

Competence of Male Circumcision by Healthcare Professionals Under Health Law

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Abstract: Indonesia as a rule of law, where almost all provisions must be contained in legislation. From the health aspect, it's also inseparable from the legal aspect, one of which is circumcision. Circumcision is a medical and invasive procedure whose implementation and evaluation is monitored by experts and professionals. In this study, I raised several legal health issues, namely: Do all health care professionals have the competence to perform circumcision actions under the health law? The aim of this study was to determine the legal aspects of the circumcision of boys by home service doctors and the liability of doctors in the event of disability or even death. This research method is legal normative. Based on the results of the literature study, The authority for circumcision in boys is only with doctors, this is evidenced by the 2012 Indonesian Doctors' Competence Standards which are proficiency level 4A, meaning doctors are able to perform circumcision actions independently. Authority for circumcision can be delegated through a warrant by healthcare professionals, so it's necessary for a body to issue a certificate of competence for healthcare circumcision workers so that doctors can delegate authority only to competent health professionals.

1 INTRODUCTION

Health is a human right for all Indonesian citizens. It is not only the right to health, but also the right to receive health services. This is an important obligation for the government on how to manage and regulate in realizing the right to health of Indonesian citizens so that the highest degree of health is achieved and implemented on the basis of non-discriminatory, participatory, protective and sustainable principles, as stated. in consideration of the law n. 36 of 2009 on health (Jatmiko 2017).

According to the hierarchical theory of L. Blum, the state of health depends on four factors: (1) environmental factors, which play a 40% role, (2) behavioral factors, which play a 30% role, (3) of the health service, which have 20% and (4) genetic factors (heredity), which have a role of 10%. These four factors must be mobilized by the government through clear regulations to achieve a high degree of health.

Indonesia as a state of law as indicated in Article 1 paragraph 3 of the 1945 Constitution reads "The State of Indonesia is a state of law", where all aspects of life must be based on positive laws that apply both written and unwritten, both outside the health

sector and in the health sector. One of the author's highlights is the legal aspect in the health sector, namely the act of circumcision or circumcision / circumcision.

Based on the prevalence of circumcision refers to the proportion of men in a given population they have circumcised. This does not refer to the proportion of newborn males who are circumcised today. Estimates of the worldwide proportion of circumcised males vary from 1/6 As far as 1/3. World Health Organization (WHO) estimates that globally, 30% of males aged 15 and over are circumcised, with nearly 70% of them circumcised. Muslim. The most common male circumcision in Muslim world (almost universal), part of Southeast Asia and Africa, in United States of America, in Philippines, Israel, and South Korea (Constitution of 1945).

In Indonesia, circumcision / circumcision is mainly performed by non-health workers, this happens due to the limited number of health workers and this circumcision act has existed since before health organizations existed in Indonesia. Based on data from the Ministry of Health that over 10,000 or 6% of Puskesmas in Indonesia do not yet have a doctor (Sulaiman, 2022), in addition to the problem

of the uneven distribution of the number of doctors, this is evident from the data that Quantity doctor in Indonesia they were 123,691 thousand as of December 31, 2020. However, the distribution of doctors in the country is not yet equally distributed in each region. The distribution of national doctors is still centered on the island of Java. The number is 71,286 doctors or represents about 57.63% of the total number of doctors in Indonesia (Annur, 2022).

From another point of view, the development of circumcision techniques and tools over time continues to change and becomes more advanced and modern. As a quote from Tuti Widyaningrum says "Education is the most important thing in the life process of living beings that distinguishes them from other created beings. Without education, humans will not be called intelligent creatures, toolmakers, or even wise creatures (Widyaningrum, 2022: 44-54)." Likewise, continuous training for all profiles of health professionals, not only the number of human resources that are reproduced and distributed evenly, but also of quality so that they are said to be competent health professionals in the field of circumcision.

Looking at the above data, the authors found several cases of alleged incompetence of a circumcision practitioner / performer, for example in 2016 there were allegations of negligence caused by nurses in performing circumcision. The case occurred in the Baturaja area, Ogan Komeriang Ulu Timur Regency, where a person with the initials DL was suspected of having committed negligence during the circumcision of a child so that his vital organs were cut, there is another case in September 2018 in which there was an alleged negligence that led to the cutting of the genitals of a boy with the initials MI is nine years old in Kubang Hamlet, Pekalongan Regency, (Sibaranim, 2019: 2) or the latest case in 2019 of a 10-year-old boy in West Lampung conducted by S. Based on the above data, the authors are interested in discussing Competence in male circumcision by health professionals according to the health law.

2 PROBLEM FORMULATION

1. Do all health professionals have the competence to perform circumcision according to the health law?
2. What is the authority of circumcised health workers in home visitation services?

3 RESEARCH METHODS

The research method used is normative legal research. The research method in this research uses the juridical-normative. The research approach uses a statutory approach. In the method of the legal approach, it is necessary to understand the hierarchy and principles in the laws and regulations. Pursuant to article 1, point 2, of law no. 12 of 2011, the statutory regulations are written regulations that contain legally binding rules in general and are established or determined by state institutions or authorized officials through the procedures provided for by laws and regulations (Marzuki, 2016: 136) . Legal-normative research or normative legal research is a legal research library (Soekanto, S & Sri Mamudji, 2007: 23).

4 DISCUSSION

The stipulation of Indonesia as the rule of law in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia is the ideal of the Constitution and one of the dimensions of the rule of law is to make Indonesia a just and prosperous country company (social status), the third amendment of 2001 to law no. -The 1945 Constitution of the Republic of Indonesia, another paragraph is added to the provisions of Article 1, namely the paragraph (3), which states that "Indonesia is a state of law". A constitution statement that states that the highest supremacy in Indonesia is the rule of law, and the law is the commander-in-chief who guides the life of the nation and state in the context of realizing a just, prosperous and prosperous society (welfare State) as another dimension of the rule of law (Sirait, 2016: 2).

In order to provide legal certainty and protection to improve, direct and provide the basis for health development, dynamic tools of health law are needed. These legal instruments should be able to achieve increasingly complex developments, which will occur in the future (Asyhadie, 2018: 2).

When it comes to legal instruments, it is usually the source of the law that applies in Indonesia. The main sources of law in the legal system in Indonesia are the 1945 Constitution, government regulations, jurisprudence, international treaties / conventions, and customs. It also contains the health law, but there are several authorities and competences that are not yet clearly detailed and there are still

overlaps for which special explanations are needed. The author takes the competence of male circumcision as an example.

A Healthcare Operators

Definition of healthcare professionals according to the provisions of Article 1 point 6 jo. Article 1 point 1 of Law no. 36 of 2014 on the subject of Healthcare Workers defines that: "Healthcare Worker means any person who is dedicated to the health sector and possesses knowledge and / or skills through education in the health sector which for some types requires the authority to make efforts for health. "This law also explains the grouping: medical personnel, clinical psychological personnel, nursing personnel, obstetrics personnel, pharmacy personnel, public health workers, environmental health workers, nutritionists, physiotherapy personnel, medical technical personnel, biomedical engineering, traditional medical health personnel (RI Law No. 36 of 2014 on healthcare workers). After the Judicial Review in the process to the decision of the Constitutional Court that doctors are not included as health professionals. With this ruling, the Constitutional Court decided to partially accept the appeal of the defendants, stating that article 11, paragraphs 1 and 2, article 90 and article 94 of the Law on health care personnel are in contradiction with the Constitution. of 1945 and have no binding legal force (Judicial review of Mahkamah Konstitusi no. 82 / PUU / XIII / 2015).

According to Anna Kurniati and Ferry Efendi, the definition of a health worker is "Any person who receives education, whether formal or non-formal, who is dedicated to various efforts to prevent, maintain and improve the health of the community.

Article 65 of law no. 36 of 2014 on the subject of health provides that "in the performance of health services, health professionals may receive the delegation of medical actions from medical personnel. The delegation of the acts referred to in paragraphs (1) and (2) is carried out with the following provisions : the delegated action is included in the skills and competences possessed by the delegated recipient, the implementation of the delegated action remains under the control of the delegated agent, the delegated person remains responsible for the actions taken delegated as long as the implementation of the action is in accordance with the mandate given and the delegated action is not included in the basic decision-making process of implementing the action.

So based on the above law, it is clear that circumcision is an action that can be delegated both in writing and orally giving priority to the recipient of the delegation is a person who already has skills in the field of circumcision and is still under the supervision of the delegate.

B Competence Theory

In Bloom's taxonomy theory, the meaning of competence is defined as the skill necessary to do or do or perform a job based on knowledge, skills and work attitudes. There are three elements in seeing a person if he has competence, namely the cognitive, affective and psychomotor domains.

Spencer and Spencer (1993), competence is the character of attitudes and behaviors, or individual will and abilities that is relatively stable in the face of situations and workplaces formed by synergies between character, self-concept, internal motivation and knowledge capacity conceptual. There are five basic characteristics of competence (basic competence) according to Spencer and Spencer, namely: (1) Knowledge, (2) Skill, (3) Character, (4) Motives, and (5) Self-concept (Wicaksana, 2019: 63).

1. Knowledge is the information that a person has in a particular field in the performance of his duties and responsibilities, with sufficient knowledge of his work, a competent person is expected to be able to perform his duties under any conditions. Sufficient knowledge will influence the techniques and strategies used to achieve good results in a job. In addition to the knowledge of circumcision techniques that continue to develop along with the progress of the device.
2. Skills are a person's ability and experience in completing tasks well, as well as determining the best method of circumcision for each different patient condition.
3. Attitude is a person's behavior that is shown in response to everything that happens. The attitude is closely related to the emotional nature that exists within a person, such as the ability to control oneself in special conditions such as bleeding during circumcision, an attitude that remains calm when the patient is not cooperating. A person's character will also affect a circumcision practitioner's motives in carrying out their duties.
4. Motivations are basic thoughts that emerge from within a person and become the goals and desires to be achieved in the organization

personally, which will have an impact on the actions they will take. The reason for the act of circumcision is very different from person to person, but it will be noble if it is based on humanitarian reasons according to the oath of the profession of health care workers.

5. The concept of self is the ability that a person has to convince himself, motivate himself to work and carry out his duties and responsibilities well. This concept of self is owned by a person linked to the health profession which is an added value and has great value in the eyes of the community.

From the above theory, it can be concluded that a person has the competence of circumcision if he can be assessed capable in these three aspects, namely cognitive (knowledge), affective and psychomotor which have been tested at both formal education and nurturing levels. Informal. In the formal education stage, it means that these skills are taught and included in the curriculum of an educational institution, and it means that they have special training in circumcision. For medical personnel, in this case, doctors are very clearly indicated in the 2002 SKDI (Standards of Medical Competence) which are included in level 4 (four) A, which means that all doctors must be able to perform the circumcision independently.

C Understanding the Action of Circumcision

According to Wikipedia the definition of circumcision, circumcision or circumcision is the act of cutting or removing part or all of the skin that covers the front of the penis. The frenulum of the penis can also be cut at the same time in a procedure called a frenectomy. The word circumcision comes from the Latin *circum* and *caedere*.

Circumcision is a surgical procedure to remove or cut the skin (foreskin) that covers the penis, which is made up of muscle tissue and blood vessels. When the foreskin is removed, the opening of the urethra (external urethral mouth or urinary opening) and the glans penis (head of the penis) are uncovered (Task Force on Circumcision of the American Academy of Pediatrics, 2012: 585). This circumcision is an invasive procedure, i.e. an action that injures or injures the patient, so it should be performed by qualified professionals who see that there will be many risks for this invasive procedure. Meanwhile, according to the Regulation of the

Minister of Health number 290 / Menkes / Per / III / 2009 Article 1 paragraph (4) the invasive action is a medical action that can directly affect the integrity of the patient's body tissue, paragraph (5) states that medical actions that contain a high risk are medical actions that, based on a certain level of probability, can lead to death and disability.

D Theory of the Authority in Health Law

Authority is the power that has legitimacy (legitimate power), while power does not require legitimacy. Within authority there are powers. Authority is the realm of public legal action, the realm of governmental authority, it doesn't just include the authority to make government decisions (Yahya, 2020: 49).

According to Bagir Manan, authority in the language of law is not the same as power. Power only describes the right to do or not to do. In law, authority means rights and duties at the same time (Ridwan H. R, 2006: 102). Authority (competence, *bevoegheid*) is the power to carry out a public legal action, for example it is the authority to sign or order an authorization to an official on behalf of the minister which is referred to as the delegation of authority (Atmosudirjo, 1994:78).

The legal aspect is the main aspect in every country that adheres to the rule of law as a commander in the state order, the principle of legality is the basis for the administration of the state and government, especially in the form of authority granted by the law, the substance of which is this authority. Government authority is regarded as the ability to implement applicable law, so that a legal relationship can be created between the government and citizens (Ridwan H. R, 2006: 102).

In theory, authority derived from laws and regulations can be obtained in three ways, namely (1) attribution; distribution of power to various institutions or agencies, (2) delegation; delegation of powers from the highest position to a lower institution or agency, (3) Mandate; transfer of authority to an institution or agency to another agency on its behalf, so that the mandate holder cannot escape the responsibility and responsibility for the work of the mandate holder.

Clinical authority must be distinguished from the authority of a physician personally as a health care practitioner contained in the Health Act, as well as in the Medical Practice Act. The authority contained in the Health Law as well as the Medical Practice Law is inherent and directly derived from the law

after the doctor has completed his studies and is considered competent for issuing STR (Surat Tanda Registrasi) and SIP (Surat Tanda Practicing), so that this authority is genuine and cannot be delegated to another person. The authority based on this law is attributive so that the responsibility and liability fall on the legal entity as established in the basic regulations (Kartamihardja, 2017: 144). so that the authority for medical action in this circumcision case is the authority of the physician.

There are several conditions in which a doctor must delegate powers to nurses pursuant to Law no. 38 of 2014 on Nursing Article 32 which provides that the delegation of powers to carry out a medical action is delegated by medical staff to nurses accompanied by the delegation of responsibility. The delegation is only given to trained professional nurses or professional nurses who have the necessary skills.

Authority may also be entrusted to nurses in accordance with the regulation of the Minister of Health of the Republic of Indonesia number 26 of 2019 relating to the regulations implementing the law of the Republic of Indonesia number 38 of 2014 on nursing in articles 27 and 28, this article explains that the delegation of powers must be carried out in a delegative manner and the mandate is accompanied by a written letter relating to the delegation of powers to professional nurses or professional nurses who have been trained to carry out medical actions under supervision (Regulation of the Minister of Health of the Republic of Indonesia Number 26 of 2019).

In the Regulation of the Minister of Health number 2052 / Menkes / Per / X / 2011 relating to the licensing of the exercise and implementation of medical practice, Article 23, paragraph 1, also explains that a doctor or dentist can delegate a medical action or dental action to a nurse, midwife or dentist. other health personnel in writing in performing medical or dental procedures (Regulation of the Minister of Health Number 2052 / Menkes / Per / X / 2011 concerning the qualification to practice and the implementation of medical practice). Obviously, in the delegation of powers from medical personnel to health professionals, not all medical acts can be delegated because different conditions must exist, namely: (Muntaha, 2017: 91)

1. Medical diagnosis and the determination of medical therapy cannot be delegated.
2. Delegation of medical action is allowed if the physician is very confident that the nurse receiving the authority is able to perform.

3. Done in writing, in detail, with clear instructions.
4. There must be monitoring, guidance and supervision.

The Nursing Act in article 32 paragraph (4) reads "Delegable medical actions, among others are the injection, installation of infusions and the provision of basic vaccinations in accordance with government programs" and paragraph (5) reads "Medical actions taken can be mandated, including delivery of parenteral therapy and wound closure. The phrase" by the way "contains such a broad meaning that many medical actions were not included in the explanation of the law.

From the various theories above, the authors argue that based on regulatory law, not all healthcare professionals are able to meet the criteria as a competent person in circumcision, and circumcision is an invasive surgical procedure, so this medical procedure is not easy to delegate to health care professionals, and certain conditions so that the delegation of authority should only be carried out by health personnel competent in matters of circumcision. so that according to the author a special institution is required by law to provide competent certification in the field of circumcision so that people can receive excellent health services and are served by professionals.

5 CONCLUSION

1. The authority for circumcision in boys is an attributive authority assigned to doctors, in accordance with the 2012 Indonesian Medical Competence Standards that circumcision competence is at level 4 (four) A, i.e. doctors are able to perform circumcision actions independently.
2. The authority for circumcision may be delegated by medical staff to nurses through the delegation of authority, provided that the recipient of the mandate is a person competent in matters of circumcision and under the control of the competent authority for authorization.

6 SUGGESTION

1. There is a need for a special institution to issue circumcision proficiency certificates for healthcare professionals so that physicians can

only delegate authority to competent healthcare professionals.

2. The need for local government participation in educating the public on the importance of circumcision performed by competent personnel.

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