

Issues with Medical Treatment: In light of Article 304 of the Criminal Code, elements of neglect include patients' refusal to receive medical care.

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Abstract: Medical care and health care are fundamental human rights that must be upheld. Patients who require medical attention cannot be abandoned. As to of patients, clinical faculty/specialists can be sentenced under Article 304 of the Lawbreaker Code. Any kind of treatment can be refused by patients. Article 304 of the Criminal Code has no clear guidelines. The expression "" reveals the norm's haziness. putting someone in a bad situation or leaving them there." This paper aims to provide legal certainty regarding the ambiguous provisions of Article 304 of the Criminal Code. This writing employs the statute approach and the historical approach, both of which are normative legal methods. This study shows that placing a patient in a position where they can refuse medical treatment or allowing them to do so is not a mistake that makes someone guilty. Based on Law No. 1, the patient has the right to refuse medical treatment after receiving a comprehensive explanation from the doctor. 29 of 2004 concerning Clinical Practice. Patients' rights must be respected by doctors, who do not promise to cure them but take great care to treat their illness.

Keywords: *section 304; code of conduct; elements of medical negligence; medical action is rejected; rights for patients;*

INTRODUCTION

A human right is the right to health care and medical care. Among other things, Article 25 of the 1948 Universal Declaration of Human Rights outlines the right to health care:

1. Everyone has the right to a standard of living that is sufficient for their own health and the health and well-being of their family. This includes having enough food, clothing, housing, medical care, and the social services they need. They also have the right to life security in the event of unemployment, illness, disability, widowhood, old age, or a lack of other sources of income due to circumstances that are out of their control.

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2. Children and mothers are entitled to special care and support. According to Diantha (2016), equal social protection must be provided for all children, whether they are born within the marriage or outside of it.

Health is an absolute necessity for everyone; no one wants to see his or her physical condition deteriorate and cause illness. However, in actuality, the human body is not always fit and healthy; at times, its condition deteriorates and eventually leads to illness. Patients with chronic diseases not only experience a variety of physical issues, such as pain, shortness of breath, weight loss, and difficulty engaging in physical activity, but they also experience psychosocial and spiritual disorders that have an impact on the patients' and their families' quality of life (Fitria, 2010). Every patient wishes that the disease could be cured. The success of doctors in treating patients is measured by how well they recover. The development of health science and technology has resulted in the creation of numerous sophisticated instruments and medicines. The disease is getting worse and harder to treat as a result of advances in medical technology. Cancer is one of the many diseases that can't be cured with modern medical technology or advanced research.

Lung cancer, breast cancer, colorectal cancer, prostate cancer, and skin cancer are the types of cancer that affect adults the most, according to the American Cancer Society in 2013. Leukemia, neuroblastoma, lymphoma, osteosarcoma, wilm tumor, retinoblastoma, and adrenocortical carcinoma are the most common types of childhood cancer (Hardiwardoyo, 1999; Suparna and others, 2018; The World Health Organization reported in 2013 that the number of cases of cancer rose from 12.7 million in 2008 to 14.1 million in 2012. Despite the fact that the number of fatalities increased from 7.6 million in 2008 to million in 2012, Malignant growth is the subsequent driving reason for death on the planet by 13% after cardiovascular infection. In 2030, it is predicted that 26 million people will be diagnosed with cancer, and 17 million of them will die from it. The incidence of cancer will be especially high in developing and poor nations, where it will occur more quickly. The Republic of Indonesia ensures that all of its citizens are healthy. With the establishment of the Health Social Security Organizing Agency (BPJS Kesehatan), a number of health programs have been established to ensure citizens' health, including health insurance. Numerous laws and regulations have been enacted in order to safeguard patients' health rights and serve as an example of Indonesia's rule of law.

In light of the preceding rights of patients, patients have the right to refuse medical treatment. Patients' refusal to receive medical care will have an effect on their survival. When a doctor tells a patient about a disease, he or she needs to be careful and take into account the patients' mental health because it could be illegal. referring to the following sentence from Article 304 of the Criminal Code: A maximum sentence of two years and eight months in prison or a fine of four thousand five hundred rupiah can be imposed on anyone who intentionally treats or leaves someone in a state of misery, despite the fact that they are required to provide that person with life support, care, or maintenance by law or by agreement. When comparing Article 304 of the Criminal Code to Article 52 letter d of the Law Practice of Medicine, it is as if medical professionals were faced with a choice between a patient's right to refuse medical treatment and the penalty for neglect. The dilemma will be resolved by

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conducting normative or doctrinal legal research on this issue. "Putting or letting someone in a state of misery" is a popular norm. Putting or letting, is it equivalent to rejecting clinical activity? The rule approach was finished by auditing all regulations and guidelines relating to the legitimate issues being tended to. According to Marzuki (2017), the historical approach was used to investigate the context of what was learned and the development of the arrangement regarding the issues that were encountered in order to identify the issue and its solution.

MATERIALS AND METHODS

In this study, a qualitative research model is used. The Indonesian government's regulations serve as the foundation for the theory. For library research, the data collection method is utilized. Descriptive explanations are provided for each occurrence.

RESULTS AND DISCUSSIONS

The relationship that exists between a doctor and a patient is one of a kind. (Lubis & Harry, 2008) defines "doctor" as "person who provides health services" and "patient" as "person who receives health services," as well as "experts" and "laypeople," "healthy" and "sick" doctors.⁸ Doctors will take specific actions in order to treat their patients. The patient or the patient's family must consent to the doctor's actions, or informed consent.

Communication between patients and doctors is at the heart of Informed Consent. Where there has been a dialogue between doctors and patients, there is a form that the patient must sign as a realization, affirmation, or documentation of what has been agreed upon (Guwandi, 2005).⁹ The legal basis for the requirement that every medical procedure require informed consent is contained in the Minister of Health Regulation number: With Minister of Health Regulation Medical Action Agreement in accordance been updated. It is thought that informed consent is beneficial because it will:

- a) Increase one's level of autonomy;
- b) Safeguard patients;
- c) Avoid misrepresentation and blackmail;
- d) Encourage doctors to be conscientious and
- e) Increase community participation.

A doctor's approval or decision to take medical action must be based on ethics. Although doctors know more about the science of disease than patients, the opinions of patients cannot be ignored, and doctors are obligated to respect the rights and opinions of patients, decisions are not solely based on their wishes. Doctors must be as clear as possible with their patients' information before making decisions. Patients cannot be persuaded, ordered, or advised by doctors for the benefit of doctors. In this instance, the patient has the right to self-determination, or the ability to control his or her own destiny, which no one, not even medical professionals, can challenge (Irawan, 2013). Law No. Article 56

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of Health Law No. 36 states that patients have the right to informed consent: First paragraph: After receiving and comprehending all information regarding such measures, anyone has the right to accept or reject any and all forms of assistance.

Patients receiving treatment or medication are entitled to the rights and responsibilities outlined in Law No. 29 of 2004 regarding Medical Practice, paragraph 7 regarding the Rights and Obligations of Patients when receiving medical practice services;

According to Article 52:

- a) Obtaining a comprehensive explanation of the medical procedures or treatments mentioned in paragraph 3 of Article 45;
- b) Obtaining second opinions from other dentists or doctors;
- c) Obtaining administrations as per clinical requirements;
- d) Not receiving medical care; and e) Obtaining medical records' contents.

Patients have the right to detailed explanations from the doctors who treat them about the illness, the medical actions taken, and the possibility of healing, regardless of the type of illness. Patients do not require family involvement in decision-making for mild diseases that can be easily treated. However, in actuality, on the off chance that the patients experience the ill effects of terminal malignant growth, which can possibly mend, cautious thought is required as well as the requirement for family contribution in settling on conclusions about clinical moves to be made.

Cancer is a process that begins when genetic mutations in cellular DNA change abnormal cells. There are four stages of cancer malignancies: stage I, stage II, stage III, and stage IV. These abnormal cells form and begin to proliferate abnormally, infiltrate the surrounding tissue, and gain access to lymph and blood vessels. Through these vessels, cells can be carried to other parts of the body for metastases—the spread of cancer—in other parts of the body. More specifically, the stages of cancer are divided into stages IA, IB, and IIA, which are referred to as the early invasive cancer stages, and stages IIB, stage IIIA-IIIB, and stage IVA-IVB, which are referred to as the terminal stages of invasive cancer. In addition to experiencing a variety of physical issues such as pain, shortness of breath, weight loss, and the inability to engage in physical activity, patients with terminal illnesses may also experience psychosocial and spiritual disorders

1. Startled Stage; typically, a terminal illness (terminal'ill) passes through this stage. However, there are times when they are still shocked and do not believe what they are told about their illness.
2. Stage of rejection; at this stage, dismissal frequently happens in victims as well as by their families.

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3. Stage of anger; At this point, the patients become irate and frequently place blame on their family, medical team, or even God or their fate.
4. A depression stage; Sufferers are extremely passive, and some even attempt suicide or abandon themselves.
5. Stage of resignation; in point of fact, if someone is dying and will eventually resign. At this stage, in the event that he/she actually has actual strength and consciousness of thought, there is still desire to work on his/her personal satisfaction (Damayanti, 2008).

Examined according to the point of view of criminal regulation, demonstrations of disregard or exclusion to the demise of an individual can be rebuffed. This should be visible from the plan of Article 304 of the Lawbreaker Code, which states: " A criminal sentence of up to two years and eight months or a fine of up to four thousand five hundred rupiah can be imposed on anyone who intentionally causes or allows another person to suffer, despite the fact that they are required to do so by law or with the person's consent to do so.

Taking a gander at article 304 of the Crook Code, in the event that the state of patients experiencing terminal disease and patients or families rejecting clinical activity to be given by the specialist will affect speeding up the passing system of the patient. Because they have agreed with patients and their families to stop receiving treatment at the hospital, doctors can be charged under Article 304 of the Criminal Code. Patients should be able to live, receive treatment, and care from doctors. The patient will eventually pass away if the doctor does not take this action.

In response, Article 11 of the Indonesian Medical Code of Ethics (KODEKI) 2012 states, referring to the medical code of ethics: Always keep in mind that every doctor has a responsibility to safeguard patients. In other words, the Hippocratic view cited by Elliot-Binns states that a doctor is not permitted to take actions that end a patient's life or speed up their death, regardless of the severity of the patient's suffering (Muslich, 2014). On the other hand, it is absurd to ask doctors to help heal things that medical science doesn't make possible, like making the body fight a disease that can't be avoided. Why bother with illnesses that can't be fixed when research into them is part of this science's job (Kartono, 1984)?

The stage of rejection is one of the stages that patients with terminal cancer must go through. Because it has no effect on the patient's recovery, the patient or the patient's family will refuse medical treatment at this stage. When treated at home, patients and their families will experience a close physical relationship. Patients will not feel isolated from their social interactions and will feel cared for. When confronted with this circumstance, doctors are obligated to uphold the patient's legal rights. The doctors cannot prevent patients from receiving treatment at home if they and their families want to, and doing so would be considered patient neglect. People who will love and care for a patient until their death will make them feel much more at ease and calm. Doctors do their best to treat patients' illnesses, but they do not promise to cure them.

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CONCLUSION

It is possible to draw the conclusion that doctors cannot be convicted under Article 304 of the Criminal Code if they support a patient's decision to refuse medical treatment. These patients are not neglected by doctors because if they refuse medical treatment, they will receive care that is actually better, more comfortable, and calm with their loved ones at home. Patients' rights, including the right to refuse medical treatment, must be respected by doctors. After receiving a comprehensive explanation from the physician regarding the disease, the course of action to be taken, and the likelihood of recovery, the patient has the right to refuse medical treatment. The law that governs this right is No. 29 of 2004 concerning Clinical Practice.

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