UNTAG Law Review (ULREV)
Volume 3, Issue 1, May 2019, PP 103-108
ISSN 2549-4910 (online) & ISSN 2579-5279 (print)
http://jurnal.untagsmg.ac.id/indeks.php/ulrev/indeks
www.fakhukum.untagsmg.ac.id

ETHICO-MEDIKOLEGAL EMERGENCY SERVICE

Dr.dr.C, Inge Hartini, M.Kes
Lecture Postgradue Uswagati University Cirebon
Email : inge_hartini06@yahoo.co.id

ABSTRACT : Emergency Room (ER) is specific department in the hospital with specific problem too. A true emergency is any condition clinically determined to require immediate medical care. Government has regulation if every health facility must give health care without money deposit and every invasive medical treatment need informed consent.Together, this condition sometimes made unsatisfaction for patient and his family. How applied informed consent, if unconscious patient came without his/her family ? Who must make decision for treatment ?

Keywords : emergency, informed consent, down payment

INTRODUCTION

Emergency Room Installation (IGD) is the "entrance" for most patients who are hospitalized. Patients who come to the ED in general in an emergency, need immediate help to save their lives and prevent disability.

Doctors and other health workers on the emergency room often face accident patients who need immediate help, but not accompanied by their families. There are also patients who are taken to the hospital in critical condition, unable to communicate, need breathing apparatus, but families refuse treatment for reasons of cost. Some time ago a patient died at the emergency room because of a "down payment problem". There are also patients in an emergency, requiring immediate surgery to save, surgery is carried out without informed consent. But it turned out that after surgery, the patient could not be saved and died. The family complains why surgery is done without waiting for their arrival. Even abroad there are often Jehovah's groups who refuse to give blood transfusions, even though in reality they need it. There are also cases of patient refusal for resuscitation assistance that have been submitted previously by writing DNR (Do not Resuscitation Order). Likewise in suicidal patients who were rushed to the emergency room. Do they have the right to refuse resuscitation? What are the ethical and legal aspects of providing emergency care?

Discussion

1. Emergency criteria

Emergency criteria according to the perceptions of health workers and according to patients are often different. Minister of Health Regulation Number 47 of 2018 concerning Emergency Services states that "Emergency is a clinical condition that requires immediate medical action to save lives and prevent disability. Emergency patients, hereinafter referred to as patients, are people who are under threat of death and disability who need immediate medical treatment.[1]

In January 2019 there was news in the newspaper "BPJS Patients Are Rejected in IGD Two Hospitals Without Handling". This case began when the 8-year-old patient had 3 days of heat and 131 thousand platelet results came to the hospital emergency room to request hospitalization with the BPJS facility and declared a full room. Minister of Health Regulation Number 47 Year 2018 regulates Emergency Services including criteria for emergencies. The patient's family thinks if the platelet value below normal must be given inpatient facilities. Whereas the BPJS criteria for patients are considered emergency if a fever > 40 ^{0}C and / or platelets is less than 100 thousand, according to WHO criteria [2] This is what makes the perception of emergency different from the point of view of health workers and from the perspective of the patient's family.

Health workers and emergency physicians sort out Australian Triage Scale (ATS) emergency patients to prioritize emergency patients who need immediate treatment. Patients in emergency rooms are serviced not based on arrival time but based on emergency criteria; so that it can occur that the patient has just arrived immediately served, in case there are already 3 (three) patients who have come before. This immediate action based on priorities often triggers patient family dissatisfaction. Therefore it is necessary to do communication, education, and explanation from the emergency room staff to the patient's family regarding the patient's condition as well as the act of "putting first" the patient seriously.

Likewise if an emergency patient is unconscious, without a companion, surgery must be taken immediately to save his life, so that an action is done without informed consent from the patient and his family, but there are witnesses from the emergency room and operating room. In accordance with the provisions of Article 37 paragraph (1) of Law Number 44 of 2009

1 Check Permenkes No. 47/2018 about Pelayanan Kegawatdaruratan. Emergency criteria as referred to in Article 3 paragraph (1) include: a. life threatening, endangering oneself and others / the environment; b. there is a disturbance in the airway, breathing, and circulation; c. a decrease in consciousness; d. presence of hemodynamic disorders; and / or e. requires immediate action.

2 BPJS does not cover financing claims for patients who come to the hospital not in emergency cases. The criteria for patients with emergency cases are life-threatening, airway or respiratory disorders, decreased consciousness, and hemodynamic disorders

concerning Hospitals, it is stated that "Every medical action carried out in a hospital must get the approval of the patient and his family". In the explanation of this article "excluded for incompetent patients or in an emergency".[3]

Emergency Services without Advances

The Hospital Law states that hospitals are required to provide emergency care without advance payments. [4] In 2017 a total of 187 hospitals throughout DKI Jakarta were asked to sign an agreement so that no hospital would violate the rules, especially if the patient entered an emergency room (ED), must be treated immediately without collecting advances.[5] In 2017 the community was shocked again by the case of the baby Tiara Debora who died at the emergency room at the MK Hospital.

For this case, the DKI Jakarta Health Office formed an investigation team to conduct medical audits and management audits. The results of the investigation show that emergency doctors have performed emergency management according to professional standards and doctor's competence. When being transferred to the pediatric intensive care unit (PICU) room, Debora's parents were asked to pay a down payment by the hospital. From the medical audit, the emergency doctor at the MK Hospital was said to have performed medical treatment properly against Deborah. The investigation team concluded that the hospital director The Court did not understand the laws and regulations related to the hospital. This is related to the attitude of the hospital asking Deborah's parents for advances.[6] Regulations stating that hospitals may not ask for advances in an emergency situation have long been established internationally.[7] Abroad, emergency patients are treated at the ED, but families continue to sign funding capabilities, for example through insurance or cash.[8]

Approval of Medical Action (Informed Consent)

In accordance with the Hospital law, "Every medical action taken in a hospital must get the approval of the patient or his family. In the explanation, this article is excluded for incompetent patients or in an emergency.[9] Although there are already exemption rules for medical action approval for life-saving emergency measures, in 2016 a study was conducted in a hospital in

3 Check Explanation Article 37 paragraph (1) Undang-Undang Number 44 of 2009 about Rumah Sakit. Also check Article 4 paragraph (1) Permenkes Number 290/Menkes/Per/III/2008 about Persetujuan Tindakan Kedokteran
4 Check Article 29 paragraph f Undang-Undang Nuber 44 of2009 about Rumah Sakit. Also check Article 10 paragraph b. Permenkes Nomor 4 tahun 2018 about Kewajiban Rumah Sakit and Kewajiban Pasien
5 Media Indonesia 16 September 2017. Hospital Prohibited from Collecting IGD Advances.
6 Kompas, 26 September 2017, Kompas, September 26, 2017, Final Investigation of Deborah Baby Cases and Sanctions for MK Hospital.
7 J. Stuart Showalter, 2007, *The Law of Healthcare Administration,* HAP 5th Ed. Chicago
8 Family Caregiver Guide. Emergency Room (ER) Visits
9 Check article 37 (1) Undang-Undang 44 of 2009 about Rumah Sakit

Samarinda, there were 5 (five) cases related to ED services within 2 (two) years. Among the emergency cases that were helped at the emergency department, but did not succeed in helping the lives of patients, and families demanded compensation [10] A doctor at the emergency department often faces a dilemma when an emergency patient without a companion needs surgery to save his life, while the family cannot be contacted. If help is carried out without informed consent and the results are positive, it means the patient is safe; in general there are no complaints from the patient's family. But if the results are negative, or the patient cannot be saved, there are families who complain and demand compensation. Similarly, hospitals or doctors not providing first aid to patients who are in an emergency can be punished.[11] The above issues will remain, if the community, legal experts and health personnel are different. Communities and legal experts look at the "results of action" while health workers are guided by "care processes" to save lives.

In the case of overseas, where the patient has written in his "no blood" pocket related to his beliefs; then even in an emergency, doctors still have to respect patient decisions.

Patients who have signed the Do Not Rescitate (DNR) sheet while still healthy and competent, have legally used the autonomy right to self-determination and refuse resuscitation in the event of a life-threatening emergency. . In this case, the ED doctor acts by giving fluids and medication, but does not carry out pulmonary cardiac resuscitation (CPR).

The "suicide attempt" patient who was taken to the emergency room was still helped to save his life. Suicide patients in general are psychologically unstable, so emergency room officers provide first aid according to the principle of beneficence and non maleficence.

Ethico-Medikolegal

The word ethics or ethics comes from the word mores (Latin) and ethos (Greek); mores of community (habits, customs of society) and ethosof the people (human morals). Ethics is a study of considerations to approve or disagree with human attitudes and / or actions based on right-wrong or bad or bad attitude and / or action. [12] Lon L. Fuller said that ethics is a field that concerns the morality of aspiration and the law is related to the morality of duty. [13] Good law must reflect the moral consensus and values ? ? of society that must be formulated by law. Medicolegal is an interdisciplinary field between medical / medical science and law.

10 Anton Christian Ompu Sunggu. 2016. Perlindungan Hukum bagi Dokter pada Pelayanan Kegawatdaruratan di RSUD AWS Samarinda. Journal Idea Hukum Vo. 2 No. 1, Edision Maret 2016. Magister Hukum, Fakultas Hukum Universitas Jenderal Soedirman Purwokerto

11 Check article 190 paragraph (1) Undang-Undang Nomor 36 of 2009 about Kesehatan

12 Check Edwin M. Schur.1968.*Law and Society.* Random House. New York. page. 127. Mores or moral attitudes of society are always in a position to overtake the law. According to Sumner, mores can be changed, but slowly. Also check Jaques P. Thiroux.1995.*Ethics, Theory and Practice*. Prentice Hall. Englewood Cliffs. New Jersey. page. 3

13 Lon L. Fuller. 1963. *The Morality of Law.* New Haven and London, Yale University Press. page. 13-14

Medicolegal aspects are legal aspects in medical / medical services. Hospitals as providers of health services are bound by the Hospital Code of Ethics (KODERSI), and the Professional Code of Ethics for service providers (doctors - Indonesian Medical Ethics Code (KODEKI), nurses - Nurse Code of Ethics, Midwives - Midwives' Ethics Code, etc.) .

Childress and Beauchamp mention 4 (four) moral basis rules (KDM) as a handle in carrying out professional activities, namely:[14]

1. Medical indications, are the ability of a doctor to carry out clinical assessments (including diagnosis, prognosis and therapy) as a result of his education, experience and professionalism.
2. Patient preferences (patient preferences or choices). In providing therapy, the doctor adheres to the patient's choice to approve or reject the action to be taken against him.
3. Quality of life (quality of life of patients), Every wound or disease has the potential to reduce the quality of life of patients. one of the purposes of medical intervention is to improve. Therefore in every medical situation, the patient's quality of life must be considered. whether after treatment will decrease, settle or improve.
4. Contextual features (contextual factors), namely external factors related to treatment and patient care, such as family, economic, socio-cultural and legal factors

Emergency patients, unconscious conditions, without companions need immediate help to save their lives, so doctors use the principle of beneficence and non maleficence. Relief actions must be carried out in accordance with the competence of the doctor, Medical Service Standards (SPM) and Standard Operating Procedures (SPO).

Conclusion

As a doctor who has been equipped with clinical medical knowledge and professional ethics, an emergency doctor needs to consider many things in making decisions in helping emergency patients. Except for the principles of Biomedical Ethics (autonomy, beneficence, non maleficence and justice), principles of clinical ethics (medical indications, patient preference, quality of life and contextual features), the emergency physician needs to understand the use of medical science and technology to help patients, without overriding rights -the rights of patients who have been regulated in the laws and regulations.

Need to socialize and understand the law for the community and doctors and other health workers; so that as recipients and providers of health services they understand the service

14 Soeraryo Darsono. 2003.*Perlindungan Hukum bagi Dokter* (paper submitted at annyversary RSUP Dr. Soeradji Tirtonegoro, Klaten)

process in hospitals according to the rules of ethics, the medical profession and the law.

Bibliography

Albert R. Jonsen, Mark Siegler, William J. Winslade.2002.*Clinical Ethics. 5th Ed. McGraw-Hill Companies*

Edwin M. Schur.1968. *Law and Society.* Random House. New York

Jaques P. Thiroux.1995. *Ethics, Theory and Practice*. Prentice Hall. Englewood Cliffs. New Jersey

J. Stuart Showalter, 2007, *The Law of Healthcare Administration,* HAP 5th Ed. Chicago

Lon L. Fuller. 1963. *The Morality of Law.* New Haven and London, Yale University Press

Article

Anton Christian Ompu Sunggu. 2016. Perlindungan Hukum bagi Dokter pada Pelayanan Kegawatdaruratan di RSUD AWS Samarinda. Jurnal Idea Hukum Vo. 2 No. 1, Edisi Maret 2016. Magister Hukum, Fakultas Hukum Universitas Jenderal Soedirman Purwokerto

Family Caregiver Guide. Emergency Room (ER) Visits

Kompas, 26 September 2017, Akhir Investigasi Kasus Bayi Debora dan Sanksi untuk RS MK

Media Indonesia, 16 September 2017. RS Dilarang Pungut Uang Muka IGD

Soeraryo Darsono. 2003. *Perlindungan Hukum bagi Dokter* (makalah disampaikan pada HUT RSUP Dr. Soeradji Tirtonegoro, Klaten