

LEGAL PROTECTION OF OCCUPATIONAL SAFETY AND HEALTH FOR PHARMACISTS OF CLINICS IN SEMARANG

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Received 19 September 2022 • Revised 29 October 2022 • Accepted 28 November 2022

Abstract

Every worker has the rights to receive occupational health and safety guarantees. Occupational safety and health are not only a worker's rights, but it is also the employer's responsibility to provide. Protection of norms for pharmaceutical workers, who are included in the group of health workers, includes wages, working time, rest time, and leave. Meanwhile, norms of social security for workers who manage the clinic by ensuring participation in the national health insurance (JKN) are held through the JKN-BPJS Health program and work accident insurance and death benefits are held through the BPJS employment program. In practice, employers have not made this a priority that must be received by every employee. This is felt by several pharmacists at clinics in Semarang. Based on the problems above, it is necessary to conduct the research about the legal protection of occupational safety and health for pharmacists at clinics in Semarang Regency. Research Objectives: To optimize the implementation of occupational safety and health legal protection for pharmacy staff at clinics in Semarang. Methods: This study used a descriptive method with a qualitative approach and a case study design. Research Results: The Implementation of Occupational Safety and Health Legal Protection for Pharmacy Personnel at Clinics in Semarang Regency has not been carried out in accordance with the applicable laws and regulations. There are some clinics do not have complete personal protective equipment (PPE) according to standards, and the rights to health and safety that should be given by employers. the pharmacist clinics is not guaranteed yet. Conclusion: Occupational safety and health legal protection for pharmacists at clinics in Semarang has not been implemented in accordance with the applicable laws and regulations.

Keywords: Legal Protection, Pharmacy Personnel, Clinics

INTRODUCTION

Clinic is a health facility that organizes individual health services that provide basic or specialist medical services. Pharmacy personnel are personnel who carry out pharmaceutical work, consisting of Pharmacists and Pharmacist Assistants. The clinic is a place where pharmacists and pharmacist assistants practice pharmacy. Counseling to patients is one of the part of pharmacy work. Pharmacy personnel as one of the health workers who provide health services to the community. Pharmacy personnel have an important role because they are related to the provision of services, especially pharmaceutical services. So, from the description above, it can be concluded that pharmaceutical staff cannot be separated from health services, because pharmaceutical staff know well how to make drugs until they are consumed and know how drugs react to their body. The work of a pharmacist is direct contact patients and conducting counseling with patients.

Every worker has the rights and obligation to obtain occupational safety and health protection in accordance with the mandate of Law Number 13 of 2003 concerning Manpower, article 86 paragraph (1) letter a which confirms that every worker/laborer has the rights to obtain protection for occupational safety and health. Legal protection that applies to occupational safety and health is the rights of every worker that should be given by every employer. Protection of workers is very important because workers are directly related dangerous and risks, it is also intended to realize the welfare of workers and their families must pay attention to develop the progress of the business world.

Article 87 paragraph (1) of Law Number 13 of 2003 concerning Manpower stipulates that every company is obliged to implement an occupational safety and health management system. It is integrated with the company's management system. Whereas Article 86 paragraph (1) of Law Number 13 of 2003 concerning Manpower emphasizes that every worker/laborer has the rights to obtain protection for: (a) Occupational safety and health; (b) Morals and decency; and (c) Treatment that is in accordance with human dignity and values as well as religious values.

Legal protection is also needed for pharmacists who practice in health care facilities, including in clinics, to ensure safety and health in carrying out their duties, guaranteeing a harmonious working relationship system without pressure from other parties. Based on preliminary studies that have been carried out in a number of clinics in Semarang, data is obtained that the application of occupational safety and health (K3) in carrying out pharmaceutical work has not been fully implemented. Occupational safety and health is not only a worker's rights but it is the employer's obligation to fulfill it. The norms of protection for workers should include protection of norms, protection of Occupational Health and Safety (K3) norms and protection of workers' social norms. Protection of norms for pharmaceutical workers who are included in the group of health workers includes; wages, working time, rest time and leave. Meanwhile, the norms of social security for workers who manage the clinic by ensuring membership in the national health insurance (JKN) are held through the JKN-BPJS Health program and work accident insurance and death benefits are held through the BPJS employment program.

Based on the background above, it is necessary to conduct a study related to the implementation of Occupational Safety and Health Legal Protection for Pharmacy Workers at Clinics in Semarang Regency, this study will have a positive impact in order to provide guarantees of legal certainty as respect, protection, fulfillment of the rights of pharmacists in accordance with statutory regulations.

RESEARCH METHOD

This research uses empirical juridical research methods or what is called field research or legal research regarding the enactment or implementation of normative legal provisions in action on certain legal events that occur in society and to obtain primary data supported by library research. This study uses descriptive analysis, namely describing the social reality of the facts found, for further analysis efforts are carried out based on theories (Sugono, 2015). This research includes identification of legal issues and implementation of the law.

RESULTS AND DISCUSSION

1. Implementation of Occupational Health and Safety Legal Protection for Pharmacy Personnel in Clinics

Legal protection is the rights of every person that must be guaranteed in his country. While the law is a rule that must be obeyed by everyone to sanctions if violated. Legal protection for workers is the fulfillment of basic rights that are inherent and protected by the constitution as stipulated in Article

27 paragraph (2) of the 1945 Constitution which reads: "Every citizen has the rights to work and a life worthy of humanity".

Legal protection is also needed for pharmacists who practice in health care facilities, including clinics, to ensure safety and health in carrying out their duties. Legal protection for occupational safety and health is an important aspect for pharmacists to prevent disease transmission in the workplace, especially during the COVID-19 pandemic. In reality, pharmaceutical workers do not get the rights that should be fulfilled, such as the availability of personal protective equipment (PPE). In fact, employers should also pay attention to the health safety of pharmaceutical workers in carrying out their duties by fulfilling the availability of PPE. Legally health workers are equipped with legal obligations and rights and protection regulated in legislation.

According to (Regulation of the Government of the Republic of Indonesia Number 32 of 1996 concerning Health Workers, 1996) chapter 5 part 2 article 24 paragraph 1, as well as (RI Law NO 36 2009 concerning Health, 2009) article 27 paragraph 1 which has stated that legal protection also requires staff pharmacist who practices in health care facilities including clinics to ensure safety and health in carrying out their duties. According to PMK no 52 of 2018 article 7 paragraph 1 one of the OSH standards in Health Facilities includes: point (b) application of standard precautions; and (c) application of ergonomic principles. It is spelled out in paragraph 3 namely the application of standard precautions as referred to in paragraph (1) letter b, one of which is carried out: the use of personal protective equipment. Following paragraph 5 describes the application of ergonomic principles as referred to in paragraph (1) letter c, one of which is carried out for work shifts and work duration. In article 57 letter (a) and letter (d) of Law Number 36 of 2014 concerning Health Workers that health workers in practicing have the rights to: (a) obtain legal protection as long as carrying out their duties in accordance with professional standards, professional service standards, and standards operational procedures (d) obtaining protection for occupational safety and health, treatment in accordance with human dignity, morals, decency, and religious values. UU no. 36 of 2014 concerning Health Workers. In article 57 letter (a) and letter (d) of Law Number 36 of 2014 concerning Health Workers that health workers in practicing have the rights to: (a) obtain legal protection as long as carrying out their duties in accordance with professional standards, professional service standards, and standards operational procedures (d) obtaining protection for occupational safety and health, treatment in accordance with human dignity, morals, decency, and religious values. UU no. 36 of 2014 concerning Health Workers. In article 57 letter (a) and letter (d) of Law Number 36 of 2014 concerning Health Workers that health workers in practicing have the rights to: (a) obtain legal protection as long as carrying out their duties in accordance with professional standards, professional service standards, and standards operational procedures (d) obtaining protection for occupational safety and health, treatment in accordance with human dignity, morals, decency, and religious values. UU no. 36 of 2014 concerning Health Workers. decency, and religious values. UU no. 36 of 2014 concerning Health Workers. decency, and religious values. UU no. 36 of 2014 concerning Health Workers.

Based on the results of taking health profile data for the 2020 Semarang, there are 68 clinics. From this data, there are 39 clinics that cooperate with BPJS and 29 clinics that do not cooperate. From these data obtained, the research subjects and objects that have been determined based on inclusion criteria. Respondent in this study were pharmacists then the object of research was a clinic that had been determined based on inclusion criteria. The researcher found discrepancies in the implementation of occupational safety and health legal protection based on the results of interviews with 8 respondents in different clinics, namely:

First. There are pharmacists in clinics who are not registered with the National Health Insurance (JKN) membership.

All respondents stated that they were not registered with JKN membership, which is contrary to the applicable laws and regulations. Article 14 of Law No. 24 of 2011 concerning Social Security Administering Bodies stipulates that everyone, including foreigners who work for a minimum of 6 (six) months in Indonesia, is required to become a Participant of the Health Insurance Program. Whereas Article 15 Paragraph (1) of Law no. 24 of 2011 concerning Social Security Administering Bodies emphasizes that Employers are gradually obliged to register themselves and their workers as participants with the BPJS in accordance with the Social Security program that they participate in. The goal is if a worker get accident, they will receive protection from BPJamsostek. Law Number 40 of 2004 concerning the National Social Security System (SJSN) and Law no. 24 of 2011 concerning the Social Security Administering Body (BPJS) confirms that all workers, both formal and informal, or those who are not affiliated with private institutions or state institutions, must become BPJS Employment participants. Companies who do not follow the social security in the field of employment will get sanctions ranging from administration, recommendations for revocation of business licenses to imprisonment for a maximum of 8 years or a maximum fine of Rp. 1,000,000,000 (one billion rupiah).

Second, There is an incomplete personal protective equipment (PPE) owned by the clinic

Based on the results of interviews and observations, there are clinics that do not guarantee the completeness of personal protective equipment (PPE) according to applicable regulations. In accordance with Government Regulation No. 51 of 2009 concerning Pharmaceutical Work Article 35 stipulates that pharmaceutical workers must be based on the applicable SOP according to the health facility where the pharmaceutical work is carried out. The personal protective equipment (PPE) used during dispensing are masks, gloves, head coverings, and lab coats. This is shown in table 3.

Table 1. Pharmacy Personnel Personal Protective Equipment Observation Sheet

Respondents	Mask	Gloves	Headgear	Lab coat
Respondent 1	There is	There is	There isn't any	There isn't any
Respondent 2	There is	There is	There isn't any	There isn't any
Respondent 3	There is	There is	There isn't any	There isn't any
Respondent 4	There is	There is	There isn't any	There isn't any
Respondent 5	There is	There is	There is	There is
Respondent 6	There is	There is	There is	There is
Respondent 7	There is	There is	There isn't any	There isn't any
Respondent 8	There is	There is	There isn't any	There isn't any

Based on the table above, there are 6 clinics that have not carried out their responsibilities in the form of providing complete personal protective equipment for their workers. The use of PPE to prevent accidents that will be happened. Protect workers from injuries or illnesses by contact hazards in the workplace, both chemical, biological and physical. In the provisions of Article 14 letter c of Law no. 1 of 1970 concerning Occupational Safety that is the duty of the manager to provide free of charge, all the required self-protection equipment for workers who are under their leadership and provide it for everyone else who enters the workplace, accompanied by the necessary instructions according to instructions of supervisors or occupational safety experts.

2. Obstacles faced in implementing occupational safety and health legal protection for pharmacists at clinics in Semarang Regency

Obligation is a form of accountability that must be fulfilled by all parties in order to carry out regulations or agreements that have been mutually agreed upon. Obligations absolutely must be met to avoid the occurrence of disputes. Meanwhile, according to Prof. Dr. Notonagoro is a burden to give something that should have been given by a certain party. The working relationship based on Article 1 number 15 of Law No. 13 of 2003 concerning employment is the relationship between employers and workers/laborers based on a work agreement, which has elements of work, wages and orders. So, if a work relationship cannot arise from a partnership agreement, it must come from a work agreement.

Based on the results of interviews and observations of 8 respondents pharmacists at different clinics, 6 of them did not have a written work agreement/contract, while the other 2 respondents had a written work agreement/contract. An employment agreement is an agreement between a worker and an employer or employer according to the terms of employment, rights and obligations of the parties. This work agreement is a bond that must be fulfilled by workers and the company where they work which is made verbally does not violate applicable regulations, because in Article 51 of Law No. 13 of 2003 concerning Manpower that work agreements are made in writing or verbally, but in Article 63 paragraph (1) that in the case of work agreements for an indefinite period of time made verbally, then the employer is obliged to make a letter of appointment for the worker concerned. Sanctions obtained if they do not comply with Article 63 paragraph (1) are subject to criminal sanctions of a minimum fine of Rp. 5,000,000.00 (five million rupiahs) and a maximum of Rp. 50,000,000 (fifty million rupiahs), this crime is a crime violation in accordance with the contents of Article 188.

Based on the results of interviews with 8 respondents, all of them stated that there had not been disputes between the manager/owner of the clinic and the pharmacist practicing at the workplace regarding to the work agreement, if there was a dispute regarding the work agreement between the manager/owner of the clinic and the pharmacy staff then the settlement is used by deliberation, if there is a dispute between the worker and the employer. In accordance with Article 79 of Law no. 36 of 2014 concerning Health Workers that the settlement of disputes between health workers and health service facilities is carried out in accordance with statutory provisions. In Article 136 of Law no. 13 of 2003 concerning Manpower that: (1) The settlement of industrial relations disputes must be carried out by employers and workers/laborers or trade unions/labor unions by way of deliberation to reach a consensus. Workers or trade unions/labor unions resolve industrial relations disputes through industrial relations dispute resolution procedures regulated by law. If at the time the dispute between the manager/owner of the clinic and the pharmaceutical staff cannot be resolved by deliberation, the lawsuit will then be brought to the Industrial Relations Court which is a special court

within the general court environment. The law guarantees the speedy resolution of industrial relations disputes,

Industrial Relations Court decisions concerning disputes over rights and disputes over termination of employment, if necessary, can be directly appealed to the Supreme Court (Law No. 2 of 2004 concerning Settlement of Industrial Relations Disputes), in industrial relations dispute claims to court by one of the disputing parties, by enclosing the minutes of settlement through mediation. The court is obliged to return the lawsuit file if it is not accompanied by the minutes. The court decision did not deliver later than 50 days after the first trial was held. As for the settlement at the Supreme Court level, both in the process of cassation and review, it must be completed no later than 30 working days from the date of the request for cassation. Determination of the deadline for settlement of industrial relations disputes, It hoped that every dispute has obtained legal certainty within no more than 6 (six) months.¹ In Article 56 of Law no. 2 of 2004 concerning Settlement of Industrial Relations Disputes states that the Industrial Relations Court has the duty and authority to examine and decide, namely: (1) At the first level regarding disputes over rights (2) At the first and final levels regarding disputes over interests (3) At the first level regarding disputes work termination.

Based on the results of interviews and observations of entrepreneurs/clinic owners and pharmaceutical staff. It can be found that the inhibiting factors for the implementation of occupational safety and health legal protection for pharmacists at clinics in Semarang Regency are:

First, Company management (clinic) gives low priority to OSH programs in company programs. The entrepreneur/clinic owner never discusses the K3 program. The clinic owner only focuses on service, while the K3 program is left behind.

Second, Lack of knowledge about K3 both clinic owners and workers, Knowledge about K3 by workers or clinic owners is sometimes still low. Good knowledge about how to apply K3 correctly, the impact if not applying the K3. This is proven by the lack of awareness of workers to use Personal Protective Equipment (PPE). Occupational safety and health (K3) that is implemented is not in accordance with existing standards, there is no unit that specifically deals with K3. The most influential inhibiting factor is the lack of training regarding OSH, because many clinics do not understand and understand the concepts and OSH Management Systems (SMK3) and many clinic owners also think that implementing SMK3 adds costs to the clinic. Clinic owners are required to prepare PPE, use PPE to prevent accidents that can occur.

Third, Limited capital in providing K3 services. The owner of the clinic in Semarang Regency Occupational Safety and Health explained the lack of training on Occupational Safety and Health, due to the absence of a budget regarding OSH in providing facilities in pharmaceutical services, the limited availability of PPE for pharmacy staff. Whereas Article 15 Paragraph (1) of Law no. 24 of 2011 concerning Social Security Administering Bodies emphasizes that Employers are gradually obliged to register themselves and their workers as participants with the BPJS in accordance with the Social Security program that they participate in. The goal is that if a work accident occurs, they will receive protection from BPJamsostek. However, the clinic owner reasoned that the clinic could not afford to pay in full if all employees were included as BPJS participants.

Fourth, Weak government oversight. K3 regulations already have laws that are legal in the eyes of the law. However, the government itself is still lacking in terms of supervising the implementation of these legal regulations. the government only assumes that it already has a strong law. Whereas in reality, the implementation of K3 is still lacking even though it already has a strong law.

CONCLUSION

After researching the legal protection of occupational safety and health for pharmacists at clinics in Semarang Regency, several conclusions can be drawn, including the following:

First. The results of the study showed that legal protection for occupational safety and health for pharmacists at clinics in Semarang Regency has not been implemented in accordance with the applicable laws and regulations. There are clinics do not have complete personal protective equipment (PPE) according to standards, and the rights to health and safety that should be given by employers to pharmacists in the clinic where they work are not guaranteed.

Second. The obstacles for pharmaceutical workers in obtaining occupational safety and health insurance can be seen from the fact that the workers or clinic owners still lack knowledge about OSH by workers or clinic owners. Good knowledge about how to apply K3 correctly, the impact if not

¹ Bambang Yunarko, 'Penyelesaian Perselisihan Hubungan Industrial Melalui Lembaga Arbitrase Hubungan Industrial', *Perspektif*, XVI.1 (2011), 52–58.

applying the K3. This is proven by the lack of awareness of workers to use Personal Protective Equipment (PPE). Occupational safety and health (K3) that implemented do not follow the existing standards and lack of training on K3.

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