

Management Of Health Practice Places That Do Not Have A Permission

Sri Cindrawati Abdullah¹, Lisnawaty W. Badu², Mohamad Taufiq Zulfikar Sarson³

¹ Faculty of Law, Universitas Negeri Gorontalo cindyabdullah12@gmail.com

² Faculty of Law, Universitas Negeri Gorontalo, Indonesia. lisnawatybadu0@gmail.com

³ Faculty of Law, Universitas Negeri Gorontalo, Indonesia mtaufiqzulfikars@gmail.com

ARTICLE INFO

Keywords :

*Countermeasures;
Permission; Health
Practice*

How To Cite :

Abdullah, S.C.,
Badu, L.W Sarson
M.T. (2020).
*Management Of
Health Practice
Places That Do Not
Have A Permission
Estudiante Law
Journal*. Vol. 2 (2):
637-638

DOI :

ABSTRACT

This study aims to determine the actions of the police in tackling unlicensed health practices in Gorontalo Regency. This type of research is a normative-empirical legal research using a statutory approach and a case approach and the data obtained in this study were analyzed qualitatively, namely by collecting data, qualifying then connecting theories related to the problem and drawing conclusions to determine the results. Actions from the police as an effort to overcome health practices that do not have permits are preventive efforts, namely efforts that lead to how the actions of the police before the occurrence of a crime, namely the police coordinate with the local government in order to issue a letter to every existing health center. , not to open a health practice without a permit. Then when it is known that there is a place of practice that does not have a permit, the police will carry out an investigation process in accordance with the provisions of the law or what is called a repressive effort. Actions from the police are more emphasized in terms of taking action to deal with health practices that do not have permits. Because in providing legal firmness and providing a sense of security for legal services, firmness is needed to make efforts or actions from the police to minimize the existence of malpractice victims by going directly in the field in disciplinary efforts for health workers who do not have permits. Actions from the police are more emphasized in terms of taking action to deal with health practices that do not have permits. Because in providing legal firmness and providing a sense of security for legal services, firmness is needed to make efforts or actions from the police to minimize the existence of malpractice victims by going directly in the field in disciplinary efforts for health workers who do not have permits. Actions from the police are more emphasized in terms of taking action to deal with health practices that do not have permits. Because in providing legal firmness and providing a sense of security for legal services, firmness is needed to make efforts or actions from the police to minimize the existence of malpractice victims by going directly in the field in disciplinary efforts for health workers who do not have permits.

@2020 Abdullah, S.C., Badu, L.W Sarson M.T.

Under the license CC BY-SA 4

1. Introduction

The progress of the current era makes the human mind also updated with various kinds of knowledge, especially those related to health. So that in modern times is an era where humans are required to develop themselves.¹ However, we do not find many people who use their knowledge in a way that basically contradicts legal regulations, considering that Indonesia is also one of the countries that puts forward the constitution in every aspect of the life of the nation and state.² Advances in science and technology hanged everything and brought the world to experience industrialization now and then.³

Talking about health can be interpreted as part of the fulfillment of human rights which must be realized in the form of providing various health efforts to the community through the implementation of quality health development and affordable by the community. In improving the quality of human life in the health sector, it is a broad and comprehensive effort, this effort includes efforts to improve public health, both physically and psychologically. Health is an important thing in human life for the proper implementation of daily human activities.⁴

There are so many cases of malpractice in Indonesia and enough to grab the attention of the public which sometimes forms public opinion to tend to corner health workers as perpetrators of malpractice. When a case of malpractice comes to the surface, there will also be an opinion that the perpetrator of malpractice should be punished. Due to negligence committed by medical personnel which resulted in the death of a patient, at least medical personnel can be prosecuted for violating the law. Moreover, if medical personnel who open their own practice without having a practice permit then commit negligence causing the patient to die, the article imposed will be more severe.

If a place of practice does not have a permit from the start, then all these activities are illegal and wrong.⁵The existence of human rights (HAM) will not have any meaning if it is not followed up with the law that regulates the relationship of these rights, meaning

¹ Daffodil, Dolot Alhasni. (2020). Determination of Legal Protection of Neighboring Right Holders. JALREV 2 (1), p. 67

² Fakhri Lutfianto Hapsoro. (July, 2020). Interpretation of the Constitution in the Examination of Constitutionalities to Realize The Living Constitution. JALREV 2 (2), page 145

³Desi Ariani Sinulingga. Legal Certainty of Aggregate Data Utilization in The Design of Personal Data Protection Bill. JALREV 4 (1) 2022. Pg 19

⁴Indra Yudha Koswara. 2020. Medical Malpractice. Yogyakarta: CV Budi Utama. Thing. 1.

⁵ Lisnawaty Badu.(2012). Euthanasia and Human Rights. Legality Journal. 5 (1), Pg 1

that it is the law that formalizes human rights into a set of rules to maintain and protect so that they do not become clashes in society. social and state life.⁶Indonesia is the highest agreement of the state-formers, even though it has experienced a constitutional test when the 1945 Constitution was changed to the Constitution of the Republic of the United States of Indonesia in 1949, even though the recognition of areas under the auspices of the Indonesian state is still recognized.⁷

When medical personnel do not have permission and moreover do not take appropriate action according to the patient's illness, it is called negligence of a medical worker in carrying out their duties because they are not in accordance with proper health procedures or are considered to have committed malpractice against the patient. Malpractice occurs when a medical worker does not carry out the right standard of treatment, neglects to treat a patient, and causes disability in a patient and can even cause a patient to die. Because there are many cases of violations in the world of health. Whereas based on article 11 paragraph (1) letter c of Law no. 36 of 2014 a person who is a graduate of school Nurses are referred to as nurses and are still given the authority to practice their own nursing until 2020. However, in this case, of course, they must meet an operational and administrative standard in terms of opening a practice, including having to take care of various permits from the authorized party to issue permits for these health workers. do it yourself or not.

Based on the Republic of Indonesia Law no. 36 of 2014 concerning Health Workers in Article 11 paragraph (1) and paragraph (4) that the grouping of Health Workers includes nursing personnel where the task of a health worker is a person who has passed education according to the provisions and has competence according to his knowledge but cannot inject / injection to the general public without having STR and SIPP Nurses.

In Gorontalo Regency there are so many independent Health Practice places that serve as health services for the community, but in this case there are also Health Practice places that intentionally do not meet various requirements such as licensing for Health Practice Places. Based on the results of preliminary data observations in Gorontalo Regency related to the number of Health Practice places in Gorontalo Regency in 2021 as follows:

⁶ Tijow, Luciana. Protection of Human Rights to the Right to Life of Children in the womb outside of a legal marriage. *Journal of Legality* 3 (2), page 80

⁷Novendri M. Nggilu. Juridical Review of Criminal Sanction Arrangements in Gorontalo Provincial Regulations. *Lambung Mangkurat Law Journal* Vol 5 Issue 2, September (2020). page 110

Table 1

Number of Health Practice Places in Kab. Gorontalo

Number of Practice Places	Who has permission	Does Not Have Permission
16	15	1

Source: DJSN

Based on the table above, we can see that there are still health practice places that do not have a permit but still practice. The table above is temporary data that researchers can get regarding the number of practice places that do not have a permit but it cannot be denied that there are still other unlicensed health practices in Gorontalo district that have not been detected. This is why the government and the police need to pay attention. Therefore, the government must increase supervision and make it easier in terms of obtaining a license to practice related to health so as not to make individuals to practice without a permit. The other side also tightens and checks well the requirements in terms of granting licenses to practice places.⁸

One example of a case that occurred precisely in Kayu Bulan Village, Batudaa Pantai District, Gorontalo Regency, where a Health worker graduated from SPK (School of Health Nurses) and in 2012 obtained a Bachelor of Public Health with the initials H which has opened a Health Practice place starting from 1984. This means that for many years H has opened a health practice at his home. In this case, H opens a practice place in his house where there is a part of the house that is used as a place to provide health services. which later in 2018 H was proven to have committed serious negligence which caused the recipient of the Health Service to Die. So indirectly the perpetrators must and must be processed legally.⁹

When this case occurred, the government and the police only found out that H during his practice did not have STR and SIPP. In accordance with the Regulation of the Minister of Health Number 26 of 2019 concerning Nursing in Article 40 that the place for independent practice is in the form of a residence, part of the house, part of the office or its own building. Which has an administrative service room, waiting room, examination room/Nursing Care, and other rooms as needed. So the practice place of H is included in the practice place indicator.

⁸Mirza Nasution, Muhammad Yusrizal Adi Syaputra. Optimization of Regional Revenues Through Tax Revenues Regulation of North Sumatra Province. JALREV 4 (1) 2022. Pg 107

⁹Fence M. Wantu. (2011). Criminal Procedure Law. Reviva Cendekia, Yogyakarta. page 13

In this case, a Nursing education graduate must be at least D3 who can open a nursing practice by submitting an STR and a Practice Permit to the District/City Health Office seeing that H has been running health practices at home for years without having STR and SIPP then H should not can open a practice or accept patients in terms of providing health services. This should be a concern for the Government and the Police to be able to provide control for elements who intentionally open a practice place or accept patients in providing independent health services without appropriate educational qualifications and do not have STR or SIPP. It is not like the case above where when there is a new malpractice case, it is also known that the health service provider does not have a permit according to the procedure. Because it is very important to maintain the quality of health services in the community.

2. Problem Formulation

After seeing the various statements that have been described in the background above, the researcher wants to focus on the study of the actions of the police in tackling unlicensed health practices in Gorontalo Regency.

3. Method

This type of research is a normative-empirical legal research which examines the actions of the police in tackling unlicensed health practices in Gorontalo Regency by using a law approach and a case approach and the data obtained in this study were analyzed qualitatively, namely by collecting data, qualifying then connecting theories related to the problem and drawing conclusions to determine results

4. Analysis or Discussion

The police's action in tackling unlicensed health practices in Gorontalo Regency

Law enforcement will work well if there is a close reciprocal relationship with the community. Because society and order are two things that have a very close relationship, it can even be said to be two sides of a coin. An order in society is created together. So in the community, there will be various kinds of guidelines, standards or rules, each of which contributes to creating the order.¹⁰ Therefore, law enforcers, especially police officers, must act decisively and seriously in dealing with crime to ensure social welfare for the community.¹¹

¹⁰Suharta and Joenadi Efendi. 2013. A Practical Guide When You Are Facing Criminal Cases From Investigation Process To Trial . Jakarta: PT. Prenada Media Group. Thing. 3.

¹¹ Ariefulloh. (2019). The Dilemma of the Implementation of Traffic Violation Sanctions Against Children. JALREV 1 (2), page 199

This pressure is a little more likely to cause a significant reaction to the existence of the community, so that the government through law enforcement must be careful in solving a problem that has to do with the community.¹² The reason is that government policies as outlined in laws and regulations are always followed by criminal sanctions¹³ and State involvement is also one of the characters of the conflict phenomenon.¹⁴

Actions from the police in tackling places of health practice that do not have permits are needed in order to minimize the occurrence of a crime, the existence of a victim, and create a sense of security in the community for health services provided by health workers to the community. In tackling a criminal case, several efforts are needed to overcome them, namely:

1. Preventive Effort

Preventive Efforts are efforts that are more directed at how to limit the movement space of criminals or criminals so that they do not take their actions.

2. Repressive Effort

Repressive efforts are efforts to take action if a crime or a crime has occurred in the community, and the police and law enforcement officers must be more dominant in carrying out efforts to eradicate a crime.

In addition to law enforcement actions from the police, basically only to protect the institutional order and protect the rights of citizens and provide rights and obligations to obtain health services from places that have legality.¹⁵ The norms that develop in society are flexible and encourage creativity in providing public services.¹⁶ Legal protection is very necessary because it is an effort to integrate various needs in the association so that there is no conflict between needs and can enjoy all the rights granted by law.¹⁷ Therefore, complying with the provisions of the legislation is part of the effectiveness of a regulation made.¹⁸

12 Fitriyadi, Ahmad Adi. (2020). Differentiation of Refugees and Asylum Seekers in International Refugee Law and Its Relation to the Principle of Non-Refoulement. JALREV 2 (2), page 127

13 Hwian Christianto, Michelle Kristina. Fulfilling the Right of Education during Covid-19 Pandemic Period: A Comparative Study. JALREV 4 (1) 2022. Pg 1

14 Yudha Chandra Arowana. "Mediation Path in Land Dispute Settlement as an Encouragement for Fulfillment of Human Rights." JALREV 1 (2) 2019, Pg 216

15 Princess Handayani Nurdin. (2019). Political Law Regulation of Political Education by Political Parties. JALREV 1 (2) July, Pg 146

16 Norm LP Wemben. (2010). "Service Performance at the Gorontalo Regency National Land Agency Office." Journal of Legality 3 (2), p. 131

17 Jufryanto Puluhulawa, Mellisa Towadi, and Vifi Swarianata. Jufryanto Puluhulawa, Mellisa Towadi, and Vifi Swarianata. Journal of Legal Reform, Vol. XXIV No. 2, July-December 2020, p. 197

18 Dedi Sumanto, Titin Samsudin, Fikri Asnawi Amiruddin. The Existence of the Religious Court in Handling Divorce Cases on the Reason of Domestic Violence. JALREV 3(2) 2021. Pg 228

So it can be concluded that Preventive Efforts are in the form of ways that tend to prevent crime or criminal acts. While repressive efforts are ways that tend to stop crimes that have started, crimes that are ongoing but not yet completely so that crime can be prevented. Based on the research results of the Gorontalo Police in handling cases that occurred in Kayubulan related to places of practice that do not have a permit, the Gorontalo Police carried out an investigation with the following stages:

1. Arrest

The initial step taken was to arrest the suspect who had opened a health practice site without a permit in Kayubulan village. Based on Article 1 number 20 of the Criminal Procedure Code, an arrest is an investigator's act in the form of temporary restraint on the freedom of a suspect or defendant if there is sufficient evidence for the benefit of the investigator or prosecution and/or trial in matters and according to the method regulated in this law.

2. Search and confiscate evidence

The Gorontalo Police Criminal Investigation Unit then conducted a search and confiscated evidence at the house where it was suspected that the health practice had been carried out without a permit, which proved that the place was used as a practice place to provide health services without a permit. Then there is evidence which is the tools used to provide health services and the evidence is confiscated.

Based on Article 1 Paragraph 17 of the Criminal Procedure Code, namely: "The action of an investigator to enter a residential house and other closed places to carry out inspections or confiscation and or arrests in cases that are in accordance with the method regulated in this law." A search and confiscation of evidence is carried out to find out and prove whether the elements of health practice have been fulfilled.

3. Summoning and Examination of Witnesses

In this case, the Gorontalo Police Criminal Investigation Unit then summoned 6 witnesses, 4 of whom were relatives of the victims and 2 of them were expert witnesses. A witness is a person who provides useful information in terms of the interests of investigation, prosecution and trial in a criminal case that is heard by himself. And an expert witness is a person whose opinion is based on education, skills and is accepted as an expert witness.¹⁹

4. Detention

After obtaining the evidence and by the Criminal Investigation Unit of the Police, it was declared that the evidence based on Article 183 of the Criminal Procedure Code had at least 2 valid pieces of evidence, then the crime actually occurred and the defendant had done it. So the suspect was arrested. After the detention is carried out, the case files are filed and the case files are sent to the prosecutor's office. Based on Article 1 point 21 of

¹⁹Prasetyo Margono. 2017. Juridical Review of Legal Protection of Witnesses and Witness Rights are reviewed according to Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims. Independent Journal Vol. 5 No. 1. Pg. 46.

the Criminal Procedure Code, detention is the placement of a suspect or defendant in a certain place by an investigator or public prosecutor or judge with his determination in matters and according to the method regulated in this law.

For health workers who are proven to have carried out health practices without a permit, the police will carry out investigation procedures as described above. A health worker will be held criminally responsible in accordance with Law Number 36 of 2014 concerning Health Workers. Moreover, for health workers who open a practice place without a permit and then have caused a victim for receiving health services, they will be subject to criminal sanctions in accordance with Article 359, 360 of the Criminal Code covering errors based on intentional. While the basis for negligence/negligence in 267 of the Criminal Code. What is more important is that currently law enforcement has become one of the most efficient steps in doing business.²⁰

Based on the results of the interview stated by Mr. AIPDA Fachmy Onder, SH from the Gorontalo Police Criminal Investigation Unit about how the actions of the police in dealing with health practice places that do not have permits. "During the handling of the case, the Gorontalo Police Criminal Investigation Unit had coordinated with the government, in this case the health department, which then sent a notification letter to the puskesmas in Gorontalo Regency about the absence of health practices by health workers, in this case the matri- matri"²¹

Based on the results of the research conducted, the actions taken by the Gorontalo Police Criminal Investigation Unit in tackling unlicensed health practices in Gorontalo Regency are:

1. Preventive

Preventive efforts are a form of prevention carried out by the Gorontalo Police Criminal Investigation Unit against unlicensed Health Practices. One of the preventive measures against places of practice that do not have a permit is to coordinate with the Health Service so that they can issue a letter to each puskesmas regarding not being allowed to open a practice without a permit. With the issuance of this letter, it is also hoped that the health department can cooperate with the police in conducting outreach to every health worker as a preventive measure.

2. Repressive

The Repressive Efforts made by the Gorontalo Police Criminal Investigation Unit in dealing with unlicensed practice sites are:

a. rebuke

²⁰ Mohamad Rivaldi Moha. (July, 2020). The Urgency of Registration of Electronic System Operators for E-Commerce Businesses. JALREV 2 (2), page 115

²¹Interview with Mr. AIPDA Fachmy Onder, SH, Head of Unit II of the Gorontalo Police Criminal Investigation Unit, Friday 3 December 2021.

In law enforcement, the Gorontalo Police Unit for health practice places that do not have a permit, the police cooperate with the government's Health Office in providing benefits to health workers who have already opened a practice without a permit so that they can immediately apply for a practice permit. Reprimand can be done both orally and in writing

b. Prosecution

For health workers who do not think about the warning given, the police together with the Health Service take legal action against the place of practice. which is carried out in the form of confiscation and closure of the place of practice and can be held criminally responsible.

Based on the results of the interview, the researcher concluded that the actions of the police as an effort to overcome unlicensed health practices, namely preventive efforts, namely efforts that lead to how the actions of the police before the occurrence of a crime, namely the police coordinate with the local government so that issue a letter to every existing puskesmas, not to open a Health Practice Place without a Permit. Then when it is known that there is a place of practice that does not have a permit, the police will carry out an investigation process in accordance with applicable rules or called repressive efforts.

Countermeasures through law enforcement carried out by the police of course essentially carry out their duties to maintain the social order that exists within the scope of the local community. As the police which has a responsibility to provide a sense of security to the community, especially providing security to get a legal health place. The important point is in terms of health and law enforcement as the government's right hand in terms of law enforcement ensuring that the community gets good health services and is in a place recognized by law, so that a sense of justice for the community will manifest itself. As stated by Prof. Fenty Puluhuawa in his writings that The government through the law has provided a starting point for justice, which is carried out for justice based on God Almighty.²² Quoting as said by Fence M. Wantu in his Journal that The essence of justice is an assessment from one person to another, which is generally seen from the party receiving the treatment only.²³ quoting as said by Suwitno Yutye Imran that Justice serves as a guide to distinguish between just and unfair actions. elements of the aspect of justice can be contained in the substance.²⁴

22 Fenty Puluhuawa, Lusiana M, Tujow, Sutrisno. (2020). "Implementation of the Principles of Justice, Legal Certainty and Benefit in Judge's Decisions." *Gorontalo Law Review Journal*. 3, (2) October, p. 184

23 Fence M. Wantu.(June, 2013). Judge Constraints In Creating Legal Certainty, Justice, And Benefits In Civil Court. *Journal of the Legal Pulpit*. 25(2), Pg 206

24 Suwitno Y. Imran. The Urgency of Regulation of the Ultra Qui Judicat Principle in Criminal Judgments. *JALREV* 3 (2) 2021. Pg 398

5. Closing

A. Conclusion

Actions from the police as an effort to overcome health practices that do not have permits are preventive efforts, namely efforts that lead to how the actions of the police before the occurrence of a crime, namely the police coordinate with the local government in order to issue a letter to every existing health center. , not to open a health practice without a permit. Then when it is known that there is a place of practice that does not have a permit, the police will carry out an investigation process in accordance with the provisions of the law or what is called a repressive effort.

B. Suggestion

Actions from the police are more emphasized in terms of taking action to overcome health practices that do not have permits. Because in providing legal firmness and providing a sense of security for legal services, firmness is needed to make efforts or actions from the police to minimize the existence of malpractice victims by going directly in the field in disciplinary efforts for health workers who do not have permits.

References

Book

Fence M. Wantu. Criminal Procedure Law. Reviva Scholar: Yogyakarta, 2011.

Indra Yudha Koswara. Medical Malpractice. Yogyakarta: CV Budi Utama, 2020.

Suharta and Joenadi Efendi. A Practical Guide When You Are Facing Criminal Cases From Investigation Process To Trial . Jakarta: PT. Prenada Media Group, 2013.

Journal

Ariefulloh. The Dilemma of the Implementation of Traffic Violation Sanctions Against Children. JALREV 1 No. 2 (2019), 192-211.

Arowana, Yudha Chandra. Mediation Path in the Settlement of Land Disputes as an Impetus for the Fulfillment of Human Rights. JALREV 1 No. 2 (2019), 212-236.

Badu, Lisnawaty. Euthanasia and Human Rights. *Legality Journal*. 5 No. 1 (2012), 1-11.

Daffodil, Dolot Alhasni. Determination of Legal Protection of Neighboring Right Holders. *JALREV* 2 No. 1 (2020), 65-82.

Dedi Sumanto, Titin Samsudin, Fikri Asnawi Amiruddin. The Existence of the Religious Court in Handling Divorce Cases on the Reason of Domestic Violence. *JALREV* 3(2) (2021), 214-230

Desi Ariani Sinulingga. Legal Certainty of Aggregate Data Utilization in The Design of Personal Data Protection Bill. *JALREV* 4 (1) (2022), 18-37.

Fence M. Wantu. Judge Constraints In Creating Legal Certainty, Justice, And Benefits In Civil Court. *Journal of the Legal Pulpit*. 25 No. 2, July (2013). 205-218.

Fenty Puluhulawa, Lusiana M, Tujow, Sutrisno. Application of the Principles of Justice, Legal Certainty and Benefit in Judge's Decisions. *Gorontalo Law Review Journal*. 3 No. 2, October (2020), 168-187.

Fitriyadi, Ahmad Adi. Differentiation of Refugees and Asylum Seekers in International Refugee Law and Its Relation to the Principle of Non-Refoulement. *JALREV* 2 No. 2 (2020), 120-138.

Hapsoro, Fakhris Lutfianto. Interpretation of the Constitution in the Examination of Constitutionalities to Realize The Living Constitution. *JALREV* 2 No. July (2020). 139-160

Hwian Christianto, Michelle Kristina. Fulfilling the Right of Education during Covid-19 Pandemic Period: A Comparative Study. *JALREV* 4 (1) (2022), 1-17

Jufryanto Puluhulawa, Mellisa Towadi, and Vifi Swarianata. *Journal of Legal Reform*,

Vol. XXIV No. 2, July-December (2020), 189-208.

Mirza Nasution, Muhammad Yusrizal Adi Syaputra. Optimization of Regional Revenues Through Tax Revenues Regulation of North Sumatra Province. JALREV 4 (1) (2022), 104-121

Moha, Mohamad Rivaldi. The Urgency of Registration of Electronic System Operators for E-Commerce Businesses. JALREV 2 No. July 2 (2020), 101-119.

Novendri M. Nggilu. Juridical Review of Criminal Sanction Arrangements in Gorontalo Provincial Regulations. Lambung Mangkurat Law Journal Vol 5 Issue 2, September (2020), 109-121.

Nurdin, Putri Handayani. Political Law Regulation of Political Education by Political Parties. JALREV 1 No. 2, July (2019), 144-166.

Prasetyo Margono. 2017. Juridical Review of Legal Protection of Witnesses and Witness Rights are reviewed according to Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Protection of Witnesses and Victims. Independent Journal. 5 No. 1. (2017), 44-59

Suwitno Y. Imran. The Urgency of Regulation of the Ultra Qui Judicat Principle in Criminal Judgments. JALREV 3 (2) (2021), 395-410

Tijow, Luciana. Protection of Human Rights to the Right to Life of Children in the womb outside of a legal marriage. Legality Journal. 3 No. 2 (2010)

Wemben, LP Norms for Service Performance at the Gorontalo Regency National Land Agency Office." Journal of Legality 3 No. 2 (2010)