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Authority Of The Consumer Dispute Resolution Agency (Bpsk) In Disputes Between Doctors And Patients Who Provide Illegal Drugs

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Abstract

The provision of quality health services is a fundamental right for everyone. However, in practice, disputes often occur between doctors and patients, one of which is related to the administration of illegal drugs. This research aims to analyze BPSK's authority in resolving disputes between doctors and patients who prescribe illegal drugs. This study employs normative juridical methods. The data collection is conducted through literature review. Once collected, the data is analyzed in three stages: data reduction, data presentation, and drawing conclusions. The research results show that BPSK plays a role as a mediation, arbitration and conciliation institution whose function is to provide protection to consumers. BPSK has the authority to assess whether doctors have violated consumer rights by providing drugs that do not meet safety and legality standards. In addition, BPSK can provide decisions that are binding on both parties. This authority includes enforcing consumer protection laws, resolving disputes fairly, and restoring the rights of aggrieved consumers.

Keywords: *Consumer Dispute Resolution Agency, Disputes, Doctors, Patients, Illegal Drugs*

INTRODUCTION

The provision of quality health services is a fundamental right that every individual has. Adequate and effective health services are a key element in ensuring people's well-being and improving the quality of life. Everyone deserves access to health care that is not only safe and effective but also affordable. Good quality healthcare includes access to medical facilities, services that adhere to ethical and professional standards and necessary medications. Medicines play an important role in human life, with the hope that their consumption will improve health. However, this hope is not always realized due to problems in the sale of drugs that do not have a distribution permit or are illegal drugs (Faradilla et al., 2020).

Illegal drugs are a practice that can endanger society. Illegal drugs are imported drugs that are not registered with the POM and do not have a distribution permit in Indonesia. The information on the label must be in Indonesian; if a foreign language is used, the drug is considered illegal. Illegal drugs are prohibited from being distributed and given to patients (Hijawati, 2020). Currently, there are many cases of misuse of illegal drugs, both chemical drugs and traditional medicines, which are very dangerous for health and can even threaten life. Unfortunately, the distribution of illegal drugs was conducted by doctors who were expected to be trusted healthcare providers.

The involvement of doctors in the distribution of fake medicines was again revealed, this time involving a doctor from India who produced fake medicines in Sunter, North Jakarta, and distributed them to various locations, including Pramuka Market. This case shows weak supervision of drug distribution. A doctor with the initials KK (50) from India who practices in Sunter, Jakarta, is involved in this case. Previously, the National Police Criminal Investigation Agency also named five doctors as suspects in the case of distributing fake vaccines, which were allegedly used on patients (Kompas, 2016).

The position of consumers needs to receive more attention, especially in buying and selling medicines, considering the importance of medicines for human health. The ingredients and substances in drugs can potentially harm health and cause unwanted side effects. In addition, legal protection for consumers is often weak, so stronger efforts are needed to ensure consumer safety and rights in this sector (Faradilla et al., 2020).

Disputes between doctors and patients concerning the administration of illegal drugs fall under the jurisdiction of the Consumer Dispute Resolution Agency (BPSK). BPSK is responsible for managing and resolving conflicts between

business actors and consumers (Zia & Saleh, 2022). To perform its functions, BPSK assembles a panel of at least three members, ensuring an odd number, and is supported by a clerk. Established by a governor's decree according to the provincial area of jurisdiction, BPSK comprises representatives from the government, consumers, and business actors (Haerani, 2018).

Another study by (Saragih et al., 2024) found that in the event of malpractice, the resolution can be reached through two routes: the litigation route (judicial) and the non-litigation route (outside of the judiciary). In the litigation route, Article 45 paragraph (1) UUPK states that every consumer who is harmed can sue business actors through institutions tasked with resolving disputes between consumers and business actors or through courts in the general court environment. Meanwhile, in the non-litigation route, Article 66 of Law Number 29 of 2004 concerning Medical Practices regulates that patients or patient families who feel disadvantaged by medical practices they consider inappropriate can complain about their cases through the Indonesian Medical Discipline Honorary Council (MKDKI).

Previous research by (Zaluchu and Yusra, 2022) indicates that current arrangements for resolving medical disputes are dispersed across various laws and regulations, leading to overlapping frameworks and potentially causing ambiguity and uncertainty in their resolution. According to Law Number 29 of 2004 on Medical Practice, fair resolution of disputes between patients or their families and doctors typically starts with medical professional institutions, such as the Medical Ethics Honorary Council (MKEK) or the Indonesian Medical Discipline Honorary Council (MKDKI).

In a related study by (Saragih et al., 2024) it was found that malpractice disputes can be resolved through two main pathways: the litigation route (judicial) and the non-litigation route (extrajudicial). The litigation route, as per Article 45, paragraph (1) of the Consumer Protection Law (UUPK), allows consumers who have been harmed to file a complaint against business actors through institutions designated for resolving consumer disputes or through general courts. On the other hand, the non-litigation route is addressed in Article 66 of Law Number 29 of 2004 on Medical Practices, which allows patients or their families to lodge complaints about perceived improper medical practices with the Indonesian Medical Discipline Honorary Council (MKDKI).

The novelty of this research comes from the object of the research, namely the administration of illegal drugs by doctors that have never been studied before. This research contributes to the development of consumer law theory, especially in the context of medical dispute resolution. The findings in this research can be used to enrich legal literature and provide a basis for further research. This research aims to analyze BPSK's authority in resolving disputes between doctors and patients who prescribe illegal drugs. This research uses normative juridical methods.

RESEARCH METHOD

This research uses normative juridical methods. Normative juridical research is a type of legal research that focuses on the study of documents and primary legal materials such as laws, regulations, court decisions, and legal literature (Jonaedi et al., 2018). In normative juridical research, researchers evaluate legal theories, concepts, legal principles, and statutory regulations to gain a deep understanding of how the law should be applied. The data collection technique in this research is literature study of statutory regulations, BPSK decisions, and other literature relevant to the research. The data that has been collected is then analyzed in three stages, namely data reduction, data presentation and drawing conclusions.

RESULTS AND DISCUSSION

Health services need to be carried out with medicine that is in accordance with professional standards. Medical professional standards include guidelines and protocols set by healthcare organizations and medical professional associations, which are based on scientific evidence, best practices, and ethical principles. Following professional standards ensures that the diagnosis, care and treatment provided to patients are appropriate, effective and safe. These standards also include using appropriate medical technology, maintaining patient confidentiality, and accurately recording and reporting every medical action (Angela et al., 2023). One of the doctor's authorities is to prescribe medication for patients. This authority is an important part of the doctor's professional responsibility in providing medical care. When prescribing, doctors must consider

the patient's diagnosis, medical history, allergies, drug interactions, and other medical conditions. The prescription given includes information about the type of drug, dosage, frequency, and duration of use (Susanti, 2021). Doctors must also provide clear explanations to patients regarding how to use drugs and potential side effects. This authority ensures that patients receive appropriate and safe treatment according to their medical condition, and is an integral part of efforts to maintain patient health and safety (Fadhli & Anisah, 2016).

Doctors have the authority to prescribe drugs according to the medical diagnosis and needs of the patient, but must comply with existing laws and regulations. Administration of illegal or unregistered drugs by doctors violates the law and professional ethics, which may result in administrative, criminal, or disciplinary sanctions (Costa, 2017). Patients are entitled to receive treatment that complies with medical and legal standards, and if they receive illegal drugs, they can file a complaint or lawsuit against the doctor. Dispute resolution can be done through complaints to medical professional organizations, the Consumer Dispute Resolution Agency (BPSK), or legal channels. Compliance with legal regulations and professional ethics is essential to prevent disputes and ensure that the treatment provided is safe and in accordance with applicable regulations (Zhang et al., 2022).

The Consumer Dispute Resolution Body (BPSK) is a quasi-judicial institution that functions to resolve disputes between consumers and business actors in Indonesia. As a quasi-judicial institution, BPSK has the authority to conduct mediation, arbitration, and dispute resolution through courts that are more informal than the judicial process in general courts. BPSK was established based on Law Number 8 Year 1999 on Consumer Protection (Rimanda, 2019). Consumer Protection Law (UUPK) Number 8 of 1999 in Indonesia aims to create a fairer balance between consumers and business actors. GCPL provides clear rights for consumers, such as the right to comfort, safety, and correct information about products or services. In addition, the GCPL stipulates obligations for businesses to provide accurate information, maintain product quality, and provide after-sales service. With the dispute resolution mechanism through the Consumer Dispute Resolution Body (BPSK), consumers can resolve disputes more quickly and easily without going through a long and expensive court process (Rahman, 2018). According to Hulu et al., (2021) the main tasks of BPSK are:

1. Resolving Consumer Disputes

Handling and resolving disputes arising between consumers and business actors.

2. Provide Consultation

Provide consultation to consumers regarding their rights and obligations.

3. Conducting Supervision

Supervise the implementation of statutory provisions in the field of consumer protection.

4. Impose Sanctions

Impose administrative sanctions on business actors who violate consumer rights.

In cases of disputes between doctors and patients involving the provision of drugs that do not meet safety and legality standards, the Consumer Dispute Resolution Body (BPSK) can play a role in assessing whether doctors have violated consumer rights. BPSK has the authority to evaluate whether drugs given to patients are in accordance with safety standards, legality, and applicable medical provisions. The use of drugs cannot be separated from the supervision of the Food and Drug Administration (BPOM). BPOM has an important role in ensuring that medicines circulating in the market meet safety, effectiveness, and quality standards. Based on the Head of BPOM Regulation No. 14/2014, the Food and Drug Supervisory Agency (BPOM) has a number of important tasks and functions. It is responsible for the registration and evaluation of drugs and foods that will be marketed, ensuring that products meet safety, effectiveness, and quality standards (Hijawati, 2020).

Supervision of drug and food distribution is also part of BPOM's duties, including inspections of production and distribution facilities to maintain compliance with regulations. In addition, NA-DFC is authorized to enforce regulations with administrative actions such as product recalls, sanctions, and legal actions against violations. Post-marketing monitoring is also carried out to address any side effects or safety issues that may

arise after the product has been in circulation (Nachrawi & Dewi, 2021). BPOM also plays an important role in education and socialization to the public and businesses regarding the safe use of products. BPOM engages in research and development to improve the surveillance system and ensure the quality and safety of products circulating in Indonesia (Masputra et al., 2020).

If BPSK finds that the medicine is illegal or does not meet the standards, BPSK may judge that the doctor has violated consumer rights. The Consumer Dispute Settlement Body (BPSK) acts as a mediation, arbitration, and conciliation institution that provides protection to consumers and ensures that businesses are held accountable for their actions. As a mediation institution, BPSK helps both parties in a dispute, namely consumers and business actors, to reach a mutual agreement without going through a formal court process (Sitepu & Muhamad, 2021). In its capacity as an arbitration institution, BPSK has the authority to provide binding decisions if mediation does not produce results, with decisions made based on existing facts and evidence. In addition, BPSK also functions as a conciliation institution, meaning that it seeks to achieve dispute resolution with a more flexible approach and open dialog, facilitating communication between consumers and businesses. Thus, BPSK serves to resolve disputes efficiently and fairly, providing legal protection to consumers and ensuring business actors fulfill their responsibilities in accordance with applicable regulations (Gowasa et al., 2021).

CONCLUSION

The Consumer Dispute Resolution Agency (BPSK) has the authority to resolve disputes between consumers and business actors, including disputes between doctors and patients related to the provision of illegal drugs. BPSK acts as a mediation, arbitration, and conciliation institution that serves to provide protection to consumers and ensure that business actors are held accountable for their actions. In the case of disputes between doctors and patients, BPSK can assess whether doctors have violated consumer rights by providing drugs that do not meet safety and legality standards, and provide a decision that is binding on both parties. This authority includes the enforcement of consumer protection laws, the fair settlement of disputes, and the restoration of the rights of aggrieved consumers.

Efforts for further research regarding the authority of the Consumer Dispute Resolution Agency (BPSK) in disputes between doctors and patients regarding the administration of illegal drugs, several suggestions that can be considered are as follows:

1. Evaluation of Dispute Resolution Procedures
   Review BPSK's existing dispute resolution procedures and identify whether there are any deficiencies or challenges in the process. This research can help propose improvements or adjustments in procedures to increase the effectiveness of dispute resolution.
2. Legal and Ethical Approach
   Analysis of how legal and ethical aspects related to the administration of illegal drugs are integrated in BPSK decisions includes how BPSK has authority to handle violations of medical ethics and law related to illegal drugs.
3. Socialization and Education
   Examine the extent to which socialization and education regarding consumer rights and BPSK authority is carried out among patients and medical personnel. It is important to ensure that both parties understand the process and the protections available.

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