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RESEARCH ARTICLE

MECHANISMS AND LEGAL RESPONSIBILITIES OF NURSES IN CARRYING OUT EMERGENCY MEASURES IN THE INTENSIVE CARE UNIT

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Abstract

In carrying out their duties and authority in treating patients in the Intensive Care Unit (ICU), a nurse is required to obtain a mandate from a doctor, which is a legal relationship that arises as a result of delegation of authority. This certainly has a clear mechanism because it will have legal consequences if errors or omissions occur in the delegation of authority. In fact, there are still cases that have fatal consequences for patients and those who are asked to be held accountable are nurses whose capacity is only as recipients of mandates. The method in this research is empirical juridical and normative juridical, based on field data and statutory regulations and related documents. The results of this research show that doctors who are unable to carry out medical procedures due to certain factors may ask the nurse for help to carry out medical procedures, provided that the doctor is obliged to provide a clear delegation of authority to the nurse in writing to carry out the medical procedure. Delegation of authority to carry out medical procedures from doctors to nurses as intended in Article 27 letter a Minister of Health Regulation Number 26 of 2019 concerning Explanation of Law No. 38 of 2014 concerning Nursing can take the form of delegation of delegated authority or mandate. Delegation of authority to carry out medical procedures must be done in writing to professional nurses or trained vocational nurses. Emergency actions carried out by nurses aim to save the patient's life and prevent further disability. The delegation of authority is mandatorily given by doctors to nurses to carry out medical procedures under the supervision of the medical personnel who delegate authority. The form of accountability can be in the form of civil law, criminal law and administrative law, so that all three can provide their own sanctions for violations that occur due to losses, negligence or administrative errors.

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Introduction:-

Health services as the main activity of hospitals place doctors and nurses as health workers and medical personnel who are most closely related to patients in treating disease. There are several relationships in these health service efforts, namely the relationship between hospitals and doctors; nurses with patients; the relationship between doctors, nurses and patients; and the nurse's relationship with the patient. In the health sector, there is an increase in

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demand for health services, both in quantity and quality. To meet the increasing demand, doctors as medical personnel increasingly need the assistance of other health personnel, especially nurses, especially to treat patients both before and after diagnosis, therapy and other medical procedures in hospitals.

Nursing as an integral part of health services has great leverage in efforts to develop the health sector. The quality of nursing services is determined by the quality of the providers of nursing services in the form of nursing care, namely nursing staff. Based on the provisions regulated in Article 1 paragraph 7 of Minister of Health Regulation Number 26 of 2019 concerning Explanation of Law No. 38 of 2014 concerning Nursing states that Nursing Services are a form of professional service which is an integral part of health services based on Nursing knowledge and tips aimed at individuals, families, groups or communities, whether healthy or sick. Thus, health services can only be carried out by health workers who have the expertise and authority to do so. Nurses as members of the profession are responsible for providing nursing services according to their authority independently and collaboratively. This is possible because nurses have the knowledge and nursing tips that underlie their professional practice.

The development of an increasingly broad field of health law will be followed by an expansion of the authority and responsibility of nursing in the context of the growth of mandatory legal medical records and informed consent. Therefore, progress in demands for nursing services must be balanced with an increase in the resources of qualified nursing health workers, and the increasingly extensive tasks of the nursing profession need to be anticipated with an understanding of the sub-field of nursing law in accordance with the growth of health law. (health law) both nationally and internationally.¹

Nurses as one of the health workers, are tasked with providing health services to the general public. The main task of a nurse is to provide health services or provide nursing care according to the skills and expertise they possess. Nurses in providing health services have several roles. First, nurses have a role in overcoming the problems faced by patients. Second, nurses have the responsibility to provide education to patients/clients. Third, nurses have a role in ensuring and monitoring the quality of nursing care. Fourth, nurses have duties as researchers in an effort to develop the body of nursing knowledge.²

Data from the Indonesian National Nurses Association regarding nursing malpractice in Indonesia in 2010-2015 was around 485 cases. Of the 485 malpractice cases, 357 were administrative malpractice cases, 82 were cases of nurses who did not perform as agreed and were included in civil malpractice, and 46 cases occurred due to medical procedures without the approval of a doctor which were carried out carelessly and caused injury and disability. to patients or is classified as criminal malpractice with elements of negligence.³

The relationship between doctors and nurses is often a complex issue. Historically, the status of nurses is an extension of doctors in medical practice, nurses carry out actions based on the doctor's instructions. So in practice, nurses often only carry out doctor's orders and do not have clear boundaries of authority. If in the past nurses carried out doctor's orders, now nurses are given the authority to decide on health services for patients based on their nursing knowledge and collaborate with doctors to determine what is best for the patient. So a paradigm emerges that nurses are an independent, professional profession and have proportional authority. The nurse's authority is the authority to carry out nursing care actions, while the authority to carry out medical actions is only obtained if there is a delegation of authority from the doctor.⁴

In practice, nurses often carry out doctor's orders in the form of medical procedures. The duties of doctors without clear boundaries with the duties of nurses as providers of nursing care will ultimately have an impact on patient satisfaction with health care services in hospitals. Under conditions like these, nurses and doctors will be very at risk

¹Bambang Poernomo, Health Law, Master of Hospital Management UGM, Yogyakarta, 2000, p. 208.

²Arrie Budhiartie, Legal Responsibility of Nurses in Providing Health Services in Hospitals, Law Journal, Jambi University Faculty of Law. Vol. 11 No. 2, 2009, p. 45

³PPNI Data in Mike Asmaria, Nurses' Perceptions Regarding Responsibility in Delegating Doctors' Authority to Nurses in the Internal Medicine Non-Surgical Inpatient Room at RSUP. DR. M. Djamil Padang, Thesis, Padang: Andalas University, 2016, p. 6

⁴Churchman & Doherty in Merav Ben Natan, Medical Staff Attitudes towards Expansion of Nurse Authority to Perform Peripheral Intra Venous Cannulation, International Journal of Caring Sciences. School of Health Professions, Tel Aviv University, Israel. Vol. 8, Issue 1, 2015, p. 70

of getting into legal trouble. The legal basis for delegating the authority/duties of doctors to nurses is regulated in Article 28 of Minister of Health Regulation no. 26 of 2019 and also contained in Article 290 of Law Number 17 of 2023 concerning Health. And the unavailability of instructions or regulations regarding the types of medical procedures that can be carried out by nurses often causes an overlap in nursing care duties and tasks that are delegated authority from doctors.

The need for patient services in the Intensive Care Unit (ICU) is long-term resuscitation measures which include life support for vital functions such as airway (airway function), breathing (respiratory function), circulation (circulation function), brain (brain function) and the function of other organs, accompanied by diagnosis and therapy for the reason that treatment of patients in critical condition requires experienced nurses/certified Intensive Care Unit (ICU) nurses to care for patients who are in critical condition in providing nursing care to patients in the hospital room. Intensive Care Unit (ICU) nurses have several main duties. The main task of the nurse is to manage nursing services and care comprehensively including assessment, nursing diagnosis, planning, nursing actions for Intensive Care Unit (ICU) patients. The nurse's job description is to act as a team member in all types of services, carry out all therapy programs scheduled for treatment according to the nursing plan, carry out re-evaluation of patients by implementing the next nursing program for the patient, nurses are also responsible for the implementation of the Intensive Care Unit treatment program (ICU) to the Intensive Care Unit (ICU) service coordinator, apart from that, the nurse must really look after the patient well, because apart from the nurse's responsibility to the coordinator, it is also the mandate of the patient's family to always provide the best care for the patient (Ministry of Health, 2011).

As a nurse who is tasked with treating critical patients with acute, injured or life-threatening conditions in the ICU, a nurse is required to be able to carry out emergency actions quickly and precisely to prevent death or deterioration of vital organ systems in the patient's body. These emergency actions are medical actions outside the nurse's independent authority which should be delegated by medical personnel to nurses in the ICU room in writing. As an action that is a delegation of authority from medical personnel to nursing staff, emergency actions have the potential to cause legal problems both for the nurses who receive the delegation of authority and for the hospital institution.⁵

Method:-

The research method used is normative juridical which is based on literature study using primary and secondary sources in the form of books, journals, documents and other sources related to the topic you wish to research. Through this research, researchers want to get an overview and information regarding the mechanisms and legal responsibilities of nurses in carrying out emergency actions in the intensive care unit (ICU).

Discussions:-

Mechanism for Delegating Authority from Doctors to Nurses, Especially in Emergency Actions in the Intensive Care Unit (ICU)

Patients treated in the Intensive Care Unit (ICU) are patients with acute disorders who are expected to be reversible (recover) considering that the Intensive Care Unit (ICU) is a place of care that requires high costs in terms of equipment and (special) personnel. The need for patient services in the Intensive Care Unit (ICU) is long-term resuscitation measures which include life support for vital functions such as airway (airway function), breathing (respiratory function), circulation (circulation function), brain (brain function) and the function of other organs, accompanied by diagnosis and therapy for the reason that treatment of patients in critical condition requires experienced/certified nurses.

The relationship between doctors and nurses in providing health services to patients is a partnership relationship. This relationship must include harmonization in tasks, roles, responsibilities and an open system. The relationship between doctors and nurses also has a legal relationship.⁶In nursing practice there are legal issues, especially issues regarding the method or mechanism for transferring duties or authority from doctors to nurses.

⁵Society of Critical Care Medicine. Critical care statistics in the United States. Illinois. Society of Critical Care Medicine.2012, pp. 40-42; Ministry of Health, Guidelines for the implementation of intensive care unit (ICU) services in hospitals. 2010.

⁶Africa. DJ, Health Law, Bogor, In Media, 2016, p 50

Synchronization of arrangements for delegating authority for medical actions to nurses for health services in hospitals needs to be made clearly. Based on the provisions of Article 290 of Law Number 17 of 2023 concerning Health and specifically regulated in Article 28 paragraph 1 of the Minister of Health Regulation Number 26 of 2019 concerning Elucidation of Law No. 38 of 2014 concerning Nursing states "Delegation of authority to carry out medical procedures from doctors as intended in Article 27 letter a can be in the form of delegation of delegated authority or mandate" which further provisions in Article 28 outlines that the arrangements for the delegation of authority must be carried out in writing and under the supervision of staff. medical officer who delegates this authority.

If the doctor is unable to carry out medical procedures, the doctor may ask for help from a nurse to carry out medical procedures, provided that the doctor is obliged to give a clear delegation of authority to the nurse in writing to carry out the medical action. When a doctor delegates his responsibility to a nurse, legally it means he has transferred legal responsibility for this action. Nurses also have a code of ethics that must be upheld in providing nursing services as a form of responsibility both towards patients, colleagues or other professions, and their professional organizations.⁷

The phenomena found in the field between medical personnel and nurses have not been guaranteed maximum legal protection in hospitals. Therefore, it is necessary to create a written format for the delegation of doctor's duties to nurses which contains the types of medical actions that are delegated and the actions that are delegated according to the abilities and skills they have. This ensures that there are no mistakes between doctors and nurses in providing evidence. In carrying out their duties, the relationship between doctors and nurses has records of medical actions written in a medical record about the patient which contains all the patient's medical information including the actions carried out on the patient.

Accurate and complete documentation is also an important component of legal protection for nurses. Delegation of authority for medical procedures from doctors to nurses can only be done in writing in accordance with Article 28 paragraph 2 of Minister of Health Regulation Number 26 of 2019 concerning Elucidation of Law No. 38 of 2014 concerning Nursing. The type of action delegated must be clear, so that what is delegated is case-by-case, not general. Delegative delegation of authority can only be delegated to professional nurses or trained vocational nurses who have competence. Meanwhile, delegation of authority by mandate is a delegation of duties given by medical personnel to nurses to carry out medical actions under supervision.⁸This is in accordance with Article 1367 of the Civil Code that "A person is not only responsible for losses caused by his own actions, but also for losses caused by the actions of people who are his dependents or caused by goods under his control." So, if the delegation of authority for medical procedures from doctors to nurses is carried out in accordance with applicable laws and regulations, then doctors and nurses will be equally protected by law and of course the public will receive maximum service.

However, in reality, the delegation of authority from doctors to nurses in hospitals is still done verbally or not in writing. This is a problematic dilemma in the field. When an emergency occurs, sometimes the doctor in charge is not there, so the delegation of authority is often done via telephone or verbally. Meanwhile, emergency measures to help patients must be carried out as soon as possible. Apart from that, many nursing staff still do not understand the legal protection for medical personnel regarding the delegation of authority in carrying out medical procedures. Minister of Health Regulation Number 26 of 2019 concerning Explanation of Law no. 38 of 2014 concerning Nursing, namely article 33, explains that nurses are responsible and given the authority to handle patients in emergency situations.

The delegation of authority carried out by doctors to nurses is actually regulated in the Regulation of the Minister of Health of the Republic of Indonesia Number 26 of 2019 Elucidation of Law No. 38 of 2019 concerning Nursing which is explained in Article 28, namely:

1. The delegation of authority to carry out medical procedures from doctors as intended in Article 27 letter a can be in the form of delegation of delegated authority or mandate.
2. The delegation of authority to carry out medical procedures as intended in paragraph (1) must be done in writing.

⁷Nasir, A and Purnomo, The Influence of Implementing the Nursing Code of Ethics on Nursing Services. Permas Scientific Journal: Stikes Kendal Scientific Journal 335-342. 2019

⁸Kozier B, Nursing Fundamentals, Concepts, Processes, and Practices. Jakarta, EGC, 2016 p. 20

3. The delegation of authority by mandate as intended in paragraph (1) is given by medical personnel to Nurses to carry out medical actions under the supervision of the medical personnel who delegate authority.
4. Delegative delegation of authority to carry out a medical action as intended in paragraph (1) is given by medical personnel to a Nurse accompanied by delegation of responsibility.
5. Delegative delegation of authority as intended in paragraph (1) can only be given to trained Professional Nurses or Vocational Nurses.
6. The delegation of authority to carry out medical procedures as intended in paragraph (1) is carried out in accordance with their competence.
7. Types of medical actions in the delegation of authority by mandate include actions
 - a. administering parenteral therapy;
 - b. suturing; And
 - c. other medical procedures in accordance with the Nurse's competence
- (2) Types of medical actions in delegated delegation of authority include actions:
 - a. memasang infus;
 - b. menyuntik;
 - c. installing an IV;
 - d. inject;
 - e. basic immunization; And
 - f. other medical actions carried out in accordance with the Nurse's competence

Based on the provisions, the type of action delegated to the nurse must be clear, so that what is delegated is on a case-by-case basis, not a general one. Delegative delegation can only be delegated to nurses who have the required competencies and mandated delegation is given to nurses under their supervision. Mechanism for Delegating Authority from Doctors to Nurses, Especially in Emergency Actions in the Intensive Care Unit:

- a. Doctors who are unable to carry out medical procedures due to certain factors may ask a nurse for assistance in carrying out medical procedures, provided that the doctor is obliged to provide a clear delegation of authority to the nurse in writing to carry out the medical procedure.
- b. Delegation of authority to carry out medical procedures from doctors to nurses as intended in Article 27 letter a Minister of Health Regulation Number 26 of 2019 Elucidation of Law No. 38 of 2019 can take the form of delegation of delegated authority or mandate.
- c. Delegation of authority to carry out medical procedures must be done in writing to a professional nurse or trained vocational nurse
- d. Emergency actions taken by nurses aim to save the patient's life and prevent further disability.
- e. The delegation of authority is mandatorily given by doctors to nurses to carry out medical procedures under the supervision of the medical personnel who delegate authority

When a doctor delegates authority for medical procedures, it must be adjusted to the nurse's condition, of course it must be given priority to delegate it to a senior nurse who has a lot of experience. So that when there is a delegation of authority for medical action from a doctor, it can run well and undesirable things can be minimized. So, if the delegation of authority for medical procedures from doctors to nurses is carried out in accordance with applicable laws and regulations, then doctors and nurses will be equally protected by law and of course the public will receive maximum service.

Legal Responsibilities of Nurses in Providing Medical Actions in the Delegation of Authority in the Intensive Care Unit

The main task of nurses in the Intensive Care Unit (ICU) is to provide various complete care services. Therefore, the nurse's responsibilities must be seen from the role of the nurse above. In the care and coordinating role, nurses have independent responsibilities. Meanwhile, the therapeutic role states that in certain circumstances some diagnostic activities and medical procedures can be delegated to be carried out by nurses. In this case, it should be noted that the main responsibility remains with the doctor who assigned the assignment. Meanwhile, nurses have responsibilities as executors of duties. Delegation can only be carried out after the nurse has received sufficient education and competency to receive the delegation. Long-term or continuous delegation can be given to health nurses with special skills, which are regulated by separate regulations (standing order).

According to Hans Kelsen, in his theory of legal responsibility, it states that: "a person is legally responsible for a certain act or that he bears legal responsibility, the subject means that he is responsible for a sanction in the event of

a conflicting act." Hans Kelsen further stated that:⁹"Failure to exercise the care required by law is called negligence; and error is usually seen as another type of error (culpa), although less severe than error which is fulfilled by anticipating and intending, with or without malicious intent, harmful consequences."

In civil law, nurses' liability comes from two forms, namely unlawful acts (onrechtmatigedaad) in accordance with the provisions of Article 1365 of the Civil Code and acts of breach of contract (contractual liability) in accordance with the provisions of Article 1239 of the Civil Code. Article 1365 BW and Article 1366 BW "Every action that causes harm to another person means that the person who does it must pay compensation as liability for the loss and a person must be responsible not only for the harm done intentionally, but also because of negligence or lack of caution." . Based on the provisions of this article, a nurse who makes a mistake in carrying out his independent function which results in harm to the patient is obliged to bear his responsibility independently. Judging from the provisions of Article 1365 of the Civil Code above, the nurse's responsibility arises if it fulfills four elements, namely:

- 1) The action violates the law
- 2) There is an error
- 3) The patient must experience a loss
- 4) There is a causal relationship between errors and losses

Thus, if viewed from the concept of nursing law, violations of respect for patient rights, which are one of the legal obligations of nurses, can be included in unlawful acts. For example, this violation does not ensure patient medical confidentiality. And if the patient or family considers they have been harmed by the nurse's actions that violate the law, the patient/family can file a lawsuit demanding compensation in accordance with the provisions of statutory regulations..

In principle, the form of responsibility in criminal law is personal liability and if it is carried out within the scope of technical activities or in carrying out a coordinating role where the nurse understands that the action is contrary to the law, then the doctor who gave the order can be held criminally liable. If the health service is provided by a nurse in a hospital where the nurse has employee status, then based on Article 447 of Law Number 17 of 2023 concerning Health, the hospital can be held criminally liable with the threat of sanctions in the form of a fine.

Nursing actions have actually been clearly regulated in various statutory regulations, one of which is Law Number 38 of 2014 concerning Nursing, but this regulation has been revoked along with the enactment of Law Number 17 of 2023 concerning Health so that the special regulations for the nursing profession are only regulated in various regulations at the Ministerial level, so that the regulation of criminal sanctions refers to the criminal sanctions contained in Law Number 17 of 2023 concerning Health.

The threat of criminal sanctions in Law Number 17 of 2023 concerning Health can be examined in that there is no article that specifically regulates medical actions carried out by nurses that do not comply with the provisions of statutory regulations. This shows that the community has not fully received protection in health services from health workers, especially nurses, and on the other hand, nurses have also not fully received protection regarding the limits of actions they can take in providing health services, even though in various regulations it is stated that nurses in providing Apart from being a partner to a doctor who carries out actions based on orders or delegation of authority from a doctor, a nurse can also carry out medical procedures in collaboration with a doctor. In the event that a nurse carries out nursing care/medical actions on the orders of a doctor, the nurse is responsible to the doctor for the medical actions he or she carries out as long as there is a delegation of duties.

Administrative legal accountability arises due to violations of administrative law provisions regarding the implementation of nursing practice based on applicable provisions, namely Minister of Health Regulation Number 26 of 2019 concerning Elucidation of Law No. 38 of 2014 concerning Nursing, which provides administrative provisions that nurses must comply with, namely:

- a. Nursing Practice License for nurses who practice independently.
- b. The provision of health services is based on the authority regulated in Article 16

⁹Hans Kelsen (a), 2007, as translated by Somardi, General Theory of Law and State, General Theory of Law and State, Basics of Normative Legal Science as Empirical Descriptive Legal Science, BEE Media Indonesia, Jakarta, p. 81

c. Obligation to work according to professional standards

The absence of the above administrative requirements will make nurses vulnerable to malpractice suits. The absence of a SIPP in carrying out health service delivery is an administrative malpractice that can be subject to legal sanctions. The author sees that there are 2 (two) provisions regarding mandatory permits for nurses who work in a hospital. In Law No. 17 of 2023 concerning Health and Minister of Health Regulation Number 26 of 2019 concerning Explanation of Law no. 38 of 2014 concerning Nursing. The form of administrative sanctions that are threatened for violations of this administrative law are:

- a. verbal warning;
- b. written warning;
- c. license revocation

In practice, many nurses carry out health service practices which include treatment and diagnosis without a SIPP (Nursing Practice License) and doctor's supervision. This of course violates the code of ethics and the authority and basic duties of the nurse herself. So these actions will give rise to legal clauses both for the nurse who receives the delegation of authority and for the hospital institution.

Conclusions:-

Based on the description above, in the research it can be concluded that doctors who are unable to carry out medical procedures due to certain factors, the doctor may ask for help from a nurse to carry out medical procedures, provided that the doctor is obliged to give a clear delegation of authority to the nurse in writing to carry out medical procedures. the. Delegation of authority to carry out medical procedures from doctors to nurses as intended in Article 27 letter a Minister of Health Regulation Number 26 of 2019 concerning Elucidation of Law No. 38 of 2019 can take the form of delegation of delegated authority or mandate. Delegation of authority to carry out medical procedures must be done in writing to professional nurses or trained vocational nurses. Emergency actions carried out by nurses aim to save the patient's life and prevent further disability. The delegation of authority is mandatorily given by doctors to nurses to carry out medical procedures under the supervision of the medical personnel who delegate authority. The form of responsibility can be in the form of civil law, criminal law and administrative law, so that each can provide sanctions for violations that occur due to negligence or administrative errors.

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