PENGATURAN MUTASI DOKTER SPESIALIS PADA RUMAH SAKIT VERTIKAL DALAM PERSPEKTIF HUKUM KESEHATAN
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Nabila Khairunisa[1]dan Heribertus Jaka Triyana[2]

Abstrak

Latar Belakang: Penelitian ini mengangkat isu dualisme kedudukan hukum dokter spesialis di Rumah Sakit Vertikal sebagai Aparatur Sipil Negara (ASN) sekaligus profesional medis. Mutasi sepihak yang dilakukan oleh Pejabat Pembina Kepegawaian (PPK) seringkali mengeksekusi perpindahan tugas tanpa melakukan asesmen kesiapan fasilitas klinis di instansi tujuan, sehingga memutus hak keberlanjutan perawatan pasien. Kebijakan administratif ini memicu konflik fundamental antara tuntutan kepatuhan birokrasi dan kewajiban etika medis.

Metode: Penelitian ini merupakan penelitian yuridis normatif yang menggunakan pendekatan perundang-undangan dan pendekatan konseptual. Analisis data dilakukan secara kualitatif terhadap kerangka hukum positif, meliputi Undang-Undang ASN dan Undang-Undang Kesehatan. Permasalahan dikaji secara mendalam melalui lensa filsafat hukum.

Hasil: Terdapat disharmoni regulasi di mana instrumen manajerial ASN mengesampingkan standar keselamatan pasien. Berpegang pada asas Lex Specialis Derogat Legi Generali, standar perlindungan dalam Undang-Undang Kesehatan wajib diutamakan. Pemindahan tugas secara paksa tanpa penyediaan masa transisi secara nyata telah melanggar kontrak terapeutik, mencederai tenaga medis pada risiko kriminalisasi yang menyuburkan fenomena kedokteran defensif. Kegagalan institusi dalam menyediakan fasilitas dan dokter pengganti yang setara dikualifikasikan sebagai kelalaian korporasi. Kebijakan mutasi mutlak memerlukan pembentukan protokol transisi klinis, pengakuan atas hak tolak nurani, serta pembentukan majelis banding administratif independen guna menjamin kepastian dan perlindungan hukum.

Kata kunci: Mutasi, Dokter Spesialis, Rumah Sakit Vertikal, Aparatur Sipil Negara, Hukum Kesehatan.

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REGULATING THE TRANSFER (MUTATION) OF SPECIALIST DOCTORS IN VERTICAL HOSPITALS: A HEALTH LAW PERSPECTIVE

Nabila Khairunisa[1] **and Heribertus Jaka Triyana**[2]

Abstract

Background: This study examines the legal dualism inherent in the position of specialist doctors employed at Vertical Hospitals, who simultaneously hold the status of Civil State Apparatus (Aparatur Sipil Negara/ASN) and function as licensed medical professionals. Unilateral personnel transfers executed by Personnel Fostering Officials (Pejabat Pembina Kepegawaian/PPK) are frequently carried out without any prior assessment of clinical facility readiness at the receiving institution, thereby abruptly severing the continuity of patient care. This administrative practice generates a fundamental conflict between the imperatives of bureaucratic compliance and the ethical obligations inherent to the medical profession.

Methods: This study employs a normative juridical research design, utilising both a statutory (perundang-undangan) and a conceptual approach. Data were analysed qualitatively against the existing positive legal framework, with primary reference to the Civil State Apparatus Law (Law No. 5 of 2014) and the Health Law (Law No. 17 of 2023). The issues are examined in depth through the lens of legal philosophy.

Findings: The study identifies a regulatory disharmony whereby ASN managerial instruments systematically override patient safety standards. Applying the principle of Lex Specialis Derogat Legi Generali, the protective standards embedded in the Health Law must be accorded precedence. Compulsory transfers executed without an adequate clinical transition period constitute an outright violation of the therapeutic contract, undermine the legitimate expectations of the public, and expose medical personnel to criminalization risks — conditions that collectively foster the phenomenon of defensive medicine. An institution's failure to ensure equivalent substitute physicians and adequate clinical facilities at the originating hospital is properly classified as Hospital Corporate Negligence. Any transfer policy must therefore be grounded in the establishment of structured clinical transition protocols, formal recognition of the right to conscientious objection, and the creation of an independent administrative appeal board, all of which are indispensable to guaranteeing legal certainty and protection.

Keywords: Personnel Transfer, Specialist Doctor, Vertical Hospital, Civil State Apparatus, Health Law

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