

Legal Responsibilities of Doctors in Terminating Life Assistance Therapy for Terminal Patients

Yudo Rastra Prasetyo Putra^{1*}, Hufron¹ 

¹Universitas 17 Agustus 1945 Surabaya, Surabaya, Indonesia

*Corresponding author: rastrayudo@gmail.com

Abstract

Health law plays an important role in upholding basic rights in health services and maintaining a balance between the interests of patients and health workers. This research aims to examine whether doctors are allowed to stop life support therapy according to law using normative juridical legal research methods. The approaches used include statutory, conceptual and case approaches to test positive legal rules, legal principles and legal doctrine. The results of the analysis show that in the relationship between doctors and patients, patient autonomy in making medical decisions and effective communication are important aspects. Doctors have the responsibility to carry out medical procedures and treatment for patients who can no longer be cured, taking into account applicable legal principles. However, doctors are prohibited from carrying out euthanasia, whether active or passive, in accordance with the medical code of ethics and the Hippocratic oath. In discontinuing life support therapy, doctors must ensure that the action is in accordance with applicable medical and legal perspectives, and minimizes the risk of violating the law.

Keywords: *Health Law; Patient Autonomy; Termination Of Therapy; Legal Responsibilities;*

History:

Received: June 14th 2024

Accepted: June 20th 2024

Published: August 2nd 2024

Publisher: Universitas PGRI Madiun

Licensed: This work is licensed under

a [Creative Commons Attribution 3.0 License](https://creativecommons.org/licenses/by-sa/4.0/)



Introduction

Health law plays a crucial role in guaranteeing basic social rights regarding adequate health services for patients and medical personnel. With the existence of health law, patients are given adequate protection if there are violations committed by medical personnel, while health workers also receive legal protection at times provide medical services in accordance with the professional code of ethics. The provision of medical services must be responsible, safe, high quality, equitable, non-discriminatory and fair

This is in accordance with the mandate of Article 28 H paragraph (1) and Article 34 paragraph (3) of the 1945 Constitution that individuals have the right to medical services, while Indonesia is responsible for adequate medical facilities and public services. Health is considered a human right and an important part of prosperity that must be upheld in accordance with the values of Pancasila and the Preamble to the 1945 Constitution. So every effort to strive for people's health must be carried out with non-discriminatory, participatory, protective and sustainable principles which have an important meaning in development. human Resources.

Medical services aim to prevent & treat disease, including medical services that are based on personal relationships between doctors and patients (Trihastuti, 2018). Advances in medical technology and knowledge of how to cure illnesses have led to the common perception that doctors can cure all types of illnesses. Efforts to raise the level of people's health include health promotion, disease control, drug administration, and comprehensive, integrated and sustainable rehabilitation based on Article 18 of Law no. 17 of 2023.

Hospitals as health service facilities have complete and diverse structures and organizations. Various types of medical personnel with certain specializations interact in the

service. The rapid development of medical science and technology requires medical personnel to continue to improve the quality of service. The function of the hospital as a place for healing and health restoration carries a big responsibility which is the government's role in improving community welfare. Law no. 44 of 2009 concerning Hospitals provides legal certainty and protection in hospital management. The government is trying to provide public health facilities by building hospitals in every region. Hospitals as health service institutions are tasked with providing and implementing health efforts that provide healing and recovery services to patients and are considered services between service providers (hospitals) and consumers (patients) in accordance with Law no. 08 of 1999 concerning Consumer Protection (Sulistiyani & Syamsu, 2015).

The relationship between doctors and patients in a legal context is a relationship between two legal subjects regulated by civil law principles that determine their rights and obligations (1313 jo 1234 BW). Patients cannot sue doctors for medical actions that comply with the standards of the medical profession, but mistakes that violate the standards of the medical profession can attract legal liability with severe consequences. Medical professional standards set out the behavior expected of a professional in a situation certain.

Advances in technology and knowledge in the health sector also impact professional services in this sector increasing the risk of errors. The health profession is often in the spotlight due to incidents that harm patients. The success of a hospital really depends on the quality of the medical personnel who work in it, such as doctors and nurses who are expected to understand the needs of patients thoroughly in order to continue to progress and develop. Patients as consumers of health services have the right to be protected from irresponsible practices and have the right to obtain protection, security and comfort in health services.

Patient safety is strictly regulated by Minister of Health Regulation no. 1691/Menkes/Per/VIII/2011 concerning Patient Safety in Hospitals. Every hospital is obliged to comply with patient safety standards to reduce the risk of medical procedures that do not comply with regulations and have the potential to endanger patients. Recently, lawsuits have increasingly arisen from patients who feel that their rights are not being fulfilled by hospitals, especially from poor or disadvantaged communities. The government has implemented a health insurance program to address these needs.

The practice of medicine, including issues such as euthanasia, which invite ethical and legal considerations, is often the focus of increasing attention in the world of healthcare. Hospitals play a central role in supporting public health and their success depends largely on the professionalism of the medical personnel involved. Doctors who work there have an obligation to provide clear information to patients as consumers of health services, including the right to know, refuse and get a second opinion regarding medical procedures.

Patient safety is further regulated in health regulations which mandate hospitals to provide systems that ensure safe patient care including risk evaluation, incident management and analysis to reduce the risk of injury due to medical errors. Legal issues such as requests for euthanasia highlight the responsibilities of physicians in terminating therapy in terminal patients and require legal research to address them appropriately. With the problem statement, are doctors allowed to stop life support therapy according to the law?

Research Methods

The method used in this research is a normative juridical legal research method which examines positive law, legal principles and legal doctrine from the main legal sources. The approach includes positive legal analysis, conceptual and case studies to understand the application of law in practice. Prescriptive analysis techniques are used to assess the conformity of legal actions with the principles of certainty, fairness, and justice expediency.

Data sources include statutory regulations, views of legal experts, and relevant legal cases to provide comprehensive answers to the legal issues being considered as well as prescriptive recommendations based on applicable legal principles.

Results And Discussion

Doctors are Legally Allowed to Stop Life Support Therapy for Terminal Patients

Euthanasia consists of two types, namely active euthanasia and passive euthanasia. Active euthanasia occurs when a doctor intentionally undertakes a procedure to end a patient's life. Types of active euthanasia are divided into two categories, namely direct and indirect active euthanasia. Direct active euthanasia involves direct action by a doctor that causes the patient's death such as administering a substance that causes death. Meanwhile, indirect active euthanasia occurs when the medical action carried out by a doctor does not directly cause death, but has a significant risk of causing death, such as stopping efforts to prolong the patient's life.

On the other hand, passive euthanasia occurs when doctors deliberately refuse to provide medical assistance that could prolong the patient's life. In passive euthanasia the doctor stops medical assistance that supports the patient's life even though other treatments remain optimal. One form of passive euthanasia is self-euthanasia where the patient consciously refuses medical assistance that can prolong his life through a written statement.

Passive euthanasia is not considered a criminal act but doctors are permitted to terminate medical treatment and patient care under certain conditions. Doctors should only stop treatment after making maximum efforts to cure the patient, not out of desperation or with the aim of ending the patient's life.

In Indonesia, regulations regarding euthanasia are not only regulated in the Criminal Code but also in the Medical Code of Ethics. Doctors as health professionals are obliged to comply with a code of ethics that regulates their behavior in interacting with patients, families and the community. In accordance with the principles of the Hippocratic Oath which is the basis of the Indonesian medical code of ethics, the 2012 Indonesian Medical Code of Ethics clearly prohibits doctors from carrying out active or passive euthanasia which could result in the death of the patient.

Doctors must consider many factors from both a medical and legal perspective before discontinuing treatment, especially in the context of passive euthanasia. The doctor must be able to prove that medical efforts are impossible to cure the patient's disease before considering the action before deciding to stop treatment. If the doctor cannot prove this, passive euthanasia can be considered patient neglect and can have legal consequences, as regulated in Article 304 of the Criminal Code.

Termination of Life Support Therapy According to *PERMENKES* No. 37 of 2014 concerning Determination of Death and Use of Donor Organs.

Minister of Health Decree Number 37 of 2014 regulates the withdrawal of life-sustaining treatment (cessation of life-sustaining measures) and the postponement of life-sustaining treatment (suspension of life-sustaining measures). Stopping life-sustaining treatment means stopping part or all of the treatment given to the patient and delaying life-sustaining treatment means starting a new treatment or continuing treatment without stopping ongoing treatment means delaying implementation.

This regulation regulates the circumstances in which certain acts similar to euthanasia can be carried out if certain conditions are met. (Wulantiani & Faiz Mufidi, 2016) 1. For example, this regulation covers the withdrawal of life support therapy which can be classified as passive euthanasia. Determination of death before discontinuation of life support therapy in terminal patients must be carried out in a health facility by at least two competent doctors.

This regulation outlines two criteria for determining death: first, a diagnosis of clinical or conventional death involving permanent cessation of function of the cardiac and respiratory systems; secondly, the diagnosis of brain stem death must be carried out in the ICU by a team of doctors consisting of three competent doctors.

However, this regulation emphasizes that doctors have an ethical obligation to preserve the patient's life. Although there are situations where certain euthanasia may be necessary, doctors must still comply with the Indonesian Medical Code of Ethics which prohibits euthanasia. However, legal developments in Indonesia may make it possible to regulate certain types of euthanasia juridically. The explanation of Article 4 of the Indonesian Doctors Association Statement states that emergency resuscitation efforts can be stopped under the following conditions:

1. When it is known that after the start of resuscitation the patient is in an end-of-life condition or has an untreatable disease or it is almost certain that the patient will not recover from the brain damage. for example, if no heartbeat is detected for one hour at normal body temperature without any signs of new cardiac activity.
2. If there are clinical symptoms of brain death after resuscitation such as the patient remaining unconscious, no spontaneous breathing, no cough reflex, and pupils remain dilated, for at least 15-30 minutes.
3. If there are indications of cardiac death such as asystole that lasts more than 30 minutes despite optimal resuscitation and treatment efforts.
4. If the rescuer becomes too tired to continue resuscitation efforts properly. (Wulantiani & Faiz Mufidi, 2016)

The development of regulations regarding some types of euthanasia is necessary but not for active euthanasia because active euthanasia cannot be morally justified and considered equivalent to murder. Meanwhile, discontinuing life support therapy in terminal patients can be done responsibly if the treatment is considered extraordinary and there are strong reasons not to prolong the patient's suffering.

Medical services are the result of an agreement between the doctor and the patient or the patient's family. In this agreement, the elements of agreement must be fulfilled in accordance with Article 1320 of the Civil Code. Every medical procedure, especially those with a high risk such as death, requires informed consent from the patient or their family. Informed consent includes an explanation of the diagnosis, medical procedure, goals, treatment alternatives, risks, complications, and prognosis. Medical procedures cannot be carried out without the consent of the family of an unconscious terminal patient. Informed consent is required for discontinuation of life support therapy because this procedure carries a risk of death. This agreement document avoids future disputes and provides legal certainty that the doctor has not committed malpractice.

Factors for a Doctor to Terminate Life Support Therapy for Terminal Patients

In discussing a complex topic such as euthanasia it is important to understand the various factors that influence this medical and ethical decision. The following are the factors involved in a doctor discontinuing life support therapy for a terminal patient:

a. No Hope of Life for Patients

Doctors may consider euthanasia if the patient no longer has hope recover physically or psychologically. It is usually diagnosed by doctors and their colleagues for patients in the late stages of the disease. When a patient is in a prolonged coma with no hope of recovery, the doctor may decide to perform euthanasia after a long discussion with the patient's family. b. The wishes of the doctor or patient's family

Euthanasia is often considered by doctors and families out of a sense of pity patient suffering. Doctors who understand the patient's suffering in detail may feel compassion and

discuss the patient's condition with the family to determine next steps. Euthanasia is not performed without the family's consent and detailed evaluation from the medical team.

b. Economic Factors

Severe financial problems often trigger the decision to carry out passive euthanasia. High medical costs for serious illnesses such as cancer, heart disease, or kidney disease can mean families cannot afford to continue treatment. These financial difficulties sometimes force families to consider discontinuing treatment.

c. Die with Honor

Euthanasia is performed to provide comfort and reduce patient suffering with low life expectancy. Although many countries prohibit euthanasia there are attempts to justify it which can have a negative impact especially on patients who are elderly or with serious conditions.

d. Limited Health Facilities

Limited medical facilities and equipment in hospitals can encourage this to happen euthanasia. Hospitals often prioritize patients with better prognoses so patients with low life expectancies may not receive adequate care. Passive euthanasia decisions can occur when the family asks for the patient to be sent home because of these limitations.

The decision to carry out euthanasia, whether active or passive, is very complex and involves many considerations. Doctors and health workers must understand the patient's condition in depth and go through a long discussion process with the patient's family before deciding on this action. There are many influencing factors ranging from the patient's health condition, family wishes, financial problems, to limited medical facilities. All decisions must be made carefully to avoid malpractice and maintain the integrity of the medical profession.

Doctors are allowed to take action to discontinue life support therapy when treating patients with diseases that cannot be cured with drugs or technology, the doctor's goal is to comfort the patient and alleviate his suffering, not to cure him. provide this information to patients and their families. The patient's right to accept or refuse medical assistance is regulated in Health Law Number 17 of 2023 which confirms that patients have the right to make decisions after receiving complete information about the medical services provided. Euthanasia is not only regulated in criminal law but also in medical ethics regulations. Medical professionals are subject to a strict code of ethics that governs their conduct and behavior in a variety of situations. For example, the 2012 Indonesian Medical Code of Ethics prohibits doctors from carrying out euthanasia, abortion, or carrying out the death penalty without proof of their integrity.

Doctors have a moral and professional responsibility to protect the lives of their patients even in the most demanding circumstances. In accordance with the principles of the Hippocratic Oath, which is also the basis of the Indonesian medical oath, it is prohibited to prescribe or recommend medicines that can result in the patient's death. According to Anton M. Moeriono et al. euthanasia is the act of deliberately ending the life of someone who is seriously ill or seriously injured by dying peacefully and simply from a humanitarian perspective.

According to the principles of the Hippocratic Oath, which is the basis of the Indonesian medical oath, in carrying out medical procedures, doctors are prohibited from giving or recommending potentially lethal drugs to patients even if asked. Indonesia's medical oath is based on the Hippocratic oath which prohibits euthanasia. Doctors must consider a number of medical and legal considerations before deciding to stop treatment. In carrying out passive euthanasia a doctor must be able to show that the treatment given to the patient cannot cure the disease. If the doctor cannot prove it, passive euthanasia will be considered a criminal act and can have legal consequences.

Passive euthanasia requires in-depth medical and legal considerations. The doctor must be able to show that the patient's condition can no longer be cured and that the actions taken are in accordance with applicable regulations. If not, the doctor could be accused of patient neglect which is regulated in Article 304 of the Criminal Code does not apply because he carried out passive euthanasia. Therefore, every high-risk medical procedure must be carried out very carefully and considering various factors. Doctors must comply with the law and the code of medical ethics to avoid malpractice and maintain the integrity of the profession. In complex situations such as these the role of ethical codes and laws is critical to ensure that actions taken are in the best interests of patients, safeguard their rights, and protect doctors from consequences unwanted law.

Conclusion

Withdrawal of life care from terminal patients in Indonesia including passive and active euthanasia is a sensitive topic in medical practice. Active euthanasia involves a doctor's action of ending a patient's life while passive euthanasia stops or delays medical therapy that prolongs the patient's life. Although the 2012 Indonesian Medical Code of Ethics prohibits euthanasia, termination of life support therapy can be considered if maximum healing efforts have been made and approved by the medical team and the patient's family.

Minister of Health Regulation no. 37 of 2014 establishes criteria and procedures for discontinuing life support therapy, including the requirement for a diagnosis of death by a team of competent doctors, ensuring actions are in accordance with ethical, legal principles and the patient's best interests. Doctors must ensure that the decision does not prolong the patient's suffering and is based on clear information to the patient's family. These strict regulations are important to maintain the integrity of the medical profession and protect patient rights in complex situations.

Acknowledgments

The authors would like to thank to God, family, and all friends who support to finish this research.

References

- Anton M. Moeliono. (2001). Indonesian Dictionary: Third Edition. Jakarta: Balai Pustaka.
- Azzuri, P., & Prasetyo, H. (2021). Passive Euthanasia Actions by Doctors on Patients in Indonesia. 8(4).
- Hamza Shatri. (2020). Advanced Directives on Palliative Care Hamzah Shatri. *Journal Indonesian Internal Medicine*, 7(2), 125–132.
- Herdy Ryzkyta Ferdiana. (2017). The act of euthanasia as a criminal act is connected with Law Number 29 of 2004 concerning Medical Practice. Doctoral dissertation, Unpas Faculty of Law.
- Masyitoh Basabih. (2017). Should Patient Safety Become an Indicator of BLU Hospital Performance? *Architectural Journal*, 3(2), 150–157.
- Nurhalifa Hadjatu. (2022). Juridical Review of the Authorities and Responsibilities of Hospitals as Complete Health Service Institutions Based on Law Number 44 of 2009 concerning Hospitals. Sintuwu Maroso University.
- Satria Indra Kesuma. (2023). Socialization regarding Review of Law no. 17 of 2023 concerning Health. *Journal of Legal and Constitutional Studies*, 1(4), 143–156.

- Sulistiyani, V., & Syamsu, Z. (2015). Civil Liability of a Doctor in Medical Malpractice Cases. In Civil Liability of a Doctor in Medical Malpractice Cases Lex Jurnalica (Vol. 12).
- Wulantiani, R., & Faiz Mufidi, M. (2016). The Legal Aspects of Termination Procedures of Living Assisted Therapy for Terminal State Patients Based on the Liabilities of Human Being Protection. Legal Science Proceedings, 2(1).