

FORMS OF LEGAL LIABILITY THAT MAY BE IMPOSED ON HOSPITALS FOR THE CONSEQUENCES OF DENYING EMERGENCY CARE DUE TO ADMINISTRATIVE OBSTACLES RELATED TO A PATIENT'S SOCIAL SECURITY COVERAGE, RESULTING IN DEATH OR DISABILITY

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Abstrak

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Hospitals are obligated to provide emergency care to all patients, regardless of their socioeconomic status or the extent to which their health insurance is fully covered. Nevertheless, there are still cases where patients are denied emergency care due to administrative limitations in social security coverage, resulting in their death or disability. Regarding hospitals' obligation to provide medical care and the potential legal consequences of such a refusal, this scenario raises important legal questions. The purpose of this study is to examine the rules and regulations that hospitals must follow when treating emergency patients, regardless of their social security status, and to identify the types of legal consequences hospitals may face when a patient dies or becomes disabled as a result of being denied emergency care. A normative legal research approach based on legal and conceptual frameworks was employed in this study. Primary, secondary, and tertiary legal sources were all considered in the subsequent qualitative analysis. According to the study's findings, hospitals are legally obligated to provide emergency care services in accordance with a number of laws and regulations pertaining to the healthcare industry. If a patient suffers harm—such as death or disability—as a result of the refusal to provide emergency care under the social security system, the hospital may be held administratively, civilly, and criminally liable. Ensuring that patients' rights to timely, appropriate, and non-discriminatory health care are upheld requires efficient oversight and strong law enforcement.

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INTRODUCTION

Every Indonesian citizen has the right to health care as stipulated in the constitution. All members of society must be able to receive, without discrimination, high-quality and equitable health care so that the right to health can be fully realized. Hospitals are vital to the national healthcare system because they offer a wide range of medical services to individuals, including emergency care. Consequently, hospitals serve a social purpose and are legally obligated to protect those in need of emergency medical care.

Prompt and immediate medical care is essential in cases of life-threatening illnesses or conditions that could lead to long-term disability if left untreated. The patient's life must take precedence over any financial or administrative considerations in such situations. Unfortunately, hospitals still frequently deny emergency care to patients because their social health insurance enrollment is insufficient or because they have difficulty verifying their eligibility. As this can potentially worsen a patient's condition, leading to death or permanent disability, it raises legal issues.

Various regulations and provisions often govern hospitals' responsibility to provide emergency services. In accordance with Article 174(2) of Law No. 17 of 2023 on Health, "In emergency situations, health care facilities—whether government or private—are obligated to provide health care services to save lives and prevent disability first and foremost." Article 174, paragraph (3), adds that "Healthcare facilities are prohibited from refusing patients and/or demanding payment in advance in emergency situations."

All health care facilities in Indonesia are legally required to prioritize patient safety, as demonstrated by these regulations. This obligation applies regardless of a patient's economic status or the completeness of their social security documentation.

Furthermore, the hospital's mission to provide health care without discrimination and in a safe environment is reflected in the concept of patient protection. Both patients and hospitals have rights and responsibilities arising from their legal relationship. Healthcare providers have a responsibility to care for patients in accordance with established policies and practices, as well as relevant professional and service standards. Because this obligation affects the legally protected rights to life and health, it is particularly important in the context of emergency care.

Expanding public access to health care is a fundamental objective of the National Health Insurance (JKN) program, which is overseen by BPJS Kesehatan. However, various administrative obstacles in its implementation are still frequently encountered, such as inactive enrollment status, late premium payments, or data verification system failures. These obstacles should not be used as a reason to delay or deny emergency care. Denials based on administrative issues have the potential to violate patients' rights and contradict the humanitarian principles that underpin the provision of health care.

From a legal perspective, the denial of emergency care can give rise to various forms of liability. Hospitals may face administrative liability through sanctions imposed by the government if found to have violated health-related laws and regulations. Furthermore, if a patient or their family suffers harm as a result of the denial of care, the hospital may be held civilly liable for unlawful conduct. The hospital may also face criminal liability under specific laws if the denial of care results in significant disability or death.

Given the persistent gap between healthcare standards and legal requirements, the question of hospital liability for the denial of emergency care has become increasingly prominent. To clarify the scope of hospital liability and the legal remedies available for violations of patients' rights, this study is essential. Therefore, this study will examine the rules and regulations that hospitals must follow when treating patients in need of emergency care, regardless of their health insurance status, and will explore the various ways in which hospitals can be held legally liable if they refuse emergency care and the patient dies or becomes disabled as a result. Everyone has the right to timely, appropriate, and non-discriminatory medical care, and this study is expected to help shape future healthcare legislation to better protect these rights.

Research Question

1. What are the legal provisions regarding hospitals' obligations to provide services to emergency patients regardless of their social security administrative status?
2. What form of legal liability can be imposed on hospitals for refusing emergency care due to administrative obstacles related to a patient's social security coverage, resulting in death or disability?

LITERATURE REVIEW

Hospitals' Legal Obligations in Providing Emergency Medical Services

Hospitals are essential institutions within the healthcare system that perform both medical and social functions. Beyond providing treatment, hospitals have a legal obligation to protect patients' lives, particularly during emergency situations where immediate medical intervention is necessary. Emergency medical services differ from ordinary healthcare because they prioritize life-saving actions over administrative procedures or financial considerations. Consequently, hospitals are expected to ensure that emergency patients receive prompt treatment regardless of their economic condition or insurance status.

The legal responsibility of hospitals to provide emergency care is recognized as an implementation of the fundamental right to health. The right to health includes the availability, accessibility, acceptability, and quality of healthcare services without discrimination. Therefore, denying emergency treatment due to administrative issues contradicts the principle of equal access to healthcare and may constitute a violation of patients' rights. Healthcare institutions are expected to prioritize the preservation of life before completing insurance verification or payment procedures.

In Indonesia, this obligation is reinforced through several legal instruments regulating healthcare services. The Health Law requires every healthcare facility to provide emergency treatment immediately to prevent death or disability. Hospitals are prohibited from refusing emergency patients or requesting advance payment before providing medical assistance. These provisions reflect the legal doctrine of "life-saving first, administration later," emphasizing that administrative requirements must never become barriers to emergency treatment.

Besides statutory obligations, hospitals are also bound by professional standards and medical ethics. Healthcare professionals are required to act according to the principles of beneficence, non-maleficence, justice, and respect for human dignity. These ethical principles complement legal obligations by ensuring that every patient receives necessary treatment regardless of administrative status. Therefore, emergency healthcare services represent both a legal duty and an ethical responsibility aimed at protecting human life

and maintaining public trust in healthcare institutions.

Patient Rights and Social Security Administration in Emergency Healthcare

Patient rights constitute one of the most important principles in healthcare law. Every individual has the right to obtain safe, timely, effective, and non-discriminatory healthcare services. These rights become particularly significant during emergency situations because delays in treatment may result in permanent disability or death. Consequently, healthcare providers must ensure that administrative procedures do not interfere with patients' access to immediate medical care.

Indonesia's National Health Insurance program (Jaminan Kesehatan Nasional/JKN), administered by BPJS Kesehatan, was established to improve public access to healthcare services. Through this system, citizens are expected to receive comprehensive medical treatment without experiencing excessive financial burdens. However, practical implementation often encounters administrative challenges such as inactive membership, delayed premium payments, identity verification problems, or system failures. Although these issues may complicate administrative processes, they should never justify postponing emergency treatment.

The legal relationship between hospitals and patients creates reciprocal rights and obligations. Patients are entitled to receive healthcare services that comply with professional standards, while hospitals are obligated to provide competent, safe, and equitable medical care. Emergency patients receive stronger legal protection because their condition directly concerns the constitutional right to life. Therefore, healthcare providers are expected to prioritize emergency intervention before resolving administrative matters related to insurance eligibility.

Legal protection for patients aims to create certainty, fairness, and accountability within healthcare services. By guaranteeing immediate access to emergency treatment, legal regulations strengthen public confidence in healthcare institutions while encouraging hospitals to fulfill their social responsibilities. Effective implementation of patient protection also requires clear operational procedures, adequate hospital management, and continuous coordination between hospitals and BPJS Kesehatan. Such measures help minimize administrative obstacles while ensuring that emergency healthcare services remain accessible to all members of society regardless of their insurance status.

Legal Liability of Hospitals for Refusing Emergency Medical Treatment

Hospitals may incur legal liability when they fail to fulfill their obligation to provide emergency medical care. Refusal of emergency treatment may produce severe consequences, particularly when patients suffer permanent disability or death. Healthcare law recognizes that hospitals are responsible not only for delivering medical services but also for protecting fundamental human rights. Consequently, violations of emergency care obligations may result in administrative, civil, and criminal liability.

Administrative liability arises when hospitals violate healthcare regulations, professional standards, or licensing requirements established by the government. Administrative sanctions serve preventive and corrective purposes by encouraging compliance with healthcare laws while maintaining service quality. Depending on the seriousness of the violation, sanctions may include written warnings, financial penalties, restrictions on hospital operations, or revocation of operating licenses. These measures

aim to ensure that hospitals continue fulfilling their public service responsibilities.

Civil liability is generally based on the principle of unlawful acts that cause losses to patients or their families. Hospitals may be required to compensate victims for both material and non-material damages resulting from delayed or denied emergency treatment. Material losses include additional medical expenses, rehabilitation costs, and lost income, whereas non-material damages involve physical suffering, emotional distress, or loss of life. Modern healthcare law also recognizes corporate liability, allowing hospitals as legal entities to bear responsibility for failures arising from institutional policies or organizational negligence.

Criminal liability represents the most serious legal consequence. A hospital or healthcare provider may face criminal prosecution if intentional refusal or gross negligence in providing emergency treatment results in preventable death or serious disability. Contemporary criminal law further recognizes corporate criminal liability, enabling hospitals themselves to be prosecuted when organizational policies contribute to criminal conduct. Accordingly, hospitals are expected to establish effective emergency response systems, adequate supervision, and clear operational procedures to prevent legal violations while safeguarding patients' fundamental rights.

RESEARCH METHOD

This study examines the rules and laws governing hospitals' responsibilities in providing emergency care and the various ways hospitals can be held legally accountable for refusing such care due to administrative restrictions on a patient's social security coverage. This research adheres to the standards of normative legal theory by combining a conceptual framework with legal analysis. Legal provisions governing social health insurance, hospitals, emergency care, and health services are examined using a legal approach. Legal accountability, patient safety, and access to health services are all topics investigated through the lens of a conceptual approach. Three levels of legal sources were utilized: primary, secondary, and tertiary. After undergoing procedures of inventory, interpretation, and systematization, all legal materials were subjected to qualitative analysis using a descriptive-analytical methodology. This analysis yielded results consistent with the research questions. Law No. 17 of 2023 on Health, Law No. 44 of 2009 on Hospitals, Law No. 40 of 2004 on the National Social Security System, and the Civil Code are the primary legislative sources consulted.

RESULT AND DISCUSSION

Legal Provisions Regarding Hospitals' Obligations to Provide Services to Emergency Patients Regardless of Their Social Security Administrative Status

Every citizen has the right to quality medical care, and the government is obligated to provide it through various public programs and policies. The provision of universally accessible emergency services is one way this right is put into practice. To prevent death or permanent disability, prompt medical care is essential in medical emergencies. Thus, due to its focus on preserving human life, emergency patient care differs from conventional health care in several important ways.

As healthcare providers, hospitals are legally required to treat all patients in emergency situations. Providing healthcare to the public is an important social function of hospitals, and it is also a legal obligation for hospitals to care for their patients. This social role requires the removal of administrative and financial barriers to accessing

certain healthcare services, particularly emergency care.

One component of the right to health guaranteed by the Indonesian government is access to emergency medical care, in accordance with the country's health legislation. Access to timely, adequate, and non-discriminatory medical care is a crucial component of the right to health, which extends beyond the mere right to be treated. Therefore, any restriction on services that prevents patients from receiving emergency medical care can be classified as a violation of patients' rights.

Numerous interrelated laws and regulations contain provisions regarding hospitals' obligations to provide emergency services. Healthcare facilities are required to prioritize providing healthcare services in emergency situations to save lives and prevent disability, as stated in Article 174(2) of Law No. 17 of 2023 on Health. This commitment is further reinforced by other provisions in this law. No healthcare facility may refuse care to a patient or demand payment in advance during an emergency, as stated in Article 174, paragraph (3).

These provisions demonstrate that Indonesian health law adheres to the principle of "life saving first, administrative matters later," meaning that saving a patient's life must take precedence over the completion of administrative procedures. Consequently, a patient's BPJS Kesehatan enrollment status, the completeness of administrative documents, or their financial capacity cannot be used as grounds to delay or deny emergency care. This principle aligns with the concept of medical ethics, which places patient safety as the primary goal of healthcare services. From a bioethical perspective, healthcare workers and hospitals have a moral obligation to take life-saving actions when a person's life is at risk. This moral obligation is then enshrined as a legal duty through various health regulations. Therefore, refusing to treat emergency patients is not only an administrative violation but also contrary to the principles of humanity and professionalism in healthcare.

Expanding public access to healthcare services is the primary objective of the National Health Insurance (JKN) program administered by BPJS Kesehatan. However, in practice, administrative obstacles are frequently encountered, such as inactive enrollment, late premium payments, discrepancies in identity data, and disruptions in the verification system. These administrative issues frequently create barriers in the healthcare delivery process, particularly at healthcare facilities with limited resources and funding. Nevertheless, administrative obstacles cannot override a hospital's legal obligation to continue providing emergency care to patients.

There are rights and responsibilities for both hospitals and patients that arise from the nature of this relationship, which is fundamentally a legal one. Hospitals have a responsibility to provide safe, high-quality, effective, and non-discriminatory services, and patients have the right to receive healthcare services that meet professional and medical standards. The right to life is an inalienable and fundamental human right, and patients' rights during emergencies are particularly strong because they relate to the preservation of this right. Hospitals are not only required to comply with the law as set forth in statutes and regulations but also with professional and operational standards within the healthcare industry. These standards require healthcare personnel to perform immediate medical interventions when there are indications of an emergency. Delays in care due to administrative reasons have the potential to cause greater harm to patients and may be considered a form of negligence in the provision of healthcare services. Therefore, hospitals must ensure that all administrative procedures do not hinder the provision of

urgent medical care.

From the perspective of patient legal protection, a hospital's obligation to provide emergency care is a crucial instrument for ensuring legal certainty and justice in healthcare services. This legal protection is not only intended to safeguard patients as those in need of care but also to establish standards of conduct that hospitals must adhere to in fulfilling their social responsibilities. Consequently, every hospital is obligated to prioritize saving patients' lives over administrative considerations related to social security, as this obligation constitutes both a legal mandate and a manifestation of the hospital's social responsibility toward the community.

Forms of Legal Liability That May Be Imposed on Hospitals for Refusal of Emergency Care Resulting in Death or Disability

A hospital's refusal to provide emergency care is an act with serious legal consequences, particularly if such refusal results in a patient's death or disability. Under health law, hospitals have a dual role as healthcare providers and institutions responsible for protecting individuals' health rights. Therefore, hospitals may face legal consequences for errors or failures to take reasonable preventive measures that endanger patients. Depending on the type of violation and its resulting impact, this liability may be administrative, civil, or criminal.

A hospital's legal liability arises from legal obligations imposed by legislation and healthcare professional standards. When a hospital refuses to provide emergency care on the grounds of administrative obstacles related to health insurance, such an action can be categorized as a violation of the legal obligations established by the state. Furthermore, if this refusal results in the patient's death or permanent disability, the resulting legal consequences become more severe because they involve the right to life and the right to health—which are fundamental rights of every human being.

1. Administrative Liability

The first form of liability that can be imposed on a hospital is administrative liability. In the provision of health care services, hospitals are required to comply with service standards, professional standards, and licensing regulations established by the government. Violations of these obligations may result in administrative sanctions as a form of government oversight and guidance.

Administrative liability is fundamentally intended to maintain the quality of healthcare services and prevent violations that harm the public. The government has various administrative sanctions that can be imposed on hospitals proven to have refused emergency patients. These sanctions include fines, restrictions on service activities, written warnings, and even the revocation of a hospital's operating license.

Administrative sanctions serve both preventive and repressive functions. The preventive function aims to encourage hospitals to comply with legal provisions and healthcare service standards, while the repressive function aims to impose consequences for violations that have already occurred. In the context of refusing emergency patients, the imposition of administrative sanctions is crucial to ensuring that hospitals continue to fulfill their social function as public service institutions that prioritize patient safety.

2. Civil Liability

Hospitals may face civil and administrative liability for injuries sustained by patients or their families as a result of the refusal of emergency care. The basis for civil liability, as stated in Article 1365 of the Civil Code, is the concept of an unlawful act, or *onrechtmatige daad*.

Several conditions must be met to establish civil liability, including an unlawful act, fault, damage, and a causal link between the two. A hospital's refusal to provide emergency care for administrative reasons may be considered unlawful because it violates the hospital's legal obligations as outlined in healthcare standards.

Patients may suffer both material and non-material damages. Additional medical bills, lost wages, rehabilitation costs, and other expenses arising from the delay in medical care are examples of material damages. At the same time, non-material damages may manifest as physical pain, emotional distress, loss of opportunity for recovery, or the loss of a loved one as a result of the patient's death. The evolution of contemporary healthcare law holds hospitals liable for the actions of their individual medical staff and the failures of the healthcare systems under their supervision. Under the concept of corporate liability, hospitals are considered separate legal entities that can be held liable for damages caused to patients by errors in management, internal policies, or organizational processes.

3. Criminal Liability

The most severe form of liability is criminal liability. Criminal liability may be imposed if the refusal to provide emergency care results in death or serious disability that could have been prevented through prompt and appropriate medical intervention. Under criminal law, the act of refusing to provide assistance to a person in a life-threatening situation may be classified as a criminal offense if it meets the elements specified by law.

The application of criminal liability in the healthcare sector is fundamentally intended to protect the legal interests of society, particularly the right to life and the safety of patients. In cases of refusal to provide emergency care, the element of fault can take the form of either intent or negligence. Intent occurs when a hospital or healthcare worker knowingly refuses to provide care despite being aware that the patient is in a life-threatening condition. Meanwhile, negligence occurs when a hospital fails to provide an adequate care system, thereby preventing the patient from receiving the necessary assistance.

Modern criminal law also recognizes the concept of corporate criminal liability. This concept allows a hospital, as a legal entity, to be held criminally liable if a criminal act is committed in the course of the organization's activities and benefits the corporation. Thus, not only individual healthcare workers can be held criminally liable, but also the hospital as an institution if it is proven that policies or systems led to the denial of emergency care.

Based on this explanation, it is clear that the denial of emergency care due to administrative obstacles related to social security—which results in a patient's death or disability—carries far-reaching legal consequences for the hospital. The forms of liability that may be imposed include administrative liability through government sanctions, civil liability in the form of an obligation to pay compensation to the patient or their heirs, and criminal liability if the actions meet the elements of a criminal offense resulting in loss of life or disability. Therefore, hospitals are obligated to prioritize patient safety above all else and ensure that all administrative procedures do not hinder the provision of emergency care, which is a right of every citizen.

Based on the discussion in this thesis regarding the Forms of Legal Liability That May Be Imposed on Hospitals for the Consequences of Denying Emergency Care Due to Administrative Obstacles Related to Patients' Social Security Coverage, Resulting in Death or Disability

CONCLUSION

Hospitals in Indonesia are legally obligated to treat all patients in emergency situations, regardless of their socioeconomic background or ability to pay. Healthcare institutions are required to provide first aid to save lives and prevent disability, as stipulated in various laws and regulations. One such law is Law No. 17 of 2023 on Health. Therefore, administrative obstacles related to the National Health Insurance (BPJS Kesehatan) or incomplete documentation cannot be used as grounds to refuse or delay emergency care, as this violates the principles of protecting patients' right to health and right to life.

Hospitals face administrative, civil, and criminal liability when they deny emergency care to patients, which may result in death or disability. Warnings, fines, restrictions on operations, and even revocation of operating licenses may constitute administrative liability. Providing compensation to patients or their heirs for negligence is one example of civil liability. Meanwhile, hospitals may be held criminally liable if their refusal of care meets the criteria for a criminal act resulting in death or disability. This includes the possibility of holding the hospital liable as a legal entity based on the concept of corporate criminal liability.

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