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Legal Protection Of Internists In The Administration Of Alprazolam Without A Prescription

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ABSTRACT

This study was conducted with the aim to determine how the governing provisions related to psychotropics and how the application of criminal sanctions for dealers, users and owners, users of psychotropics according to Law No. 5 of 1997. By using normative juridical research methods, it is concluded: 1. At first the provisions of the regulation of psychotropics in Law No. 5 of 1997 include: psychotropics Group I, Group II, Glongan III, and Group IV in accordance with the lapiran in legislation and after there is a new law regulating narcotics namely Law No. 35 of 2009, then psychotropics for Group I and Group II have already become a Narcotics Crime Group I. 2. The application of criminal sanctions in Law No. 5 of 1997 on psychotropics in accordance with Article 59 can be dropped the main crime, namely the main crime and additional crimes. The main crimes include imprisonment of 20 years, life imprisonment and death while additional crimes for additional crimes in the form of revocation of business licenses are imposed on corporations and foreigners in accordance with the qualifications of prohibited acts, namely, possession, carrying, circulating, using, psychotropic substances in receiving Alprazolam without a prescription, some important things that must be considered are ensuring strict documentation regarding patient demand and monitoring, ensuring the quality of care and treatment received by patients in accordance with quality standards, ensuring that patients understand their rights and responsibilities in receiving treatment, and protecting patients' rights from actions that are not in accordance with medical law and ethics. This is all aimed at ensuring legal protection for patients in the receipt of quality treatment and in accordance with applicable standards.

INTRODUCTION

Health is a state of health both physically, mentally, spiritually and socially that allows everyone to live a productive life socially and economically. Health is the basis for the recognition of the degree of humanity, so without health, a person becomes conditionally unequal. A person will also not be able to acquire his other rights without health. The right to life, the right to decent work, the right to association and assembly and expression of opinion, the right to education will not be obtained by someone who is not healthy. In short, one cannot fully enjoy life as a human being.

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The importance of health as a human right and as a necessary condition for the fulfillment of other rights has been recognized internationally (Sang Gede Purnama,2017).

Efforts made by both the government and the World Health Organization to ensure the rights of patients are certainly aimed at maintaining the health of patients. On the other hand, in the teraupetic contractual relationship between the patient and the doctor, it is inevitable that there will always be disputes. One of them is the legal basis for the prosecution of internist specialists who give Alprazolam without a prescription.

In Article 62 of Law No. 5 of 1997 on psychotropics states that anyone without rights, possessing, storing and/or carrying psychotropics shall be punished with a maximum imprisonment of 5 (five) years and a maximum fine of Rp. 100,000,000.00 (One Hundred Million rupiah). Alprazolam is a drug classified as a group IV psychotropic that serves to treat anxiety disorders and panic disorders in patients.

The position of alprazolam for internists is very important because it can relieve patient anxiety as a result of psychosomatic disorders that arise when patients have health problems and / or physical problems that affect their psyche. In the presence or absence of a prescription, the doctor has the right to give the drug Alprazolam after diagnosing the patient's illness associated with psychosomatic disorders.

Act No. 5 of 1997 on psychotropics is a law that regulates drugs that have psychotropic effects (effects that affect the central nervous system and behavior). These drugs can cause adverse effects on public health and safety if used without adequate supervision. While alprazolam is included in the class of psychotropics and is usually used to treat anxiety, panic, and sleep disorders. Its use must be done with a doctor's prescription, as it has the potential for dangerous side effects if used improperly. The problem that arises is the presence of internists who give Alprazolam without a prescription. This action violates law No. 5 of 1997 on Psychotropic Substances and may endanger public health and safety. In addition, this action also has the potential to harm the profession and integrity of the internist concerned.

In practice, there are several situations in which internist doctors administer psychotropic drugs to patients without a prescription. One of them is in emergency conditions, where the patient needs quick treatment and it is not possible to issue a prescription. In addition, there are also cases where patients cannot afford consultation and prescription fees. This has led to a debate among jurists regarding the application of Article 62 of the law on psychotropics against internist doctors who administer alprazolam without a prescription. Some legal experts argue that internist doctors should be granted immunity during the performance of their professional duties in administering psychotropic drugs without a prescription in an emergency. However, there are also those who argue that internist doctors should not administer psychotropic drugs without a prescription at all, even in an emergency (A.R. Sudiro,2019)

In the context of the practice of administering alprazolam without a prescription by an internist, it is also necessary to consider the factors that influence it. One factor is the growing demand for psychotropic drugs, especially alprazolam, from patients with anxiety and stress disorders. This can be caused by increasingly high life pressures, environmental factors, and genetic factors. In addition, internal factors of an internist, such as lack of knowledge and skills in prescribing drugs, or pressure from patients to administer drugs without a medical prescription, can also influence this practice.

Therefore, it is necessary to carry out an in-depth legal review of the practice of administering alprazolam without a prescription by an internist, in order to know the causes and effects of this practice, as well as the efforts that can be made to overcome this problem, so that the internist gains immunity when doing his job. Based on the description above, researchers are interested in researching the, "legal review of the application of Law No. 5 of 1997 on psychotropics to internists who give Alprazolam without a prescription".

METHOD

This legal research is conducted in a juridical normative manner through an approach based on the main legal material by studying the theories, concepts, principles of law and legislation related to this research. This approach is also known as the library approach or library study which aims to map the elements of the subject of law in Article 62 of law no. 5 of 1997 on psychotropics, conducting a legal analysis of Law No. 5 of 1997 on psychotropics, as well as charting the opinions of judges and legal experts in responding to legal issues in the case of alprazolam administration without a prescription by internist doctors.

RESULTS AND DISCUSSION

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A. Health as a human right

The concept of Health will have normative aspects as a legal concept if the concept of Health deviates from certain legal guidelines, in this case rights, that is, as human rights. WHO States,"the enjoyment of the highest attainable standard of Health is one of the fundamental rights of every human being regardless of race, religion, political beliefs, economic or social conditions"(Hermien Hadiati Koeswadji,2001).

In line with WHO, Article 4 of Law No. 23 of 1992 states: "Everyone has the same right to an optimal level of Health."With the predicate as human rights, as a consequence will be born for the rights holder a set of demands (claims) to the person in charge of the right to fulfill it. The concept of health above is very broad. The breadth of the definition of Health used in the phrase 'the right to an optimal degree of health' can raise the legal issue that the right cannot be guaranteed if its operational limits are not determined, because according to Den Exter & Hermans, "it is difficult to define and realize as a legal right"(Peter J. Van Krieken,2001)

The concept of the right to an optimal degree of Health is a vague (vague) concept of legislation. The framers of the law did not elaborate on the notion that everyone has the same right to an optimal level of Health. The notion of 'optimal degree of health' can lead to multi-interpretation and even misinterpretation, on the part of the person in charge and the person with rights. Therefore, a legal study is needed to provide a valid interpretation of the concept of the optimal degree of Health. Referring to the opinion of Birgit Toebes, the right to an optimal level of Health will include the right to health care and the right to health protection or referring to Eide, the right to access to health services and the right to a social order which requires the state to take special measures to protect public health (right to a social order which includes obligations of the State to take specific measures for the purpose of safeguarding public health). In other words, the right to an optimal level of Health is a basic concept that encompasses two sub-concepts: the right to health services and the right to safeguarding public health.

Who statement and Article 4 of Law No. 23 of 1992 is only limited to the description that the right to an optimal degree of Health is universal and valid (without distinction/every person) but has not described a legal relationship to whom the fulfillment of the right can be claimed and further describes the measurable criteria for implementation and realization. In line with the definition of human rights described above, the person in charge or the party burdened with obligations must first be appointed in order to fulfill the right to an optimal degree of Health. It is the state/government. According to the WHO, "governments have a responsibility for the health of their people which can be fulfilled only by the provision of adequate health and social measures". From the WHO statement, it can be concluded that the government's obligations are two: regulation (in the framework of the protection of the health of persons with rights) and the provision of health facilities or services.

Efforts to classify or categorize the concept of human rights are well known in human rights discourse both theoretical (Karel Vazak calls it 'Generation') and juridical (International Covenant on Civil and Political Rights/ICCPR and International Covenant on Economic, Social and Cultural Rights/ICESCR). In essence, the above classification or categorization does not cause a legal consequence (in the sense that certain categories of human rights are more important than other categories of human rights). In order to avoid misinterpretation, the classification must be understood with the understanding that human rights is a concept consisting of several sub-concepts. Each of them are: civil-political rights, economic-socio-cultural rights and solidarity rights. Such an approach or point of view is called the indivisibility of rights thesis. The indivisibility of rights thesis justifies that civil-political-socio-economic-cultural rights cannot be separated because each is interdependent (Burns H. Weston, 1993).

The nature of the indivisible and interdependent nature of human rights can be explained very well by returning to the most fundamental purpose of human rights itself, namely human life with dignity. Human beings with civil-political rights alone will undoubtedly be able to live in dignity, especially in the midst of intense competition among human beings conditioned by the modern market economic system. Based on the above classification of human rights, the goal is more for ease of implementation and not because of hierarchical interests as implied from the indivisibility of rights thesis, the right to an optimal degree of Health includes the second sub-concept category of human rights, economic-socio-cultural rights (Titon Slamet Kurnia,2007).

The problem that is commonly encountered in the implementation of social rights (including the right to an optimal level of Health) is that the

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benchmark for fulfilling state obligations is unclear/vague (moreover, the understanding of the optimal level of health itself is also unclear). In contrast to civil rights, the fulfillment of obligations from social rights is the opposite: it cannot be demanded immediately, but gradually within the capabilities of the state. This understanding is also implied from the formulation of Article 2 Paragraph 1 of the ICCPR and Article 2 Paragraph 1 of the ICESCR. Obligations of states under Article 2 Paragraph 1 of the ICCPR: "*undertakes to respect and to ensure to all individual within its territory and subject to its jurisdiction the rights recognized in the present Covenant*." Kewajiban negara menurut Pasal 2 ayat 1 ICESCR: "*undertakes to take steps, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant*." At first glance, it seems implied that the factor of resource availability is a safeguard for the state not to fulfill its obligations (followed by the paragraph achieving progressively).

The practical implication is that this affects the interpretation of the definition of the optimal degree of health itself. The interpretation (and implementation) of developed countries will not be the same as the interpretation (and implementation) of developing countries. The quality of health care provision in developed countries cannot be a benchmark in the same case in developing countries. In other words, the approach in the interpretation of the right to an optimal degree of Health is particularism or relativism. The rational yardstick in this case is progressiveness. How to measure the presence of progressivity certainly requires an objective instrument. Therefore, public health reports from year to year should be available and maintained properly as a source of reference for Policy Evaluation.

The legal recognition that everyone has the right to an optimal level of health should not be confused with the belief that everyone should be healthy. According to Tomasevski, health conditions are determined by many factors, that the state / government, including the individual himself, can not guarantee a particular health condition. For example, genetic factors. Social factors such as access to work and income, access to housing, adequate nutrition, water and sanitation are also very important. The development of health, among other things through the provision of water and sanitation, nutrition, or healthy housing programs, has proven to be more beneficial than curative, preventive or other health measures.

B. Relationship of Professional Ethics with medical law

Professional ethics in Indonesia is outlined in the code as an attachment to the decree of the Minister of Health no. 434/MENKES/SK/X / 1983 it regulates the relationship between doctors and patients who started from a relationship of trust that is paternalistic, in its development through the stages of the process in the efforts of medical services that the basis has been laid by Hippocrates in therapeutic transactions (Katarina,2001).

The therapeutic transaction is a relationship between the doctor and the patient that is carried out in an atmosphere of mutual trust (confidential) and is always overwhelmed by all the emotions, hopes, and concerns of human beings (Dian Ety Mayasari,2017).

The relationship between the doctor as the healer and the patient as the sick is experiencing a development that originated from a vertical relationship pattern that departs from the principle of "father knows best", and therefore also gave birth to a doctor-patient relationship that is paternalistic. In this pattern of paternalistic vertical relationship, the position of the doctor with the patient is not equal, because the doctor knows about everything related to the disease, while the patient does not know anything about the disease, let alone about how to cure it. Therefore, in this pattern of paternalistic vertical relationship the patient / the sick leave their fate entirely to the doctor/the doctor.

The relationship between doctors and patients in! it arises when the sick person contacts the doctor because he feels that there is something that he feels endangers his health, his psychobiological state gives a warning that he is sick, and in this case it is the doctor/healer who is considered able to help him, the healer who is able to provide help (hulpverlenen) because of the ability he has. The position of the treating physician is considered higher by the patient / the sick and his role is more important than the patient. On the contrary, the doctor based on the principle of "father knows best "in this paternalistic principle will strive to act as a" good father", by making careful and careful efforts in accordance with his knowledge and skills acquired through difficult, long education, and years of experience for the healing of patients.

In seeking the healing of this patient, the doctor is equipped by the pronunciation of the oath

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he said at the beginning of his entry into the position of a doctor based on ethical norms, which bind him based on the belief of patients who come to him that he is the one who can cure his disease. This doctor-patient relationship gave birth to the legal aspect of "inspanning-sverbintenis" which is a legal relationship between 2 (two) subjects of Law (doctor and patient) and gave birth to rights and obligations for the person concerned. This legal relationship does not promise anything (cure or death) that is certain, because the object of the legal relationship is the maximum effort that is carefully and carefully made by the doctor based on his knowledge and experience (in dealing with the disease) to cure the patient. This careful and cautious attitude in seeking the cure of patients is what the literature refers to as "met zorg en inspanning", because it is "inspanningsverbintenis", and not as in a "risikoverbintenis" that promises a definite result.

This pattern of paternalistic vertical relationships between doctors has both positive and negative repercussions. Positive impact, because this paternalistic pattern is very helpful for patients in terms of lay patients to the disease. On the contrary, the negative impact, because the actions of doctors in the form of measures to cure the patient's disease are actions that ignore the patient's autonomy, which is precisely according to the history of cultural development and basic human rights have existed since birth.

This autonomy of the patient has gained universal recognition since the Nuremberg Code, especially the Rule, which is essentially the basic standard that must be met in conducting experiments on humans? From this Nuremberg Code has given birth to the moral principle exists in the patient to determine his own destiny ("the Right of Sell Determination, TROD") which is based on complete valid and accurate information which is the autonomy of the patient based on"respect of person". It is this right to self-determination that then in the doctor-patient relationship gives birth to the so-called "informed consent" for the performance of certain medical actions. This means that the principle of patient autonomy based on moral and ethical it contains 2 (two) important things, namely:

(1) every person has the right to decide freely what he (has) chosen on the basis of sufficient knowledge and understanding; and

(2) his decision must be made in circumstances that allow him to make a choice without interference/coercion from other parties.

Because the individual (i.e. the patient) is autonomous, information is needed to hold considerations in order to act in accordance with these considerations. It is this principle that ethicists call the "doctrine of informed consent". This principle was first introduced in 1947 in the Nuremberg Code, Rule 1.

The history of the idea of "informed consent" dates back to the actions of German doctors who conducted clinical research using Jewish prisoners of war as guinea pigs. This incident was then processed through the International Court of justice against war criminals at Nuremberg which took place between 1945 and 1946, and was only later revealed. Because the actions taken by the German doctors were beyond the limits of humanity, in 1947, precisely on August 19, 1947, the Nuremberg Code was born, which was an International Court of Justice ruling against 23 German doctors who had used prisoners of war as guinea pigs arbitrarily without the consent of the person concerned.

In the Nuremberg Code has been decided 10 points which are the standards that must be met by every doctor who conducts experiments on humans. In 1964, the Nuremberg Code was adopted at the World Medical Association forum in Helsinki as the Declaration of Helsinki on "clinical research". Among other things, it is mentioned that in treating the sick, in the case of the patient's ability and condition, the doctor must obtain the consent of the patient freely given, after the patient has been given a full explanation. If the patient is in a state of incapacity to give his consent (according to the law he is in a state of "onbekwaam"), consent can be obtained from the family who has the authority (according to the law) to act on behalf of the patient.

In this paternalistic vertical relationship, although the doctors, i.e. the doctor and the patient have rights and obligations as a result of the transaction, the patient's right to make decisions through communication with the doctor is not optimally utilized. This relationship in the context of passivity is described as an "activity-passivity relationship", that is, that between the doctor and the patient cannot communicate because the patient is unable to engage in such activities, and therefore he fully understands the doctor he knows and believes to be the opposite as a good father. this "activity-passivity relationship"is in a sense described as a relationship"...where there is no interaction between the doctor and the patient because the patient can not contribute activity. This

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is a characteristic pattern in emergency situations when the patient is unconscious".In the generally accepted legal regulations, i.e. those provided for in the BW civil law ("het Burgerlijk Wetboek"), the act of the doctor taking over responsibility while the patient is unable to actively make his contribution is regulated in Article 1354 of the BW, i.e. regarding the "zaakwaar-neming". This situation can occur against immature children, those who are mentally ill or disabled due to impaired mental growth due to illness, elderly people who are "sinil", or victims of traffic accidents who are unconscious and require certain medical action as soon as possible but there is no accompanying family.

C. The patient's relationship with the doctor

In daily practice, various things can be seen that lead to the relationship between the patient and the doctor, the relationship occurs mainly for several reasons: among other things, because the patient himself goes to the doctor for help to treat the pain he suffers. In these circumstances, a Will agreement occurs between the two parties, which means that the parties have fully agreed to enter into a legal relationship. This legal relationship is based on the patient's trust in the doctor, so that the patient is willing to give informed consent, which is the patient's consent to accept the medical efforts that will be made against him. This is done after he has been informed by his doctor about the medical efforts that can be done to help him, including obtaining information about all possible risks (Bahder Johan Nasution,2005).

In Indonesia informed consent in health services, has obtained a juridical justification through regulation of the Minister of health of the Republic of Indonesia No. 585 / Menkes/1989. Although in reality for the implementation of the provision of information to obtain approval is not as simple as imagined, but at least the issue has been legally regulated, so that there is power for both parties to take legal action.

The main problem that causes the difficulty of implementing informed consent in Indonesia, is because there are too many obstacles that arise in daily practice, among others: the language used in the delivery of information is difficult to be understood by the public, especially patients or their families, the limit on the amount of information that can be provided is unclear, the problem of family or third party interference in the provision of medical approval is very dominant, and so on. In addition, about information and consent there are often differences in interests between patients and doctors. This difference of interest if it does not meet the meeting point that satisfies both parties, will cause a conflict of interest. For example, a patient has an interest in curing his illness, but given the risks that will arise based on the information he gets from the doctor, the patient or his family refuses to give consent, while on the other hand the doctor who will perform the treatment needs that approval.

Another reason that causes the relationship between the patient and the doctor, is because the patient's condition is very urgent to get help from a doctor, for example because of a traffic accident, a natural disaster, or because of other situations that cause the patient's condition is serious, so it is very difficult for the doctor in charge to know for sure the will of the patient. In this situation, the doctor directly performs the so-called zaakwaarneming as provided for in Article 1354 of the Civil Code, which is a form of legal relationship that arises not because of the "approval of medical measures" in advance, but because of a compelling or emergency situation. The relationship between a doctor and a patient that occurs in this way is one of the features of a therapeutic transaction that distinguishes it from an ordinary agreement as provided for in the Civil Code.

From the relationship of the patient with such a doctor, consent arises to do something in accordance with the provisions provided for in Article 1601 of the Civil Code. For a doctor, this means that he has been willing to try with all his ability to fulfill the contents of the agreement, namely treating or curing the patient's disease. While the patient is obliged to comply with the rules prescribed by the doctor including providing rewards for services. The problem now is: what if the patient refuses the proposed treatment or healing efforts offered by the doctor?

Strictly speaking, in the relationship between the patient and the doctor, there is a need for agreement, because with this agreement, an agreement has been reached that gives rise to mutual rights and obligations. This agreement has binding force in the sense of having Force as a law that is obeyed by both parties.In practice, both the relationship between patients and doctors tied to therapeutic transactions, as well as those based on zaakwaarneming, often lead to errors or omissions, in which case the resolution path can be done through the Assembly of the Code of Medical Ethics. If through this route there is no settlement, the problem is resolved through legal channels by proceeding the case to court.

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On the other hand, although juridically required the approval of medical measures to perform treatment, but in reality it is often the case that a treatment even without the approval of medical measures, if it does not cause harm to the patient it will be silenced by the patient. However, if an error or omission is made by a doctor and the result of the error causes harm or suffering to the patient, the problem will be resolved by the patient or his family through legal channels. In this kind of practice, it can be seen how difficult the position of doctors in conducting health services is, both at the stage of diagnosis and at the stage of treatment, so from them a conscientious and conscientious attitude is required.

D. Legal protection of doctors in the administration of Alprazolam without a prescription

Taxes are the main source of income for the government to finance various development programs and activities. Therefore, taxpayer compliance is very important to ensure smooth tax revenue. Medan city as one of the major cities in Indonesia, has its own challenges in improving taxpayer compliance. Various strategies need to be implemented to improve taxpayer compliance in Medan City.

Law is one of the means to regulate, discipline, and solve various problems in the midst of society in addition to the means and social institutions. Hermein Herdiati Koeswadji views the function of law from three main things, namely: IT functions to maintain public security, it functions to carry out (implement) the order of legislation and it functions to resolve disputes. Therefore, the functioning of the law depends a lot and is influenced by other socio-cultural systems, namely economic, social, cultural, customs (adat), knowledge and education, religion, environment, politics and so on.

Legal protection consists of two syllables namely 'protection' and 'law'. In the Indonesian dictionary, the word protection comes from the word 'lindung' which means "to be behind something" and the law is a regulation that is made and agreed upon both written and unwritten seacara or commonly called regulations or laws that bind the behavior of each particular society. These values give birth to the recognition and protection of human rights in their form as individuals and social beings in a unitary state that upholds the spirit of kinship in order to achieve common prosperity (Daryanto, SS,1997).

Health care efforts that are healing and restoring the health of patients, the government established or organized government hospitals and regulate, guide, assist, and supervise hospitals established and organized by private entities.

In the process of fulfilling health services by patients or their families from the medical parties (doctors and nurses) who are in the hospital, it is not uncommon for patients to find things that are less pleasant or satisfying due to improper treatment by doctors or existing medical professionals. Moreover, communication between the patient or his family with the hospital, especially doctors or medical professionals such as nurses, who in practice still lack attention, even not well established. Judging from the oath of office or profession, not a few violations of the code of ethics have occurred (Juanda,2001).

Even more dangerous in providing health services in question, there is an element of negligence which consequently harms patients, such negligence in health law can be categorized as malprkatek. Against the malpractice in question, of course, from the legal aspect, a patient and his or her family are entitled to protection, whether in terms of civil or in terms of Criminal public interest or both. Regulation of this malpractice problem in addition to anticipatory so that doctors and other medical must be careful in providing services also protect the rights of patients as subjects of law in a democratic legal State.

In addition to the obligations of health workers such as doctors and nurses have the right to obtain legal protection in carrying out their duties in accordance with their profession, this is regulated in Article 53 paragraph (1) of the law. No. 23 of 1992 on health. Furthermore, no less important is the content of Article 55 of the law. No. 23 of 1992 on Health which states that: everyone has the right to compensation for errors or omissions made by health workers".

The statement is further clarified in the explanation of Article 56 which states that: "the granting of the right to compensation is an attempt to provide protection for everyone for disputes arising, whether physical or non-physical due to error or negligence". Legal protection here is very important because due to negligence or error may lead to death or permanent disability. In an effort in this direction, the government in its legislation has regulated matters of legal protection of patients and also protection of health workers, but it seems that at the level of implementation there are still many who do not understand the law, this is seen by

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procedural errors or other omissions that result in death or in the form of lifelong disabilities suffered by patients.

Viewed from the aspect of functional relationships, malpractice problems are problems arising from the functional relationship between patients and doctors or medical personnel, which is due to negligence on the part of doctors or medical personnel resulting in casualties on the part of patients. Acts of negligence such as this are important regulated in order to ensure the safety and manpower of the patient, however, keep in mind the principle or principle, the law is not intended to act discriminatively therefore in carrying out the profession and duties, doctors and medical personnel must also get protection.

Where in Article 53 paragraph (1) of the law. No. 23 of 1992 on health, formulated: "health workers are entitled to legal protection in carrying out their duties in accordance with their profession" the need for legal protection for the medical profession and other medical professionals so that in carrying out their duties and professions they feel comfortable and are not haunted by legal sanctions and legal certainty. Because, without a fair and balanced regulation in order to carry out the truly noble task, it is feared that there will be a sense of fear on the part of doctors to take very important actions in humanitarian life.

Legal Basis

a. UU. No. 44 Of 2009 On Health.

Chapter 27, which reads:"Health workers are entitled to compensation and legal protection in carrying out their duties in accordance with their profession"Chapter 29, which reads:"In the case of health workers who commit negligence in the exercise of their profession, such negligence must first be resolved through mediation"

b. UU. No. 29 Of 2004 On The Practice Of Medicine

Article 1, point 14, which reads: The honorary council of the Indomesian medical discipline is the institution authorized to determine whether or not there are mistakes made by doctors and dentists in the application of medical and dental disciplines, and establish sanctions.

Thus, the article reads as one of the proofs that the professional Court is a determinant of the existence or not of errors committed by health profession workers, again not to the general court as a determinant of errors committed by health profession workers.

In handling medical actions, where the doctor first provides clear information to the patient about the disease accompanied by the risks that can arise from the medical action. This is in accordance with the regulation of the Minister of Health number 585/ MEN.Case / PER/ IX / 1989 on approval of medical action.

The regulation requires doctors in performing medical actions to ask for the patient's consent in advance or better known as informed consent. This agreement can be oral or written because there are no standard regulations governing the form of this agreement, which is more emphasized is the form of consent to medical actions that contain high or large risks and invasive (medical actions that can directly affect body tissues).

The patient is given information or information that includes things related to his illness, as well as the advantages and disadvantages of the medical action that will be carried out on him. The provision of information by doctors to patients about medical actions that will be carried out on them cannot be separated from the form of respect for the doctor's right to independence and the patient's autonomous rights. Patients are just like ordinary humans who have the right to think and determine their own personal bodies. For example, a patient has the right to his personal health and determine for himself the best type of treatment to cure his disease.

The implementation of informed consent also has a positive effect on doctors in dealing with malpractice claims for medical treatment, and can be useful to prove that there is already a willingness of patients to carry out a medical action. In fact, the purpose of such medical measures is none other than to save the patient's life. In relation to malpractice guidance, whether informed consent can be the basis of Defense for doctors, considering the risks and adverse effects arising from the doctor's actions, while the risks that will occur to the patient have been approved in informed consent.

Banu Hermawan, said that doctors can use Informed consent as a basis for defense if later demanded by the patient, because in the Informed consent there is the consent of the patient willingly or authorize the doctor to take medical action against himself. While Informed consent made at the hospital in written form is only a formality because in principle Informed consent is not only written but the most important thing is consent.

According to the authors, although the verbal or unwritten consent of the patient is also considered valid in the informed consent process, the written form of informed consent is essential to provide protection to doctors or health workers in

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the exercise of their profession. With informed consent in writing, doctors or health workers can prove that they have provided sufficient information to patients before performing a medical procedure or treatment. This will be especially useful in the event of a legal claim or lawsuit against a doctor or health worker for the poor results of a medical procedure or treatment that has been carried out (Banu Hermawan,2007).

although the verbal or unwritten consent of the patient is also considered valid in the informed consent process, the written form of informed consent is essential to provide protection to the doctor or health worker in the exercise of their profession. With informed consent in writing, doctors or health workers can prove that they have provided sufficient information to patients before performing a medical procedure or treatment. This will be especially useful in the event of a legal claim or lawsuit against a doctor or health worker for the poor results of a medical procedure or treatment that has been carried out.A written form of informed consent can also help ensure that the patient understands the risks and benefits of the medical procedure or treatment. The doctor or health worker can evaluate whether the patient has understood the information provided by asking the patient to sign informed consent. Thus, the formality of written informed consent can provide legal protection for doctors or health workers in carrying out their duties and responsibilities. However, this does not mean that doctors or health workers can ignore the importance of actual patient consent. Verbal or unwritten consent remains of equal importance in the process of informed consent.

Approval is defined as permission given by the patient to the doctor to perform medical actions against him, while the risks that may occur the doctor must still try according to professional standards so that the risks that may occur do not interfere with the patient's health.

Then A.Y.G. Wibisono also said that when there is a claim that a doctor has committed malpractice, but there has been no evidence that reinforces the existence of such an act, he concluded that it was not an act of malpractice but it is still a guess whose truth must be proven through the Indonesian Medical Council (kki) or through the professional Court (MKDKI), which in:

a. Health Law No. 23 Tahin 1992, article 54 paragraph (2) which reads: the determination of the presence or absence of errors or omissions as intended is determined by the disciplinary Assembly of Health Workers

b. Law No. 29 of 2004 on the practice of Medicine, article 1 point 14 which reads:

The Indonesian medical discipline honorary council is an institution authorized to determine the presence or absence of errors committed by doctors and dentists in the application of medical and dental disciplines, and establish sanctions.

The basic sound of the article as one of the evidence that the professional Court is as a determinant of the presence or absence of errors committed by health profession workers, again not to the general court as a determinant as a reference for determining errors committed by health profession workers. This is proof that the law of Health is a law with lex Specialis career.

Health profession personnel must develop and know the mandatory health profession law in every action in order to avoid medical dispute cases, especially standard operating procedures or scientific standards owned, it can be used as a measure that what has been done by doctors is in accordance with applicable medical competence standards, therefore doctors can avoid any suspicion of medical malpractice, where one of the mandatory laws is Informed consent, which aims to:(Paradaisu Sitorus,2019)

1) Patient Protection in all medical measures;

2) Protection of health workers will occur as a result of unexpected and considered detrimental to other parties.

However, it is possible that the form of intentional misconduct depends on the mental attitude and circumstances that accompany the act. Where in the Criminal Code there are things that can negate such criminal:

1) Mental Illness / madness (Article 41);
2) there is an element of coercive power
3) forced Self-Defense (Article 49);
4) legislation (Article 50);
5) order of office (Article 51).

Elements that can negate the criminal as above can also be applied to doctors, but it would be nice to know that in jurisprudence and medical law literature there is also a basis for the elimination of errors that apply specifically in the field of Medicine. As we know that in Article 184 of the code of Criminal Procedure states that, legitimate evidence used in criminal law is witness testimony, expert testimony, letters, instructions, and testimony of the defendant. Whereas in Article 187 of the code of Criminal Procedure is clearly

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explained that the letter is made on oath of office which is confirmed by Oath. Item C of the article states that what is meant by a letter, among others, is a certificate from an expert who contains an opinion based on expertise about a matter or a situation that is officially requested of him. From the explanation above, it can be said that the Informed consent form can be used as valid evidence to prove that the patient is willing or agrees to medical action. So that the risks that arise have become the risk of the patient and the doctor can not be blamed.

In addition to being a means of proof of the letter, Informed consent can also be a means of proof of instructions, it is stipulated in Article 186 of the Criminal Procedure Code paragraph (2), which states that instructions can be obtained from the statement of the letter and the defendant's statement, This also means that Informed consent can be used as evidence to show evidence that the patient has agreed and information has been given to him so that the doctor can not be blamed.

Thus, based on the explanation above, with the existence of one of the mandatory medical laws (informed consent) can be used as a defense for doctors. The patient's consent to the actions of the doctor can protect the doctor against claims of violation, then the agreement should be made in written form signed by the right to give consent (form Informed consent), then the written agreement can be used as legal evidence in court.

Only against the risks that converge, consent can be used as a basic tool of Defense for doctors in the examination process at MK and in court. Risk or adverse consequences that occur, if the doctor makes a violation (malpractice) or negligence, then the doctor must remain responsible.

CONCLUSION

In order to protect patients 'rights in receiving Alprazolam without a prescription, some important things that must be considered are ensuring strict documentation regarding patient demand and monitoring, ensuring the quality of care and treatment received by patients in accordance with quality standards, ensuring that patients understand their rights and responsibilities in receiving treatment, and protecting patients' rights from actions that are not in accordance with medical law and ethics. This is all aimed at ensuring legal protection for patients in the receipt of quality treatment and in accordance with applicable standards.

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