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LEGAL ANALYSIS OF IMPLEMENTING TRADITIONAL MEDICINE PRACTICES IN BANDAR LAMPUNG

Rissa Afni Martinouva, Aditia Arief Firmanto
Lecturer at the Faculty of Law, Malahayati University

Abstract

The implementation of traditional medical practices is supported by several regulations including the Minister of Health Decree No. 1076/MENKES/SK/VII/2003 concerning Organizers of Traditional Medicine and Law No. 36 of 2009 concerning Health. This research was conducted using the normative-empirical method. The study population was taken by purposive sampling according to the research objectives. Data analysis in this legal analysis research uses qualitative methods. The rules and conditions set for the management of traditional medical practices in Bandar Lampung City are guided by PerMenKes No. 61 of 2016 concerning Empirical Traditional Health Services, PP of the Republic of Indonesia No. 103 of 2014 concerning Traditional Health Services and Decree of the Head of Lampung Provincial Health Office Number 442 regarding Guidelines for Developing Traditional Health Services in Lampung Province in 2009. The resulting legal analysis is evident from 60 respondents that there are 39 people or 65% already know that the traditional medicine where they seek treatment already have a permit, this will increase the confidence of patients to seek treatment to a legal license. The results of the study of 60 patient respondents were only 3 people who were given health insurance by traditional medical providers. While the remaining 57 patient respondents were not given health insurance by traditional medical providers. This proves that only 5% of traditional medicine dares to give health insurance to their patients. Patients or people who seek treatment are entitled to health insurance following the legal basis for health insurance. The Bandar Lampung City Health Office has not optimally conducted supervision and education on traditional medicine in the Bandar Lampung City. It is hoped that the mayor's regulations will effectively regulate traditional medical practices, preventive measures, and make patients more selective in choosing health healing facilities.

Keywords: Traditional medicine, Government, Health Services

I. INTRODUCTION

Healing through medical channels is a scientific treatment in the medical field. Besides, there are alternative routes, some of which are known as traditional medicine. Medical has a meaning related to medicine, while medical has a meaning about nursing, nurses, and nurses.¹ It requires information given orally, including the advantages and disadvantages of the treatment taken. All traditional medicinal measures to be

¹ Departemen Pendidikan dan Kebudayaan, *Kamus Besar Bahasa Indonesia*, (Jakarta, PT. Media Pustaka Indonesia Phoenix, 2012), hlm. 572.

performed on a patient must have the consent of the patient or his family. Consent can be given in writing or orally.

The World Health Organization (WHO) in 2000 has determined that traditional medicine is the total amount of knowledge, skills, and practices based on the theories, beliefs, and experiences of people who have different cultural customs, whether explained or not, used in health care and the prevention, diagnosis, correction, or treatment of physical and mental illnesses.² The traditional medicine practice raises several problems regarding the legal or not medical practice. We all live in a web of law enforcement in its various forms of formality. Everything goes according to the applicable legal rules. However, the human nature in living his life can not be separated from the tendency to deviate or deviate. Legal professionals are not responsible for committing violations in carrying out their profession because they prioritize their personal or group interests. The existence of legal norms essentially leads to what should be done to make all parties happy.³

Any traditional medical treatment that poses a high risk to the patient must be signed by the authorized person to give consent. In addition to improving the status of the patient, traditional medicine practices may cause bad conditions for the patient. In performing healing with the needle prick method, an error may occur, thus increasing the patient's bad condition. Supervision, regulations, and conditions are needed so that public trust in the means of healing medicine through traditional medicine. In social relations, many legal relationships arise as a result of legal actions from that legal subject. This legal action is the beginning of the birth of a legal relationship (*rechtsbetrekking*), namely the interaction between legal subjects that have legal relevance or have legal consequences. For legal relations between legal subjects to run harmoniously, balanced, and fairly, in the sense that every legal subject gets what is his right and carries out the obligations imposed on him, then the law appears as a rule of the game in regulating the legal relationship. Law was created as a means or instrument to regulate the rights and obligations of legal subjects, for each legal subject can carry out their obligations properly and get their rights fairly.⁴ In this research, the search for data on the existence of the implementation of traditional medicine in Bandar Lampung is also accompanied by the extent to which the community has knowledge of its existence and information on the terms and regulations stipulated in its implementation. These terms and regulations can safeguard the actions and responsibilities as a therapist of traditional medicine providers. Regulations established by the government will limit actions that violate and harm patients/clients of traditional medicine, thus forcing them to be obeyed.

² Viky Pemuda Indra Sakti, *Perlindungan Hukum Pengobatan Tradisional-Metodologi*, (Jakarta, Fakultas Hukum Universitas Indonesia (FHUI), 2009), p. 11.

³ Abdulkadir Muhammad *Etika Profesi Hukum*, (Bandung, PTCitra Aditya Bakti, 2014), p. 66

⁴ Ridwan HR, *Hukum Administrasi Negara*, (Jakarta, Cetakan ke-9 Penerbit Rajawali Pers, 2013), p. 265.

The coercive nature is reflected in the regulations that have been made to be obeyed by citizens to regulate the order and prevent disputes and conflicts. With regulations made by the state, there will be a balance of society. If the state does not have a coercive nature, there will be chaos, anarchy, and conflict; there are no shared rules. Regulations made by the state are laws that must be obeyed to be implemented. This is the coercive nature of the state.⁵ It is also hoped that coercion carried out through regulations is not only known by traditional medicine administrators, but also by members of the community, especially those who use traditional medical services.

One of the factors that make regulation effective is the community members. The community members referred to are their awareness to comply with laws and regulations, the degree of compliance. In simple terms, it can be said, that the degree of public compliance with the law, is one indicator of the functioning of the law in question.⁶ The division of traditional medicine is also stated in Article 59 Paragraph (1) of Law Number 36 the Year 2009 concerning Health, namely based on the method of treatment, traditional health services are divided into a. traditional health services that use skills; and b. traditional health services using ingredients. This research is aimed at traditional medicine that treats clients/patients through therapy and not through herbs or ingredients.

The description above is the basis for finding data on the existence of the implementation of traditional medicine in Bandar Lampung, also accompanied by the extent to which the community's knowledge of its existence and information on the terms and regulations set in its implementation. These terms and regulations can safeguard the actions and responsibilities as a therapist of traditional medicine providers. Regulations established by the government will limit actions that violate and harm patients/clients of traditional medicine, thus forcing them to be obeyed. Implementation of Traditional Medicine in Kepmenkes No. 1076//MENKES/SK/VII/2003 and Law no. 36 of 2009 concerning Health does not regulate the rights and obligations of the parties and do not regulate the various legal consequences of traditional medicine

Based on the description above, the problem that will be discussed in this study is how the form of regulations and conditions imposed on administrators of traditional medicine practices in the city of Bandar Lampung and how to analyze the law. This research was conducted using the normative-empirical method. This research is normative by examining regulations and literature studies regarding traditional medicine. Research on regulations and requirements was carried out by interviewing the government of the Bandar Lampung City Health Office. The object of research is patients as consumers and administrators of operational traditional medicine practices.

⁵Ahmad Sukardja, *Hukum Tata Negara dan Hukum Administrasi Negara "Dalam Persepektif Fikih Siyasa"*, (Cetakan kedua, Penerbit Sinar Grafika, Jakarta, 2014), p. 61.

⁶ZainuddinAli, *Filsafat Hukum*, (Jakarta, Sinar Grafika, 2018), p. 96.

The research sample was appointed by simple random sampling, namely to 20 administrators of traditional medicine from each of the representatives of 20 districts of Bandar Lampung City. The results of the study were in the form of systematic descriptions of the rules and requirements for implementing traditional medicine practices.

The results of the study analyzed the results of the dominant percentage data from the study sample who were appointed by simple random sampling, proving that whether the rules and requirements for administering traditional medicine in Bandar Lampung were effectively implemented and protected the parties between the patient and traditional medicine. The analysis of this research is expected to have a major regulation to effectively curb traditional medicine practices, preventive measures, and make patients more selective.⁷

II. DISCUSSION

Rules and Requirements for Administrators of Traditional Medicine Practices in Bandar Lampung City

The results obtained were interviews with the Bandar Lampung City Health Office, represented by primary and traditional staff in the health sector, the informants with the initials (Aj). Sister Aj argued that the regulations and conditions stipulated for administering traditional medicine practices in Bandar Lampung City are guided by the Regulation of the Minister of Health of the Republic of Indonesia Number 61 of 2016 concerning Empirical Traditional Health Services (PerMenKes No.61 of 2016 concerning Empirical Traditional Health Services) and Regulations The Government of the Republic of Indonesia Number 103 of 2014 concerning Traditional Health Services (PP of the Republic of Indonesia Number 103 of 2014 concerning Traditional Health Services). The regulations and conditions set by the government are followed by administrators of traditional medicine practices. The chairman of the Bandar Lampung Traditional Medicine Communication Forum, who was asked for information through interviews, also said that there was supervision carried out by the Bandar Lampung City Health Service in the form of a Decree from the Head of the Lampung Province Health Service Number 442 concerning Guidelines for the Development of Traditional Health Services in Lampung Province in 2009.

The Indonesian state is based on the law (Rechtsstaat) and is not based on mere power (Machtsstaat). This principle has a very deep meaning in the life of society and the state because it means that the state (including government, state institutions, and government institutions and state apparatus) in carrying out their duties, they must always be based on law and justice.⁸ The implementation of traditional medical

⁷ Abstract Research Report for Beginner Lecturer Rissa Afni Martinouva, 2019.

⁸ Ilhami Bisri, *Sistem Hukum Indonesia: Prinsip-prinsip dan Implementasi Hukum di Indonesia*. (Jakarta, PT RajaGrafindo Persada, Cetakan ke-9, 2014), p. 13.

practices must be protected by law, especially in the Bandar Lampung community. The weakness of patients as health consumers is that patients are often in an unfavorable position because the laws governing consumer rights in Indonesia have not worked optimally, it is not uncommon for patients to be harmed without mistakes on their part in dealing with health care providers, it can almost be said "unable to demand compensation and / or enforce their rights."⁹ Traditional medicine businesses and people who accept their existence both need legal rules that will balance, provide a foundation and safety for both patients as consumers and traditional medicine businesses. It is a mutual interest to avoid bad events from happening.¹⁰ Traditional medicine practices have a basis for running their business so that their actions can be accounted for, this will maintain order and provide a sense of security for patients who will seek treatment. The right to security everyone has the right to protection. personal self, family, honor, dignity, property rights. a sense of security and security, and protection against the threat of fear to do or not do something. Right to welfare. Every person has the right to own property, either alone or in association with others for the development of himself, the nation, and society by not breaking the law and obtaining it.¹¹

Traditional Medicine states that traditional healers are classified into types of skills, potions, religious, and supernatural approaches. Article 3 Paragraph (2) Kepmenkes No. 1076/MENKES/SK/VII/2003 also formulates the classification and types as referred to in paragraph (1) covering: a. Skilled traditional healers consist of traditional healers of massage, fractures, circumcision, traditional birth attendants, reflexologists, acupressurists, acupuncturists, chiropractors and other traditional healers with similar methods. b. Traditional herbal medicine consists of traditional Indonesian herbal medicine (Jammu), Ngurah, healer, shinshe, homeopathy, aromatherapist, and other traditional medicine with similar methods. c. Traditional healers with religious approaches consist of traditional healers with approaches from Islam, Christianity, Catholicism, Hinduism, or Buddhism. d. Traditional supernatural healers consist of traditional healers of inner power (prana), psychics, reiki masters, qigong, spiritual healers, and other traditional healers with similar methods and classifications attached. Article 10 Permenkes No. 61 of 2016 concerning Empirical Traditional Health Services describes the implementation of traditional health services: paragraph (1) The implementation of empirical traditional health services must meet the following conditions: a. can be accounted for its safety and benefits empirically, and used rationally; b. does not conflict with religious norms and norms prevailing in society; and c. does not conflict with government programs to improve public health status.

⁹ AZ Nasution, *Pengantar Hukum Perlindungan Konsumen*, (Jakarta, Penerbit Daya Widya, 1999), hlm. 83.

¹⁰ Rissa Afni Martinouva, *Jurnal Pranata Hukum, Analisis Hukum Perjanjian Penyembuhan Kepada Pasien Dari Penyelenggara Praktik Pengobatan Tradisional*. (Bandar Lampung: Universitas Bandar Lampung, 2018), hlm.135.

¹¹ Wahyu Widodo, Budi Anwari, and Maryanto, *Pendidikan Kewarganegaraan*. (Yogyakarta, CV Andi Offset, 2015), hlm. 148.

paragraph (2) Does not contradict religious norms as referred to in paragraph (1) letter b, namely not providing services in the form of occult / mystical forms / using the help of supernatural beings and prediction of fate. paragraph (3) Does not contradict the prevailing norms in society as referred to in paragraph (1) letter b, namely does not violate the values of law, decency, politeness, and culture.

Article 11 PerMenKes No. 61 of 2016 concerning Empirical Traditional Health Services describes the concept of traditional health services including a. individual health problems caused by an imbalance of physical, mental, spiritual, social, and cultural elements; b. humans can adapt and heal themselves (self-healing); and c. Healthcare is carried out with a holistic approach (comprehensive) and uses a natural approach that aims to balance back the adaptability with the causes of health problems.

Article 12 PerMenKes No. 61 of 2016 concerning Empirical Traditional Health Services paragraph (1) Empirical Traditional Health Services have distinctive characteristics including a. cultural origin; b. procedures for determining the client's health condition; c. Client's health condition; d. Empirical Traditional Health Service Management; and e. using traditional empirical health tools and technology following their science. Paragraph (2) Cultural origin as referred to in paragraph (1) letter a means that traditional health services are derived from indigenous cultural traditions passed down from generation to generation from a particular community. Paragraph (3) The procedure for determining the Client's health condition as referred to in paragraph (1) letter b means that the procedures for examining traditional health services are based on the ability to interview, see, hear, smell, and feel and can be assisted by tools and technology that work following with traditional empirical health concepts. paragraph (4) The client's health condition as referred to in paragraph (1) letter c means that the statement of an individual's health condition is based on the concept of emic, which is based on the client's subjective experience and the public's view of the health disorder. paragraph (5) Management of Empirical Traditional Health Services as referred to in paragraph (1) letter d means that Traditional Empirical Health Services are carried out using natural materials, manual techniques, thought techniques, and energy techniques and can use tools and technology following empirical characteristics of traditional health care.

Article 1 PP of the Republic of Indonesia No. 103 of 2014 concerning Health Services Traditionally regulates that the implementation of traditional medicine is carried out by having several conditions to be operational, including those described in the Traditional Health Services Registered Letter, hereinafter abbreviated as STPT, is written evidence given to traditional healers who have registered to provide Empirical Traditional Health Services. Traditional Health Personnel Registration Certificate, hereinafter abbreviated as STRTKT, is written evidence of granting authority to provide Complementary Traditional Health Services. Traditional Health Worker Practice License, hereinafter

abbreviated as SIPTKT, is written evidence given to traditional health workers in the context of implementing the provision of Complementary Traditional Health Services. The government also regulates the flow of guidance and supervision of traditional medical services through Permenkes No. 61 of 2016 concerning Empirical Traditional Health Services. Guidance and supervision of traditional medical services are regulated as follows:

1. Coaching

Guidance for Empirical Traditional Health services is carried out in stages by the community health centers, district/city health offices, provincial health offices, and the Ministry of Health by involving cross-related sectors following their respective main tasks and functions.

- 1) Puskesmas has duties and responsibilities in carrying out guidance including a. Inventory and identify traditional health services in the working area. b. To guide traditional healers in their working areas (sanitation hygiene, universal precautions/procedures for self-protection, how to record reports, how to send/refer clients to community health centers and/or hospitals, and so on).
- 2) District/city health office has duties and responsibilities, covering: a. Fostering traditional healers in their working areas through the workshop, Information, and Education Communication (IEC), training, and/or other meetings; b. Provide a technical assessment of the use of traditional health methods, materials/medicines/tools, and technology as a basis for consideration of the recommendation for the issuance of STPT. c. Coordinating with district/city government work units that carry out integrated licensing.
- 3) The provincial health office has the duties and responsibilities: a. To coordinate across programs / across sectors to strengthen the development of traditional health service development programs for districts/cities through technical and management training support; b. Coordinating efforts to increase the role and function of the Center for Development and Application of Traditional Medicine (Sentra P3T); c. Actively participate in the utilization of the traditional health Information and Documentation Network (JID).
- 4) The Ministry of Health has duties and responsibilities, including a. preparing regulations, policies and Norms, Standards, Procedures, and Criteria (NSPK) regarding traditional health and operational activities to strengthen traditional health programs in the province; and b. developing a traditional health Information and Documentation Network (JID).

2. Supervision

Supervision is carried out to see the suitability between regulations and conditions in the field. This is done by entering every place that is suspected of being used in activities related to the provision of Empirical Traditional Health Services and checking the legality associated with the implementation of Empirical Traditional Health Services. Every officer who carries out supervision is equipped with an identification card, inspection order, and monitoring instrument (precautions). The targets of supervision of Empirical Traditional Health Services include:

- 1) STPT legality document and hattra nameplate;
- 2) Materials and tools used; and
- 3) Infrastructure. The hattra referred to in this regulation is a traditional sanitizer that is abbreviated as hattra.

Implementing supervision includes:

- 1) The technical assessment team in a district/city whose members are appointed by the head of the district/city health office, consisting of:
 - a. cross-district / city health office programs;
 - b. cross-sector; and c. association / expert: independent impartial.
- 2) The examination team is tasked with examining suspected violations of the code of conduct/discipline committed by Hattra; and
- 3) Puskesmas health workers (managers of traditional health programs assigned by the head of the community health centers).

Supervision is carried out at several stages:

- 1) Administrative and technical assessment stages
 - a. Empirical Traditional Health Service Delivery does not contradict the concept of traditional health service delivery;
 - b. Administrative assessment is carried out by checking the completeness and validity of the STPT filing documents; and
 - c. The technical assessment is carried out as one of the stages of providing STPT recommendations or recommendations for healthy nursing homes, namely by doing:
 - a) Assessment of the safety and benefits of Traditional Empirical Health Care services;
 - b) Assessment of the safety of ingredients and traditional health technology tools used; and
 - c) Direct assessment of the facilities and infrastructure to be used by traditional healers.
- 2) Periodic monitoring stage The supervisory team conducts periodic supervision of the implementation of Traditional Empirical Health Services which is adjusted to the number of members of the supervisory team and the area of the supervision area.
- 3) Complaint/consumer claim/community report stage The supervisory team will immediately go to the field to inspect if it receives consumer complaints/claims/community reports.

The community can play a role in supervising the implementation of Empirical Traditional Health Services by submitting complaints to the community health centers or district/city health offices. For supervisory activities to run optimally, supervision activities need to be well organized starting from preparation, implementation, and evaluation:

1. Preparation
 - a. Coordinating among members of the supervisory team;
 - b. Prepare terms of reference including the required budget;

- c. Prepare monitoring materials and instruments; and
 - d. Complete administration and correspondence.
2. Implementation
 - a. Clarify the situation in the field with the results of administrative assessment documents, technical assessment results documents, and related regulations; and
 - b. Making reports on the implementation of supervision.
 3. Evaluation
 - a. Analyze the results of the implementation of supervision;
 - b. Send us feedback; and
 - c. Provide technical guidance and follow-up evaluation.

Empirical traditional health service supervision mechanisms, namely:

1. The Ministry of Health provides information on Norms, Standards, Procedures, and Criteria (NSPK) related to supervision to the provincial health offices and district/city health offices.
2. District/city health office may appoint supervisors who have the task of supervising everything related to the implementation of traditional health services following the provisions of laws and regulations.
3. District/city health offices or supervisors act based on traditional health care reports provided to district/city health offices and based on complaints from the public. These two things are the basis for conducting investigations on Traditional Health Care.
4. After an investigation has been carried out and it has found that there is a violation of traditional health services, the district/city health office or supervisor can immediately give an oral warning. If within 3 x 24 hours there is no change, the district/city health office can issue a written warning. If within 3 x 24 hours there is no change, then the district/city health office can revoke the STPT / facility permit for healthy nursing homes. If there is a suspected ethical violation, the district/city health office or supervisor will coordinate with the traditional health care association.

The Chairperson of the Bandar Lampung Traditional Healer / Healer Communication Forum, who was asked for information through interviews, also stated that there was supervision carried out by the Bandar Lampung City Health Office directly, namely through visits represented by the Community Health Center (Puskesmas) in the form of confirmation and observation of the implementation. traditional healers. Supervision is carried out within 2 (two) or 3 (three) months.¹² In this last year, among the people, especially in the city of Bandar Lampung, various types of traditional health services have developed which previously were only a method of local medicine such as Ngurah. Besides that, traditional medical services are also developing specifically for certain cases such as the treatment of impotence, diabetes, hypertension, and drug dependence.

¹²Wawancara bersama Ketua Forum Komunikasi Penyekenggara Pengobatan Tradisional di Bandar Lampung Kepada Bapak Janjanpada 25 Oktober 2019

Recently found in various cities, especially in Bandar Lampung, this type of treatment originates from abroad and its development is very fast, such as cupping (Arabic) and shiatsu massage (Japan).

The growing and increasing number of patients, as well as the spread of specific traditional medicine services among the community, provide benefits and convenience for people in seeking alternative medicine, this also shows that the advancement of medical science and technology has not been able to fully overcome all diseases and health problems. On the other hand, not all of the various types and methods of traditional health services have developed, even though only a small part has been assessed for their benefits and safety.

One of the important elements in the operational implementation of the development of traditional medicine service efforts is the integrated coordination across programs and related sectors at every level of administration. To ensure the success of achieving the objectives of the development of traditional health services, there is a need for a solid and integrated working relationship mechanism, starting from the planning stages, movement, implementation to monitoring, supervision, and assessment.

The pattern of coaching traditional medical services in Bandar Lampung starts from the city to sub-district level involving cross-sectoral, cross-program, professional organizations, traditional medicine associations in the form of Communication Forums (FORKOM), and community participation.¹³

Coaching at the Bandar Lampung City level carried out by the Bandar Lampung City Health Office includes coaching for city/district level health professional organizations. The duties and responsibilities of the Bandar Lampung City Health Office, especially in the traditional medicine and health unit/sector include:

1. Fostering traditional health services in providing services.
2. Disseminating and fostering TOGA (Family Medicinal Plants).
3. Mobilizing the role of traditional healers in health development.
4. Registering all types of traditional medicinal personnel.
5. Monitor and supervise malpractice in traditional medical / health services.
6. Inventory of traditional medicine.
7. Recording and reporting of traditional health service development.
8. Organizing a communication forum.

A license to practice traditional medicine is very important for the sustainability and legality of traditional health service providers. The issuance of permits by the Health Office for traditional medicine depends on the stage of traditional treatment whether it has reached the formative stage or the normative stage.

¹³ Wawancara bersama Ketua Forum Komunikasi Penyelenggara Pengobatan Tradisional di Bandar Lampung Kepada Bapak Janjanpada 25 Oktober 2019

Types of traditional medicine that have been in the formative stage are licensed according to the applicable regulatory requirements. Screening is carried out to reach the normative stage with the following criteria:

1. It can be proven scientifically.
2. Having standard standards; medicine, treatment methods, infrastructure.
3. The suspension system.

Service standards can be applied with a standardized process approach and output standards, namely the cure rate may vary but may not cause complications or death side effects, while the process standard, namely treatment measures may vary but must not cause side effects of complications or death.

A practicing license for traditional medical services that are already at the normative stage, namely:

1. Treatment has been integrated into the health service network if it is following conventional medical principles (modern health service system).
2. Develop independently, if it has been proven safe and useful, but not following conventional medical principles and cannot be integrated but can be developed separately in public health services.

Traditional medicine whose health services are at the normative stage has service standards that can be applied with input standards, an explanation for output standards and process standards, while the input standards, namely personnel, facilities, and funds can vary, specifically for personnel and facilities must meet safe and clean requirements. (hygienic).

Legal Analysis of Health Insurance by Traditional Medicine to Patients

The implementation of traditional medicine is also targeted at the therapeutic agreement. In a therapeutic transaction, the characteristic of the engagement is a business engagement (inspanning verbintenis), meaning an engagement that is not based on the final result but is based on sincere efforts.¹⁴The agreement is like informed consent which regulates the agreement between the doctor and the patient. The agreement is made to do a job (inspanningverbintenis), the criteria for success are in the process that has been taken or done, not the result.¹⁵The characteristics of a traditional medicine agreement do not promise to get a full result like a sale and purchase agreement. The engagement generally promises that the process and practice of healing will be strived for to achieve the healing the patient desires. Efforts to carry out the treatment process properly for patients are considered to have fulfilled the agreement supported by actions following applicable legal rules.

¹⁴ Veronica Komalawati, *Peranan Informed Consent Dalam Transaksi Terapeutik (Persetujuan Dalam Hubungan Dokter dan Pasien); Suatu Tinjauan Yuridis*, (Bandung.PT. Citra Aditya Bhakti, 2002), p.84.

¹⁵ Wahyu Sasongko, *Ketentuan-Ketentuan Pokok Hukum Perlindungan Konsumen*, (Bandar Lampung: Penerbit Universitas Lampung, 2007), p. 108.

Researchers pointed to the population in this study were all administrators and patients/clients of traditional medicine in the city of Bandar Lampung. The research sample was appointed to patients and administrators of traditional medicine in the city of Bandar Lampung. The characteristics of the number of samples taken to estimate the characteristics of the population, namely the 20 traditional medicine providers from each of the representatives of the 20 districts of Bandar Lampung City. The research was also conducted on 60 (sixty) samples of patients as consumers, from 3 (three) people per sub-district in 20 sub-districts of Bandar Lampung City. The object of this research is the Health Office in Bandar Lampung.

The sampling technique used by researchers is a non-probability technique. Non-probability sampling techniques or non-random sampling techniques, there are 3 (three) choices of Quota Sampling, Accidental Sampling, and Purposive Sampling. Researchers used non-probability sampling purposive sampling technique.

Purposive sampling is a way of taking samples based on specific objectives. This technique is usually chosen for reasons of limited time, effort and cost so that it cannot take samples that are large in number and far away, to determine samples based on certain objectives and must meet the following requirements:

1. Must be based on certain traits, traits, or characteristics which are the main characteristics of the population.
2. Subjects taken as a sample must be the subject that contains the most characteristics found in the population.
3. Determination of population characteristics is carried out with care in preliminary studies.¹⁶

The study population was taken by purposive sampling according to the research objectives. The sample size did not matter. The sample taken is only following the research objectives, in other words, the sample contacted is a sample that fits certain criteria determined based on the research objectives.¹⁷ The results of the study were in the form of systematic descriptions of the rules and requirements for implementing traditional medicine practices. The results of the study analyzed the results of the dominant percentage data from the study sample who were appointed by purposive sampling, proving that whether the rules and conditions for administering traditional medicine in Bandar Lampung have been effectively implemented and protect the parties between patients and traditional medicine. The analysis of this research is expected to have a major regulation to effectively curb traditional medicine practices, preventive measures, and make patients more selective. Providing a guarantee of recovery in performing traditional medicine can also be categorized as agreeing to achieve healing. Healing cannot be guaranteed absolutely because other factors influence a patient's recovery, which can be influenced by belief, age, facilities and facilities to support the healing process carried out,

¹⁶Muhammad Kadafi and Idham, *Metodologi Penelitian Hukum*, (Medan, Perdana Publishing, 2016), p. 141-142

¹⁷Abdulkadir Muhammad, *Metode Penelitian Hukum*, (Bandung, PT Citra Aditya Bakti, 2004), p. 47.

routine healing therapy and other factors, along with a description of the analysis according to the criteria:

1. Patient Age

Health services that are in great demand by Indonesians today are traditional medicine. Traditional / alternative medicine is a treatment that uses tools or materials that are not included in standard medical treatment and is used as an alternative or complement to the said medical treatment. Preference or choice to seek treatment in traditional medicine cannot be separated from the age or age of the patient which affects the level of awareness and health of the patient. The data on the age range of patients from 41 to 60 years is also following the research conducted which states that the majority of patients who use traditional medicine are aged > 35 (thirty-five) years.¹⁸ Entering the age of 35 (thirty-five) or 40 (forty) years, humans have begun to realize the importance of health and are obliged to have their health checked. The age of 40 (forty) years is often said to be a phase of psychological maturity. However, from a medical perspective, at that age, a person is obliged to have his/ her quality checked. The reason is, at the age of 40 (forty) years, a person's health condition has decreased drastically. Therefore, it is important to start getting used to doing medical check-ups.¹⁹

2. Patient Health Insurance

The latest health law number 36 of 2009 has opened a new paradigm in the scope of health. Previously, MPR Decree Number XVII / MPRRI / 1998 and Law No.39 of 1999 concerning Human Rights have further strengthened this paradigm shift. At least the position of the TAP MPR has a higher position than the law and has confirmed that health matters are contained in two main chapters, namely the right to self-development in Chapter III, and the right to welfare in Chapter VIII. In this study, a survey was conducted of 60 patient respondents to find out the health insurance they get from traditional medicine where they seek treatment. Data on the provision of health insurance by traditional medicine to patients from 60 patient respondents, only 3 people were given health insurance by traditional medicine administrators. While the remaining 57 patient respondents were not given health insurance by traditional medicine administrators. This proves that only 5% of traditional medicine dare to guarantee health for their patients. Patients or people who seek treatment are entitled to health insurance following the legal basis for health insurance. The legal basis for health insurance, namely: Basic Law 45 article 28 H and Basic Law 45 article 28 H and Article 34. The contents of this article read:
Article 28 H:

1. Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment, and the right to obtain health services.

¹⁸Adellia Dini,*Faktor-Faktor yang Mempengaruhi Pasien Melakukan Pengobatan Tradisional Ke Balai Pengobatan Tradisional di Yogyakarta Tahun*,(Yogyakarta,Sekolah Tinggi Ilmu Kesehatan Aisyiyah, 2012), p. 4.

¹⁹ (<http://Indopos.co.id>, 2019).

2. Everyone has the right to get special facilities and treatment to get the same opportunities and benefits to achieve equality and justice.
3. Every person has the right to social security which enables his complete development as a dignified human being.

Article 34:

1. The poor and neglected children are cared for by the state.
2. The state develops a Social Security System for all the people and empowers the weak and underprivileged people according to human dignity, and
3. The state is responsible for the provision of adequate health service facilities and public service facilities.

Public interest in Bandar Lampung to seek treatment in traditional medicine is quite high, although there are still many traditional medicines that do not guarantee health. The interest to seek treatment in traditional medicine can also be triggered by the level of trust given by traditional medicine, one of which is by informing that traditional medicine is legally registered and licensed. Regarding the patient's knowledge of licensing from traditional medicine, it turns out that quite a lot of people know that the traditional medicine they visit already has a license. This is evident from the 60 patient respondents 39 people (65%) already know that the traditional medicine where they seek treatment already has a license. This will increase the confidence of patients to seek treatment that has a legal license to practice.

Another thing that affects the reference of patients to seek treatment in traditional medicine is the action of traditional medicine which is considered more natural because traditional medicine uses more natural methods without surgery, prayer therapy, acupuncture (needling), and cupping besides that there is also a lot of positive information received by the public. against traditional medicine. The more information the community gets about the selection of traditional medicines, the higher the possibility of people choosing traditional medicines because the information can increase respondents' insight, especially about traditional medicine.²⁰

The legal analysis resulted that patients who went to traditional medicine the most were in the age range of 41 (forty-one) to 60 (sixty) years. Entering the age of 35 (thirty-five) or 40 (forty) years, humans have begun to realize the importance of health and are obliged to have their health checked. The age of 40 (forty) years is said to be a phase of psychological maturity. However, from a medical perspective, at that age, a person is obliged to have his/her quality checked. It is proven by the 60 (sixty) patient respondents 39 (thirty-nine) people, 65% (sixty-five percent) already know that the traditional medicine where they seek treatment already has permission, this will increase the confidence of the patient to seek treatment that has been treated. have a legal license to practice. The results of the study of 60 (sixty) patient respondents were only 3 people who were given health insurance by traditional medicine administrators.

²⁰ Ismail, *Faktor yang Mempengaruhi Keputusan Masyarakat Memilih Obat Tradisional di Gampong Lam Ujong*. (*Idea Nursing Journal -6 (1).2015*), p. 7-14.

While the remaining 57 (fifty-seven) patient respondents were not given health insurance by traditional medicine administrators. This proves that only 5% (five percent) of traditional medicine dare to guarantee health for their patients. Some traditional medicine administrators have not yet made a healing agreement with the patient in the form of asking about the patient's condition to receive treatment.

III. CONCLUSION

The implementation of traditional medicine practices is supported by several regulations including Kepmenkes No. 1076/MENKES/SK/VII/2003 concerning Administrators of Traditional Medicine, Law no. 36 of 2009 concerning Health. This research was conducted using the normative-empirical method. The city of Bandar Lampung is guided by the PerMenKes No. 61 of 2016 concerning Empirical Traditional Health Services, Republic of Indonesia Government Regulation No. 103 of 2014 concerning Traditional Health Services and Decree of the Head of the Lampung Province Health Service Number 442 concerning Guidelines for the Development of Traditional Health Services in Lampung Province in 2009. The implementation of traditional medicine in Bandar Lampung is also supported by the role of the Communication Forum which organizes the existence of traditional healers.

In general, most of the age and level of education who practice traditional medicine are adults and educated who on average understand and consciously choose traditional medicine. Patients do not know the license to practice traditional medicine, the guarantee of recovery, and the risks the patient may pose when taking treatment. Patients or people who seek treatment are basically entitled to health insurance following the legal basis for health insurance. Several rules and conditions have been established as the basic rules for implementing traditional medicine practices in Bandar Lampung but have not included knowledge to patients about the ideal number of times when they go to traditional medicine, the limits of health insurance obtained, and the characteristics of the recommended traditional medicine administration. Patients or people who seek treatment are basically entitled to health insurance following the legal basis for health insurance. The government should emphasize the need for an obligation for administrators of traditional medicine to provide information on the healing and risks involved when traditional medicine is given before the action is taken. The Bandar Lampung City Health Office has not optimally supervised and educated traditional medicine in the city of Bandar Lampung. Administrators of traditional medicine know the rules and conditions of service and the establishment of administrators of traditional medical practices; Supervision and education of the health office on administrators of traditional medicine practices are carried out on registered traditional medicine. Patients will be encouraged to provide information to other people when they feel they have recovered from illness and will maintain their body condition so they don't get sick again. Patients or people who seek treatment are basically entitled to health insurance following the legal basis for health insurance. It is hoped that there will be a major regulation to curb traditional medicine practices ineffective, preventive action.

Community members are more selective in choosing health healing facilities, especially those administering traditional medicine practices.

REFERENCES

Books

- Ali, Zainuddin, 2018, *Filsafat Hukum*. Cetakan kedelapan, Penerbit Sinar Grafika, Jakarta.
- Bisri, Ilhami, 2014, *Sistem Hukum Indonesia: Prinsip-prinsip dan Implementasi Hukum di Indonesia*. PT RajaGrafindo Persada, Cetakan ke-9, Jakarta.
- HR, Ridwan, 2013, *Hukum Administrasi Negara*, Cetakan ke-9 Penerbit Rajawali Pers, Jakarta.
- Kadafi, Muhammad dan Idham, 2016, *Metodologi Penelitian Hukum*, Perdana Publishing, Medan.
- Komalawati, Veronica, 2002, *Peranan Informed Consent Dalam Transaksi Terapeutik (Persetujuan Dalam Hubungan Dokter dan Pasien); Suatu Tinjauan Yuridis*, PT. Citra Aditya Bhakti, Bandung.
- Muhammad, Abdulkadir, 2014, *Etika Profesi Hukum*, PTCitra Aditya Bakti, Bandung.
- Muhammad, Abdulkadir. 2004. *Metode Penelitian Hukum*. PT Citra Aditya Bakti, Bandung.
- Nasution, AZ., 1999. *Pengantar Hukum Perlindungan Konsumen*, Penerbit Daya Widya, Jakarta.
- Sasongko, Wahyu, 2007, *Ketentuan-Ketentuan Pokok Hukum Perlindungan Konsumen*, Bandar Lampung: Penerbit Universitas Lampung.
- Sukardja, Ahmad, 2014, *Hukum Tata Negara dan Hukum Administrasi Negara "Dalam Persepektif Fikih Siyasah*, Cetakan kedua, Penerbit Sinar Grafika, Jakarta.
- Widodo, Wahyu, Budi Anwari, Maryanto, 2015, *Pendidikan Kewarganegaraan*. CV Andi Offset, Yogyakarta.

Journals

Afni M., Rissa, 2018, *Jurnal Pranata Hukum, Analisis Hukum Perjanjian Penyembuhan Kepada Pasien Dari Penyelenggara Praktik Pengobatan Tradisional*. Universitas Bandar Lampung. Bandar Lampung.

Dini, Adellia, 2012, *Faktor-Faktor yang Mempengaruhi Pasien Melakukan Pengobatan Tradisional Ke Balai Pengobatan Tradisional di Yogyakarta Tahun 2012*. Sekolah Tinggi Ilmu Kesehatan Aisyiyah, Yogyakarta.

Ismail, 2015. *Faktor yang Mempengaruhi Keputusan Masyarakat Memilih Obat Tradisional di Gampong Lam Ujong*. *Idea Noursing Journal* -6 (1).

Sakti, Viky Pemuda Indra, 2009, *Perlindungan Hukum Pengobatan Tradisional-Metodelogi*, Fakultas Hukum Universitas Indonesia (FHUI), Jakarta.

Laws

Kitab Undang- Undang Hukum Perdata

Undang-Undang Nomor 36 Tahun 2009 Tentang Kesehatan

Peraturan Pemerintah Republik Indonesia Nomor 103 Tahun 2014 tentang Pelayanan Kesehatan Tradisional

Keputusan Menteri Kesehatan Nomor 1076/MENKES/SK/VII/2003 Tentang Penyelenggaraan Pengobatan Tradisional

Peraturan Menteri Kesehatan Republik Indonesia Nomor 61 Tahun 2016 tentang Pelayanan Kesehatan Tradisional Empiris

Surat Keputusan Kepala Dinas Kesehatan Provinsi Lampung Nomor 442 tentang Pedoman Pembinaan Pelayanan Kesehatan Tradisional Provinsi Lampung Tahun 2009.

Dictionary

Departemen Pendidikan dan Kebudayaan, 2012, *Kamus Besar Bahasa Indonesia*, PT. Media Pustaka Indonesia Phoenix, Jakarta.

World Wide Web

<http://Indopos.co.id>, diakses 16 Agustus 2019