

ABSTRAK

Hubungan antara dokter dengan pasien didasari atas kepercayaan, hubungan saling percaya bisa saja berubah menjadi sebuah sengketa medik, berujung dugaan malapraktik medis. Dugaan malapraktik medis sering disebabkan karena adanya kelemahan dalam membangun komunikasi yang berakibat menimbulkan kerugian bagi pasien dan juga bagi tenaga kesehatan, kelalaian (*culpa*) dalam hukum dianggap sebagai suatu kesalahan, sehingga bagi profesi dokter termasuk tenaga kesehatan lainnya dituntut untuk lebih meningkatkan profesionalitas, kualitas, keterbukaan, yang mengarah kepada pelayanan yang lebih prima sesuai dengan standar yang ditetapkan. Permasalahan yang diangkat 1) Bagaimana proses penyelesaian kasus malapraktik medis di kota Banjarmasin 2) Bagaimana perlindungan hukum terhadap tenaga medis dalam hal terjadi tindak pidana malapraktik medis di kota Banjarmasin. Tujuan untuk mengetahui, menjelaskan proses penyelesaian malapraktik medis dan perlindungan hukum tenaga medis di kota Banjarmasin. Manfaat penelitian diharapkan memperkaya referensi proses penyelesaian malapraktik medis dan memberikan pengetahuan perlindungan hukum tenaga medis di kota Banjarmasin. Metode penelitian yang digunakan dalam tesis ini adalah pendekatan hukum bersifat yuridis empiris, spesifikasi penelitian dalam penelitian ini bersifat deskriptif analitis, sumber data dan jenis data dalam penelitian ini menggunakan jenis data primer, data sekunder dan tertier, metode pengumpulan data menggunakan cara interview (wawancara), studi pustaka, studi dokumen, metode analisis data secara kualitatif kemudian disajikan secara deskriptif. Permasalahan penelitian dianalisis dengan menggunakan teori perlindungan hukum dan pertanggungjawaban hukum. Dari hasil penelitian dapat ditarik kesimpulan bahwa tenaga kesehatan yang telah melaksanakan tugas sesuai dengan standar profesi dan standar prosedur operasional berhak mendapatkan perlindungan hukum. Dalam melaksanakan praktek kedokteran, dokter harus memenuhi *Informed Consent* dan Rekam Medik sebagai alat bukti yang bisa membebaskan dokter dari segala tuntutan hukum. Beberapa hal yang menjadi peniadaan hukuman terhadap dokter, yaitu kecelakaan medik, *contribution negligence*, *Respectable minority rules & error of (in) judgment*, *volenti non asumption of risk*, dan *Res Ipsa Loquitur* Resiko pengobatan, fit iniura.

Kata Kunci: Perlindungan Hukum, Tenaga Kesehatan, Malapraktik Medis.

ABSTRACT

The relationship between the doctor and the patient is based on trust, a relationship of mutual trust can turn into a medical dispute, leading to a suspected medical malpractice. Alleged medical malpractice is often caused by weaknesses in establishing communication that results in harm to patients and also to health workers, negligence (*culpa*) in law is considered a mistake, so that for the medical profession including other health workers are required to further improve professionalism, quality, openness, which leads to more excellent service in accordance with established standards. Issues raised 1) What is the process of resolving medical malpractice cases in Banjarmasin city 2) How is the legal protection of medical personnel in the event of a medical malpractice crime in the city of Banjarmasin. The aim is to find out, explain the process of medical malpractice settlement and legal protection of medical personnel in the city of Banjarmasin. The benefits of the research are expected to enrich the reference process of medical malpractice settlement and provide knowledge of legal protection of medical personnel in the city of Banjarmasin. The research method used in this thesis is a juridical empirical legal approach, research specifications in this study are descriptive analytic, data sources and types of data in this study use primary data types, secondary and tertiary data, data collection methods using interviews (interviews) , library studies, document studies, qualitative data analysis methods are then presented descriptively. Research problems were analyzed using the theory of legal protection and legal accountability. From the results of the study it can be concluded that health workers who have carried out their duties in accordance with professional standards and operational procedure standards are entitled to legal protection. In carrying out medical practice, doctors must meet Informed Consent and Medical Records as evidence that can free doctors from all lawsuits. Some things that negate the punishment of doctors, namely medical accidents, contribution negligence, Respectable minority rules & error of (in) judgment, *volenti non assumption of risk*, and *Res Ipsa Loquitur Risk of treatment, fit iniura*.

Keywords: Legal Protection, Health Workers, Medical Malpractice.