

Pain Management Services in Hospital: The Human's Right to Health Services

Pelayanan Manajemen Nyeri di Rumah Sakit: Hak Asasi Manusia
atas Pelayanan Kesehatan

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Abstract: Pain is suffering for the patient and must be treated immediately. Health professionals need to recognize, assess, understand, and treat pain. Pain management services have not been run optimally in several hospitals. Pain management services are an effort to fulfill the right to health services. This research aims to observe the implementation of pain management services to fulfill the right to health services, especially at the Mangusada Hospital of Badung Regency, Bali, Indonesia. The research method used in this study is the socio-legal approach (empirical legal study) with explanatory specifications. This research was conducted in 2023 as a case study. Primary and secondary data were collected through field and literature studies. Analysis was performed on qualitative and quantitative data. We found that 1) pain management services in Indonesian have legal bases with general and specific technical regulations at the national level, but the specific technical regulations at the Mangusada Hospital are not up-to-date, comprehensive, and harmonious, 2) Mangusada Hospital and its health professionals have not been optimal in providing pain management services to fulfill the right to health services, in terms of the comprehensive legal instruments, the organization of health professionals, and the availability of infrastructure and facilities. Breach of obligations by hospitals and health professionals can be seen as a failure to provide essential services and reduce suffering, substandard service, negligence, a breach of the patient's human rights, and have legal implications, and 3) legal, social, and technical factors influence the implementation of pain management services in Mangusada Hospital.

Keywords: human rights, right to health, pain management, policy implementation

Abstrak: Nyeri merupakan penderitaan bagi pasien dan harus segera diatasi. Para profesional kesehatan wajib mengenali, menilai, memahami, dan mengatasi nyeri. Pelayanan tata laksana nyeri belum berjalan secara optimal di beberapa rumah sakit. Pelayanan tata laksana nyeri merupakan upaya pemenuhan hak atas pelayanan kesehatan. Penelitian ini bertujuan untuk mengetahui implementasi pelayanan tata laksana nyeri dalam rangka pemenuhan hak atas pelayanan kesehatan, khususnya di Rumah Sakit Daerah (RSD) Mangusada di Kabupaten Badung, Provinsi Bali, Indonesia. Metode penelitian yang digunakan dalam penelitian ini adalah pendekatan sosio-legal (studi hukum empiris) dengan spesifikasi eksplanasi. Penelitian ini dilakukan pada tahun 2023 sebagai studi kasus. Data primer dan sekunder dikumpulkan melalui studi literatur dan lapangan. Analisis dilakukan terhadap data kualitatif dan kuantitatif. Kami menemukan bahwa 1) pelayanan tata laksana nyeri di Indonesia telah mempunyai dasar hukum dengan bentuk pengaturan teknis yang bersifat umum dan khusus di tingkat nasional, namun bentuk pengaturan teknis yang bersifat khusus di RSD Mangusada belum terkini, komprehensif, dan harmonis, 2) RSD Mangusada dan para profesional

kesehatannya belum optimal dalam memberikan pelayanan tata laksana nyeri dalam rangka pemenuhan hak atas pelayanan kesehatan, baik dari segi instrumen hukum yang komprehensif, pengorganisasian para profesional kesehatan, dan ketersediaan prasarana dan sarana. Pelanggaran terhadap kewajiban yang dilakukan oleh rumah sakit dan para profesional kesehatannya dapat dipandang sebagai kegagalan dalam memberikan layanan yang esensial dan mengurangi penderitaan, pelayanan di bawah standar, kelalaian, pelanggaran hak asasi pasien, dan mempunyai implikasi hukum, dan 3) faktor hukum, sosial, dan teknis memengaruhi implementasi pelayanan tata laksana nyeri di RSD Mangusada.

Kata kunci: hak asasi manusia, hak atas kesehatan, tata laksana nyeri, implementasi kebijakan

INTRODUCTION

Patients often convey pain as the main reason for visiting the hospital. Patients generally come to the hospital with their primary complaint and rarely with a specific diagnosis. From the patient's perspective, the symptoms or suffering must be treated immediately, not the underlying disorder or disease.¹ On the other hand, patients can also experience pain during treatment. This condition can occur due to disease processes, diagnostic measures, and/or therapeutic measures conducted by health professionals. Health professionals need to recognize, assess, understand, and treat pain. Those are a form of respect and understanding that pain is often the main reason patients seek hospital treatment.

However, pain management services are not yet optimal in several hospitals. It causes unfulfilled patients' right to pain management services as part of the right to health services. Access to health services is one of the rights to health entitlements. Every person has the right to experience the utmost achievable physical and mental well-being. In Indonesia, these rights are regulated by several laws and regulations, e.g., Article 28H paragraph 1 of the 1945 Constitution of the Republic of Indonesia, from now on referred to as the 1945 RI Constitution; Article 12 of the International Covenant on Economic, Social and Cultural Rights, as ratified through Law of the Republic of Indonesia Number 11 of 2005, from now on referred to as ICESCR Law, and Article 4 paragraph 1(c) and Article 276 paragraph 1(c) of the Law of the Republic of Indonesia Number 17 of 2023 on Health, from now on referred to as Health Law.

The International Association for the Study of Pain (IASP) revised the definition of pain in 2020. Pain is "an unpleasant sensory and emotional experience associated with, or resembling that associated with actual or potential tissue damage." Although pain generally has an adaptive role, uncontrolled pain can result in suffering and adverse effects on a person's physical function, social well-being, and psychological well-being.² Inadequate pain management can result in decreased quality of life, sleep disturbances, impaired physical function, increased treatment costs, and psychological disorders.³ A study by WHO found that people with chronic pain were four times more likely to experience depression or anxiety. Pain can cause reduced mobility, resulting in loss of strength, damage to the immune system, and disruption of a person's ability to eat, concentrate, sleep, or interact

¹ Erica Bial dan Doris K. Cope, 2011, *Introduction to Pain Management, Historical Perspectives, and Careers in Pain Management*, in: *Essentials of Pain Management*, Nalini Vadivelu, et. al. (editor), New York: Springer, p. 3.

² Anonymous, "IASP Announces Revised Definition of Pain," International Association on the Study of Pain, United States of America, accessed from <https://www.iasp-pain.org/publications/iasp-news/iasp-announces-revised-definition-of-pain/>. February 12, 2024.

³ Tong J. Gan, "Poorly controlled postoperative pain: Prevalence, consequences, and prevention," 2017, *Journal of Pain Research*, Vol. 2017, No. 10, pp. 2287–2298.

with others.⁴ The number of patients with pain in Indonesia will increase with increasing life expectancy associated with degenerative diseases.⁵

The increase in cases of pain and its negative impacts requires special attention. The 1946 World Health Organization (WHO) Constitution states: "Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity"; therefore, disruption of physical, mental, and social conditions due to pain is a health problem. Health is a fundamental human right. The 1946 WHO Constitution also states: "The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition."

The right to health is inclusive, one of which is the right to health services, where everyone has the right to access the health services they need, whenever and wherever they need them, without experiencing financial difficulties. It is unacceptable for individuals to suffer illness and death only due to their impoverished status or lack of access to necessary healthcare services.⁶ The right to health contains essential elements: availability, accessibility, acceptability, and quality.⁷ Likewise, the right to health services has a broad meaning, including the right to pain management services. As part of the right to health, pain management services require that all services, equipment, and facilities be available, accessible, acceptable, of good quality, and provided without discrimination.⁸

Internationally, attention to pain has increased since 1996, when the American Pain Society campaigned for 'pain as the fifth vital sign.'⁹ Then, in 1999, the Joint Commission on Accreditation of Healthcare Organizations included pain assessment and management standards in hospital accreditation standards for the first time, and they became effective in 2001. The Joint Commission last updated these pain assessment and management standards in 2018.¹⁰ WHO has also adopted the 11th International Classification of Diseases (ICD-11), a new classification system for chronic pain. ICD-11 was adopted by the 72nd World Health Assembly in 2019 and came into effect on January 1, 2022.¹¹ The increasing attention to pain is also due to the rapid development of pain medicine, supported by the availability of new evidence and research. A multidisciplinary and multimodal approach is needed for optimal pain management in complex cases, especially chronic and cancer pain. A

⁴ Diederik Lohman, et al., "Access to pain treatment as a human right," 2010, BMC Med, Vol. 8, No. 8, p. 1.

⁵ Anonymous, "Triple Burden Ancam Lansia," Kementerian Kesehatan Republik Indonesia, Indonesia, accessed from <https://sehatnegeriku.kemkes.go.id/baca/rilis-media/20131010/128898/triple-burden-ancam-lansia/>. February 12, 2024.

⁶ Tedros Adhanom Ghebreyesus, "Health is a fundamental human right," World Health Organization, Swiss, accessed from <https://www.who.int/news-room/commentaries/detail/health-is-a-fundamental-human-right>. February 12, 2024.

⁷ Eduardo Arenas Catalán, 2021, *The Human Right to Health: Solidarity in the Era of Healthcare Commercialization*, Cheltenham: Edward Elgar Publishing Limited, p. 33.

⁸ Anonymous, 2008, *The Right to Health: Fact Sheet No. 31*, Geneva: Office of the United Nations High Commissioner for Human Rights, pp. 3-4.

⁹ N. Levy, et al., "Pain as the fifth vital sign and dependence on the numerical pain scale" is being abandoned in the US: Why?" *British Journal of Anaesthesia*, Vol. 120, No. 3, p. 435.

¹⁰ Anonymous, "R3 Report Issue 11: Pain Assessment and Management Standards for Hospitals," The Joint Commission, United States of America, accessed from <https://www.jointcommission.org/standards/r3-report/r3-report-issue-11-pain-assessment-and-management-standards-for-hospitals/#.Y8hrIHZBzb1>. February 12, 2024.

¹¹ Joachim Scholz, "Finally, A Systematic Classification of Pain (the ICD-11)," *Practical Pain Management*, accessed from <https://www.practicalpainmanagement.com/resources/clinical-practice-guidelines/finally-systematic-classification-pain-icd-11>. February 12, 2024.

multidisciplinary and multimodal approach requires a holistic, integrated, coordinated service system by a hospital pain management team.¹²

However, the rapid development of pain medicine has not aligned with its implementation in healthcare facilities. Pain management services are not yet optimal in several hospitals. This condition can occur due to obstacles in the system, health professionals, and/or patients. In their publications, Frank Brennan et al.,¹³ K. Shapoval-Deinega K. et al.,¹⁴ and Mark J. Lema¹⁵ state that “access to pain management as a human right,” “ensuring access to pain relief as human rights,” and “pain treatment is a human right,” respectively. Although several publications concerning the patient’s right to pain management services are available, to our knowledge, there are no studies on implementing pain management services in Indonesian hospitals to fulfill the right to health services.

Therefore, pain management services to fulfill the right to health services need special attention to respect, protection, and fulfillment of human rights. This research aims to observe the implementation of pain management services to fulfill the right to health services, especially at the Mangusada Hospital of Badung Regency, Bali, Indonesia.

RESEARCH PROBLEMS

Healthcare facilities and health professionals are the main components of health services. A hospital is a healthcare facility that plays a role in developing a healthcare system and is supported by health professionals directly involved in providing healthcare. Hospitals and health professionals are jointly tasked to implement pain management services as a part of health services.

Patients have the right to receive health services of the highest attainable standard. The right to pain management services is one manifestation of the right to health services, where the right to health services is an integral part of the right to health, and the right to health is a fundamental part of human rights. Pain management services in hospitals can be interpreted as an effort to fulfill the right to health services to respect and protect human rights.

As a decentralized unitary state, Indonesia emphasizes the existence of certain authorities granted by the central government to regional governments (regional autonomy). This decentralization creates a relationship between the central and regional governments. The health sector is a government affair whose authority is divided between the central and regional governments, known as concurrent government affairs.

Various determinant factors influence the implementation of pain management services in hospitals. These factors are field phenomena that are then explored and studied using the theory of public policy implementation. Law in an empirical legal study is not a determinant factor. The facts in the field are seen as a determining factor.

¹² Abdulaziz Al-Mahrezi, “Towards effective pain management: Breaking the barriers,” 2017, *Oman Med J.*, Vol. 32, No. 5, p. 357.

¹³ Frank Brennan, et al., “Access to pain management as a human right,” 2019, *Am J Public Health*, Vol. 109, No. 1, pp. 61-62.

¹⁴ K. Shapoval-Deinega K., et al., “Ensuring access to pain relief as human rights,” 2018, *Inter Collegas*, Vol. 5, No. 1, pp. 10-18.

¹⁵ Mark J. Lema, “World medical leaders declare that pain treatment is a human right ... and it couldn't come at a worse time,” 2012, *Pain Medicine*, Vol. 13, No. 12, pp. 1531–1532.

The research problem is formulated as follows.

1. How are pain management services regulated in hospitals to fulfill the right to health services?
2. How are pain management services implemented to fulfill the right to health services in the Mangusada Hospital?
3. What factors influence the implementation of pain management services to fulfill the right to health services in the Mangusada Hospital?

RESEARCH METHODS

A. Study Approach and Specification

This study used the socio-legal approach (empirical legal study) with explanatory specifications. This research was conducted in 2023 as a case study in Mangusada Hospital, Badung Regency, Bali Province, Indonesia. Mangusada Hospital is a class B, public regional, and teaching hospital.¹⁶

B. Type of Data and Operational Definitions

Primary and secondary data were collected through field and literature studies, respectively. The operational definition of variables and terms used in this report is as follows.

1. Pain management services are a series of holistic health services, including screening, assessment (initial and re-assessment), and pain therapy.
2. To fulfill the right to health services is the hospital's and health professionals' effort to meet their obligations to satisfy the patient's right to obtain safety and have certain quality, anti-discriminatory, effective, and affordable health services.
3. Health professionals are hospital staff with knowledge and/or skills in the health field through education, including medical and non-medical staff. The attending physicians are doctors who have completed training in their specialty areas. They are responsible for the care of patients in the hospital and lead the patient care team, which involves several health professionals.
4. Standard operational procedures (SOP) is a set of instructions/steps that are standardized to complete specific routine work processes or the correct and best steps based on mutual consensus in carrying out various activities and service functions created by health facilities based on professional standards, including clinical practice guidelines, nursing care guidelines, nutritional care guidelines, pharmaceutical care guidance, and the appendix, such as clinical pathway, algorithm, protocol, procedure, or standing orders.
5. The right to health services in pain management services is the patient's right to access pain management services without discrimination, report the pain, get information about how it can be assessed and managed, and access proper pain assessment and management by adequately trained health professionals.

¹⁶ Anonymous, 2022, *Buku Profil RSD Mangusada Kabupaten Badung 2022*, Mangupura: RSD Mangusada Kabupaten Badung. Accessed from https://rsdmangusada.badungkab.go.id/new/public/ckfinder/userfiles/files/profil%202022_compressed.pdf

C. Data Collection and Sampling Methods

Field studies are used to obtain primary data. Field studies were conducted through directed interviews, online focus group discussions (FGD) using Zoom software, and online questionnaires using Google Forms.

The subjects were selected using a judgment (purposive) sampling technique. We chose four informants for directed interviews, including the hospital director, the hospital deputy director of services, the medical committee chairperson, and the hospital accreditation team chairperson. We chose five nurses for FGD participants: emergency department, non-surgical ward, surgical ward, oncology ward, and intensive care department. For questionnaires, the respondents are patients selected consecutively within one month. The respondent criteria were willing to be a respondent, have a minimum age of 18 years, have been treated at the Mangusada Hospital within the last five years, and have a history of pain when being treated at the Mangusada Hospital.

D. Data Analysis

Analysis was performed on qualitative and quantitative data related to the regulation, implementation, and factors influencing the implementation of pain management services to fulfill the right to health services. Primary and secondary data were studied inductively and deductively, respectively. Quantitative data was analyzed descriptively. Interview and FGD data were analyzed using MAXQDA Standard software (VERBI GmbH, Berlin, Germany), version 2020.

RESULTS AND DISCUSSION

A. Regulation of Pain Management Services in Hospitals

Since the 1990s, the idea of access to pain management services as a human right has received the attention of legal scholars and public health experts to analyze its dimensions, implications, and limitations. Although no longer novel, the concept of access to pain management services as a human right has not yet been widely implemented, and this concept continues to develop. As a human right, pain management services are an integral part of universal health coverage. Health professionals have an ethical responsibility to manage pain optimally, and this is an essential element of the code of ethics. The World Health Assembly stated that health professionals' ethical duty is to reduce pain and suffering.¹⁷

“Pain is always a personal experience” and “a person’s report of an experience as pain should be respected” are two of six notes that add the definition of pain in 2020.¹⁸ In 2010, IASP’s International Pain Summit delegates comprised IASP delegates from Chapters in 64 countries, members in 130 countries, and community members involved in the Montreal Declaration on Access to Pain Management is Fundamental Human Right:

We declare that the following human rights must be recognized throughout the world:

- 1. The right of all people to have access to pain management without discrimination.*
- 2. The right of people in pain to acknowledge their pain and be informed about how it can be assessed and managed.*

¹⁷ Frank Brennan, et al., *loc.cit.*

¹⁸ Anonymous, “IASP Announces Revised Definition of Pain,” *loc.cit.*

3. *The right of all people with pain to have access to appropriate assessment and treatment of the pain by adequately trained health care professionals.*¹⁹

International human rights law dictates “the obligations of Governments to act in certain ways or to refrain from certain acts, to promote and protect human rights and fundamental freedoms of individuals or groups.”²⁰ Van Hoof and Vierdag distinguish between two generations of human rights: 1) civil and political rights, also known as negative rights, and 2) economic, social, and cultural rights, also known as positive rights. The right to health is part of economic, social, and cultural rights, which contain positive rights. Positive rights are formulated with the phrase ‘right to.’ Fulfillment of positive rights requires the active role of the state and can be done in stages.²¹ It should be noted that the right to health, in essence, cannot be used as a legal object, so health cannot be used as an object of the agreement. The object of approval for therapy and treatment is health services.²²

1. Legal bases in Indonesia

The legal basis of pain management services to fulfill the right to health services is as follows.

- a. Article 28H paragraph 1 of the 1945 RI Constitution: Everyone has the right to live in physical and spiritual prosperity, to have a place to live, to have a good and healthy living environment, and the right to receive health services. Pain management services are one of the health services provided by hospitals. Therefore, everyone has the right to receive pain management services.
- b. Article 3 paragraph 3 of the Law of the Republic of Indonesia Number 39 of 1999 on Human Rights, from now on referred to as Human Rights Law: Everyone has the right to protect human rights and fundamental human freedoms, without discrimination. Health is a basic human right. Health is a condition of complete physical, mental, and social well-being. Thus, disturbances in physical, mental, and social conditions due to pain are a health problem. Equality of access to pain management services can be seen as protection of human rights.
- c. Article 12, paragraph 1 of the ICESCR Law: “The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.” Article 12 paragraph 2(d) of the ICESCR Law: “The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the creation of conditions which would assure to all medical service and medical attention in the event of sickness.”
- d. Article 4, paragraph 1(c) of the Health Law: Everyone has the right to receive safe, high-quality, and affordable health services to realize the highest health degree. Article 6, paragraph 1 of the Health Law: Central and regional governments are

¹⁹ Anonymous, “Access to Pain Management: Declaration of Montreal,” International Association on the Study of Pain, United States of America, accessed from <https://www.un.org/en/global-issues/human-rights#:~:text=Human%20%20rights%20include%20the%20right,to%20these%20rights%2C%20without%20discrimination>. February 12, 2024.

²⁰ Anonymous, “Human Rights,” United Nations, Swiss, accessed from <https://www.un.org/en/global-issues/human-rights>. February 12, 2024.

²¹ Eko Riyadi, 2018, *Hukum Hak Asasi Manusia: Perspektif Internasional, Regional, dan Nasional*, Depok: Rajawali Pers, pp. 47-49.

²² Freddy Tengker, 2007, *Hak Pasien*, Bandung: Penerbit Mandar Maju, pp. 56-58.

responsible for planning, organizing, administering, fostering, and supervising the implementation of the health effort that is of good quality, safe, efficient, equitable, and affordable by the community. Article 7, paragraph 1 of the Health Law: Central and regional governments are responsible for improving and developing health efforts to improve access and quality of health services. Article 11 of the Health Law: Central and regional governments are responsible for the availability and access to healthcare facilities, health information, and education. Article 189, paragraph 1(b) of the Health Law: Every hospital is required to provide safe, of good quality, anti-discriminatory, and effective health services that prioritize the patient's interest by the standard of hospital services. Article 189, paragraph 1(m) of the Health Law: Every hospital must respect and protect patients' rights. Article 274(a) of the Health Law: Health professionals must provide health services according to professional standards, standard operating procedures, professional ethics, and patients' health needs. Article 276, paragraph 1(c) of the Health Law: Patients can receive health services appropriate to medical needs, professional standards, and high quality.

Health Law used an omnibus law format as a law-making method. Health Law repealed and declared several prior laws on the health sector ineffective. Health Law regulates how hospitals and health professionals are required to respect and protect patients' rights.

- e. Article 43 paragraph 1 of the Government Regulation Number 18 of 2016 on Regional Apparatus, as amended by Government Regulation Number 72 of 2019 concerning Amendment to Government Regulation Number 18 of 2016 on Regional Apparatus, from now on referred to as Government Regulation of Regional Apparatus: For government affairs in the health sector, in addition to the technical implementation units of district/city office as intended in Article 41, there are district/city hospitals as special organizational units and community health centers as functional organizational units, which provide professional services.

Public regional hospitals are special organizational units with autonomy, which is required to carry out government affairs in the health sector. Therefore, it should ensure all medical services and medical attention in the event of sickness, as stipulated in the provisions of Article 12 paragraph 2(d) of the ICESCR Law, including pain management services.

- f. Article 27 paragraph 1(b) of the Government Regulation Number 47 of 2021 on Hospital Sector Administration, from now on referred to as Government Regulation on Hospital Administration: Every hospital is required to provide safe, good quality, anti-discriminatory, and effective health services that prioritize the patient's interest by the standard of hospital services. Article 27, paragraph 2 of the Government Regulation on Hospital Administration: Hospitals must carry out good hospital and clinical governance in carrying out their obligations.

2. Technical regulation

The technical regulation for pain management services in hospitals is as follows.

a. General

- 1) Regulation of the Minister of Health of the Republic of Indonesia Number 1438 of 2010 on Medical Standards of Care, from now on referred to as MoH Regulation of Medical Standards of Care. It regulates the medical standards of care as guidelines to be followed by physicians in conducting medical practice.

- 2) Regulation of the Minister of Health of the Republic of Indonesia Number 2052 of 2011 on License and Implementation of Medical Practice, from now on referred to as MoH Regulation of Medical Practice. Physicians who carry out medical practice must have practice licenses and be by their privilege and competence.
- 3) Decree of the Minister of Health of the Republic of Indonesia Number HK.01.07/Menkes/1128/2022 on Standards of Hospital Accreditation, from now on referred to as Standards of Hospital Accreditation. The standards are grouped into 1) healthcare organization management standards, 2) patient-centered standards, 3) patient safety standards, and 4) national programs. Standards of Hospital Accreditation contain obligations to fulfill the right to pain management services in hospitals.

In the patient-centered standards group, pain management services receive special attention in all standards, which are stated explicitly in the Access to Care and Continuity to Care (ACC), Patient and Family Rights (PFR), Assessment of Patient (AOP), Care of Patients (COP), and Patient and Family Education (PFE), and implicitly in the Anesthesia and Surgical Care (ASC) and Medication Management and Use (MMU).

Standards of Hospital Accreditation explicitly contain standards related to pain screening, pain assessment (initial and re-assessment), pain therapy, and education on the pain care process. Implicitly, pain management services are also contained in ASC, which include components that eliminate or reduce pain during procedures, and MMU, which guarantees the availability of good quality, safe, useful, and affordable medicines and medical devices for patient needs.

In the healthcare organization management standards group, Staff Qualification and Education (SQE) implicitly contains standards related to health professionals. These standards focus on staff planning and management, education and training, occupational health and safety of staff, medical staff, nursing staff, and other health professionals. Regarding medical staff, under SQE standard 11: Hospitals establish a uniform, objective, and evidence-based process to authorize medical staff to provide medical care to patients by their qualifications. Giving privileges to medical staff through several considerations aims to protect patient safety and improve the quality of service.

b. Specific

- 1) Decree of the Minister of Health of the Republic of Indonesia Number HK.01.07/Menkes/ 481/ 2019 on National Guidelines of Medical Care for Pain Management, from now on referred to as National Guidelines of Medical Care for Pain Management. These guidelines are for doctors as clinical decision-makers in healthcare facilities, educational institutions, and related professional groups.
- 2) SOP of Pain Management in Mangusada Hospital includes 1) Decree of the Director of the Mangusada Hospital Number 194 of 2019 on Patient Care and Service, from now on referred to as Mangusada Hospital Guidelines of Patient Care and Service, 2) Decree of the Director of the Mangusada Hospital Number 210 of 2019 on Patient Assessment, from now on referred to as Mangusada Hospital Guidelines of Patient Assessment, and 3) Regulation of the Director of the Mangusada Hospital Number 354 of 2023 on Pain Management, from now on referred to as 2023 Mangusada Hospital Guidelines of Pain Management.

B. Implementation of Pain Management Services in the Mangusada Hospital

Indonesia is a decentralized unitary country. Autonomy gives regional governments the authority to regulate and maximize regional potential to improve the welfare of local communities. The health sector is a government affair whose authority is divided between the central and regional governments, known as concurrent government affairs.²³ Health is a mandatory concurrent government affair related to basic services. These are regulated in Article 9, paragraph 3 and 4, Article 12, paragraph 1 of the Law of Republic of Indonesia Number 23 of 2014 on Regional Government, as has been amended several times, most recently by the Law of Republic of Indonesia Number 6 of 2023 on Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 on Job Creation to Become Law.

Public regional hospitals are special organizational units with autonomy, and they are one of the regional technical institutions within the regional government. Public regional hospitals must conduct government affairs in the health sector to fulfill the right to health services. Public regional hospitals function as a means of conducting comprehensive personal health efforts. The government gives authority to hospitals as legal subjects to provide health services. From the perspective of state administrative law, health services for the public interest are government activities. Hospitals have rights and obligations in conducting their functions. Therefore, implementing pain management services to fulfill the patient's right to health is the hospital's obligation as a legal subject.

Implementing pain management services in hospitals involves three major parties: hospital management, health professionals, and patients and their families. Both hospital management and health professionals are service providers. Patients and their families are service recipients. The roles of the parties in the implementation of pain management services are as follows:

1. Hospital management

Article 6 Paragraph 1 of Regulation of the President of the Republic of Indonesia Number 77 of 2015 on Hospital Organization Guidelines states that a hospital organization consists of at least the head or director of the hospital, medical service elements, nursing elements, medical support elements, administrative and financial elements, a medical committee, and an internal audit unit.

Related to providing health services, Article 2 paragraph 1 of Regulation of the Regent of the Badung Regency Number 38 of 2022 on Mangusada Hospital Job Descriptions states that Mangusada Hospital has the task of providing a comprehensive service for personal health. To implement pain management services at the Mangusada Hospital, the hospital management has roles to arrange the services, provide human resources, infrastructure, and facilities, and monitor and evaluate services.

Mangusada Hospital has the SOP for pain management services in the form of Mangusada Hospital Guidelines of Patient Care and Service, Patient Assessment, and Pain Management. However, those SOPs are not yet updated, comprehensive, and harmonious. Other limitations include those not yet referring to the National Guidelines of Medical Care for Pain Management, lack of other documents

²³ Yahya Ahmad Zein, et al., 2021, *Hukum Pemerintahan Daerah*, Banda Aceh: Syiah Kuala University Press, pp. 2-3.

complementing the guidelines, and lack of socialization of those SOPs to health professionals in hospitals.

Mangusada Hospital management has also formed a hospital pain management team through the Decree of the Director of the Mangusada Hospital Number 297 of 2019 on the Hospital Pain Management Team. However, the hospital pain management team was not organized according to the National Guidelines of Medical Care for Pain Management. Under the National Guidelines of Medical Care for Pain Management, medical staff for the hospital pain management team are from several related fields of medical science (Anesthesiology, Neurology, Orthopedics, Neurosurgery, and Physical Medicine and Rehabilitation as well as other departments that the medical committee deems eligible to join within a multidisciplinary pain team). The team is integrated and collaborates on pain management services. Each member has adequate knowledge and competence and can account for the scientific basis of pain and practices relevant to patients with pain. Attending physicians who work in the undiscipline and multidiscipline pain services are attending physicians who have received certificates of competence in pain management from their respective professional collegiums (board) and have passed the medical credentialing from the medical committee.

Even though there are medical staff with additional competence in pain medicine, Mangusada Hospital currently does not have a well-organized hospital pain management team as per the National Guidelines of Medical Care for Pain Management, does not have a pain clinic, and no high-tech and high-cost equipment is available to support pain management services, especially related to therapy with pain intervention modalities. This phenomenon will limit the accessibility of pain management services in Mangusada Hospital.

Directed interviews of the Mangusada Hospital authority show that they have a good point of view regarding the concept of pain management services to fulfill the right to health services. Although hospital management faces several limitations when conducting their roles in pain management services, this finding is a good basis for gradually improving the quality of pain management services in the hospital.

2. Health professionals in hospital

Mangusada Hospital has several medical staff with additional competence in pain medicine. However, this has not been supported by the well-organized hospital pain management team as per the National Guidelines of Medical Care for Pain Management. Specialized non-medical staff in pain medicine are not yet available.

Under the Mangusada Hospital Guidelines of Patient Care and Service, Patient Assessment, and Pain Management, health professionals involved in pain management services include doctors and primary nurses or heads of nursing teams. These health professionals are field providers of pain management services in hospitals. Health professionals have conducted pain management services at Mangusada Hospital by their clinical privileges. Despite the lack of SOP socialization, health workers provide pain management services with their professional knowledge. The health professional may update their knowledge and skills in pain management services through continuing professional development events in accordance with their profession. There was no sustainable in-hospital training in pain management services.

Optimal pain management services, especially for chronic and cancer pain, require more complex and multidisciplinary management by the hospital pain management team. However, the mechanism of field implementation of pain management services in the Mangusada Hospital appears to be general and no different from other health services. Pain management services involve screening, assessment (initial and re-assessment), and therapy. Through the FGD, although participants do not know the term pain screening, they conduct this activity in their daily practice. Screening is the process of evaluating the possibility of a particular problem. Pain is identified since the patient is admitted to the hospital and recorded in the initial assessment and re-assessment. A more in-depth assessment is performed and recorded on the pain monitoring sheet if the pain is identified. Assessment is a process that gathers information to establish a diagnosis and treatment plan. The primary nurse, head of the nursing team, or doctor conducts pain assessment. Pain management is provided by nurses, attending physicians, or other doctors who are consulted for pain management. During treatment, an evaluation is conducted according to the pain scales. Communication and education are provided to patients and families based on the patient's religious, cultural, and family backgrounds or values.

There are concerns experienced by nurses about providing pain management with specific methods because they have had unpleasant experiences related to the side effects of the therapy. It causes therapy using specific methods to sometimes not be performed optimally, even though they know that the treatment had a good impact on the patient's pain. These concerns are also aggravated by the perception that pain therapy using specific methods increases the workload in the ward. Moreover, sometimes, nurses are reluctant to report a patient's complaint of pain to the attending physician, especially in cases where the patient has received complete pain medication according to the nurse's perception. Nurses are also reluctant to report it to the attending physician for fear of being seen as fussy.

3. Patients and families

Patients' families are inseparable from patients as service recipients. The patient's right to autonomy does not obliterate the family's role in receiving health services. The majority (92.1%) of respondents knew their rights to pain management services, as per the results of a questionnaire analysis of 38 respondents using closed-type questions.

However, several things still hinder the role of patients and families. There are still several cases where patients and families are reluctant to ask or report the pain to the attending physician during a doctor's visit. Patients tend to ask the nurse on duty. However, nurses would not provide information due to limitations and fear of giving wrong explanations. Patients with severe cancer pain are generally difficult to manage, and there is the influence of psychological factors, so a particular approach is needed, including for the accompanying family. Patient's family anxiety in case of severe acute pain also becomes an obstacle to the transfer of information on pain management services.

Referring to the three indicators theory to assess the steps taken by a country to fulfill its obligations towards human rights, efforts to promote and protect human rights at the implementation stage can be evaluated through process indicators (efforts made by the state to fulfill these obligations) and outcome indicators (results

of these efforts).²⁴ Based on process indicators, the Mangusada Hospital has implemented pain management services to fulfill the right to health services. However, the pain management services provided have not been optimal due to various limitations, as described above. Based on outcome indicators, the efforts of the Mangusada Hospital, as an embodiment of the state, to fulfill the right to health services through pain management services can be seen from the satisfaction of patients who receive services. The results of questionnaires on thirty-eight respondents showed that satisfaction decreased with the severity of the pain, and the desire for a special pain team increased with the severity of the pain.

Hospitals are public services that aim to fulfill the right to health services. Initially, hospitals were institutions that performed humanitarian duties and did not seek profit. Referring to the doctrine of 'charitable immunity,' hospitals as charitable institutions are immune from the law or cannot be sued. However, as time passes, there is a paradigm shift where hospitals become complex institutions that carry out service tasks for the public interest with business-based governance. Hospitals have the function of conducting comprehensive personal health service efforts and are legally responsible for the health services provided. The government gives authority to hospitals as legal subjects to provide health services. From the perspective of state administrative law, health services for the public interest are government activities. Hospitals have rights and obligations in conducting their functions.²⁵

By the provisions in Article 189, paragraph 2 of the Health Law, and Article 54 and Article 65 paragraph 3 of the Government Regulation on Hospital Administration, violations of hospital obligations subject to administrative sanctions by the central government in the form of warnings, written warnings, fines, and/or revocation of business permits. The fine, as regulated in Article 81, paragraphs 2, 3, and 4 of the Government Regulation on Hospital Administration, is a maximum of Rp. 100,000,000.00 (one hundred million rupiah). The fine is calculated according to the number of violations, and the amount for each 1 (one) type of violation is Rp. 10,000,000.00 (ten million rupiah). As regulated in Article 71, paragraph 1 of the Government Regulation on Hospital Administration, administrative sanctions are given based on reports of alleged violations originating from complaints, news on electronic/printed media, and/or monitoring and evaluation results.

C. Factors Influencing the Implementation of Pain Management Services in the Mangusada Hospital

In line with the factors that influence law enforcement, as stated by Soerjono Soekanto²⁶, the factors that affect the implementation of pain management services have a neutral meaning. These factors have a positive or negative impact depending on their content.

1. Legal factors

Legal factors are related to laws that influence the implementation of pain management services to fulfill the right to health services at a hospital. Based on literature studies, the laws and regulations related to pain management services in Indonesia were sufficient. Hospital SOP on pain management services is a legal factor

²⁴ Anonymous, 2008, *The Right to Health: Fact Sheet No. 31*, loc.cit, pp. 24-25.

²⁵ Endang Wahyati Yustina, 2012, *Mengenal Hukum Rumah Sakit*, Bandung: CV Keni Media, pp. 1-2, 10.

²⁶ Soerjono Soekanto, 1983, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*, Jakarta: Rajawali Pers. pp. 8-9.

at the local level. The limitation of Mangusada Hospital's SOP influences the implementation of hospital pain management services.

Public policy is a decision taken to realize specific goals. Public policy involves three main processes: policy formation, implementation, and evaluation. Referring to Article 3, paragraph 3 of the MoH Regulation of Medical Standards of Care, SOP is set by the head of a healthcare facility. Therefore, in preparing an SOP as a public policy, the maker must pay attention to the things needed to implement public policy, including clarity of goals and objectives, program management plan, resource support, organization of implementers, and, if necessary, can be accompanied by awards and sanctions.²⁷

In addition, Lohman et al.²⁸ state other legal factors influencing pain management services implementation are the failure to establish a functioning drug distribution system and the presence of excessively stringent legislation and practices for drug control.

Good legal instruments are a form of fulfilling the right of all people to have access to pain management without discrimination, as stated in the 2010 Montreal Declaration.²⁹ Providing legal instruments related to pain management services to fulfill the right to health services in hospitals is part of the government administration. It should pay attention to the triad of legal perspectives by Gustav Radbruch;³⁰ hence, the hospital's legal instruments are up-to-date, comprehensive, and harmonious. The triad of legal percepts is purposiveness (*doelmatigheid*), justice (*gerechtigtheid*), and legal certainty (*rechtmatigheid*). The purposiveness percept has sociological value and means that legal instruments are aimed at something beneficial, especially for the individual (patient). The justice percept has philosophical value and means that the same cases are treated similarly. For example, every patient with pain receives services that meet standards. The legal certainty percept has juridical value and means that the legal instrument must be used as a guideline.

2. Social factors

Social factors relate to society's nature, behavior, and development, and they influence the implementation of pain management services to fulfill the right to health services in the hospital. This factor relates to the situation that is constantly developing in the environment where the hospital is located. Society refers to health professionals as the providers and patients as recipients of services, respectively. These factors include:

a. Communication and collaboration of providers

Communication and collaboration of medical and non-medical staff will influence the quality of pain management services. Every health professional must provide services according to their competence and be able to work together with other health professionals. Misperceptions can cause conflict between health professionals. Pain management services should ideally be seen as a joint effort and complement therapy for the primary disease, not a competition.

²⁷ Taufiqurokhman, 2014, *Kebijakan Publik: Pendelegasian Tanggung Jawab Negara kepada Presiden Selaku Penyelenggara Pemerintahan*, Jakarta: Fakultas Ilmu Sosial dan Ilmu Politik Universitas Moestopo Beragama (Pers), pp. 12,19.

²⁸ Diederik Lohman, et al., "Access to pain treatment as a human right," 2010, *BMC Med*, Vol. 8, No. 8, p. 1.

²⁹ Anonymous, "Access to Pain Management: Declaration of Montreal," *loc.cit*.

³⁰ Heather Leawoods, "Gustav Radbruch: an extraordinary legal philosopher", 2000, *WASH. U. J. L. & POL'Y*, Vol. 2, No. 1, pp. 489-515.

b. Provider's and patient and family's characters

The health service process in a hospital will be related to legal subjects, legal objects, and legal relationships between care providers (health professionals), care recipients (patients), and the hospital. All parties have their respective rights and obligations as regulated through laws and regulations.

Health professionals involved in health services are tasked to provide 'care.' In personal health efforts, the concept of 'care' plays an essential role as a professional identity of caregivers and as part of the expectations of care recipients. 'Care' is one of the most critical concepts in health services. These basic concepts can be easily overlooked, considering that cost, fair allocation of limited resources, and the patient's accountability are typically prioritized in public and academic discussions.³¹

Political scientist Joan Tronto (1993) states that 'care' is a virtue and a practice. He explains that 'care' cannot be achieved through good intentions alone but can only be considered to have been performed when these good intentions produce some effect on other persons. Tronto then developed a four-phase model of 'care', which was then modified by Coradi (2001) with adjustments to the ethical elements as follows: 1) recognition of need (attentiveness), 2) willingness to respond to a need (responsibility), 3) direct action (competence), and 4) reaction to the 'care' process (responsiveness).³²

Paul Ricœur, in his work *Oneself as Another*, defines 'care' explicitly as part of human ethical duties. Ricœur focuses on the fact that 'care' is based on reciprocity. 'Care' is not oriented in one direction towards the care recipient but also changes the caregiver. 'Care' is always associated with awareness of our vulnerability as people who need help. It will trigger a process of change in care providers. The awareness that the provider can one day become the care recipient shows the roles of reversibility in 'care', thus leading to efforts to create equality.³³

Understanding the concept of 'care' and 'care' ethics plays a vital role in the professional identity of healthcare providers and as part of the expectations of care recipients. For health professionals to be fair to patients, there must be an awareness of basic principles and rights and the importance of abstract principles such as the indisputable principle of human dignity.

Communication between health professionals and patients is a key element of patient education. Well-educated patients are better able to understand and manage their health. Communication will be effective if patients receive accurate, timely, complete, and unambiguous messages from health professionals. Education, in some ways, allows patients to participate in care.

3. Technical factors

Technical factors related to the methods or systems that influence the implementation of pain management services. The technical aspects are resources, internal socialization, internal workshops, and external socialization. Based on the

³¹ Franziska Krause dan Joachim Bold, 2018, *Understanding Care: Introductory Remarks*, in: *Care in Healthcare: Reflections on Theory and Practice*, Krause, Franziska dan Bold, Joachim (editor), Swiss: Springer, pp. 1-3.

³² Giovanni Maio, 2018, *Fundamentals of an Ethics of Care*, in: *Care in Healthcare: Reflections on Theory and Practice*, Krause, Franziska dan Bold, Joachim (editor), Swiss: Springer, pp. 51-52.

³³ *Ibid*, pp. 52-54.

policy implementation process model by Donald S. Van Meter - Carl E. Van Horn³⁴, technical factors that influence the implementation of pain management services may include the level of hierarchical control (fostering and supervising), political support from legislative and executive institutions, organizational vitality, and formal and informal relationships between the hospital and other institutions can also influence policy implementation.

The model of the policy implementation process by Donald S. Van Meter - Carl E. Van Horn in 1975³⁵ is a first-generation theory that is quite popular. The model consists of six variables that form linkages between policy and performance. This model not only delineates the linkages between the independent and the ultimate dependent variable but also elucidates the relationships within the set of independent variables. Suppose these six variables are matched with the factors influencing the implementation of pain management service in this study, it can be described as follows: 1) standards and objectives = legal factors, 2) resources = technical factors, 3) inter-organizational communication and enforcement activities = technical factors, 4) characteristics of the implementing agencies = social and technical factors, 5) economic, social and political conditions = social and technical factors, and 6) the disposition of implementers = social factors (Figure 1).

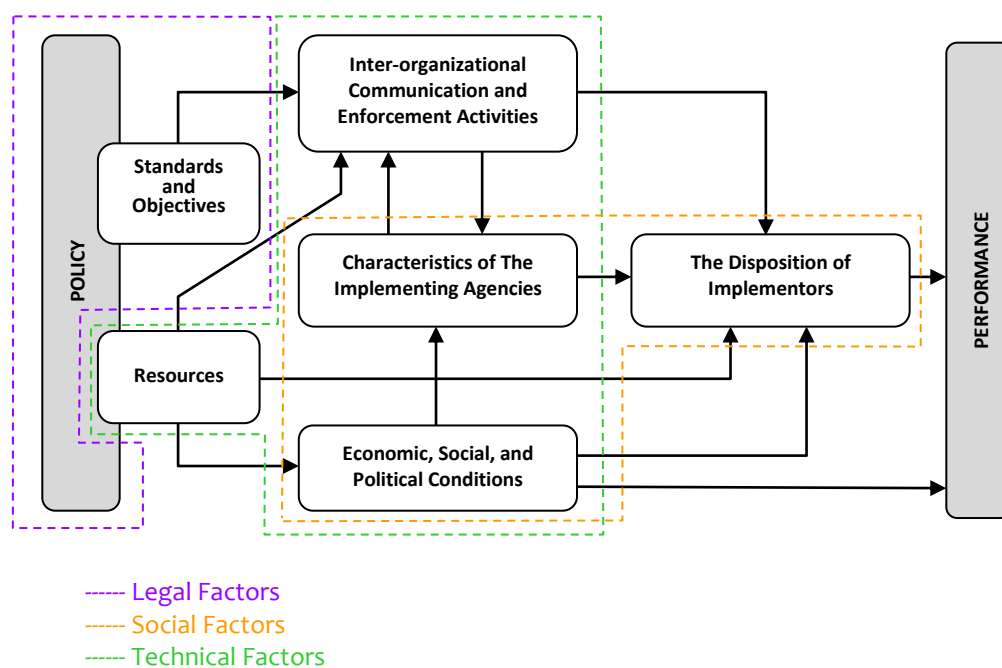


Figure 1.
Van Meter – Van Horn Policy Implementation Process Model Related to
Implementation of Pain Management Services in Hospital

Figure adapted from Van Meter, Donald S. and Van Horn, Carl E., "The policy implementation process: a conceptual framework," 1975, *Administration & Society*, Vol. 6, No. 4., Fig. 3, A Model of the Policy Implementation Process, page 463

³⁴ Donald S. Van Meter dan Carl E. Van Horn, "The policy implementation process: a conceptual framework," 1975, *Administration & Society*, Vol. 6, No. 4, pp. 462-478.

³⁵ *Ibid*, pp. 462-463.

The disposition of implementors relates to the stance or belief of health professionals in hospitals as health service providers. The perceptions of policy implementors are the filter for each component in the model above. Three factors impacting the implementors' capacity and inclination to execute the policy are 1) the implementors' cognition (comprehension, understanding) regarding the policy standards and objectives. Implementors may not optimally implement the policy if it conflicts with the implementors' highly valued beliefs; 2) the implementors' orientation (acceptance, neutrality, rejection) towards policy standards and objectives. Implementors may fail to implement a policy because they reject the objectives contained in the policy. Widely accepted policy standards and objectives among implementors will significantly increase the potential for successful implementation. The existence of underlying beliefs and shared attitudes will make implementation more effortless, and 3) the intensity of implementors' responses. Implementors with negative preference intensity can deviate from policy objectives. A less intense attitude can cause the implementer to engage in distraction and avoidance. It is where fostering and supervising are needed to increase the effectiveness of policy implementation.³⁶

If matched with the phenomenon at the Mangusada Hospital, those factors can be analyzed as follows: 1) the implementor's cognition regarding the policy standards and objectives is still lacking. However, this factor may have little influence because the implementer has beliefs that align with the policy objectives, 2) the implementors' neutral orientation toward policy standards and goals is not because of rejection of the objectives contained in the policy. Still, it may be due to underlying beliefs and shared attitudes, including an unwillingness to report pain to medical staff, unpleasant experiences, and perceptions of increasing workload, and 3) the negative preferences intensity of implementors may occur as a result of misperceptions which can lead to conflict between health professionals—for example, the perception of competition between medical disciplines.

CONCLUSION

1. Indonesia has legal bases for pain management services to fulfill the right to health services in hospitals. These Laws and Regulations contain provisions that regulate the protection and fulfillment of the right to health as a fundamental human right, especially the right to health services as part of the right to health. This legal basis is the state's effort to conduct its obligations to promote, protect, and fulfill human rights by regulating the healthcare providers' and recipients' rights and responsibilities. Public regional hospitals are regional government technical institutions. Public regional hospitals and their health professionals are one unit that organizes personal health efforts in the region. The technical regulations related to pain management services are sufficient nationally. The general technical regulation contains provisions related to the standards of care, privilege, and maximum efforts to heal and restore patient health. The National Guidelines of Medical Care for Pain Management is a specific technical regulation containing the latest and complete guidance. Pain management services-related hospital regulations as legal instruments at the local level in Mangusada Hospital are available but are not yet updated, comprehensive, and harmonious.
2. Implementing pain management services in hospitals involves three significant parties: hospital management, health professionals, and patients and their families. Mangusada

³⁶ *Ibid*, pp. 472-473.

Hospital has implemented pain management services to fulfill the right to health services. However, the mechanism of field implementation of pain management services is general and no different from other health services. Optimal pain management services, especially for chronic and cancer pain, require more complex and multidisciplinary management by the hospital pain management team. The provided services have not been optimal due to various limitations, including the limitation of SOPs; the organization of the hospital pain management team was not by the National Guidelines of Medical Care for Pain Management; it does not have a pain clinic; and high-tech and high-cost equipment is unavailable to support pain management services. Fulfilling the right to health services as part of the right to health is a positive right that requires the active role of the state. The government gives authority to hospitals as legal subjects to provide health services. Public regional hospitals must conduct government affairs in the health sector to fulfill the right to health services. Hospitals have rights and obligations in conducting their functions. Therefore, implementing pain management services to fulfill the patient's right to health is the hospital's obligation as a legal subject. Violations of hospital obligations are subject to administrative sanctions by the central government in the form of warnings, written warnings, fines, and/or revocation of business permits.

3. Factors influencing the implementation of pain management services in hospitals are grouped into legal, social, and technical factors. Good legal instruments are a form of fulfilling everyone's right to access pain management without discrimination. Providing legal instruments related to pain management services to fulfill the right to health services in hospitals is part of the government administration. Understanding the concept of 'care' and 'care' ethics also plays a significant role in the professional identity of healthcare providers and as part of the expectations of care recipients. Next, effective communication between health professionals, care providers, and receivers is key. Well-educated patients are better able to understand and manage their health. Education, in some ways, allows patients to participate in care. Finally, technical factors include resources, internal socialization, internal workshops, external socialization, and hierarchical control.

RECOMMENDATION

Inadequate pain management services in hospitals can be seen as a failure to provide essential services and reduce suffering and as substandard service, negligence, and a breach of the patient's human rights. Pain management services are well-regulated by Indonesian laws and regulations. Refers to *ignorantia legis neminem excusat* doctrine (a legal principle mandating individuals to be aware of their legal obligations, where lack of knowledge of these obligations does not excuse liability for breaching them), hospital management and health professionals must improve access to and quality pain management services at Mangusada Hospital to fulfill the right to health services and avoid legal consequences.

1. Mangusada Hospital authority should provide a comprehensive SOP as a legal instrument at the hospital level, which includes all documents required for its implementation, such as clinical pathway, algorithm, protocol, procedure, or standing order. The SOP should harmonize with higher laws and regulations, especially the National Guidelines of Medical Care for Pain Management. Creating an SOP should involve a hospital pain management team. SOP should have a clear purpose, be needed, and use a clear word choice and language to prevent multiple interpretations.

2. Considering that pain is the most frequent complaint experienced by patients treated in the hospital and has physiological, psychological, and social consequences thus, optimal pain management services require more complex and multidisciplinary management by the hospital pain team, especially in chronic pain and cancer cases. Mangusada Hospital authority should provide a hospital pain management team according to the National Guidelines of Medical Care for Pain Management. The team is supported by multidisciplinary members with certificates of competence in pain management from their respective professional collegiums (board) and who have passed the medical credentialing from the medical committee.
3. Mangusada Hospital authority should foster effective communication and collaboration between health professionals when providing pain management services. Health professionals should have positive character when providing care.
4. Mangusada Hospital and health professionals should communicate effectively and educate patients and their families. Patients and their families should have positive character when receiving care. The education includes patient obligations as regulated in laws and regulations, including providing correct, clear, and complete information regarding their health problems, complying with the advice and instructions of health professionals, and complying with hospital regulations.
5. Mangusada Hospital authority should support the existing pain medicine-competent medical staff, fulfill the availability of other health professionals, fulfill facilities and infrastructure, and perform education and training programs in pain management. The provision of high-tech and high-cost pain therapy support equipment can be made in stages according to the hospital's financial capabilities.
6. Mangusada Hospital authority should improve patients' access to pain management services through internal and external socialization and collaboration with health insurance.
7. The Badung Regency Government, through the Badung Regency Health Office, should foster and supervise the implementation of pain management services by Mangusada Hospital.

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