

Patients' Rights Fulfillment towards Medicines Information Services; Law Enforcement and Pharmacist Criminal Liability

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ABSTRACT

This article aims to determine law enforcement towards pharmacists who do not fulfil patients' rights to access medical information services and criminal liability towards pharmacists who do not provide medical information services to patients. This research is normative juridical research using a legal approach. The results obtained in this study show that law enforcement towards pharmacists who do not provide fulfilment of patients' rights to medicines information services. In terms of legal substance, aspects have been regulated in Law Number 36 of 2009 on Health Article 196, Law Number 8 of 1999 on Consumer Protection Article 45 and Article 47, Article 359 and Article 360 of the Criminal Code, Organizational Regulation of the Indonesian Pharmacists Association Number: PO.007/PP.IAI/1822/XI/2020 concerning Assessment Guidelines and Standard Operating Procedures for Handling Violations of the Indonesian Pharmacist Code of Ethics, Indonesian Pharmacists Association. However, from the aspect of the legal structure, it is still not firm enough in its implementation. It is influenced by the culture of the apparatus and society, which still prioritizes using restorative justice methods and does not understand patients' rights in medical information. Related criminal liability for pharmacists who do not provide medical information services has not been implemented as per the existing rules. Implementing existing regulations resolves criminal liability by agreement between both parties, usually by replacing the appropriate medicine and covering the patient's medical expenses.

Keywords: Law Enforcement, Patients' Rights, Criminal Liability, Medicines information

Background

Based on the Decree of the Minister of Health Number 72 of 2016 on Hospital Pharmaceutical Service Standards, it is stated that hospital pharmacy services are an integral part of the hospital health care system. It is oriented towards patient services, quality

medicines, and affordable clinical pharmacy services for all levels of society. Pharmaceutical services are one of the treatment requirements to achieve the goal of successful therapy that can improve patients' quality of life. The purpose of therapy is to treat the disease, reduce the symptoms experienced by the patient, prevent or slow the spread of the disease, or prevent the disease or its symptoms. Pharmaceutical services include the cooperative process of a pharmacist with patients and other health workers in designing, implementing, and monitoring treatment plans that will produce specific therapeutic outcomes for patients.

Medicines information services are one of the health services that are individual health efforts in health service facilities provided by pharmacists to patients. These services follow their authority and competence in order to provide health services. Pharmacists are pharmacy graduates who have graduated as pharmacists and have taken the oath of office of pharmacists. Medicines information services (PIO), according to the Minister of Health Regulation Number 72 of 2016, provide information and recommendations for independent, accurate, unbiased, current and comprehensive medicines. Pharmacists carry it out to doctors, pharmacists, nurses, health-related professionals, patients, and other parties outside the hospital.

In pharmaceutical activity, pharmacists have the task of controlling pharmaceutical preparations, procurement, storage, and distribution of medicines to patients during services on prescriptions and medical information services (Saihab, 2019). However, in the implementation, pharmacists still make many mistakes or negligence in providing services. Negligence that often occurs in providing services is an error when administering medicines where the medicines submitted have expired or by giving the wrong medicines. Other negligences include medicines information services in the form of medicine dosage, how to use medicines, medicine storage places, medicine indications, medicine side effects, how medicines work and medical indications when delivering medicines. Medicines information related to how to use medicines is essential to be informed to patients because not all ways of using medicines are taken. There are also medicines whose use is entered into the anus, such as suppositories. In providing medicines information services, pharmacists must be sure that the medicines handed over to patients are guaranteed quality, safety and efficacy. Incorrect medicines information can be fatal to patients, including poisoning, allergies, kidney damage, liver damage, bacteria in the body becoming immune, and death.

Patients are consumers and users of health services, so in general, patients are protected by Law Number 8 of 1999 on Consumer Protection. According to Article 4 of Law Number 8 of 1999, these are patient rights, including rights to obtain comfort, security and safety in using or consuming the goods or service, rights to obtain correct, clear and honest information on the condition and warranty of the goods or services, rights to obtain proper advocacy, protection and settlement in the consumer's protection dispute, Consumers appropriately receive proper and honest and unbiased treatment or service, rights to obtain compensation, redress and substitution, if the goods or services received are not in accord with the agreement or not received as requested.

Protecting patient rights is also regulated in Article 58, paragraph 1 of Law Number 36 of 2009 on Health. It is stated that "Everyone shall be entitled to claim indemnity against others, health personnel, or health provider who is causing harms due to mistakes or

ignorance in health service they receive." In addition to having rights, patients also have obligations regulated in Article 5 of Law Number 8 of 1999 on Consumer Protection. These obligations include reading or following information guidelines and procedures of using or utilizing goods or services for safety and security, being well-meaning in conducting transactions in the purchase of goods or services and paying in conformity with the exchange value agreed upon.

Pharmacists providing services require much caution because their slight negligence adversely affects and can even cause death to patients. That is why pharmacists, in carrying out their obligations, must be in good faith and full of a sense of responsibility. Pharmacists as an entrepreneur have obligations regulated in Law Number 8 of 1999 on Consumer Protection in Article 7, such as providing correct, transparent and honest information about the condition and guarantee of goods or services and providing an explanation about uses, repair and maintenance, treating or serving consumers correctly and honestly and indiscriminatory, guaranteeing the quality of the goods or services produced and traded based on the prevailing standard provisions on the quality of goods or services, giving compensation and or refund for the losses caused by the use, application and utilization of goods or services traded.

Pharmacists as entrepreneurs also have rights protected by the law as stated in Article 6 of the 1999 Law on Consumer Protection. These are the rights; to obtain legal protection from the consumer's acts of bad faith, to conduct proper self-defence in the legal settlement of the consumer's dispute, and to rehabilitate its good reputation if legally proven that the consumer's damage is not caused by the goods or services purchased. In general, the concept of rights and obligations between patients and pharmacists, where patient rights are the obligations of pharmacists and pharmacist rights are patient obligations. In Indonesia, the law is essential in various social and state aspects. One of them is in the health sector, and health is one of the human rights and one of the elements of welfare that must come into realization under the ideals of the Indonesian nation as referred to in Pancasila and the 1945 Constitution of the Republic of Indonesia (Hidayat, 2016).

Moreover, enacting the Health Law means that all health workers who devote themselves to the health sector and have knowledge and skills through education in the health sector require the authority to carry out health efforts. In carrying out their duties, pharmacists must follow predetermined limits so that they are not prosecuted or sued for having committed actions that are considered to have harmed the community. Relationships between pharmacists and patients must be equal before the law with all the consequences because there may be a legal aspect in the provision of medical information, often referred to as an act of negligence or malpractice if a judge has decided it.

Table 1.
Pharmacist Negligence Cases That Occurred Between 2017 - 2021
(Sources: Internet and RSUD Malingping)

No.	Salah Obat	Obat Kadaluarsa	Nama Pasien Sama	Tahun	Daerah
1	1			2017	Bali
2	1			2019	Lebak
3	1			2019	Depok
4			1	2019	Depok
5		1		2019	Tasik
6		1		2019	Jakarta
7	1			2020	Medan
8	1			2021	Lebak
9			1	2021	Lebak

Pharmaceutical activities in pharmaceutical service facilities by pharmacists must apply pharmaceutical service standards. In administering medicines, pharmacists, one of which is prohibited from not meeting or not complying with the required standards and provisions of laws and regulations. This required standard serves as a benchmark for assessing the negligence of pharmacists in administering medicines. According to Law Number 36 of 2009 on Health in Article 196, "Anybody who is intentionally producing and/or distributing pharmaceutical supply and/or medical equipment which do not meet the standard and/or requirement of the safety, efficacy or usefulness, and quality as referred to in Article 98 paragraph (2) and paragraph (3) shall be convicted with imprisonment at the longest 10 (ten) years and fine at the most IDR 1.000.000.000,00 (one billion Rupiah)". Which stated in Article 98 paragraph (2) that "Every people who do not have the expertise and authority is prohibited conduct, store, process, promote, and distribute medicines and medicinal materials" and in paragraph 3 stated "Provision concerning procurement, storage, processing, promotion, circulation of pharmaceuticals and health equipment to meet quality service standards established by the pharmaceutical Government Regulation".

Meanwhile, according to Article 197, "Anybody who is intentional produce and/or distributes pharmaceutical supply and/or medical equipment without distribution permit as referred to in Article 106 shall be convicted with imprisonment at the longest 15 (fifteen) years and fine at the most IDR 1.500.000.000,00 (one billion five hundred million Rupiah)". It is stated in Article 106 paragraph (1) that "The preparation of pharmaceutical and health equipment can only be released after obtaining the marketing authorization". Pharmaceutical services are an integral part of the inseparable health service system, one aspect of pharmaceutical services is medicines information services provided by pharmacists to patients and other related parties. Medicines information is an aid for doctors in making decisions about the most appropriate medical therapy options for a patient. The medicines information services provided must undoubtedly be complete, objective, sustainable, and always up to date following the development of health services, including specialization in

pharmaceutical services. Pharmaceutical services in hospitals guarantee and ensure medicines' provision and rational use. It is distributed as needed, effective, safe, and comfortable for patients (Hidayat, 2016).

Many patients do not know and do not aware of what to do about their medications. Therefore, medicines information services are urgently needed to prevent misuse, abuse, and unwanted drug interactions. Pharmaceutical personnel improve pharmacotherapy results by providing medicines information services. Pharmaceutical personnel also provide education and counselling to patients to prepare and motivate patients to comply with pharmacotherapy rules and medicine monitoring activities. Patients do not know all kinds of goods and services, so they need information on the products of goods and services on the market. This background underlies the need for knowledgeable patients, especially the right to medical information services (BPOM, 2021).

This article focuses on law enforcement against pharmacists who do not fulfil patients' rights to medical information services and criminal liability for pharmacists who do not provide medical information services to patients.

Literature Review

Law enforcement can be defined as the implementation of law-by-law enforcement officers and everyone with interests following their respective authorities according to the applicable legal rules. According to Soerjono Soekanto, law enforcement is an activity to adjust the relationship of values described in solid rules and attitudes of action as a series of elaborations of final stage values. To create, maintain and defend the peace of life associations (Soekanto, 1983). Law enforcement aims to make the ideas of justice and legal certainty and make social expediency a reality. Therefore, law enforcement is essentially a process of an embodiment of ideas. Law enforcement is the process of carrying out efforts to establish or implement legal norms authentically as a guide for perpetrators in legal traffic or legal relations in social and state life. Law enforcement is an effort to make legal ideas and concepts people hope to become a reality (Moho, 2019).

Concrete law enforcement is enacting favourable laws in practices that must be obeyed. Thus, providing justice in a case means deciding the law in concreto in guaranteeing and maintaining the observance of material law using the procedural means established by formal law (Shant, 1988). In a broad sense, the law enforcement process involves all legal subjects in every legal relationship. Anyone who carries out normative rules or does something or does not do something by basing himself on the norms of the applicable rule of law means that he is carrying out or enforcing the rule of law. In a narrow sense, in terms of its subject, law enforcement is only defined as an effort by certain law enforcement agencies to guarantee and ensure that the rule of law runs as it should. In ensuring the establishment of the law, if necessary, the law enforcement apparatus is allowed to use force (Ariman, 2019).

The definition of law enforcement can also be viewed from the object's point of view; it is viewed in terms of the law. In this case, the sense also includes a broad and narrow meaning. In a broad sense, law enforcement also includes the values of justice and the values of justice that live in society. However, in a narrow sense, law enforcement only concerns

formal and written enforcement of regulations (Ariman, 2019). The scope of law enforcement is vast because it includes things directly and indirectly to people involved in the law enforcement field. The people involved in law enforcement problems in Indonesia include the police, judges, prosecutors, lawyers and correctional or prisons (Maruapey, 2017).

Regarding law enforcement, three elements must always be considered: legal certainty, expediency, and justice. People always expect legal certainty. Because with the certainty of the law, the people will be more systematic. Instead, the public expects benefits in implementing or enforcing the law, and justice must be the foremost consideration. Social life requires a legal system to create a harmonious and systematic society (Maruapey, 2017). According to Lawrence Friedman, whether law enforcement is successful or not depends on the following aspects:

- a. The legal substance is referred to as the Substantial system that determines whether or not the law can be implemented. The substance also means a product produced by people in a legal system that includes the decisions they published and the new rules they formulated. The substance also includes living law, not just the rules in the law books.
- b. The Legal Structure / Legal Institution is the Structural system that determines whether or not the law can be appropriately implemented. The legal structure based on Law Number 8 of 1981 includes; starting Indonesian National Police, Public Attorney, Court and Criminal Implementing Bodies (Prison). The authority of law enforcement agencies is protected by law to prevent any disturbance while carrying out their duties and responsibilities regardless of the influence of government power and other influences. The law cannot work or cannot be held upright if there is no credible, competent and independent law enforcement officer. Laws and regulations cannot be appropriately executed if not supported by good law enforcement officers. Justice is just wishful thinking. The weak mentality of law enforcement officers results in law enforcement not running as it should. Many factors that affect the weak mentality of the law enforcement apparatus include a weak understanding of religion, economics, and non-transparent recruitment processes. So it can be emphasized that law enforcement factors play an essential role in realizing the law. Justice is only wishful thinking if a good law is not supported by suitable law enforcement apparatus. The weak mentality of law enforcement officers results in law enforcement not working correctly. Many factors affect the weak mentality of the law enforcement apparatus, including a weak understanding of religion, economics, non-transparent recruitment processes and so on. So it can be emphasized that law enforcement factors play an essential role in discriminating against the law. If the regulations are reasonable, but the quality of law enforcement is low, there will be problems. Likewise, if the regulations are poor while the quality of law enforcement is good, the possibility of problems is still open.
- c. Legal culture is people's attitude toward the law and its legal-beliefs system, values, thoughts, and expectations. Legal culture is an atmosphere of social thought and forces that determine how laws are used, avoided, or abused. Legal culture is closely related to the legal awareness of society. The higher the legal awareness of the community,

the better the legal culture will be created and can change the mindset of the society regarding the law so far. In simple terms, the level of public compliance with the law is one of the indicators of how the law is functioning (Wahyudi, 2012).

Criminal liability here is intended to determine whether or not the person can be held accountable for the acts committed (Arief, 1998). The concept of legal responsibility is closely related to the concept of rights and obligations. The concept of rights is a concept that emphasizes the concept of rights in pair with the concept of obligation. The common opinion says that rights in a person always correlate with obligations to others (Raharjo, 2000). A concept related to legal obligations is the concept of legal responsibility (liability). A person is legally responsible for a particular act or bears legal responsibility, meaning that he is liable for a sanction if his actions are contrary to the applicable regulations (kalsen, 2006).

Determining whether or not a person can be held accountable under criminal law, Van Hamel argues that the ability to be responsible is a state of psychological normality and maturity (intelligence) that brings 3 (three) abilities (Sianturi, 1996):

- a. Able to understand the value of the consequences of their actions
- b. Able to realize that his actions are not allowed in society
- c. Able to determine his will for those actions

Criminal liability is imposing penalties on the perpetrators for acts that violate prohibitions or causing to prohibited circumstances. Criminal liability, therefore, concerns the process of transferring the existing punishment of the criminal act to the perpetrators. Making a person accountable in criminal law is by giving a sentence that objectively exists in a subjective criminal act against its perpetrators. Criminal liability is determined based on the perpetrators' fault and not just by fulfilling all elements of the criminal act. Thus, mistakes are a determining factor for criminal liability and are not just seen as a mental element in criminal acts (Huda, 2006). A person declared to have a mistake is a matter of criminal liability (Priyatno, 2004).

To impose a criminal sentence on criminals, the rule of law regarding criminal liability serves as a determinant of the conditions that must exist in a person so that when the sentence is out, it becomes valid. Criminal liability involves the perpetrator of a criminal act, the rules regarding criminal liability are regulations on how to treat those who violate their obligations. The perpetrators are held accountable because they are doing an act prohibited by society, meaning that an objective sentence against that sentence is passed on to the defendant. Criminal liability without evidence of violating the rules from the violating party cannot be accounted for. So people are impossible to account for and declared guilty if they do not commit criminal acts.

Method

The research method used is normative juridical. It is a research focused on examining the application of rules or norms in positive law (Ibrahim, 2006). This approach, also known as the literature approach, focused on studying books, laws and regulations and other documents related to this research. The data source used in this study is secondary data, mainly obtained from the literature. This secondary data consists of the following:

- a. Primary legal materials are legal materials that have bind characteristics (The 1945 Constitution of the Republic of Indonesia, Law Number 8 of 1999 on Consumer Protection, Law Number 36 of 2009 on Health, Regulation of the Minister of Health Number 72 of 2016 on Pharmaceutical Service Standards in Hospitals)
- b. Secondary legal materials are legal materials that provide explanations of primary legal materials (bills, research results, journals, books)
- c. Tertiary legal materials provide instructions and explanations for primary and secondary legal materials (dictionaries of law, internet media, printed media) (Soekanto dan Mamudji, 2011).

Result and Discussion

A. Law Enforcement Toward Pharmacists Who do not Provide Fulfillment of Patients' Rights to Medicines Information Services

Law enforcement is an effort to make the ideas of justice, legal certainty and social expediency a reality. So law enforcement is essentially a process of an embodiment of ideas. Law enforcement is the process of carrying out efforts to establish or perform legal norms authentically as a guide for perpetrators in legal traffic or legal relations in social and state life. Law enforcement is an effort to make legal ideas and concepts that the people hope to become a reality (Soekanto dan Mamudji, 2011).

In principle, the law enforcement process still refers to the fundamental values of the law, such as justice, legal certainty and expediency. Those three elements must be fulfilled in the law enforcement process and the main objectives of law enforcement. (Mertokusumo, 2010). Viewed from the point of legal certainty, Law Number 8 of 1999 on Consumer Protection Article 19 and Law Number 36 of 2009 on Health Article 196, also Criminal Code Article 359 and Article 360, are made to be correctly implemented as a guide for pharmacists in providing medical information services to patients and their families. Legal certainty requires a precise legal arrangement in the laws and regulations. Hence, the rules have a juridical aspect that can guarantee that the law functions as a rule that must be obeyed. Pharmacists providing medical information services to patients must be carried out with a total sense of responsibility so that the public can enjoy protecting patient rights in medical information services. The principle of justice is created for the community on the rights of patients as stipulated in the law. Therefore, patients can feel the principal benefits of enacting the law and the medical information services provided by pharmacists.

Based on the results of an interview with a pharmacist at RSUD Malingping, it is known that several omissions do occur, including incorrect administration of medicines, ~~wrong patients~~/wrong medicines/exchanged medicines (the same patient's name) and expired medicines. It certainly supports the occurrence of patient losses in obtaining medical

information services in hospitals. Such negligence occurs due to unclear writing of the prescription, *look-alike sounds alike (LASA)*, and a large number of outpatients and inpatients (*Interview with Lilis Suryani, S.Farm., Apt, Nurhasanah, S.Farm., Apt as an outpatient pharmacy supervisor at RSUD Malingping at 08.30 WIB on August 3, 2021*). The prescriptions that the pharmacist should have reviewed were not appropriately implemented. The pharmacist usually only reads the prescription and directly prepares the medicine, giving the medicine label and sending it to the patient without verifying the suitability between the prepared medicine, the prescription, and the patient's data. In the interview results with the patient, some pharmacists are not asked for the patient's address as one of the patient data identifiers (*Interview with patient X in RSUD Malingping at 12.30 on August 3 2021*).

The pharmacist must review the prescriptions properly and thoroughly, with detailed information on the dosage form, dosage and quantity of the medicine, medicine stability, directions on how to use the medicine, medicine interactions, side effects, and medical indications. Afterwards, the pharmacist prepares the medicine and provides a label, and the pharmacist verifies the suitability of the medicine. It is handed over to the patient accompanied by identification of patient data such as name, age, address and the patient's medical record number. To prevent the wrong patient/exchanged medicine because the similarity of patients' names does not happen again. Preparing the medicine must be done cautiously and thoroughly, do not give an expired medicine to the patient because consuming expired medicines are dangerous.

Expired medicines can become less effective or risky due to changes in chemical composition or reduced efficacy. Certain expired medicines risk becoming where bacteria grow, causing infections, and antibiotics might fail to treat those infections. It can become a more severe illness and antibiotic resistance. Expired medicines can also cause poisoning symptoms such as dizziness, nausea, stomach twisting, and vomiting.

In conjunction with expired medicines, taking antibiotics without a doctor's prescription is also dangerous for health. Antibiotics are medicines used to cure bacterial infections. If misused, antibiotics can cause a variety of side effects. Side effects of antibiotics can be mild but can also be dangerous and have a significant impact, for example, making bacteria in the body immune to antibiotics.

Based on those explanations, it can be seen that law enforcement is not successful because of the aspects of the legal structure. Among them are the apparatus and the public, which still allow it even though the law is good in substance. It has been regulated in Law Number 36 of 2009 on Health Article 196, Law Number 8 of 1999 on Consumer Protection Article 45 and Article 47, Article 359 and Article 360 of the Criminal Code, Organizational Regulation of the Indonesian Pharmacists Association Number: PO.007/PP.IAI/1822/XI/2020 on Assessment Guidelines and Standard Operating Procedures for handling violations of the Indonesian Pharmacist Code of Ethics, the Indonesian Pharmacists Association, but its apparatus still prioritizes using restorative justice method in the implementation.

B. Criminal Liability towards Pharmacists Who Do Not Provide Medicine Information Services

Criminal liability of the pharmacist towards the patient, where the pharmacist as a professional is responsible for every action or service carried out on the patient. In carrying out his professional duties, it is based on good intentions, meaning to work earnestly using his knowledge based on the oath of the pharmacist, the code of ethics and the standards of his profession. Talking criminal liability can be interpreted as follows: liability is an act viewed disgracefully by society and held accountable to the perpetrators. For the existence of criminal liability, it must be clear in advance who can be held accountable, which means that it must first be ascertained who is declared to be the perpetrator of a criminal act (Saleh, 1990).

The ability to be responsible is one of the elements of guilt that cannot be separated from committing criminal acts intentionally or negligently, and there is no forgiving reason. Liability, the central core of the error referred to in criminal law, is responsible according to criminal law. Although according to ethics, everyone must be responsible for all their actions, in criminal law, the subject matter is only the behaviour of someone who is against the law and causes the judge to impose a criminal sentence (Prasetyo, 2011). As a professional in the medical sector, the actions of pharmacists must be based on accuracy in carrying out their work and responsibilities because carelessness in working can endanger the patient's life. It is explained based on the principle of prudence.

The case occurred in RSUD Malingping, where an adult patient was given a prescription for *Levofloxacin* 250 mg/day for 30 days. However, the pharmacist gave a different dosage of *Levofloxacin*, 500 mg/day for 15 days. The patient noticed a difference in dosage from what is usually consumed, but the patient was not complaining and did not ask the pharmacist. After the medicine is used up, the patient returns to the pharmacy of RSUD Malingping to confirm the medicine he got to the pharmacist. The patient came to the pharmacy asking why the *Levofloxacin* medicine was given only 15 tablets; meanwhile, on the receipt written 30 tablets; the patient also asked how to drink the medicine. Usually, it is $2 \times \frac{1}{2}$, but it suddenly changed to 2×1 . After some observation, it turned out that the doctor prescribed antibiotics *Levofloxacin* 250 mg @ 2×1 (30 tablets); on the other hand, the pharmacists gave antibiotics *Levofloxacin* 500 mg @ 2×1 (15 tablets). The patient also asked whether to buy the rest of the medicine because the medicine was used up. Pharmacists advise that for the time being, there is no need to continue taking this antibiotic and advise to consult the doctor. The pharmacist asks if, while taking antibiotics *Levofloxacin*, the patient is feeling any side effects, and the patient does not feel any side effects. Afterwards, the pharmacist apologized for his negligence and mistakes and returned the patient's excess money.

Levofloxacin treats bacterial infections such as urinary tract infections (ISK), pneumonia, sinusitis, skin infections, soft tissues, and prostate infections (*Levofloxacin* is a quinolone antibiotics category). The general dose for adults is 500 mg/day. The dosage will be adjusted to the severity of the disease and the patient's health condition. A 1000 mg/day dose can be given for certain diseases. *Levofloxacin* itself is usually prescribed for 3 - 14 days. An excessive dose of *Levofloxacin* is likely to cause symptoms of medicine overdose, which can be seen in the form of vomiting, dizziness, limping, and loss of consciousness. There may be no side effects from consuming *Levofloxacin* without a prescription. However, this should not be continued in the long term because consuming medicines without following dosage recommendations from the doctor can ruin health and may be toxic to the body.

In other cases in RSUD Malingping, two patients have the same name but different addresses. Their medicine was exchanged. When the pharmacist realized a mistake in giving the medicine, the pharmacist immediately chased the patient to the hospital lobby. However, the patient was no longer there. The pharmacist tried to contact the patient by phone, but the number was not registered. After that, the pharmacist immediately went to the patient's house. When he arrived at the patient's house, the pharmacist asked if the medicine had been taken, and it turned out that the patient had not had time to drink the medicine. The pharmacist explained to the patient and his family the mistake of exchanging medicine. The pharmacist replaced the medicine with the correct one and apologized to the patient and family. The patient and family forgave the pharmacist for the incident and will not sue the pharmacist and the hospital for the incident. It happens because when distributing the medicine, the pharmacist does not identify the patient's data thoroughly, and the pharmacist does not ask for the patient's address.

Cases of negligence or mistakes of pharmacists that generally occur outside RSUD Malingping, the case is giving expired medicine as happened in the Penjarangan area where pregnant women patients were given expired vitamin B6. She felt dizzy and nauseous when she took medicine, her stomach twisting and vomiting. After taking medicine twice, she was curious about a blue scribble on the medicine. He also noticed the blue line inscribed with the medicine's expiration date. It turns out that the medicine has expired. The patient also confirmed this to the Public Health Center (puskesmas). The Kamal Muara Penjarangan Public Health Center admitted that they had given expired medicine that should not have been given to the patients. As a form of responsibility, they took Mrs Novi to the RS. BUN and insured all costs of USG test and womb strengthening medicine received by Mrs Novi. However, Mrs Novi still took this case to the legal route over alleged negligence. The Kamal Muara Public Health Center was reported to the Penjarangan Police Station with demands for consumer protection under Article 8 of Indonesian Law No. 8 of 1999. This report is recorded under LP number 940/K/VIII/2019/SEK PENJ. After reporting the case, there was peace between Mrs Novi and the Kamal Muara Public Health Center, which led to two agreements agreed upon by the two parties, there are:

- a. The first party (The Kamal Muara Public Health Center) will accompany (as a shuttle) the second party (Mrs Novi) to routine obstetrical examinations with an obstetrician in RSUD Cengkareng every month until the delivery process and at no cost.
- b. The first party facilitates making the second party's Social Security Agency of Health (BPJS Kesehatan). The agreement was signed by the Head of the Penjarangan District Public Health Center, who is in charge of Kamal Muara Subdistrict, dr. Agus Haryoso, three attorneys for Mrs Novi, are Pius Situmorang, Roberto Manurung and Edi Sabara. In addition, two witnesses signed the agreement: North Jakarta Health Department Chief Yudi Damyati and chairman of neighbourhood association (RT) 01 Kamal Muara Sadin B.

The prescription must be checked by the pharmacist properly and thoroughly, as well as verifying the suitability between the medicine and the prescription, to prevent giving the wrong medicine to the patient or the dosage not suitable because it can be dangerous to health. Furthermore, when the medicine is distributed to the patient, it is accompanied by identifying

patient data such as name, age, address, and medical record number. In providing medicine information services, pharmacists must be sure that the medicines distributed to patients are medicine that is guaranteed quality, safety and efficacy.

It can be said that the deeds of this pharmacist meet the criteria of a normative error because his action can be reproached in society. This act is a mistake, although it is not a grave mistake and is still excusable, and the pharmacist's mistake should have been avoided to avoid criminal acts. Therefore it can fall into the category of violation of the pharmacist's code of ethics, but it is part of the pharmacist's liability.

Criminal law, also known as the principle of *lex specialis derogat lege generali*, is a legal principle that states a regulation or law of a unique nature overrides a general regulation or law. Therefore, according to the case example, the principle of *lex specialis derogate lege generali* to determine the rules applicable to that case. Of the various laws and regulations, there is an appropriate criminal liability for pharmacists who make mistakes using laws and regulations on health.

Conclusion

Law enforcement towards pharmacists who do not provide fulfilment of patients' rights to information services in terms of legal substance has been regulated in Law Number 36 of 2009 on Health Article 196, Law Number 8 of 1999 on Consumer Protection Article 45 and Article 47, Article 359 and Article 360 of the Criminal Code, Organizational Regulation of the Indonesian Pharmacists Association Number: PO.007/PP.IAI/1822/XI/2020 on Assessment Guidelines and Standard Operating Procedures for Handling Violations of the Indonesian Pharmacist Code of Ethics, The Indonesian Pharmacists Association. Unfortunately, in its implementation, it is still not strictly executed by the apparatus or its legal structure. In addition, the cultural aspects of the community are also easy to forgive and consider the healing and pain given by the Almighty God. Restorative justice is a way out that is mostly done.

In this case, criminal liability for pharmacists who do not provide medical information services is carried out by reimbursing the medicine costs and covering all the costs of the patient's treatment. Although there are clear rules, the community prefers to compromise with the family so that law enforcement is not carried out through the judicial process. However, the actions committed by the pharmacist are included as mistakes because their actions can be reproached in public view. Nevertheless, the act is seen as a small mistake and is still excusable. It is influenced by how society views recovery from disease and an understanding of the rights of patients who are still low.

References

- Arief, B.N. (1998). *Beberapa Aspek Kebijakan Penegakan dan Pengembangan Hukum Pidana*. Jakarta: Citra Aditya Bakti.
- BPOM, Petunjuk Praktis Penggunaan Obat <https://pionas.pom.go.id/ioni/lampiran-6-petunjuk-praktis-penggunaan-obat-yang-benar/petunjuk-praktis-penggunaan-obat> Diakses pada 03 April 2021
- Hidayat, R. (2016). Hak Atas Derajat Pelayanan Kesehatan Yang Optimal. *Otoritas: Jurnal Hukum dan Pemikiran*, 16(2), 1.
- Huda, C. (2006). *Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan*. Jakarta: Kencana Prenada Media.
- Ibrahim, J. (2006). *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing.
- Kalsen, H. (2006). *Teori Umum tentang Hukum dan Negara*. Bandung: PT. Raja Grafindo Persada.
- Laurensius, A. S. (2019). Mewujudkan Penegakan Hukum Yang Baik Di Negara Hukum Indonesia. *Otoritas: Jurnal Hukum Bisnis dan Investasi*. II(1), 10.
- Maruapey, M.H. (2017). Penegakan Hukum Dan Perlindungan Negara. *Otoritas: Jurnal Ilmu Politik dan Komunikasi*. VII(1), 24-25.
- Mertokusumo, S. (2010). *Mengenal Hukum, Suatu Pengantar*. Yogyakarta: Cahaya Atma Pustaka.
- Moho, H. (2019). Penegakan Hukum Di Indonesia Menurut Aspek Kepastian Hukum, Keadilan Dan Kemanfaatan. *Otoritas: Jurnal Warta*, 59, 6.
- Prasetyo, T. (2011). *Hukum Pidana*. Jakarta: Raja Grafindo Persada.
- Priyatno, D. (2004). *Kebijakan Legislasi Tentang Sistem Pertanggungjawaban Pidana Korporasi Di Indonesia*. Bandung: Cv. Utomo.
- Rahardjo, S. (2000). *Ilmu Hukum*. Bandung: PT. Citra Aditya Bakti.
- Saisab, A.M.,. (2019). Perlindungan Hukum Bagi Pasien Akibat Apoteker Yang Lalai Dalam Memberikan Obat-Obatan. *Otoritas: Jurnal Lex Et Societatis*, VII(2), 143.
- Saleh, R. (1990). *Perbuatan Pidana dan Pertanggungjawaban Pidana*. Jakarta: Aksara Baru.
- Shant, D. (1988). *Konsep Penegakan Hukum*. Yogyakarta: Sinar Grafika.
- Sianturi, S.R. (1996). *Asas-Asas Hukum Pidana Indonesiadan Penerapannya*, Jakarta: Cet. IV, Alumni Ahaem-Peteheam.
- Soekanto, S. (1983). *Faktor-faktor Yang Mempengaruhi Penegakan Hukum*. Jakarta: UI Pres.
- Soekanto, S. & Mamudji, S. (2011). *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*. Jakarta: Raja Grafindo Persada.
- Wahyudi, S.T. (2012). Problematika Penerapan Pidana Mati Dalam Konteks Penegakan Hukum Di Indonesia. *Otoritas: Jurnal Hukum dan Peradilan*. 1(2), 271-218.