

CHAPTER I

INTRODUCTION

A. Background

The survey released by the Central Statistics Agency (BPS) Yogyakarta showed the morbidity rate of the Yogyakarta population was 14.13 percent.¹ By the details that the morbidity rate for women is 16.89 percent and for men is 11.24 percent.² Indirectly, those figure shows the possibility of using medical services that is relatively high. The possibility worsen by the current global pandemic, which hardly impacting Yogyakarta.³ This global pandemic has made everyone concern about their health, in such events, everyone wanting the best medical services they could afford.⁴ Indeed every District in the Special Region of Yogyakarta (DIY) has Public Health Centre, however, the spatial distribution and considering the time and distance that must be travelled to health facilities is quite long and far.⁵ Moreover, the Special Region of Yogyakarta (DIY) has only 44 private Hospital.⁶

Rapid medical development and technology as well as improvement in socio-economic conditions creates a major changes, particularly in critical thinking.⁷ Those development

¹ Badan Pusat Statistik Kota Yogyakarta, 2020, *Statistik Kesejahteraan Rakyat Kota Yogyakarta*, Yogyakarta: Badan Pusat Statistik Kota Yogyakarta, p. 27.

² *Ibid.*

³ Detik News, 2021, "Tertinggi Selama Pandemi! Kematian Corona di Yogya Hari ini Tembus 97 Kasus", <https://news.detik.com/berita-jawa-tengah/d-5654331/tertinggi-selama-pandemi-kematian-corona-di-yogya-hari-ini-tembus-97-kasus>, accessed on XXX

⁴ Aziz Yoga Hanggoro, Suwarni, dan Mawardi, 2020, "Dampak Psikologis Pandemi Covid-19 pada Tenaga Kesehatan: A Studi Cross-Sectional di Kota Pontianak", *Jurnal Kesehatan Masyarakat Indonesia*, Vol.15 (2), p. 16.

⁵ Gian Felix, Amanda and Eriko Darmajaya, 2020, "Analisis Keterjangkauan Fasilitas Kesehatan Menggunakan Pemodelan Network Analysis di Kota Yogyakarta", In Seminar Nasional Geomatika 2020: Informasi Geospasial Untuk Inovasi Percepatan Pembangunan Berkelanjutan, Yogyakarta, p. 187.

⁶ Badan Perencanaan Pembangunan Daerah Yogyakarta, 2021, "Sarana Kesehatan", http://bappeda.jogjaprovo.go.id/dataku/data_dasar/cetak/241-sarana-kesehatan, accessed on XXX

⁷ Michael Dunn, Jonathan Herring and Handa, 2019, "Between the reasonable and the particular: Deflating autonomy in the legal regulation of informed consent to medical treatment", *Health Care Analysis*, Vol. 27 (2), p. 118.

enhance the critical thinking of Indonesians, especially their right and duties in medical services provided by the hospital through a doctor. History has shown that there are rising number of issues between patients and hospitals. Mostly, caused by the aggrieved patient of health services provided by the doctor who treats the disease he is suffering or his related. Health care is one of the human rights guaranteed by the 1945 Constitution which must be realized through several efforts. As a health institution, the hospital is obliged to provide its best services as stated in Law Number 44 of 2009 on Hospital.⁸

Those responsibilities are reflected in the implementation of the hospital's obligations to fulfil patient rights carried out by doctors, nurses, midwives, and other health workers based on their authority and competence in accordance with professional ethics, as well as standard operating procedures that apply in the hospital. Notably, the Ministry of Health Regulation Number 129/Menkes/SK/II/2008 explained that the quality is seen by hospital compliance with predetermined standards or in accordance with the requirements of Minimum Service Standards (SPM). One of the parameters to determine the quality of health services in hospitals is a complete medical records which can be obtained from correct, complete and updated data of the patient. It must include patient identity, examination, treatment, actions and other services provided to patients.⁹ This completeness aims to create a secure and continuous medical records to protect the legal interests of patients, doctors, and hospitals. All of it was obtained from the informed consent.

The Special Region of Yogyakarta (DIY) is known as the city of students, because of almost 20 percent of its productive population is students but only 17.81 percent of its

⁸ See Law Number 44 of 2009 on Hospital.

⁹ See Article 1 point 1 of Health Minister Regulation number 269/Menkes/Per/III/2008 on Medical Record.

productive population has higher level of education than preliminary school.¹⁰ The data equally explain that not everyone aware of the hospital compliance with the predetermined standard made by the Ministry of Health. In fact, the Sleman District Health Office has published a guide book containing an attachment to the SOP for all health services in the district that can be used as a reference. As one of the SOP, informed consent play a significant role in overall medical services outcome. Serves as legal protection for all the parties that involved in delivering as well as receiving medical services.

Informed consent should not be an obstacle as stated in the Regulation of the Minister of Health of the Republic of Indonesia Number 290 / MENKES / PER / III / 2008 CHAPTER II approval and explanation of article 4 (1) which reads “In an emergency situation, to save patient's life and / or prevent medical treatment approval is not required”.¹¹

Sometimes even though doctors have acted accordingly to good and correct medical principles and have acted in accordance with the procedure, it is possible if there is a failure in surgery or treatment which results in a patient experiencing disability or even death. It is not impossible that the patient's family will blame the doctor's actions. Doctors' medical actions against patients are often associated with criminal law, health law, or medical code of ethics, such as the Penal Code Articles 351, 359, and 360 which involve actions that cause injury, disability, death due to negligence. Therefore, there are many things that make the author interested in conducting research on the implementation of this Informed Consent and want to compile a undergraduate thesis entitled *The Implementation Of Medical Informed Consent In Sleman Regency (Case Study of Queen Latifah Hospital and Ananda Maternity Clinic)*.

¹⁰ Badan Pusat Statistik Yogyakarta, *Op. Cit*, p. 22.

¹¹ See Minister of Health of the Republic of Indonesia Number 290 / MENKES / PER / III / 2008.

B. Research Question

Considering the research background above, the author formulated two questions to be researched, namely:

1. How is the implementation of medical informed consent in Queen Latifah Hospital ?
2. How is the implementation of medical informed consent in Ananda Maternity Clinic?

C. Objectives of Research

Based on the research questions above, there are three objectives to be achieved, namely:

1. To evaluate and enhance the implementation of medical informed consent in the Queen Latifah Hospital.
2. To evaluate and enhance the implementation of medical informed consent in Ananda Maternity Clinic.

D. Benefit of Research

There are two advantages that could be reached from this research namely:

1. Theoretically

This research provides a better understanding of the law and enhancing the implementation of medical informed consent in Sleman Regency, especially Queen Latifah Hospital and Ananda Maternity Clinic.

2. Practically

This research is beneficial in order to educate the society by giving an insight and knowledge regarding the importance of medical informed consent.

E. Research Method

1. Type of Research

This research is normative-empirical legal research that uses both primary and secondary data from interviews and real behavior conducted through direct observation.

2. Type of Data

a. Primary Data

The Primary data can be defined as the data obtained directly from the first source (respondent) related to the problems to be discussed by conducting well-structured interviews with the parties involved. in this case such as, the Head of Queen Latifa Hospital and the Head of Clinic Maternity Ananda, as well as its Doctors, Nurses, Midwives, and staff.

b. Secondary Data

Secondary data were obtained by conducting library research on the research materials, includes primary legal materials, secondary legal materials, and tertiary legal materials, namely: Primary material consists of regulations as follows:

1. The 1945 Constitution
2. Indonesian Civil Code
3. Minister of Health Regulation Number 434/Men.Kes/X/1983 on the Enactment of Indonesian Medical Code of Ethics of Doctors
4. Law Number 29 of 2004 on Medical Practice
5. Health Minister Regulation number 269/Menkes/Per/III/2008 on Medical Record
6. Minister of Health of the Republic of Indonesia Number 290/MENKES/PER/III/2008 on Medical Approval Actions
7. Law Number 36 of 2009 on Health
8. Law Number 44 of 2009 on Hospitals.

9. Minister of Health Regulation Number HK.02.02/Menkes/148.I/2010 on Permissions and Nursing Practice.
10. Ministry Health Regulation Number HK.02.02/MENKES/149.1/2010 on Permissions and Midwifery Practice.

Secondary material consists of several documents related to the primary legal material such as:

- 1) Scientific journals;
- 2) Books related to the issue;
- 3) The previous study;
- 4) Seminars papers related to the issue;
- 5) Others related document;
- 6) Trusted Internet sites and;
- 7) Other non-legal documents related to this research.

Tertiary material:

- 1) Encyclopedia;
- 2) English dictionary.

c. Method of Collecting Data

Data were collected through both Field Work and library-based study.

a. Field Work

Field work was conducted through interview. Interviews are carried out to obtain the primary data and information by asking questions related to the main problem of this research. In this study, interviews will be conducted to answer the

problem formulation that cannot be found in the literature review and to synchronize with the actual situation in the community.

b. Library-based Study

The data were collected through a literature review. The data were taken by reading, analyzing, and making conclusions from related documents such as law books, legal journals, books, and others related to the main problem as the object of this research.

d. Analysis

This research uses descriptive and qualitative analysis. The data that have been collected will be selected first and accurate data will be selected with the object to be studied. The data then will arranged systematically so that it can be a good and clear writing arrangement so that it is easy to understand.

Descriptive presentation of research results will be carried out to describe real events or events in the field regarding the implementation of medical informed consent in Sleman Regency. It is hoped that the use of descriptive explanations can provide an overview for listeners about events that actually occur in the implementation of medical informed consent in Sleman Regency.

F. Systematic of Undergraduated Thesis

This undergraduate thesis consist of 5 (five) chapters. Chapter one is introduction. In this chapter the author discuss about the background this research carried out, then in this research there are 2 (two) research questions, namely How the implementation of medical informed consent in queen latifah hospital and How the implementation of medical informed consent in Ananda Maternity Clinic), then further explained about the objectives of research,

namely to find out the purpose of writing the undergraduate thesis, after that there are 2 (two) benefits of research, namely theoretically and Practically, then to find out what the method to use in this research will be explained in the research method, then the last part of the Introduction is there is a systematic of undergraduate thesis which in this case will be explained about the things in this undergraduate thesis.

Second chapter is talk about the overview of health service, In this chapter, the author will discuss about healthcare service definition, classification of healthcare service, healthcare service facilities and Profession of healthcare service. Then the overview of informed consent, will discuss in third Chapter, it will give knowledge about what the Informed consent, history of informed consent, therapeutic transaction and the legal analysis of informed consent in health care services.

For the most important part of this undergraduate thesis is the finding and analysis section which will be discussed in chapter 4, namely the implementation of medical informed consent in Sleman regency which will contain the implementation of medical informed consent in Queen Latifa Hospital and the implementation of medical informed consent in Ananda Maternity Clinic. For the last chapter of this undergraduate thesis is chapter 5, namely closing, in this chapter the author will provide conclusions from the results of research that has been carried out by the author, besides that the author will also provide recommendation that are felt to be useful for the future.