

LEGAL ANALYSIS OF UNLAWFUL ACTS RESULTING IN PATIENT PARALYSIS POST-CHIROPRACTIC THERAPY

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Abstract

This study aims to analyze the legal aspects of unlawful acts causing paralysis in patients following chiropractic therapy. Chiropractic therapy, as a form of alternative medicine, has grown in popularity; however, serious complications such as paralysis require thorough examination of the therapist's legal liability. This research employs normative and empirical approaches by reviewing health regulations and tort law principles. Data were gathered through literature review and interviews with victims and health law experts. The findings indicate that chiropractic practitioners must adhere to established standards and possess recognized expertise to avoid patient harm. If paralysis occurs due to negligence or procedural errors, practitioners may face legal sanctions based on unlawful acts, including compensation claims and criminal liability. The study recommends stricter supervision of chiropractic practices by relevant authorities to protect patients' rights and prevent unlawful conduct. In conclusion, the legal analysis strengthens patient protection post-chiropractic therapy and clarifies the responsibility limits of the practitioners.

Keywords: Chiropractic Therapy, Patient Paralysis, Unlawful Acts

INTRODUCTION

The development of traditional therapies as part of alternative health services has shown a significant upward trend in recent years (McIntyre, 2018: 125). Data shows that 31.4% of Indonesians use traditional medicine and 98.5% choose traditional methods to address their health problems (Badan Penelitian dan Pengembangan Kesehatan Nasional, 2018). Chiropractic is one therapy that is gaining popularity because it offers a non-invasive approach that differs from conventional treatment methods, particularly in addressing musculoskeletal issues such as back pain, neck pain, and postural disorders. Chiropractic prioritizes spinal and soft tissue manipulation to help restore optimal body function without the use of drugs or surgical procedures (Smith & Lee, 2022: 123). This contrasts with the reality, marked by the existence of many chiropractic therapies without permits from authorized institutions. The lack of therapist skills without certification from the local health department in chiropractic therapy is a current problem. With the availability of various information media, Traditional Health Workers sometimes only learn and seek information about chiropractic from information media and then establish Traditional Chiropractic Homes without a Traditional Health Worker Registration Certificate (STRTKT) and Traditional Health Worker Practice License (SIPTKT). Several cases show patients experiencing serious injuries and even paralysis after undergoing chiropractic therapy (Garcia & Wong, 2023: 45).

The principles of distributive justice and the protection of patient human rights are the primary focus of this research. These principles demand a balance between freedom of medical practice and protection of patients' rights to avoid harm due to negligence or intentional misconduct (Rahman & Sari, 2021: 78). The legal basis for this research refers to the Health Law, which provides legal protection for consumers of alternative health services. Sociologically, this phenomenon reflects the regulatory unpreparedness to anticipate the risks of alternative therapies, which are increasingly popular with the public (Kumar, et. al., 2024: 34). This raises concerns about patient safety and the need for stricter oversight of chiropractic practice. In the realm of health law, unlawful acts that cause harm to patients can be subject to criminal and civil sanctions in accordance with articles in the Civil Code and the Criminal Code. The application of the law in cases of alternative therapy malpractice still faces obstacles, especially in proving the element of fault and the causal link between the action and the harm (Anderson, Et. al., 2023: 210). The Health Law regulates the obligations of health workers to provide safe and quality services, so failure to fulfill this obligation can be categorized as an unlawful act as regulated in Article 1365 of the Civil Code concerning unlawful acts. Previous research has focused more on conventional medical malpractice without examining the legal aspects of alternative therapies such as chiropractic in depth (Lopez & Chen, 2021: 89). This research fills this gap with a thorough and comprehensive normative legal approach.

Empirical studies show that malpractice cases in chiropractic therapy remain difficult to legally resolve due to limited evidence and a lack of understanding among law enforcement officials regarding the characteristics of alternative therapies (Wong & Lee, 2021: 55). Unclear regulations and the lack of standard operating procedures create difficulties in litigation and dispute resolution (Saputra, 2024: 125). Comparative studies with other countries indicate that strict regulation and certification of chiropractic practitioners can reduce malpractice rates (Johnson, et., al., 2022: 300). This research emphasizes the importance of strengthening regulations and effective law enforcement, an urgent need to protect patient rights and ensure the professionalism of chiropractic practice. The phenomenon of paralysis after chiropractic therapy also raises ethical issues that must be considered by health practitioners (Scurfield, 2021: 75). Chiropractic therapy, as part of traditional health services that are increasingly popular in Indonesia, presents complex legal and ethical challenges as the practice increases and often does not comply with strict regulations such as the Traditional, Complementary, and Alternative Health Worker Registration Certificate (STRTKT) and the Traditional Health Worker Practice License (SIPTKT). This condition creates the potential risk of serious malpractice, including cases of paralysis after therapy, which indicates weak law enforcement and a lack of awareness of professional standards and patient safety. This problem is also exacerbated by patients' minimal understanding of the actual risks, so that the element of informed consent contained in the principles of beneficence and non-maleficence in medical ethics emphasizes that medical procedures must provide benefits and not cause harm to patients (Miller & Jackson, 2022: 200).

One phenomenon the author encountered in December 2023 involved a case of malpractice involving a student named Panji, who was studying in Malang. Panji decided to undergo chiropractic therapy for Rp 500,000 due to aches and pains after playing futsal the night before. However, after the therapy, Panji experienced severe pain that made it difficult to walk and had to be rushed to the hospital for further treatment. Panji's family immediately contacted the therapist to demand an explanation and accountability, but initially the therapist refused to admit any wrongdoing, claiming that the therapy procedures had been carried out according to standards. Panji's family then demanded compensation

for the losses suffered, but the therapist only offered a refund of Rp 500,000, which the family has not yet received. The settlement process continued through legal channels, with Panji's family reporting the case to the police, although no satisfactory agreement has been reached. As a result of the malpractice, Panji had to undergo intensive physiotherapy for six consecutive months to recover his physical condition.

The context of this unlawful act is not only viewed from a legal perspective, but also from the perspective of professional ethics, which governs practitioners' moral responsibilities. Failure to comply with standard procedures and codes of ethics can have serious legal and social consequences. This research is important in examining how ethical and legal aspects can work hand in hand in regulating chiropractic practice (Nguyen, et. al., 2023: 15). From a sociological perspective, the increasing use of alternative therapies such as chiropractic is often driven by public trust in methods perceived as more natural and less risky than conventional medicine (Schwartz, 2020: 225). However, a lack of public understanding of the risks of these therapies has led to cases of paralysis, which have led to legal conflicts (Patel & Singh, 2024: 99). The imbalance of information between practitioners and patients creates problems with informed consent, a legal requirement for medical procedures. Inadequate regulation of chiropractic practice results in minimal legal protection for patients who suffer losses. This research will examine the sociological aspects as part of the basis for formulating policy recommendations (Thomas, et. al., 2023: 50).

Indonesia's positive legal perspective, as stipulated in Article 54 of the Health Law, stipulates that healthcare workers are required to provide quality and responsible services in accordance with professional standards. Violation of this obligation can be categorized as an unlawful act that gives rise to civil and criminal liability (Arifianto & Santoso, 2022: 75). Furthermore, Article 4 of Law Number 8 of 1999 concerning Consumer Protection affirms consumers' rights to security and safety when using goods and services, including alternative health services. Non-conformity of chiropractic practices with service standards can be the basis for legal action. This study examines the application of this regulation in the context of a case of paralysis following chiropractic therapy (Sari & Rahman, 2022: 120).

In addition to the legal aspects, this research also considers the psychological aspects of paralysis victims who experience trauma and a significant decline in their quality of life. Practitioners' legal responsibilities extend beyond basic aspects to the patient's pain and suffering (Kim & Park, 2023: 45). Comprehensive legal protection should include compensation for the physical and psychological harm experienced by the patient.

RESEARCH METHOD

This study uses a normative juridical approach, an approach that focuses on legal norms, both written and unwritten. This study was conducted by analyzing secondary legal resources such as legislation, legal doctrine, court decisions, and related legal literature. The normative juridical approach was chosen because the problem being studied is normative, not only involving empirical data collection but also focusing on theoretical and conceptual aspects of law. Therefore, this study aims to understand and interpret the applicable legal regulations related to unlawful acts that caused paralysis in patients after chiropractic therapy. This study is qualitative and descriptive in nature, where data in the form of legal texts and documents are analyzed in depth to describe and examine the application of legal norms in this case.

RESULTS AND DISCUSSION

Implementation of Chiropractic Therapy Without Legality: An Unlawful Act Perspective

Research results indicate that chiropractic therapy practices in Indonesia are still widely practiced without meeting the legal requirements stipulated by health laws and regulations. Chiropractic therapy is normatively classified as part of empirical traditional health services, as stipulated in Article 1 number 1 and Article 59 paragraph (1) of Law Number 36 of 2009 concerning Health (hereinafter referred to as the Health Law), which states that traditional health services are treatment and/or care efforts using methods and medicines that refer to inherited experience and skills. Furthermore, Article 59 paragraph (2) of the Health Law emphasizes that traditional health services must be fostered, supervised, and developed by the government to ensure they are safe, beneficial, and do not conflict with legal norms and public safety. Therefore, chiropractic practice cannot be carried out freely without state oversight, but must comply with established licensing mechanisms and standards.

These provisions are clarified in Government Regulation No. 103 of 2014 concerning Traditional Health Services, which explicitly stipulates that every provider of empirical traditional health services must have a Traditional Healer Registration Certificate (STPT). Article 14 of Government Regulation No. 103 of 2014 states that empirical traditional healers may only practice after registering and obtaining

an STPT from the local health department. The absence of an STPT automatically renders the practice of chiropractic administratively illegal. Furthermore, Minister of Health Regulation No. 15 of 2018 concerning the Provision of Complementary Traditional Health Services emphasizes that traditional therapy practices, including chiropractic, must adhere to the principles of safety, benefit, and patient protection, and require informed consent before any procedure is performed. If chiropractic practice is carried out without a permit and informed consent, it constitutes a violation of health law norms and patient rights.

Based on these findings, it can be concluded that practicing chiropractic therapy without legal status is an act that violates Indonesian positive law, as it violates administrative obligations, professional standards, and the principle of public health protection. From a civil law perspective, practicing chiropractic therapy without legal status can be classified as an Unlawful Act as stipulated in Article 1365 of the Civil Code (KUHPerduta). The elements of Unlawful Act consist of: (i) the existence of an act; (ii) the act is unlawful; (iii) there is an error; (iv) there is a loss; (v) there is a causal relationship between the act and the loss; and (vi) cumulatively fulfilled in illegal chiropractic practice.

First, the element of an act is fulfilled through the chiropractic therapy performed by an unlicensed therapist. Second, the element of unlawfulness is fulfilled because the practice violates the Health Law, Government Regulation No. 103 of 2014, and Minister of Health Regulation No. 15 of 2018. In modern civil law doctrine, the concept of "unlawful" is not limited to violations of written laws but also includes violations of legal obligations and social decency. Third, the element of fault (*schuld*) arises in the form of negligence, because the therapist continues to practice despite knowing or should have known that they lack the legality and competence recognized by the state. Fourth, the element of harm can include physical harm (injury, paralysis, or even death), compensation harm (continued medical costs), or non-compensation harm (pain, psychological trauma). Fifth, there is a causal relationship between the illegal therapy and the harm experienced by the patient. Thus, practicing chiropractic therapy without legal status is not only an administrative violation but can also give rise to civil liability based on the Health and Safety Act, and even open up the possibility of criminal liability if it results in serious consequences for the patient. When compared with previous research, this study has significant similarities and differences.

The research of Weolyrra and Turingsih (2024: 145) emphasized the legality of chiropractic practice through ownership of a chiropractic clinic (STPT) and informed consent in Sleman Regency. Similarities with this research lie in the focus on the legality and legal responsibilities of therapists. However, this study broadens the analysis by conceptually positioning illegal practices as unlawful acts, not merely administrative violations or civil obligations. Meanwhile, Putry (2024: 2) research focuses on civil legal liability for patient death. The similarity lies in the use of the Unlawful Acts approach based on Articles 1365–1367 of the Civil Code. The difference is that this research focuses not only on the consequences of death but also highlights the legality of the practice as the root of the problem, potentially leading to various forms of harm. Research by Yonisawera (2024: 3) both examine consumer protection in chiropractic services. The similarity lies in the recognition that patients are legal subjects who must be protected. However, these studies place the issue of consumer protection within a broader context, namely, non-compliance with health regulations as a form of systemic legal violation, not simply a violation of consumer rights.

Legal Protection for Chiropractic Therapy Patients in the Indonesian Health Law Framework

The research results show that legal protection for chiropractic therapy patients is an integral part of the national health legal system. From a legal perspective, patients are positioned as legal subjects with fundamental rights to safety, security, and legal certainty in all forms of health services, including traditional empirical health services such as chiropractic therapy.

Normatively, Law Number 36 of 2009 concerning Health provides the basis for legal protection for patients by recognizing the right of every person to receive safe and quality health services. Article 5 paragraph (2) of the Health Law affirms that everyone has the right to receive safe, quality, and affordable health services. This provision applies universally, regardless of whether the health services are conventional or traditional.

Article 58 paragraph (1) of the Health Law states that everyone has the right to claim compensation from individuals, health workers, and/or health service providers who cause losses due to errors or negligence in health services. This norm demonstrates that the state provides repressive legal protection for patients when losses occur, including in the practice of chiropractic therapy. Therefore, legally, chiropractic therapy patients have strong legal standing and are protected by law, even though the therapy falls within the realm of traditional health. Preventive legal protection aims to prevent losses to patients before a dispute or legal violation occurs. In the context of chiropractic

therapy, preventive protection is realized through a licensing system, supervision, and service standards.

Government Regulation Number 103 of 2014 concerning Traditional Health Services serves as the primary instrument for preventive protection. Article 14 stipulates that every empirical traditional healer must possess a Traditional Healer Registration Certificate (STPT) as a legal requirement for their practice. This requirement is intended to ensure that therapists possess minimal competency and can be supervised by local governments. Furthermore, Minister of Health Regulation Number 15 of 2018 stipulates the obligation to implement informed consent, which requires the patient to obtain a complete, accurate, and honest explanation of the therapy procedure, risks, benefits, and alternative treatments. Informed consent is a manifestation of the protection of patients' rights to information and bodily autonomy. Research shows that preventive protection is often neglected. Many chiropractic therapists operate without a Standard Operating Procedure (STPT), without clear standard operating procedures, and without providing adequate explanations to patients. This situation places patients highly vulnerable to the risk of malpractice and violations of their legal rights.

Repressive legal protection arises when a patient has suffered harm as a result of chiropractic therapy. This form of protection can be pursued through civil, criminal, and administrative legal mechanisms. In civil law, patients can file a lawsuit based on Unlawful Acts as stipulated in Article 1365 of the Civil Code, if they can prove an unlawful act, fault, loss, and a causal relationship. Chiropractic practice without legality and due care can be classified as negligence, which gives rise to liability for damages. In addition, patients also receive protection through consumer protection law. Commercial chiropractic therapy positions patients as consumers of services, so that their rights are protected by Law Number 8 of 1999 concerning Consumer Protection, especially the right to comfort, security and safety in consuming services.

In an administrative context, local governments and health departments have the authority to impose sanctions in the form of warnings, suspension of practice, and even license revocation if violations of licensing provisions and service standards are found. To support this empirical evidence, this study also examines a case of chiropractic malpractice experienced by a student named Panji, which occurred in December 2023. Based on interviews and chronological investigations, it was discovered that: "Initially, I just felt sore after playing futsal the night before. The therapist said my condition was mild and could be treated immediately without special examination. I was not given an explanation of the risks or possible impacts of the therapy." (Panji, Chiropractic Therapy Victim, interview December 2023).

This quote demonstrates the failure to comply with the principle of informed consent, as required by Minister of Health Regulation No. 15 of 2018. Panji gave the statement that: "After the therapy, the pain I experienced was very severe. I had difficulty walking and had to be immediately taken to the hospital because I couldn't bear the pain that arose after the procedure". This statement indicates negligence in the therapy, which could potentially give rise to legal liability. "My family tried to demand an explanation and accountability from the therapist, but he refused to admit any wrongdoing and simply stated that the procedures were standard." (Panji, Chiropractic Therapy Victim, interview December 2023). This quote reflects the therapist's lack of good faith in providing legal protection to patients. The therapist only offered a refund of Rp 500,000, but to date, it has never been paid. Panji have to undergo physiotherapy for six months, which is a significant expense. This quote reinforces the elements of compensation and non- compensation losses, as defined in Article 1365 of the Civil Code and Article 58 of the Health Law. Due to the lack of clarity and accountability, Panji family ultimately reported this case to the police, although the process has not yielded any legal certainty to date.

This quote demonstrates the ineffectiveness of repressive legal protection mechanisms, particularly in traditional health therapy practices without legal standing. This case clearly demonstrates the weakness of legal protection for patients when chiropractic practices are conducted without legal standing, oversight, and clear accountability mechanisms. The state has not fully demonstrated its commitment to ensuring effective legal protection for victims of traditional therapy malpractice. Compared with the research by Weolyrra and Turingsih (2024: 145), the similarity lies in the emphasis on the importance of STPT and informed consent as forms of legal protection for patients. The difference is that this study adds an empirical dimension through case studies of malpractice victims, demonstrating the failure of legal protection implementation in the field. Putry (2024: 2) research shares a similar analysis of civil liability based on Unlawful Acts. However, this research is not limited to cases of death but instead examines serious non-fatal losses that have long-term impacts on victims. Research by Yonisawera (2024: 3) focuses on consumer protection. This research complements this by placing consumer protection within a more comprehensive health legal framework, including aspects of licensing and state oversight.

Based on the research results and discussion above, it can be confirmed that legal protection for chiropractic therapy patients in Indonesia is regulated quite comprehensively through the Health Law, Government Regulation No. 103 of 2014, and Minister of Health Regulation No. 15 of 2018. However, these regulations have not been fully implemented effectively at the practice level. Panji's case demonstrates that weak oversight, low legal awareness among therapists, and limited access to justice mechanisms for victims have left patients in a highly vulnerable position. Preventive legal protection has failed to work, resulting in suboptimal repressive protection. It is necessary to strengthen the state's role in overseeing chiropractic therapy practices, enforce strict laws against violations, and increase public legal literacy so that patients are not merely objects of service, but rather subjects of the law who are truly protected. Legal protection for patients is not merely a written norm, but rather a constitutional obligation of the state to guarantee the right to health and safety of every citizen.

CONCLUSION

The practice of chiropractic without legality is an act contrary to Indonesian positive law and is classified as an unlawful act. The provisions of Law Number 36 of 2009 concerning Health, Government Regulation Number 103 of 2014, and Regulation of the Minister of Health Number 15 of 2018 require licensing, competency standards, and the application of informed consent in empirical traditional health services. Chiropractic practice carried out without a Traditional Healer Registration Certificate (STPT) and compliance with the principle of caution violates the legal obligations of the therapist and fulfills the elements of an unlawful act under Article 1365 of the Civil Code and has the potential to cause physical, compensation, and non-compensation harm to patients.

Legal protection for chiropractic therapy patients is normatively regulated through preventive and repressive protection mechanisms in health and civil law. Research results indicate that protection has not been effectively implemented in the field, as reflected in the Panji malpractice case, where the patient did not receive adequate protection or fair accountability from the therapist. This condition emphasizes the gap between legal norms and practice, so that there is a need for strengthened supervision, firm law enforcement, and increased legal awareness for both therapists and patients to ensure safety and legal certainty in chiropractic therapy practice in Indonesia.

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