

Kedudukan informed consent dan penerapan doktrin res ipsa loquitur dalam sengketa medis di rumah sakit (analisis putusan No. 08/PDT.G/2014/PN.KDR. dan No. 113 PK/PID/2012) = Standing of informed consent and application of doctrine of res ipsa loquitur in medical dispute at hospital (analysis of decision No. 08/PDT.G/2014/PN.KDR and No. 113 PK/PID/2012 / Delia Astrid Zahara

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Abstrak

Dalam pelaksanaan tindakan medis di rumah sakit, seringkali terjadi sengketa. Hal tersebut biasanya dipicu oleh adanya ketidaksesuaian antara hasil dari tindakan medis yang diberikan oleh pemberi pelayanan kesehatan dengan apa yang diharapkan oleh penerima pelayanan kesehatan, serta tidak adanya komunikasi yang baik antara pemberi dan penerima pelayanan kesehatan dalam proses pemberian informed consent sehingga risiko medis dan malapraktik medis menjadi tidak dapat dibedakan dengan jelas. Dengan menggunakan metode penelitian yuridis-normatif dan deskriptif, Peneliti mencoba untuk memberikan gambaran umum mengenai kedudukan informed consent dan penerapan Doktrin Res Ipsa Loquitur dalam sengketa medis yang terjadi di rumah sakit berdasarkan Putusan No. 08/Pdt.G/2014/PN.KDR. dan No. 113 PK/Pid/2012. Pengaturan mengenai informed consent di Indonesia telah diatur dalam Peraturan Menteri Kesehatan No. 290 Tahun 2008 tentang Persetujuan Tindakan Kedokteran. Pada Peraturan tersebut telah disebutkan bahwa resiko medis dari tindakan kedokteran terkait harus disampaikan sebelum pihak penerima pelayanan kesehatan memberikan persetujuan sehingga dapat dibedakan dengan jelas antara resiko medis dengan malapraktik medis.

Disputes frequently occur between the healthcare providers and recipients of healthcare services in execution of medical actions in hospitals. This is usually triggered by disagreement of the results of medical actions delivered by healthcare providers with what is expected by recipients of health services, and lack of good communication between providers and recipients of health services in the process of giving informed consent with the result that medical and medical malpractice risks become indistinguishable definitely. By using normative-juridical and descriptive research methods, the researcher attempts to provide a general description of the position of informed consent and the application of the Doctrine of Res Ipsa Loquitur in medical disputes that occur in hospitals based on Indonesian court ruling No. 08/Pdt.G/2014/PN.KDR. and No. 113 PK/Pid/ 2012. Regulations regarding informed consent in Indonesia have been regulated in Regulation of the Minister of Health No. 290 of year 2008 regarding Approval of Medical Measures. It has been stated in the aforementioned Regulation that the medical risks of related medical actions must be submitted before the recipient of the health service gives consent in order that it can be clearly distinguished between medical risk and medical malpractice.