legal protection for health services in Blora Regency is needed during the Covid-19 pandemic, especially non-Covid-19 patients.

Method

The author uses a research method in the form of empirical legal research which collects data based on facts in the field and examines human behavior based on the problems studied (Muhdlor, 2012), is descriptive in nature which examines carefully the laws and regulations relating to the object of research, simultaneously studied about the implementation in the field (Sonata, 2014).

The data analysis technique is in the form of a qualitative analysis process from the results of interviews and documents used in this study to solve problems through the process of data reduction, data presentation, and drawing conclusions (Sutopo, 2006).

Result

Implementation of Health Services in Blora Regency During the Covid-19 Pandemic Masa Health Center Blora

Types of health services at the Blora Health Center during the Covid-19 pandemic, both individual health efforts and public health efforts are carried out based on the principle of preventing the spread of the Covid-19 virus chain where direct interaction between patients and health workers is reduced through optimizing home visiting activities through PIS intervention activities. PK (Healthy Indonesia Program with a Family Approach) and provides online health facilities for BPJS patients to be able to access the Mobile JKN application to get health services without having to meet face-to-face

at the Blora Health Center. Children) as well as immunization, because the type of service at the Blora Health Center during the Covid-19 pandemic carried out outpatient health services, adding facilities for health services in the form of examinations for handling Covid-19 including swab tests or rapid tests (Hasi 1 interview with Nur Betsia Betrawati, Head of UPTD Blora Health Center, 11 December 2020).

During the Covid-19 pandemic, the mechanism of health services at the Blora Health Center, both individual health efforts and public health efforts in order to prevent the spread of the Covid-19 virus chain, there were several changes in the mechanism, including prioritizing the 3M health protocol (washing hands, wearing masks, and maintaining distance). if the patient does not do it, then the Blora Health Center does not provide health services (Results of an interview with Dian Vistasari Dewi, at the Blora Health Center, January 30, 2021). The flow of services during the Covid-19 pandemic, starting with the patient registering at the counter and the puskesmas officer in charge of helping to arrange the administration needed by the patient, including the patient's medical record, then directing the patient to the required health service if there are patients with Covid-19 symptoms. screening will be carried out by being directed to the ODP room (People Under Monitoring) (Results of interview with Nur Betsia Betrawati, Head of UPTD Blora Health Center, January 30, 2021). In the hospital, after the patient performs the required health services, the patient gets a doctor's prescription according to his needs which is assisted by a puskesmas officer, if a general patient is required to pay at the Blora Puskesmas cashier, while BPJS or health insurance patients can go home immediately.

Blora Hospital

The types of health services available at Blora Hospital are in the form of complete health services for patients including 24-hour health services, outpatient care, inpatient care, central surgery and medical support. With the Covid-19 pandemic, health services at the Blora Hospital were added to health facilities in the form of a VIP ward, a Covid-19 isolation ward and the availability of swab tests or rapid tests for patients in need (Results of interview with Muhammad Jamil Muchlisin, Head of Services Division of RSUD Blora Blora, February 11, 2021). During the Covid-19 pandemic, the mechanism for implementing health services in the Blora Regional Hospital has prioritized and implemented health protocols, especially the 3M principles, namely wearing masks, washing hands and maintaining distance between individuals. Patients in Blora Hospital who need health services can choose to enter Blora Hospital either through the

outpatient door or the emergency room. Then the Blora Hospital patient is required to pass the screening stage, whether the patient is admitted through outpatient or emergency room including a quick check by the Blora Hospital officer on duty, namely by checking the patient's body temperature using a thermal gun and carrying out self-study filling. Meanwhile, Blora Hospital patients who entered through the ER did the screening stage accompanied by a doctor on duty with a quick check but added with supporting evidence through supporting examinations, namely evidence of laboratory tests, X-rays and SWAB tests. This is done as a determination of the classification of patients who are infected with the Covid-19 virus or not infected with the Covid-19 virus. If at the screening stage, Blora Hospital patients are proven to be infected with the Covid-19 virus, they will be isolated separately in the Covid-19 isolation room, whereas if at the screening stage, Blora Hospital patients are proven to be infected with the Covid-19 virus, they will be isolated separately in the Covid-19 isolation room, Blora Hospital patients who are not infected with the Covid-19 virus or non-Covid-19 patients will be treated according to the health care needed by Blora Hospital patients. In relation to the case of patient refusal at the Blora Hospital, where the patient was included in the category of non-Covid-19 patients and the patient entered through the ER where the doctor on duty was in accordance with the Standard Operating Procedure (SOP) to check the patient's condition which was not yet at that time. the patient is still good so it is recommended to be treated at home, while when the patient's condition is reported to be deteriorating, the Blora Hospital immediately takes care of the patient concerned.

Legal Protection for Patients in Blora Regency During the Covid19 Pandemic.

Corona Virus Disease (Covid-19) is a new type of coronavirus that attacks the human respiratory system which has a mild impact that can cause death for the sufferer. The spread of the Covid-19 virus is rapidly spreading in the community because of the pattern of transmission between one human to another, WHO (World Health Organization) as a world health organization as stated in the Presidential Decree of the Republic of Indonesia Number 12 of 2O2O concerning the Determination of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (Covid-19) As a National Disaster dated March 11, 2020 stated that the Covid-19 virus was a pandemic because almost all countries in the world were affected by the Covid-19 virus. The field most affected was the health sector. Health in accordance with the ideals of the 1945 Constitution of the Republic of Indonesia states that

health is a human right which is one of the elements of welfare that must be fulfilled by the state, in its implementation it is carried out as a the fulfillment of efforts to maintain and improve the health status of the community as high as possible based on nondiscriminatory, participatory, and sustainable principles aimed at planning the formation of human resources in Indonesia in the context of increasing resilience because if there is a disturbance in the health sector, it will have an impact on the economy which will cause huge losses. Notoatmodio, 2010). Based on the importance of the health sector for the life of the state, it became the origin of the formation of regulations in the field of health law regulated in Law Number 36 of 2009 concerning Health in conjunction with Law Number 23 of 1992. Implementation in the health sector is assisted by the central government. The local government is responsible for and supervising the health services assisted by the community (Notoatmodjo, 2010).

During the Covid-19 pandemic that hit Indonesia, which spread to various regions including Blora Regency. The regional government of Blora Regency in the implementation of health services includes having a Blora Health Center and Blora Hospital which in its implementation is responsible for the Blora Regency regional government, the regional government in its implementation must be in accordance with the government above it, namely the central government, in dealing with the Covid-19 pandemic, the central government issues Decree of the President of the Republic of Indonesia Number 12 of 2O2O concerning the Determination of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (Covid-19) as a National Disaster and Presidential Instruction Number 6 of 2020 concerning Improvement of Discipline and Law Enforcement of Health Protocols in the Prevention and Control of Corona Virus Disease 2019 (Covid). -19) where the Blora Regent was given the mandate as Chair of the Task Force for the Acceleration of Handling Corona Virus Disease 2019 (Covid-I9) in the Blora Regency area where the Blora Regent issued Blora Regent Regulation No. 55 of 2020 concerning Implementation in Discipline and Law Enforcement of Health Protocols as an Effort for Prevention and Control of Corona Virus Disease 2019 (Covid-19), Blora Public Health Centers and Blora Hospitals as providers of health service facilities in Blora Regency must comply with these regulations. The implementation of these health services involves patients as parties who need health services and health workers as parties who provide their services in the context of healing patients. During the Covid-19 pandemic, the situation was different from the period before Covid-19, some non-Covid-19 patients were affected by the new

system during the pandemic to protect the interests of patients from the impact on health services of health service providers during the Covid-19 pandemic, by referring to Law Number 36 of 2009 concerning Health which regulates legal protection as a protector or human rights, rights and obligations are regulated in Articles 4,5,6,7 and 8 while obligations are regulated in Articles 9,10,11, 12 and 13.

During the Covid-19 pandemic season, every patient's right to a healthy environment is required as stated in Article 6 of Law Number 36 of 2009 concerning Health, namely an environment filled with people who obey health protocols to avoid the spread of the Covid-19 virus chain. Most of the interviewees interviewed by the author thought that there were still many patients or visitors who did not comply with health protocols. So that the existing obligations automatically need to be increased, namely the obligation of every patient and health service provider to comply with health protocols. In general, in Law Number 36 of 2009 concerning Health in 3 articles, namely articles 56, 57 and 58, it regulates legal protection for patients. Legal protection according to Philipus M. Hadjon is grouped into 2 parts, namely preventive legal protection including legal protection from the government for prevention before a violation occurs and repressive legal protection, namely final protection in the form of sanctions given to violators when there has been a violation or dispute in the form of fines, imprisonment and additional penalties (Rani, 2015).

In Law Number 36 of 2009 concerning Health Article 56 in paragraphs (1) and (2): (1) Everyone who has the right to accept or reject part or all of the assistance that will be given to him after receiving and understanding information about the action thoroughly complete .

(2) The right to accept or reject as referred to in paragraph (1) does not apply to: a. people with diseases whose diseases can spread quickly to the wider community; b. the state of an unconscious person; or c. severe mental disorder. Legal protection for patients in Article 56 of Law Number 36 of 2009 concerning Health can be categorized as preventive legal protection or prevention before violating the law, legal protection for patients is carried out in the form of providing informed consent. Informed consent comes from two words "informed" and "consent", "informed" which means information something (https://dictionary.Ca mbridge.org/dictionary/english/informed, accessed on March 4, 2021), while "consent" has the meaning of consent so that the meaning of informed consent is an agreement from the patient's side or can be represented by the patient's family for medical actions carried out by doctors as health workers who have knowledge in healing the patient's condition carrying out a medical action to the patient, this is where after the doctor provides an explanation of the health problems experienced by the patient and how problem handling The treatment is in the form of a medical action aimed at providing healing for the patient, but before carrying out the medical action, the patient or can represent the family who has the right to choose to accept or refuse, this right can be applied to every patient, except for patients who have infectious diseases to wider parties, patients who are not aware of themselves or patients who have mental disorders of the level (Busro, 2018). The detailed implementation of informed consent is regulated in Law No. 29 of 2004 concerning Medical Practice in Article 45 paragraph (4) where the consent made by the patient can be done either orally or in writing. Informed consent is stated by the patient orally if the risks arising from medical action by the doctor do not have a major impact on the patient, such as periodic health checks or administration of drugs for therapy and others, and vice versa, written consent is made because of medical actions taken by the doctor. the patient poses a large enough risk that it requires written evidence ending with a signature of approval by the patient if he agrees to it as stated in Article 45 paragraph (5) of Law Number 29 of 2004 concerning Medical Practice (Ramadianto, 2017). In the Blora Health Center, the form of legal protection from the article is carried out with the presence of direct or written informed consent. If the patient needs to receive health services at high risk, then as a form of legal protection for the patient, if the patient agrees, the patient is required to sign the written informed consent form, but if the patient does not wish to receive it, a separate form will be provided (Results of interview with Nur Betsia Betrawati, Head of UPTD Blora Health Center, 20 February 2021). Similar to the Blora Health Center, informed consent at the Blora Hospital was also carried out in the context of legal protection for patients, Muhammad Jamil Muchlisin as Head of the Service Division of the Blora Hospital, he stated that for cases of noncommunicable diseases or Covid-19 the hospital would respond in accordance with what was stated. desired by the patient and confirmed by informed consent (Results of interview with Muhammad Jamil Muchlisin, Head of Service Division at Blora Hospital, 11 February 2021). A total of 4 resource persons who were non-Covid-19 patients received health services at the Blora Health Center where the available health services were in the form of outpatient health services and generally non-Covid-19 patients received verbal informed consent because the health services obtained were not at great risk to the patient, so that doctors use verbal

informed consent in the form of doctors who are in charge of directly asking the patient whether the patient agrees to take medical action. At Blora Hospital, health services are in the form of outpatient, inpatient, central surgery and medical support, so there is also written informed consent, especially for patients who will undergo surgery at the central surgical health service. From the confession of 2 informants, informed consent in Blora Hospital has been carried out well, by providing choices and explanations to patients and their families are given the freedom between carrying out surgery or not with all the risks that exist and then stated in writing because the patient requires health services in the form of surgery, where these health services can provide a big risk so that the informed consent used is written informed consent in the form of a written form regarding the approval of health services to be carried out, as well as verbal informed consent 3 sources of non-Covid-19 patients at Blora Hospital admitted to informing consent has been carried out well.

In Law Number 36 of 2009 concerning Health Article 57 states that:

- (1) Everyone has the right to the confidentiality of his personal health condition that has been disclosed to the health service provider.
- (2) The provisions regarding the right to secret personal health conditions as referred to in paragraph (1) do not apply in the event that: a. statutory orders; b. court order; c. the relevant permit; d. public interest; or e. the person's interests.

In the article it is associated with preventive legal protection or prevention of violations of the law and that patients have the right to medical secrets (Mariani, 2015), health workers in order to minimize the risk of both the risk of disease transmission and legal risk, namely medical records (Results of an interview with Muhammad Jamil Muchlisin, Head of Service Division of Blora Hospital, 11 February 2021). Medical records are documents belonging to patients, health workers, especially doctors, are only entrusted by patients in the use of their medical records as medical needs only, so that the medical record document is owned by health service providers, both puskesmas and hospitals and is not allowed by any party to store the document. personally (Pitarti, 2020). Article 57 of Law Number 36 Year 2009 concerning Health is related to the realization of medical records as a form of legal protection for patients. According to Article 1 of the Regulation of the Minister of Health Number 269/Menkes/Per/III/2008 concerning Medical Records, medical records are files containing notes regarding documents patient examination, treatment, actions and other services that have been provided to patients. In its implementation the Blora Health Center stated that at the Blora Health Center had implemented arrangements regarding medical records where every patient who came, the puskesmas would make a medical record. In the case of a patient who needs it for temporary needs, on the condition that it must be returned back to the puskesmas and if for visa needs for certain parties, a letter from the police must still be included, then the puskesmas made proof of the loan by making a visit letter that had been recorded at the secretariat (results of an interview with Nur Betsia Betrawati, Head of UPTD Blora Health Center, January 30, 2021). Meanwhile, in RSUD Blora regarding the regulation of medical records according to Muhammad Jamil Muchlisin's statement as Head of the Service Division at Blora Hospital, namely keeping personal data and disease data secret by not informing or giving it to others except for legal purposes based on applicable regulations, there is a therapeutic agreement that will be agreed upon. jointly between the doctor and the patient, conveying their rights regarding their illness and what actions or therapy the doctor does to their body to help themselves and all the risks that may arise later (Interview with Muhammad Jamil Muchlisin, Head of Service Division of RSUD Blora, 11 February 2021). Based on the statement of the Blora Health Center and Blora Hospital during the Covid-19 pandemic, the procurement of medical records or maintaining the confidentiality of patient documents is entirely for the benefit of the patient as a form of preventive legal protection which is in accordance with the Act. g applies. Medical records are specifically for the benefit of patients and not for the public interest. If the public needs information about the patient's medical record, it is required to obtain approval from the patient or if there are parties who need it as proof of the post-mortem, it must be accompanied by a police letter which will be recorded at the secretariat or in accordance with the laws and regulations. The applicable laws, including the opinions of 9 non-Covid-19 patient sources, stated that there were no complaints or violations of the medical record system, both the Blora Health Center and the Blora Hospital, so that the legal protection of Article 57 of Law Number 36 concerning Health has been implemented.

Blora stated that it was hoped that there would be no violation of the law in Blora Hospital if there was a case, then Blora Hospital prioritized evidence in the form of informed consent and medical records as well as communication between the two parties by minimizing dispute resolution in court (Results of an interview with Joko Lelono as Head of Development and Information Blora Hospital, January 29, 2021), the statement was added by Muhammad Jamil Muchlisin as Head of the Blora Hospital Service

Division by studying every form of complaint or patient demand directed to the hospital whether the medical action given was in accordance with the existing Standard Operating Procedures or not., conducted mediation efforts to patients (Results of interview with Muhammad Jamil Muchlisin, Head of Service Division of Blora Hospital, 11 February 2021). Based on his statement, it is known that if at any time there is a violation of the law by the hospital, repressive legal protection is carried out by mediating the patient by discussing all complaints or demands by considering the existing Standard Operating Procedures. When the Blora Hospital was proven to have violated then Blora Hospital coordinates with the legal section of the regional secretariat, the police and the prosecutor's office to carry out compensation for patients.

Conclusion

Implementation of Health Services During the Covid-19 Pandemic Period in Blora Regency

The implementation of health services during the Covid-19 pandemic in Blora Regency, both in the Blora Health Center and the Blora Regional General Hospital, carried out preventive, curative, promotive and rehabilitative health services with responsibility for the Blora Regency service. already in accordance with the health protocol procedures that have been determined in the form of 3M implementation (washing hands, wearing masks, maintaining distance). During the Covid-19 pandemic there are several health services that are limited and added, among others in the form of swabs and rapid tests, specifically for General Hospitals The Blora area is one of the referral hospitals in Blora, providing health services to people affected by Covid-19 in the form of a Covid-19 isolation room.

Legal Protection for Patients in Blora Regency During the Covid19 Pandemic Period Based on Law Number 36 Year 2009 concerning Health

During the Covid-19 pandemic, legal protection for patients based on Law Number 36 of 2009 concerning Health in Blora Regency has not been carried out properly, namely by not fulfilling the patient's rights in Article 6 of Law Number 36 of 2009 concerning Health, namely the patient's right to an environment. In a healthy environment where the area is obedient or orderly with health protocols, while during the Covid-19 pandemic there are still patients in the Blora Health Center and Blora Hospital who have not complied with the health protocol, so the obligations between the patient and health service providers in fulfilling the health protocol need to be increased. legal protection for patients in Articles 56, 57 and 58. Legal protection is divided into 2, namely preventive and repressive. In Articles 56 and 57 legal protection is carried out preventively by maximizing the implementation of informed consent and medical records as a sign of legal protection for patients to obtain prevent violations of the law. Meanwhile, regarding repressive legal protection in Article 58, the health service provider implements it in accordance with the applicable legislation, namely through mediation and if it is proven that medical action is not in accordance with Standard Operating Procedures, compensation will be procured.

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