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Legal Protections of Pratama Clinic Doctors in Providing Aesthetic Services

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Abstract: Pratama clinic is a facility that provides limited medical services carried out by a doctor or dentist with technical responsibility. This research uses a type of normative legal research, namely deductively starting with an analysis of articles in statutory regulations and their relationship to their application in practice. The results of this research are that currently, the regulatory framework relating to medical aesthetics in Indonesia does not have formal regulations. Regulations regarding medical aesthetics refer to several regulations regarding related medical services and can be used as a legal basis for medical aesthetics. Legal protection for aesthetic doctors operating in beauty clinics is currently regulated by Law Number 29 of 2004 concerning Medical Practice. This law provides legal protection for doctors who comply with professional standards and standard operational processes when practicing.

Keyword: Legal Protection, Pratama Clinic, Health.

INTRODUCTION

Health is a basic human right guaranteed by the 1945 Constitution. Like health services in general, aesthetic health services also consist of three pillars, namely health efforts, health facilities and health workers (Dhea Wijaya, 2018). However, most of these efforts are preventive efforts due to the high demand from society to have an attractive appearance even though there are actually no health problems being experienced so that the majority of patients who come are in good health. Health facilities are in the form of clinics, and health workers should be skin and venereal specialists. These three pillars are interconnected with each other and each has an equally important role in creating optimal health services.

A pratama clinic is a facility that provides limited medical treatment services carried out by a doctor/dentist with the technical person in charge being a doctor, while a primary type clinic is a facility that provides limited medical action services and invasive (operative) medical procedures without anesthesia generally carried out by a doctor/dentist or specialist doctor/specialist dentist in accordance with their expertise and authority with the person in technical responsibility being a doctor (Jasmine Hanafi, 2013). Clinics can be owned by individuals or legally authorized business entities.

Clinic operational permits are regulated in Article 27 of Minister of Health Regulation Number 9 of 2014 concerning Clinics, which states that to obtain an operational permit, clinic organizers must:

- (1) Fulfill technical and administrative requirements.
- (2) Technical requirements include location, building, infrastructure, personnel, equipment, pharmaceutical and laboratory requirements.
- (3) Administrative requirements include building permits and recommendations from the district/city health service.
- (4) Operational permits are granted for a period of 5 (five) years and can be extended again as long as the requirements are met (Kementerian Kesehatan, 2014).

The provisions of Article 3 of Law Number 17 of 2023 concerning Health emphasize that Health Administration aims to:

- a. increasing healthy living behavior;
- b. improving access and quality of Health Services and Health Resources;
- c. improve effective and efficient human resource management;
- d. fulfill the community's need for Health Services;
- e. increasing health resilience in the face of outbreaks or epidemics;
- f. ensure the availability of sustainable and fair health funding and is managed transparently, effectively, and efficiently;
- g. realizing sustainable development and utilization of Health Technology; And
- h. provide legal protection and certainty for patients, health human resources and the community.

In accordance with UUPK Article 51 paragraph (2), doctors are required to refer patients to other doctors who have better expertise if they are unable to carry out an examination or treatment. In this case, general practitioners are considered incapable of treating diseases other than competency 4A in the SKDI and therefore the treatment of these patients should be handed over to other doctors who have better expertise or in this case specialist doctors. Even so, a re-examination needs to be carried out on the SKDI, considering that many diseases or complaints and therapeutic measures related to beauty are not listed in it.

Along with advances in science and technology, people are increasingly paying attention to their health status in order to improve their quality of life. The availability of quality health services for the community is something that must receive attention from the government as one of the efforts in development in the health sector. Health services to the community aim to create a healthy society. Comprehensive and integrated health efforts are needed to achieve the goals of health care.

The World Health Organization (WHO) defines health as "a state of complete physical, mental and social well-being, not only free from disease or weakness/disability". The definition of health put forward by WHO is an ideal state, from a biological, psychological and social perspective so that a person can carry out activities optimally. According to WHO, the three important components that form one unit in the definition of health are physical, mental and spiritual. So it can be said that health limits according to WHO include physical, mental and social.

Medical aesthetic services are basically medical procedures aimed at improving the physical appearance and patient satisfaction, using non-invasive to minimally invasive procedures. Patients seeking medical aesthetic services generally not only want to be in good health, but they also want to enjoy life to the fullest, stay fit and minimize the effects of aging. In addition, today people want fast, non-invasive procedures with short recovery periods and minimal risks. These factors are the reason for the popularity of medical aesthetic services throughout the world. Supervision of clinics that provide aesthetic health services, both preventive supervision and repressive supervision, is very necessary to protect patients and health workers themselves. Medical aesthetic services that are growing and developing are

aesthetic clinics which have become a necessity for people who need these services. The emergence of aesthetic clinics as a means of cosmetic services is growing rapidly. The growing public awareness of both men and women regarding healthy, well-maintained skin that is free from skin problems has resulted in aesthetic clinics generating positive impacts as well as legal problems.

The increasing needs of modern society in the field of aesthetics have led to the proliferation of beauty service facilities such as Skin Care, Beauty Clinics, Aesthetic Clinics, Slimming Centers and Beauty Centers. These service facilities often promote/promise maximum results in a short time to attract public interest in using these services, so legal issues must be accounted for. The structure of the discussion in this research was created systematically to answer the main problem formulation in accordance with the legal problems that have been described, namely the discussion regarding the Regulation of Medical Aesthetics in Indonesia and Legal Protection for Doctors Who Practice at the Pratama Aesthetics Clinic.

METHOD

In this research, we use a type of normative legal research, namely deductively starting with an analysis of articles in statutory regulations and their relationship to their application in practice (Roni Hanitijo, 1990). Normative juridical research is legal research that places law as a building system of norms regarding principles, norms, rules of legislation, agreements and doctrine. This legal research was carried out to obtain primary legal materials, secondary legal materials and tertiary legal materials related to the issues raised in this research.

RESULTS AND DISCUSSION

Aesthetic Regulations in Indonesia

The first medical aesthetic clinic in Indonesia was recorded as being founded in 1988 by Dr. Mochamad Affandi SpKK. After that in the 1990s the existence of medical aesthetic services in Indonesia continued to grow until now. General practitioners and specialist doctors who have an interest in the field Medical estheticians are part of the Indonesian Anti-Aging, Wellness, Aesthetic & Regenerative Doctors Association (PERDAWERI). Anti aging and aesthetics under the Indonesian Doctors Association (IDI) which was formed and inaugurated at the XXVIII IDI National Conference in Makasar in November 2012. Medical aesthetic procedures can be classified as medical procedures because those who carry out these procedures must have medical expertise. However, the benchmark for success in medical aesthetics is very unique because it is subjective from the patient's perspective and cannot be measured with certainty. Practitioners of medical aesthetics not only change the patient's physical appearance but also influence his psychological side, because the person can achieve desires related to his appearance.

The aim of medical aesthetic services in beauty clinics is to meet patients' needs in terms of appearance and self-confidence by treating complaints, delaying signs of aging, and improving physical appearance in relation to status, work, and social pressure. A decrease in physical attractiveness can affect a person's quality of life. Based on research by Vladimir, et al, the patient group most interested in improving their appearance is female and ages range from 40 to 60 years. Article 51 letter (a) of Law Number 29 of 2004 concerning Medical Practice states that in carrying out medical practice a doctor has an obligation to provide medical services in accordance with professional standards, standard operational procedures and the patient's medical needs. In this law and other laws relating to health, there is no definite explanation of what is meant by medical needs. However, if the patient feels psychologically depressed or lacks self-confidence because of his physical condition, then this is an indication of medical need because of the mandate of Article 1 paragraph (1) of the Republic of Indonesia Law no. 17 of 2023 concerning Health that what is meant by health is a person's healthy condition, both physically, mentally and socially and not just being free from disease to enable

them to live a productive life. Article 1 number 6 of Law Number 17 of 2023 concerning Health, Medical Personnel is every person who dedicates themselves to the Health sector and has a professional attitude, knowledge and skills through medical or dental professional education who requires authority to carry out Health efforts. In article 198 point 3 it is explained that the types of medical personnel as referred to in paragraph (1) letter a consist of doctors, specialist doctors and subspecialist doctors. As for Article 137 point 1, it is explained that reconstructive and aesthetic plastic surgery can only be carried out by medical personnel who have the expertise and authority. And in article 273 number 1, medical personnel and health workers in carrying out their practice have the right to receive legal protection as long as they carry out their duties in accordance with professional standards, professional service standards, standard operational procedures and professional ethics, as well as the health needs of patients.

According to Article 51 letter (a) of Law Number 29 of 2004 concerning Medical Practice, doctors are required to provide medical services in accordance with professional standards, standard operating procedures, and the specific medical requirements of their patients. The legal framework relating to healthcare is interrelated, but lacks a definitive and comprehensive explanation of patients' specific medical requirements. If someone experiences psychological pressure and lacks self-confidence to the extent that it hinders their ability to live a socially and economically productive life, this condition falls within the scope of medical needs as defined by Law Number 36 of 2009 concerning Health, specifically Article 1 Paragraph (1). According to this law, health includes the physical, mental, spiritual, and social well-being that enables individuals to live socially and economically fruitful lives. In providing medical aesthetic procedures where the goal is to add value to the appearance so that the patient feels confident, medical aesthetic practices not only change the physical appearance but affect the patient from the mental side. From a psychological perspective, patients change their appearance according to their wishes so that they are not depressed and are able to live a healthy life according to the definition of the Health Law.

Developing technology and science have made medical aesthetic services develop in Indonesia, they are safer and non-invasive but can produce immediately visible results and the public is increasingly open to these services. Even today, medical aesthetics has given birth to many beauty clinics which are a means to improve quality of life and self-confidence, and reach patients of various ages from teenagers to the elderly. The male gender is also currently open to receiving medical aesthetic services, not only female patients. According to the Guidelines for the Implementation of Aesthetic Beauty Clinics, aesthetic beauty clinics refer to health care facilities, both individual doctor practices and group practices, which operate on an outpatient basis. These clinics offer medical services such as consultations, examinations, treatments, and medical procedures aimed at preventing and treating various conditions or diseases related to an individual's aesthetic appearance. The provision of these services is carried out by qualified medical personnel, including doctors, dentists, medical specialists and dental specialists, in accordance with their areas of expertise and professional authority. Aesthetic doctors themselves are doctors who provide medical aesthetic services, which can be divided into two, namely genital skin specialists and general aesthetic doctors. In practice, aesthetic doctors in treating patients have the authority to take patient histories to determine patient complaints and symptoms, determine the implementation and treatment of patients, namely by carrying out actions in accordance with the competency standards of general aesthetic doctors and genital skin specialists, and prescribe forms of therapy to patients.

The term "aesthetic beauty clinic" is referred to in the Guidebook for the Implementation of Aesthetic Beauty Clinics, where it is defined as a health care facility (either an individual doctor's practice or a group practice of doctors) that operates primarily on an outpatient basis. These clinics offer medical services such as consultations, examinations, treatments, and medical procedures aimed at preventing and treating various conditions or diseases related to an individual's aesthetic appearance. The provision of these services is

carried out by qualified medical personnel, including doctors, dentists, medical specialists and dental specialists, in accordance with their areas of expertise and professional authority. This guideline differentiates between beauty salons and aesthetic beauty clinics where beauty salons are facilities that provide beauty services carried out by non-medical personnel (beauticians) while beauty clinics are facilities that provide beauty services where the personnel who carry out and are responsible are doctors (medical personnel). PERDAWERI has attempted to create special regulations regarding medical aesthetic services. These efforts include efforts to issue an Indonesian Medical Council Regulation regarding Additional Competencies in Aesthetics to the issuance of a Minister of Health Regulation regarding Aesthetic and Anti-Aging Specialist Clinics. In relation to this step, IDI (Indonesian Doctors Association) issued a decision, namely Decision of the Executive Board of the Indonesian Doctors Association No. 02374/PB/A.4/09/2018 concerning the Indonesian Aesthetic Medicine Council which was issued on September 14 2018 which ratified the formation of the Indonesian Aesthetic Medicine Council.

With its increasingly rapid development, in Indonesia there is no special regulation regarding the field of medical aesthetics in Indonesia so there is no clarity regarding the status of medical aesthetic services in health efforts. The impact is that there is no special protection for doctors who perform or patients who receive medical aesthetic services. The problems that often occur in health services in the aesthetic field are usually complaints such as not getting the results as promised. Meanwhile, aesthetics itself is a subjective matter regarding results and satisfaction. Existing regulations regarding aesthetic clinic services have not been regulated in detail in law, even though these services continue to develop. The conflict between the patient's desire as a consumer to get the desired results and the doctor's obligations should be balanced in the function of the needs of both parties in providing maximum service according to competence, making it something that can be accounted for. The definition of medical practice, as stipulated in Article 1 Paragraph (1) of Law Number 29 of 2004 concerning Medical Practice, relates to a series of actions carried out by a doctor or dentist on a patient in order to provide health services. The juridical definition of this formulation can be interpreted in various meanings according to the perspective of the definition maker. It's just that in the juridical definition of medical practice in accordance with the Medical Practice Act there are legal consequences. As is known, for criminal acts that are not contained in the Criminal Code (KUHP), the provisions of the Criminal Code also apply. There are qualifications for criminal acts in the Medical Practice Act as well as criminal acts in the Health Act. This can give rise to opportunities for different judges' interpretations of the same case. Case investigators can also apply formal law (KUHP) incorrectly due to bias in the cases they handle.

Legal Protection for Doctors Who Practice at the Pratama Aesthetic Clinic

Legal protection for doctors in the context of resolving medical disputes between doctors and patients is contained in Article 50 of the Medical Practice Law and Article 57 of the Health Personnel Law, but in practice cases of alleged malpractice that fail mediation will be handled by police investigators using procedures based on law. Criminal law (KUHP) as a reference because the Medical Practice Law does not regulate procedural procedures in cases of alleged violations of articles in the Medical Practice Law. This condition allows a conflict to occur where the doctor has carried out medical procedures in accordance with medical standards and operational standards, but if the result, as mentioned above, is if there are adverse events or things that cannot be predicted and occur until the patient is disabled or even dies, then the principle of *res ipsa loquitur* is processed legally because it is considered to have committed malpractice. In the Medical Practice Act, it is hoped that there will be a review and reconstruction of the law to answer contemporary medical cases. This medical aesthetic service includes contemporary medicine, which is indeed a health service, but if examined further, there are elements that differentiate it. An example is patient expectations. In conventional medicine,

patient hopes are limited to healing and restoration of function (curative and rehabilitative as healing targets). However, in contemporary medicine, with medical aesthetic services, patient expectations can be in the form of added value, namely the aesthetic value of appearance. This is a new addition to previously promotional, preventive, curative and rehabilitative health services. In case of failure to add value, the classification of malpractice can still be imposed on the doctor for failing to meet the patient's expectations despite having made maximum efforts (remembering that the involvement that can bind the aesthetic doctor and the aesthetic patient is *inspanningverbintenis* and *resultaatverbintenis* simultaneously).

The relationship between doctor and patient is a relationship based on trust and kinship, although this is a contractual relationship that has the nature of a bond between doctor and patient, giving rise to legal consequences. Service providers are obliged to provide performance and service recipients are obliged to provide counter-performance. The bond between doctor and patient is *inspanningverbintenis*, that is, doctors are only required to provide maximum effort in accordance with professional standards. In the event of a medical dispute, legal channels tend to be chosen because the law has a clear conceptual reference and the therapeutic relationship has legal consequences so that the law has binding force for the parties to implement their decisions. Legal remedies should be a last resort after other efforts have been unsatisfactory.

The legal risks faced by Pratama Clinic aesthetic doctors in Indonesia include:

1. Authority and Competence: General practitioners who perform aesthetic procedures and therapies may face legal risks if they do not have the necessary authority and competence.
2. Use of Medical Devices: Use of medical devices that do not have a permit can also pose legal risks.
3. Pharmaceutical Products: If doctors prescribe pharmaceutical products that are not licensed or outside their authority, this can also pose legal risks
4. Training: If doctors are not given training before dispensing cosmetics, then the doctor will not only violate statutory regulations, but there are concerns that the cosmetics that are formulated will cause harm to consumers.
5. Patient Loss: If the services provided by an aesthetic doctor cause harm to the patient, this can be brought into the realm of law

The medical profession is required to provide the best health services, especially now that the scope of knowledge has expanded widely, doctors have a big and noble responsibility, and are always obliged to prioritize professionalism in providing services. Doctors should not be defined by something that results in the loss of professional freedom and independence.

Legal protection for Pratama aesthetic clinic doctors in Indonesia is an important and complex topic. From the discussion above, that can summarize several important points such as:

1. In Indonesia, many general practitioners and specialists practice medical aesthetics, but there are no specific laws and regulations governing medical aesthetic services. This causes a lack of legal certainty and protection for patients and practitioners in the field of medical aesthetics.
2. Protection of citizens' constitutional rights to services at aesthetic beauty clinics in Indonesia includes the right to guarantee protection and legal certainty in accordance with the 1945 Constitution Article 28D paragraph 1 and 28H paragraph 1 regarding the right to health and the right to obtain health services.
3. Doctors receive legal protection as long as they carry out their duties in accordance with professional standards and standard operational procedures.
4. The legal basis that provides legal protection for doctors is contained in Article 50 of the Medical Practice Law, Article 24 Paragraph (1), Article 27 Paragraph (1) and Article 29 of the Health Law, and Article 24 Paragraph (1) of the PP concerning Health Workers.

Based on the case above, there must be legal protection for doctors, where legal protection is given to doctors. Forms of protection that can be applied if a violation occurs, such as the existence of rules governing the rights and obligations that must be fulfilled.

CONCLUSION

Currently, the regulatory framework relating to medical aesthetics in Indonesia does not have formal regulations. Regulations regarding medical aesthetics refer to several regulations regarding related medical services and can be used as a legal basis for medical aesthetics because basically medical aesthetic services are health service efforts in promotion, prevention, curative and rehabilitative if someone has medical needs that must be addressed to achieve a healthy state as defined by Law Number 17 of 2023. And legal protection for aesthetic doctors operating in beauty clinics is currently regulated by Law Number 29 of 2004 concerning Medical Practice. This law provides legal protection for doctors which adhere to professional standards and standard operational processes when practicing.

REFERENCE

- Dhea Wijaya Sari, 2018. Pengawasan terhadap Pelaksanaan Pekerjaan Kefarmasian di Apotek Setelah Berlakunya Peraturan Menteri Kesehatan Nomor 9 Tahun 2017. Semarang: Universitas Katolik Soegijapranata
- Jasmine Hanafi, 2013. Perlindungan Hukum Konsumen Terhadap Pengguna Klinik Kecantikan Estetika (Studi Pada Klinik Kecantikan Estetika Kusuma Cabang Bandar Lampung). Bandar Lampung: Universitas Lampung.
- Kementerian Kesehatan Republik Indonesia. 2014. Peraturan Menteri Kesehatan Republik Indonesia Nomor 9 Tahun 2014 Tentang Klinik. Jakarta: Pemerintah Republik Indonesia
- Ronni Hanitijo Soemitro. 1990. Metode Penelitian Hukum dan Jurimetri. Jakarta: Penerbit Ghalia Indonesia.
- Pruski, M. (2024). AI-Enhanced Healthcare: Not a new Paradigm for Informed Consent. In *Journal of bioethical inquiry*. <https://doi.org/10.1007/s11673-023-10320-0>
- Spanos, C., Grace, J. A., Leemaqz, S. Y., Brownhill, A., Cundill, P., Locke, P., Wong, P., Zajac, J. D., & Cheung, A. S. (2021). The Informed Consent Model of Care for Accessing Gender-Affirming Hormone Therapy Is Associated with High Patient Satisfaction. *The Journal of Sexual Medicine*, 18(1), 201–208. <https://doi.org/10.1016/j.jsxm.2020.10.020>
- Stephenson, L. A., Gergel, T., Ruck Keene, A., Rifkin, L., & Owen, G. (2020). The PACT advance decision-making template: preparing for Mental Health Act reforms with co-production, focus groups and consultation. *International Journal of Law and Psychiatry*, 71, 101563. <https://doi.org/https://doi.org/10.1016/j.ijlp.2020.101563>
- Weedn, V. W. (2022). HIPAA and Access to Medical Information by Medical Examiner and Coroner Offices. *Academic Forensic Pathology*, 12(3), 83–89. <https://doi.org/10.1177/19253621221102039>
- Wolf, L. E., Fuse Brown, E., Kerr, R., Razick, G., Tanner, G., Duvall, B., Jones, S., Brackney, J., & Posada, T. (2019). The web of legal protections for participants in genomic research. *Health Matrix (Cleveland, Ohio : 1991)*, 29(1).
- World Health Organization. (2015). 2015 from MDGs Millennium Development Goals to SDGs Sustainable Development Goals. In World Health Organization. WHO Library Cataloguing inPublication Data Health. <https://doi.org/10.1007/BF01918387>.