




Legal Protection of Pregnant Women Patients Abandoned by Health Workers

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ABSTRACT

Background. Health is an integral part of daily life, from birth to death, and is supported by various health workers in specific fields such as doctors, midwives, and pharmacists. Despite the availability of health facilities, cases of patient abandonment by health workers, particularly involving pregnant women, have been reported.

Purpose. This research aims to investigate one such case, focusing on the legal protection available for pregnant women patients abandoned by health workers, specifically midwives. The study also explores the legal actions that can be taken against the midwife responsible for abandoning the patient.

Method. The research employs a legal analysis method by examining relevant laws and regulations governing health workers and midwifery, focusing on patient rights and professional obligations. It further examines ethical standards and legal consequences in such cases.

Results. The findings reveal several potential factors contributing to the abandonment case, including negligence and gaps in the enforcement of professional responsibilities. The results serve as a valuable resource for educating health workers, particularly midwives, about the legal and ethical dimensions of their profession. This study emphasizes the importance of understanding the professional code of ethics, legal sanctions, and patient rights to prevent future occurrences of patient abandonment.

Conclusion. In conclusion, strengthening legal frameworks and ethical standards is critical to ensuring pregnant women receive adequate care and protection.

KEYWORDS

Health Workers, Legal Protection, Midwifery Ethics, Patient Abandonment, Pregnant Women.

INTRODUCTION

We are always taught to live clean, neat, and beautiful lives to maintain our health and avoid disease (Spence dkk., 2023a). However, in the world of health, it is not always about disease, but also the advancement of the health world through technology that exists in the current era that can encourage a person's success in maintaining their health, as well as facilities that can support this, such as hospitals, special health laboratories, clinics, health centers to independent practices (Hunt, 2023a).

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Under the Constitution of the Republic of Indonesia in 1945, Article 28H paragraph (1) explains that every citizen has the right to health services. Article 34, paragraph (1) states that the state is responsible for providing proper and public health facilities (Rzepczyk dkk., 2024a). They are guaranteed by the 1945 Constitution that they have the right to health services regardless of their social status or non-discrimination, and the right to provide health services is a qualified health worker in their field.

Health workers are educated and experienced community and state officials with special duties and functions (Krief dkk., 2022a). In Law Number 36 of 2014 concerning Health Workers (Law 36/2014), Health Workers are any person who devotes themselves to the health sector and has knowledge and skills through education in the health sector, which for certain types requires the authority to carry out health efforts (Altmann dkk., 2022a). Law 36/2014 explains that health workers must follow guidelines in providing health services to the community because, in society, they will definitely coexist with health to carry out their daily activities (Hall, 2023a). Everyone has the right to obtain health services directly or indirectly through certain health workers (Morena dkk., 2023a). But what is health? According to Law Number 17 of 2023 concerning health, health is a person's state of health, both physically, mentally, and socially, and it is not just free from disease that enables him to live a productive life (Clark, 2022). In carrying out these efforts, health workers will carry out health services according to the competencies taken by health workers such as doctors, dentists, midwives, pharmacists, and psychologists, who are also included in health workers (Lopez Oliva & Alarcón Peña, 2024). A health worker can also be a public health expert. In each area of expertise, practitioners or health workers are often classified according to the education specialist level and their skills (Grill, 2024; Mehra dkk., 2023; Patil dkk., 2023).

Health workers performing health services must carry out their services at health facilities by their service competencies (El Arab dkk., 2023; Lebron dkk., 2022). In Law Number 17 of 2023 Article 1 concerning Health, it is explained that a Health Service Facility is a place and tool used to provide Health Services to individuals or the community with a promotive, preventive, curative, rehabilitative, and palliative approach carried out by the Central Government, Regional Government, and the Community (Shubkin dkk., 2024; Stein dkk., 2023).

People who receive health care from a health worker are patients. A patient is a sick person or patient who receives residential or treated services in a particular health service unit (Mogren dkk., 2024; Slavin dkk., 2023). Patients must receive the right to receive health services by Law Number 44 of 2009 concerning Hospitals Article 32, which contains several patient rights such as obtaining humane, fair, honest, and non-discriminatory services, obtaining quality health services following professional standards and operational procedure standards and obtaining effective and efficient services so that patients avoid physical and material losses. Patients have the right to get health services at several health facilities (Bhullar & Chahal, 2022), such as doctors in hospitals (Spence dkk., 2023b), midwives at health centers (Leach, 2022), or open independent practices to pharmacists in pharmacies and pharmacies in health laboratories.

Law and health itself are examples of aspects of life that must be attached to and around life in society, so the name of health law emerged (Hunt, 2023b; Matia Portilla, 2023; Paltrow dkk., 2022; Rzepczyk dkk., 2024b). Health Law is all legal provisions directly related to the maintenance or service of health and its application. This makes health law a written rule regarding the relationship between health service providers and the community (Barrett dkk., 2022; Coolman, 2023; Gałazka, 2022). The health law regulates the rights and obligations of each service provider and health service recipient, but the health law is still new compared to existing laws.

Health Law is included in the “*lex specialis*”, which means that it explicitly protects the duties of the health profession in human health services toward the direction of the declared goal to obtain health services (Lyutov, 2022; Wolfschmidt-Fietkau dkk., 2024). Health law is currently divided into Public Health Law and Medical Law. Public Health Law focuses more on public health services or includes hospital health services (Krief dkk., 2022b; Orifici & Allen, 2022), and medical law prefers or regulates health services for individuals or individuals, but all concerns health services. The Health Law aims to improve the health of all community members, so health administration must follow the provisions that have been set (Michael dkk., 2024; Naria-Maritana & Torres-Ticzon, 2022). In addition, it increases awareness, willingness, and ability to live a healthy life for everyone so that an optimal degree of public health is realized.

This study found examples of health service violations in Pauh, Rawas Ilir District, Musi Rawas Regency, South Sumatra, who allegedly neglected their patients. . In this case, the health worker who allegedly committed the violation was a midwife. In the Decree of the Minister of Health of the Republic of Indonesia Number 369/MENKES/SK/III/2007 concerning Midwife Professional Standards, midwives have one of the midwifery codes of ethics, namely, “A midwife in carrying out her duties is obliged to prioritize the interests of clients, families, and the community with the same identity by the needs of the community based on their abilities.” The midwife is suspected of not performing or carrying out her duties and authority as a midwife, so the midwife has violated the code of ethics. The patient victims of the case are pregnant women and babies in their wombs who died as a result of violations or negligence of midwives. They can solve these problems through non-litigation and litigation health problem resolution. Non-logically, the problem can be resolved first through mediation between the parties. Still, the sanctions imposed by the midwives may be administrative sanctions by the Regulation of the Minister of Health Number 1464/MENKES/PER/X/2010 concerning the Licensing and Implementation of Midwifery Practice in the form of verbal reprimands, written reprimands, revocation of the Registration Certificate (STR) and Midwifery Practice License (SIPB) for a maximum of 1 year or forever. In terms of criminal law, it can be resolved through a trial with the heaviest sanction imposed by Article 359 of the Criminal Code which reads, “Whoever due to his fault causes the death of another person, is threatened with imprisonment for a maximum of 5 years or imprisonment for a maximum of 1 year”, and Article 474 paragraph (3) of Law 1/2023 “Every person who, due to his negligence, results in the death of another person, sentenced to imprisonment for a maximum of 5 years or a maximum fine of category V, which is Rp500 million.”

RESEARCH METHODOLOGY

This study adopts a qualitative research design, utilizing a case study approach to explore the legal protection for pregnant women abandoned by health workers, specifically midwives (Piñonosa Pozo dkk., 2024; Walz dkk., 2024; White dkk., 2023). The research focuses on understanding the legal framework, professional responsibilities, and ethical considerations within the healthcare system (Altmann dkk., 2022b; Pereira-Kotze dkk., 2022). Legal texts, case studies, and relevant regulations are analyzed to provide a comprehensive view of the issue.

The population for this research includes health workers, specifically midwives, legal professionals, and patients who have experienced abandonment by health workers (Cunningham, 2023; Schumacher & Dressel, 2022; Yirgu dkk., 2023). A purposive sampling technique is used to select cases that reflect instances of patient abandonment, particularly focusing on pregnant women, as well as key informants with expertise in health law and midwifery.

Data is gathered through a combination of legal documents, such as regulations and codes of ethics governing health workers, as well as interviews with legal experts, midwives, and affected patients. These instruments allow for a thorough investigation of the legal protections available to patients and the potential legal actions that can be taken against negligent health workers.

The research procedure involves collecting data through document analysis and conducting interviews. Legal regulations are examined to understand the protections in place, while interviews with key informants provide insights into the practical application of these regulations. After data collection, the information is systematically analyzed to identify key themes and implications related to legal protection and ethical standards for midwives in patient care situations.

RESULT AND DISCUSSION

By the Decree of the Minister of Health No. 369/MENKES/SK/III/2007 concerning Midwife Professional Standards, it is explained that midwives are of health workers who have a significant and strategic position, especially in reducing the Maternal Mortality Rate (AKI) and the Infant Pain and Mortality Rate (AKB).

According to the ICM (International Confederation of Midwives) issued in June 2011, a midwife is a person who has completed (passed) an officially recognized midwifery education program by his or her country and based on the essential midwifery practice competencies issued by ICM and the framework of the ICM global standards for midwifery education, has met the qualifications required to be registered and has a valid license (license) to practicing midwifery, and using the title/right of designation as a midwife, and being able to demonstrate their competence in midwifery practice .

Midwifery is a field of science that studies the science and art of preparing for pregnancy, assisting with childbirth, postpartum and breastfeeding, interval periods and fertility regulation, crematorium and menopause, newborns, and toddlers, human reproductive functions and providing assistance or support to women, their families, and communities. In the United Kingdom, midwifery is translated as “Midwifery” while midwife is referred to as “Midwife.” .

The midwifery code of ethics was perfected and ratified at the XII National Congress of the Indonesia Midwives Association (IBI) in 1998, which is described as Midwives’ Obligations to Clients and the Community, Obligations to Their Duties, Midwives’ Obligations to Their Colleagues and Other Health Workers, Midwives’ Obligations to Their Professions, Midwives’ Obligations to Themselves and Midwives’ Obligations to the Nusa, Nation and Fatherland Government (Buijsen, 2023; Morena dkk., 2024; Schäffer dkk., 2024; Schwarz dkk., 2024).

Midwives are part of the scope of medical/health personnel in the field of midwifery because in Law of the Republic of Indonesia Number 4 of 2019 concerning Midwifery article 1, Midwifery is everything related to midwives in providing midwifery services to women during the pre-pregnancy period, pregnancy period, childbirth, postpartum, postpartum period, newborns, infants, toddlers, and preschool children including reproductive health and family planning by their duties and authorities.

Before carrying out the professional duties of a midwife, you must take part in midwifery education, which consists of academic, vocational, and professional education (Hall, 2023b; Morena dkk., 2023b; Young-Wolff dkk., 2022). Graduates of midwifery academic education consisting of bachelor’s, master’s, and doctorate can continue professional education programs. All of this is done to be used as proof that a midwife has been tested for her competence as a midwife profession and is entitled to a Registration Certificate (STR) made by the midwifery council for midwives who are already competent and can get a Midwife Practice License (SIPB) which is used

as a condition for carrying out midwifery practice. Midwives in midwifery are included in the undergraduate, middle, and junior health workers.

This research will examine the case of obstetrics in Pauh, Rawas Ilir District, Musi Rawas Regency, South Sumatra, which is suspected of deliberately neglecting its patients so that the victim, who is a pregnant woman, died along with the baby in her womb. In this case, the midwife violated the midwifery code of ethics because she deliberately neglected the patient for her interests.

In this case, the victim of the midwife received legal protection by Law Number 8 of 1999 concerning Consumer Protection. The victim is the patient, which is an effort to ensure legal certainty to protect the patient. Consumer protection states that legal protection is given to consumers to obtain goods or services from the possibility of losses due to their use. Consumer protection can then be interpreted as a law regulating the provision of protection to consumers to meet their needs. .

In addition to getting consumer legal protection, the patient's victim also gets protection about patient safety because, in Law number 11 of 2017 concerning Patient Safety Article 1, patient safety is a system that makes patient care safer, including risk assessment, patient risk identification and management, incident reporting and analysis, the ability to learn from incidents and follow-up, and the implementation of solutions to minimize the occurrence of risks and prevent injuries caused by mistakes due to acting or not taking actions that should be taken. Patient safety can be defined as an effort to reduce unnecessary injuries related to health services to the minimum level received. This is an effort to prevent errors and unexpected events in patients related to health services. . A patient safety culture is an essential factor in reducing adverse risks and improving patient safety. Patient safety culture is an important quality indicator in health services and has been linked to patient outcomes. .

Patient safety standards refer to the "Hospital Patient Safety Standards" issued by the Joint Commission on Accreditation of Health Organizations, Illinois, USA, 2022, which is also listed in Article 5 paragraph 4 of Law No. 11 of 2017 concerning Patient Safety, namely Patient Rights, Patient Safety in Services, Leadership Role in Improving Patient Safety and Patient Safety in Service Continuity .

The victim of the patient can resolve the problem to protect or defend the victim or the person concerned in the situation by resolving health dispute disputes through non-litigation and litigation. Law Number 36 of 2009 concerning Health explains that medical disputes can be resolved through non-litigation, namely through mediation. The mediation process must also be regulated more clearly so that the parties to the dispute can get certainty and fairness in resolving their problems because litigation settlement that tends not to provide legal certainty can be a non-litigation dispute resolution as a hope. The legal settlement of health disputes can be done through criminal and civil law. In the criminal law process, law enforcement then conducts an investigation and investigation into the case of the problem. The article used is about negligence that results in the death or disability of another person. However, negligence in delicacy is not the same as medical negligence because delicacy negligence is consequential-oriented. The civil settlement will require a lot of time, and cost occupies a lot of thought, and an open trial because the patient must prove that the person has committed negligence. This is very difficult for the patient because it is difficult to ascertain and find neutral and credible expert witnesses. .

The sanctions or legal consequences obtained by the health workers referred to in this study are midwives can be subject to civil or administrative sanctions and also criminal sanctions, but criminal sanctions require further investigation to prove that the midwife made a mistake

intentionally or knowingly committed the action. The lightest civil sanction given is a reprimand, and the heaviest is the revocation of STR and SIPB for a maximum of 1 year or forever.

The above sanctions apply to midwives who are proven to violate the obligations of midwives that have been regulated by professional organizations, in this case, the Indonesia Midwives Association (IBI), with several considerations through the Midwifery Ethics Advisory Council (MPEB) and the Member Defense Council (MPA). MPEB and MPA are independent assemblies coordinating with IBI’s core management and providing advice and opinions on problems.

MPEB and MPA are in charge of handling, accompanying, providing guidance, and supervising the midwifery profession code of ethics and determining the existence of errors, violations, or negligence of midwives in providing midwifery services, practices, and legal issues. IBI carries out the settlement of the legal problem of midwifery by imposing sanctions based on applicable regulations. If it has entered the court, IBI and MPEB, and MPA investigate whether the midwife is indeed proven to have committed the mistake or negligence intentionally. If there is no evidence that the midwife committed the wrongdoing, then IBI and MPA will provide legal assistance to the midwife in the face of court lawsuits. However, suppose it is proven that he has lawfully and deliberately committed a mistake or negligence. In that case, the sanction obtained by the midwife with a maximum prison sentence of 5 years or imprisonment for a maximum of 1 year and a maximum prison sentence of 5 years or a maximum fine of category V is Rp500 million for causing the death of another person due to his own mistakes or actions, by article 359 of the Criminal Code, and Article 474 paragraph (3) of Law 1/2023.

However, in the settlement of cases in this study, it is more prioritized or more important through settlement outside the court first through mediation expressly and clearly in article 29 of Law number 36 of 2009 concerning Health, it is stated that health workers who are suspected of negligence or mistakes must first be resolved through mediation. This is also stated in Article 78 of Law Number 36 of 2014 concerning Health Workers, which states that if health workers are suspected of negligence in carrying out their profession that causes losses to health service recipients, it must be resolved through dispute resolution outside the court first.

From the above research, the author would like to provide some opinions or discussions of some of the possible occurrences of these cases:

Table 1. North Musi Rawas

Year	Midwife	Nurse
2021	447	352
2022	448	343
2023	431	337

Source: South Sumatra Provincial Health Office

According to data from the Central Statistics Agency of South Sumatra Province

- a) According to the confession of the midwife at the scene of the case, they said there was a miscommunication between the health worker and the victim’s family
- b) The case ended peacefully between the health workers and the victim’s family

From the three possibilities the author found, the author can conclude several possibilities or causes of the case’s occurrence. It should be reminded that this is a personal opinion, not a definite decision or a fixed opinion for the future.

According to data from BPS South Sumatra Province for health workers in the North Musi Rawas area, it can be said that there is no shortage of midwives and nurses, with only one midwife and two nurses serving health services at the place of the case. They want to rest because they are sleepy while on guard that night. From the information above, it can be said that the health worker

is less professional in carrying out his duties, especially when on night watch. It can be interpreted that the health worker has agreed to remain professional in carrying out his duties even at midnight. Moreover, the victim's condition was already weak when he first came to the service place, which made the victim of the patient have to die because he was late in getting special treatment instead of standard treatment.

With only three health workers on guard and many Human Resources (HR) in the area, there is no action to add health workers in each health service area, primarily until midnight. However, if this is difficult to realize, apply it not until the night of the operational hours and focus directly on the hospital for further treatment to reduce or avoid the incident from happening again.

The settlement of the case has been agreed peacefully with all parties' agreement. It can be seen that the resolution of health disputes can be resolved through non-litigation, namely through mediation between the parties involved. Further action against the health workers involved can continue by the applicable regulations or directives to determine whether the health workers are legally or deliberately committing negligence or violation.

From the case above, the same thing happened with the case of patient neglect in the Sampang area, East Java. The midwife deliberately abandoned the pregnant woman's patient so that she had to give birth to her baby without proper medical treatment. For her action, the midwife was given sanctions in the form of revocation of practice licenses by the local health office government for violating the midwifery code of ethics by not prioritizing the interests of clients or patients over their interests.

From the two cases above, it can be said that the mistake is the same, namely abandoning the patient for personal interests. Whether these midwives take it for granted or something ordinary in their profession, such as letting the patient wait or refuse for unreasonable reasons, the action violates the midwifery code of ethics. It should be sanctioned based on the mistake made.

CONCLUSION

This research can be concluded in the case above, the case occurred because of the lack of understanding from the individuals involved in what the consequences are received from their nefarious actions and the need for a re-understanding of the standards of the midwife profession, about the ethics of the health worker profession, the sanction of both criminal and civil offenses that apply in the health worker profession.

The author can also conclude that the case occurred because the midwife underestimated an action or event that existed in his health service, especially concerning the life of a person in his professional service, and also the lack of professionalism of the person in carrying out his duties because he did not prioritize his professional interests over his interests.

AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; In-vestigation.

Author 3: Data curation; Investigation.

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