Legal Protection of Hospitals as Whistleblowers According to the Republic of Indonesia Act Number 17 of 2023 Concerning Health in Cases Involving Fake Doctors

Aditya Pratama Sarwono
*Correspondence Author: drg.adityaps@trisakti.ac.id

Department of Prosthodontics, Faculty of Dentistry, Universitas Trisakti, Jakarta, Indonesia

ABSTRACT

This research explores legal protection for hospitals as whistleblowers in doctor identity forgery cases, emphasizing the Act of the Republic of Indonesia Number 17 of 2023 on Health in Indonesia. These cases, as seen in Primasatya Husada Citra Hospital (PHC) Surabaya, revealed vulnerabilities in the healthcare system to individuals without proper qualifications, highlighting the potential criminal penalties for hospital directors due to negligence in recruiting fake doctors. This research aims to delve into the Health Law’s content and find strategies to help hospitals minimize criminal liability risks and ensure compliance with this law. The focus of the analysis will be on key legal aspects affecting the legal protection of hospitals in reporting cases of doctor identity forgery. The results will provide valuable guidance to hospitals in maintaining the integrity of healthcare services, protecting hospitals, and ensuring the safety of patients from the challenges of doctor identity forgery by irresponsible individuals.

INTRODUCTION

Health is a fundamental human right, and every country is committed to providing fair and quality access to healthcare services to its population (Hermawan & Subroto, 2021). As an integral part of the healthcare system, hospitals play a crucial role in delivering quality healthcare services (Abdi et al., 2022). The integrity and safety of healthcare services are key elements in meeting patient needs and maintaining public trust (Nasirin et al., 2023).

However, serious challenges arise when hospitals unknowingly employ individuals pretending to be doctors. Cases like these, often called "fake doctors," can damage the credibility of healthcare services, put patients at higher risk, and erode public trust in the healthcare system (Seggie, 2011). Therefore, legal protection for hospitals and their staff in dealing with such cases becomes crucial (Suparman, 2020).
One recent and alarming case emerged in September 2023 when Susanto, who was not a medical professional, worked for two years at Primasatya Husada Citra Hospital (PHC) Surabaya as a fake doctor. Cases like these shook public confidence in the safety of healthcare services in hospitals. They raised serious questions about the practice of doctor identity forgery that could harm patients and the integrity of the hospital (Widiyana & Rahman, 2023).

Furthermore, there has recently been a highly prominent case in the UK where a fake doctor was apprehended for crimes. Upon further investigation, Zholia Alemi was found to have worked at the prestigious National Health Service (NHS) hospitals in England for 20 years without proper qualifications. This case is deemed a "cruel and deliberate fraud" after Zholia Alemi forged a medical general practitioner degree certificate and used the fake certificate to take college exams to practice as a psychiatrist. This incident underscores the vulnerability of the healthcare system to unscrupulous individuals trying to exploit legal loopholes (McCann, 2023).

This event has shaken the healthcare sector in the UK and ignited widespread debate about how such a situation could occur within the renowned NHS hospital system. Authorities and relevant institutions have conducted in-depth investigations into this case to understand how Zholia Alemi bypassed the rigorous medical qualification acceptance and verification process (McCann, 2023).

Returning to the case in Indonesia, the reaction to Susanto's case has created serious controversy regarding the director role of PHC Surabaya Hospital. The hospital director could face criminal punishment for utilizing non-medical or health workers to practice within the Healthcare Facility, even though the hospital reported this incident after discovering Susanto's misconduct. Susanto's history of forging his identity as a fake doctor had occurred repeatedly, and he had previously been imprisoned for the same offense (Verdian, 2023). This issue illustrates the system's vulnerability in detecting and effectively preventing such cases.

The Act of The Republic of Indonesia Number 17 of 2023 Concerning Health changes Indonesia's healthcare laws, including provisions governing legal protection for hospitals as reporting parties in cases of doctor identity forgery. This research aims to examine the substance of this law and identify strategies that hospitals can apply to minimize criminal liability risks and ensure compliance with the law.

This research has significant relevance in maintaining the integrity of the national healthcare system and providing a strong legal foundation for hospitals to address cases of doctor identity forgery. The successful implementation of this law will help ensure that patients receive safe and quality healthcare services while avoiding criminal penalties that could harm a hospital's reputation.

In Indonesia, healthcare services have undergone substantial changes in recent years. With a growing population and increasing complexity of health challenges, the Act of The Republic of Indonesia Number 17 of 2023 concerning health is expected to provide a strong legal foundation for improving the national healthcare system. In this context, hospitals, as part of the healthcare system, are responsible for complying with and implementing the law (Priyadi et al., 2023).
This research will be structured into several sections, including an analysis of the substance of Act of The Republic of Indonesia Number 17 of 2023 concerning health, legal protection strategies that hospitals can apply, and the implications and conclusions of the research findings. The analysis will focus on key aspects of the law that directly impact the legal protection of hospitals in reporting cases of doctor identity forgery.

**RESEARCH METHOD**

This research employed a normative or library legal approach by analyzing legal literature materials (Benuf & Azhar, 2020). The approaches used in this research were legislative and conceptual. The legislative approach involves the examination of several regulations relevant to the research topic, including the Act of The Republic of Indonesia Number 17 of 2023 Concerning Health in Indonesia. This approach allows for the analysis of legal aspects governing the legal protection of hospitals in cases of doctor identity forgery. The legal concept approach analyzes the contextual relationship between related legislative regulations. This fact aids in understanding how legal principles and concepts underpin the legal protection of hospitals in doctor identity forgery cases (Rakhmawati et al., 2019).

In data collection, this research utilizes three sources of legal materials: primary, secondary, and tertiary (Tan, 2021). Primary legal materials encompass legislative regulations, including The Act of The Republic of Indonesia Number 17 of 2023 Concerning Health and The Act of The Republic of Indonesia Number 1 of 2023 concerning The Criminal Code (KUHP), and relevant court decision (1747/Pid.B/2023/PN Sby) which is the primary focus of the research. Secondary legal materials include legal literature, guides, relevant research, and the opinions of legal experts that support the analysis. Meanwhile, tertiary legal materials include a law dictionary, a law encyclopedia, and Kamus Besar Bahasa Indonesia. Legal material analysis was conducted using techniques such as description, systematization, interpretation, and legal argumentation to understand the implications of the law and legal protection strategies for hospitals in cases of doctor identity forgery. This research method provides a strong framework for analyzing legal aspects related to the research topic. It helps identify legal protection strategies that hospitals can apply to address cases of doctor-identity forgery.

**RESULTS AND DISCUSSION**

Obligations of Hospitals According to the Act of The Republic of Indonesia No. 17 of 2023

Legal regulation for hospitals in providing healthcare services is crucial in maintaining standards of quality, ethics, and safety in the healthcare sector, including various regulations, provisions, and guidelines that govern how hospitals should operate, deliver medical services, and protect the rights and obligations of patients (Maulana, 2021). This regulation also covers hospital management, medical staff qualifications, medical technology use, research, and education. With strong legal regulation, hospitals are expected to fulfill their functions efficiently and effectively, maintain high service standards, and provide legal certainty in complex situations in the healthcare world.

In the Act of the Republic of Indonesia Number 17 of 2023, several relevant articles have been stipulated in this context. For example, Article 184 outlines that hospitals must provide healthcare services in specialized and subspecialized forms while continuing to...
provide basic healthcare services. Additionally, hospitals must maintain good hospital governance and clinical governance, emphasizing professional and high-quality management (Zebua & Tewu, 2023).

Furthermore, Article 189 outlines hospitals' obligations when providing healthcare services, including various aspects such as providing safe, quality, non-discriminatory, and efficient healthcare services with a focus on the interests of patients under applicable service standards in the hospital. Moreover, hospitals are expected to maintain the quality of their healthcare services following the prevailing guidelines while respecting and protecting the rights of patients to receive services from the hospital (Ananda et al., 2023).

The Hospital's Rights to Legal Protection and Criminal Liability of Hospitals

Article 191 provides a crucial legal basis for hospitals regarding their right to sue those responsible for losses that may arise from healthcare services. With this right, hospitals have a powerful tool to protect themselves, patients, and the interests of third parties involved in healthcare services. A crucial step will ensure that hospitals can take necessary legal steps to obtain compensation and justice in adverse situations, such as medical malpractice or actions that do not meet standards, such as catching a fake doctor (Farinta et al., 2022). PHC Surabaya Hospital has taken this action by reporting Susanto to the police. Currently, Susanto is still in the trial process. The prosecutor has charged him under Article 378 of the old version of Criminal Code (KUHP) (Republik Indonesia, 1946), which states, "Whoever, with the intent to benefit themselves or others unlawfully, using a false name or false dignity, by deceit or a series of lies, induces others to deliver an object to them, or to provide a debt, or to cancel a debt, is threatened with imprisonment for a maximum of four years." The prosecutor uses the old KUHP because the new Criminal Code Act of The Republic of Indonesia No. 1 of 2023 will take effect three years after it was promulgated, which is on January 2, 2026, to allow time for the evaluation of preparations and the new Criminal Code, as well as the preparation of regulations and public awareness so that the community and law enforcement understand the new Criminal Code. However, the prosecutor's use of this KUHP article has been a subject of legal debate, especially about Article 439, which is clearly stated in the Act of the Republic of Indonesia No. 17 of 2023, which states, "Anyone who is not a Medical or Healthcare Personnel practicing as Medical or Healthcare Personnel with a valid Practicing License shall be punished with imprisonment for a maximum of 5 (five) years or a fine of up to Rp500,000,000.00 (five hundred million rupiahs)." Legal protection for healthcare facilities also encourages hospitals to be more cautious and adhere to applicable guidelines and standards in providing healthcare services. Thus, Article 191 grants rights and incentivizes hospitals to prioritize patient safety and quality of care (Republik Indonesia, 2023).

In this study, the criminal liability of the hospital is highly relevant. The Act of The Republic of Indonesia 17 of 2023 regulates various articles determining the hospital's responsibility in such cases. For example, Article 193 explains that the hospital is responsible for losses caused by its human resources (HR) who do not have a valid practice permit under statutory regulations. Article 173, paragraph 3 expressly prohibits healthcare facility providers from employing Medical or Healthcare Personnel who do not have the appropriate practice permits. Similarly, Article 284 prohibits healthcare facility leaders from using Medical or
Healthcare Personnel who do not have a Practicing License (SIP) to practice at the facility, and Article 442 states that any person (in this case, the hospital director) who employs Medical or Healthcare Personnel without a SIP may be sentenced to a maximum of 5 (five) years in prison or a fine of up to Rp500,000,000.00 (five hundred million rupiahs).

Furthermore, this case also has serious implications for consumer protection under The Act of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection. Article 8 of this law prohibits business operators from producing or trading goods and services that do not meet or comply with the required standards and regulations (Republik Indonesia, 1999). The actor, Susanto, has violated this provision by pretending to be a real doctor, significantly affecting the healthcare services provided to consumers, namely patients. According to Article 62 of the same law, Susanto could face a maximum prison sentence of 5 years or a maximum fine of Rp 2,000,000,000.00 (two billion Indonesian Rupiah). His impersonation of a doctor could lead to legal consequences under the Consumer Protection Law (Widodo et al., 2022).

Therefore, the hospital also has significant legal responsibilities by reporting Susanto, the fake doctor suspected of committing a criminal offense, to law enforcement authorities. However, it is important to note that the hospital is also implicated in the matter due to negligence in accepting someone who turned out to lack the qualifications of a doctor. The hospital director who made the report is in a difficult position as they have violated Article 284 and Article 442 and may also face criminal charges (Republik Indonesia, 2023).

**Whistleblowing System and Legal Protection for Whistleblowers**

The hospital's right to report through the Whistleblowing System is crucial in maintaining integrity and transparency in healthcare. As healthcare providers, hospitals are responsible for ensuring that all violations, deviations, or illegal actions within the hospital environment can be disclosed and legally addressed. Some violations and deviations that can be reported through the whistleblowing system include any actions that violate criminal law, such as theft, fraud, drug use, or corruption. Furthermore, reporting also includes abuses of authority in patient care or relationships with vendors or other suppliers, such as unjustified payment delays or extortion (Fallah Morteza Nejad et al., 2020).

Reporting is essential in protecting the interests of the hospital, both financially and non-financially, and in creating a safe and healthy working environment, including violations of internal rules that could compromise the hospital's integrity, whether in financial or other areas and actions that endanger workplace safety and health. In this regard, legal protection for whistleblowers is also crucial (Vian et al., 2022). The Act of the Republic of Indonesia No. 31 of 2014 concerning the protection of witnesses and victims contains provisions that protect whistleblowers in the reporting process. Article 10 of this law emphasizes that witnesses, victims, perpetrator witnesses, and whistleblowers cannot be legally prosecuted, either criminally or civilly, for the testimonies or reports they provide unless the testimonies or reports are given in bad faith (Republik Indonesia, 2014). If there are legal claims against them for the testimonies or reports they provide, such claims must be postponed until the court has decided the case they reported or testified in and has obtained final legal force (Anggraeni et al., 2023).
With strong legal protection like this, whistleblowers can report violations or deviations more confidently, without fear of retaliation or other negative consequences, to ensure that unethical practices or illegal actions within the hospital environment can be exposed, investigated, and legally addressed, which will enhance the quality of healthcare services and public trust (Gharagozloo et al., 2023).

Legal Considerations Based on Basic Legal Principles

In the case of a hospital director facing criminal threats due to errors in hiring a fake doctor like Susanto, there are important considerations based on the principles of legal certainty, fairness, and utility. The hospital director should be granted leniency because they acted in good faith by promptly reporting Susanto's presence, even though they were found to be negligent in verifying his credentials. Legal certainty emphasizes that legal actions must be consistent with the law in force at the time the action was taken, and in this case, reporting the fake doctor was an action that complied with the law at the time. Legal fairness emphasizes the importance of a fair and proportionate punishment for the offense committed, and in this case, considering the good faith of the hospital director is a fair step. Additionally, this action has benefited society by exposing illegal practices and protecting patients, so considering the utility is a wise step in making legal decisions. Therefore, granting leniency to the hospital director aligns with fundamental legal principles (Moho, 2019).

Credentialing and Re-credentialing of Hospital Staff

The case of the fake doctor Susanto has highlighted the credentialing and re-credentialing processes for hospital staff based on the Indonesian Hospital Accreditation Standards 2022. Credentialing is a crucial initial step in recruiting medical or healthcare staff. It involves a rigorous check of qualifications, experience, and valid practice licenses (Gosal et al., 2022). However, in Susanto's case, the credentialing process seemed inadequate, allowing him to work as a fake doctor in the hospital.

When there is a failure in the credentialing process like this, re-credentialing becomes even more crucial. Indonesian Hospital Accreditation Standards 2022 emphasizes the importance of periodically conducting re-credentialing processes to ensure that medical or healthcare staff meet established standards. In Susanto's case, if the hospital had conducted re-credentialing rigorously, they might have detected Susanto's qualifications mismatch earlier and prevented him from continuing his practice as a fake doctor (Dwiantoro et al., 2023).

Thus, this case underscores the need for hospitals to adhere to Indonesian Hospital Accreditation Standards 2022 in their credentialing and re-credentialing processes for staff to minimize the risk of hiring unqualified staff and ensure that patients receive safe, quality healthcare in line with the standards set by hospital accreditation. By conducting strict credentialing and re-credentialing, hospitals can ensure the integrity of their medical and healthcare staff in providing care to the community (Dresser & Elgin, 2023).

To address this issue and prevent data misuse on physician or dentist registration certificates, the Indonesian Medical Council has also taken proactive steps. They have established a dedicated website accessible at http://kki.go.id/cekdokter/form, where individuals can verify the authenticity of medical professionals' registration certificates. This resource enhances transparency and is critical in maintaining the public's trust in the
healthcare system, ensuring that only qualified and licensed healthcare professionals provide medical services (Konsil Kedokteran Indonesia, 2023).

CONCLUSION AND RECOMMENDATIONS

Conclusion

This research concludes that the hospital director of Primasatya Husada Citra Hospital (PHC) Surabaya, who acts in good faith and has reported cases of fake doctors, should be granted leniency when facing criminal threats. Legal principles such as certainty, fairness, and utility should guide the determination of punishment or sanctions. Ensuring the doctor recruitment process rigorously follows the rules and standards is crucial to quality and safe patient healthcare. This step will help prevent similar cases and enhance public trust in the healthcare services provided by hospitals.

Recommendations

The following recommendations can be proposed to improve the quality and integrity of healthcare services in hospitals:

1. Doctor Recruitment in Compliance with Indonesian Hospital Accreditation Standards (Credentialing and Recredentialing): Hospitals need to strengthen doctor recruitment procedures by rigorously adhering to the accreditation standards applicable in Indonesia, including thorough verification of doctor credentials and re-credentialing to ensure they have valid practice licenses following regulatory requirements.

2. Effective Whistleblowing System: Hospitals should engage and encourage medical and healthcare staff to effectively use the Whistleblowing System for reporting. It can help uncover violations or deviations more quickly and ensure appropriate actions are taken to address them.

3. Legal Training and Awareness: Hospitals must provide legal training and enhance legal awareness among medical staff, hospital management, and relevant support staff regarding healthcare regulations and applicable laws. It will help prevent errors in recruitment and avoid similar cases in the future.

4. To prevent data misuse on physician or dentist registration certificates, the Indonesian Medical Council provides a website for checking registration certificate data at: http://kki.go.id/cekdokter/form.

By implementing these recommendations, hospitals can hopefully operate more efficiently, improve the quality of healthcare services, and ensure compliance with regulations and laws, thereby maintaining public trust in their healthcare services.

REFERENCES


Republik Indonesia. (1946). Undang-Undang Republik Indonesia No. 1 Tahun 1946 tentang Kitab Undang-Undang Hukum Pidana.


