



The Legitimacy of a Medical Certificate (Health Certification) in the Criminal Justice System (Corruption Eradication)

Lawrensia Binar Mutiara Satyadriti; Joko Setiyono

Master of Law, Faculty of Law, Diponegoro University, Indonesia

E-mail: Lawrensia@gmail.com

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Abstract

A doctor's notes is a letter from the doctor regarding the general condition of a person, whether healthy or sick. The case of H.M. Suharto, Eddy Tansil, Setya Novanto, and Bambang W. Soeharto proved that differences in perception were often misused. In the event of misuse of the doctor's notes, aside from being administratively and professionally accountable, it is possible to be criminally liable. The problem in this journal is to what extent is the strength of proof of a doctor's notes in the criminal justice system and how to find out whether the doctor's notes are genuine or fake in criminal liability. The research method used in this journal is normative juridical. Complexity colours the process and creation of a doctor's notes. The integrity of law enforcers, ranging from the National Police, Attorney General's Office, Corruption Eradication Commission, Judges, Correctional Institution, even Lawyers, are sometimes inconsistent in carrying out their profession. Potential problems will arise if law enforcers do not ask for a second opinion or establishing an independent team of doctors. As suggestions, the making of doctor's notes must be based on professional ethics, doctor's oath, and independence in accordance with the laws. The role of the Majelis Kehormatan Etika Kedokteran needs to be strengthened to maintain the professionalism of doctors. Criminal penalties for doctor and other parties who participate in the making of a doctor's note that meets criminal elements must be strictly enforced.

Keywords: *Doctors; Criminal Justice*

Introduction

A doctor's certificate is a letter or an inscription made on a paper by a physician explaining the condition or state of health or illness of a person's patient or someone asking for the letter in question. A doctor's certificate of judicial action as proof that a doctor's letter to the general condition of a person was declared fit or sick.

Indonesia's history of criminal corruption has a very basic question of its being handled. The phenomenon of showing a doctor's certificate, which involved witnesses, The accused, the accused, even convicted of corruption crimes, in the criminal justice system, from police, prosecutors, commission on

corruption, courts, and the penitentiary, state That he should be treated, and given special (serious) therapy, and there are those who should be referred to at a hospital with facilities, this has been going on for a long time. Even in the days of the new order with the leadership of President Soeharto, large communities were once shocked to the weed tank's snappers, which was granted medical treatment from the penitentiary to the polri hospital. With a standard escort in cipinang penitentiary, after a thorough examination at the polri hospital, it turned out that Eddie tansil had fled the country until now. With just a white sheet of paper the doctor who makes detention a threat to the government, it should certainly be considered by the public that law enforcement is not serious about dealing with a convicted corruption case, it is the government's weakness In attempting to overcome corruption.

The setya novanto case falls under the public eye, as the writer takes it, in an effort to avoid examining the commission on corruption against the suspected corruption case. Attempts by the doctor to alternative alternative attempts to prevent the patient from examining the proceedings. In the process, it's dramatic as novanto

Having a car accident that the suspect was treated with, this is a series of disruptions only to make it a lengthy examination, with hospital policy and an expert (doctor) being the most responsible for the patient he handled whether it is consistent with the particular circumstances or indication of cooperation. As we know every doctor needs an oath so that his duties and responsibilities can be in accordance with government regulations 26 in 1960.

General corruption is a so-called crime (extra ordinary crime) according to mark hat it is a remarkable crime to act requiring human resources that are competent and certified in law science, whereas a serious crime that threatens security, Peace, prosperity and human life. Extraordinary crime should meet the 3 character that is:

- 1) Premeditated
- 2) Organized
- 3) Systematic¹

Indicative of corruption asa felony is systematic, endemic and far-reaching (comprehensive and sustained) with its impact not only damaging national financial and economic rights but violating broad societal and social rights and governance in its efforts requires the comprehensive extra ordinary comprehensive. Then in that case Combating criminal corruption is needed in quality and quantity.²

The use of a letter from the doctor, by breaking the law according to law enforcement dynamics in Indonesia, for example, in an effort to slow the investigation, arrest. We often see the interconnectedness of an internal physician Enclose an inappropriate letter to the patient stating that a doctor is breaking the law and criminal rules.

The role of the 4 pillars of position: judges, prosecutors, police, advocat being a government instrument in law enforcement certainly has an important role in breaking off corruption practices. In an effort to achieve a system of national law based on justice, it is necessary to develop a legal culture across all levels of society. Some experts who promote law enforcement need to plant a "loophole" in order to do so when law enforcement is perfectly good then the law will be in accordance with constitutional mandate.³

¹ Nitibaskara, Tb. Ronny Rahman. Perangkat Penyimpangan Dan Kejahatan Teori Baru Dalam Kriminologi. Jakarta: Penerbit. YKPI.2009.

² Prarmono, Widyo, Pemberantasan Korupsi dan Pidana lainnya. Sebuah Perspektif Jaksa dan Guru Besar, Jakarta. Buku Kompas, 2016.

³ Hukum, Tim Penelitian. Aspek Hukum Surat Keterangan Dokter Dalam Sistem Peradilan Pidana. Jakarta, 2002

Formulation of the Problem

Thus, the question that can be taken from the study is where are the strengths of verifying the doctor's certificate of corruption? And how is the application of criminal law against doctors who give incorrect statements in the proven process?

Research Methods

The method used in this journal writing was normative-juridical. According to Soerjono Soekanto and Sri Mamudji, which includes research on the principles and theories of law, the system of law, the level of vertical and horizontal synchronization, the comparison of law and law history. Data sources are obtained from selected library material related legislation, documents, newspapers related to the doctor's certificate on corruption, thoroughly analyzed to answer the distortion in the use of a doctor's certificate. The study is an analytical description aimed at revealing a problem or circumstance or events as they really are and thus revealing the facts.⁴ The theory used in research aspects of letter law Referral in the criminal justice system (the eradication of a crime Corruption), is the law enforcement theory. Conceptually, the core and meaning of enforcement The law lies in the syncing of the values embodied in the code A steady, action-acting description as the final stage of values to create, Preserve, and maintain the peace of one's association⁵

Discussion

Law enforcement in the elimination of corruption is like ocean waves, rising and sinking, along with the politicalisation of corruption in a country, particularly in Indonesia. Synergy between law enforcement ranks in the elimination of corruption, as per current legislation, does not always work out as expected. Legal certainty, justice, and equality became the aim to eradicate corruption that had to be realized.

In the process of achieving certainty of law and justice in the establishment has not yet achieved what society desires, for the law only stands upright to power and is blunt to the weak. It was this distinction that resulted in people's distrust of para The government. Colonial law asa tool to suppress the faction Weak to the law. When the new order of the law only oppressed the weak and satisfactory only to the power and interest of the political elite. The law will Get a sense after law enforcement runs in accordance with constitutional mandate. Thus to enforce the law requires power for lack of power That law is wishful thinking

1. Doctor's Certificate of Surrender

The profession of doctors, which is one of the oldest professions in the world, known to the large population, for disease therapy, and other health services, includes preventive measures to ward off certain diseases. Besides, doctors are also authorized to provide hospital affidavits, health information, As well as a description of death on a person.

⁴ Soekanto, Soerjono. Faktor-Faktor Yang Mempengaruhi Penegakan Hukum. Jakarta: Penerbit CV Rajawali Press, 2002

⁵ Purbacaraka, Soerjono Soekanto & Purnadi. Sendi-Sendi Ilmu Hukum Dan Tata Hukum. Bandung: Penerbit Citra Aditya Bakti, 1993.

a. Tool of Evidence

For every professional to remain steadfast and to behave in accordance with the dignity of his profession, then, before performing his professional duties, it is required to take an oath, as the pledge of a humanitarian profession, to "client" or patient, peer, and to oneself. This oath and or promise by each profession has been carefully formulated. Below are examples of vows or promises of the medical profession in Indonesia. Swear or swear doctor: by god I swear/promise:

- 1) I will devote my life to the interests of humanism
- 2) I will maintain with all my might the dignity and traditions of excellence The office of medicine;
- 3) I would do my duty honorably and respectfully, According to the dignity of my work as a doctor;
- 4) I would put my interests first in my assignment Society;
- 5) I will keep secret everything I know because My work and my scientific work;
- 6) I will not put my medical knowledge to use Something contrary to humanity, though threatened;
- 7) I will always put the health of the sufferer first;
- 8) I will endeavor earnestly so that I am not swayed by religious, tribal, gender distinctions, political affiliation or social position in fulfilling obligations to the sufferer;
- 9) I will honor each human life starting from conception
- 10) I will give my teachers and my fellow teachers the respect and the proper expression of thanks
- 11) I will treat my associates the way I would like to be treated;
- 12) I will obey and abide by the code of Indonesian ethics;
- 13) I solemnly swear this oath at the risk of my own honor.

As a result of the law, which the doctor obeyed and implemented, the practice of doctors as the result of 26 in 1960. Violation of doctor's vows, threatened with penalties consistent with current laws. According to Bambang Poernomo, actions against the medical code of ethics can be various Action, either guidance/supervision or actions that are directly administrative sanction or through the authority of the minister of health. The ethics of medicine and administrative laws can complete a doctor's responsibilities within the ethical limit and breach of professional work. On the other hand, physicians who fail to meet professional standards can be elevated to legal responsibility because of negligence or error under the law in the common area of civil law and criminal law.⁶

In criminal cases, there's no evidence hierarchy. At the inviting Article 184 verses (1) kuhap, which is: the valid tool of evidence is:

- a) Witness descriptions;
- b) Expert descriptions;
- c) Letter;
- d) Clues; description
- e) The accused.

The type of mail that is acceptable as the tool of evidence is included in the penal code book article 187. The letter was made either by oath of office or by oath strengthened. The type of letter referred to is, first, official announcements and other letters of the program and of other official ones made before him by the general authorities or in front of him that speak of events or circumstances that are heard, seen or experienced themselves, along with clear and explicit reasons for the information.

⁶ Prarmono, Widyo, Pemberantasan Korupsi dan Pidana lainnya. Sebuah Perspektif Jaksa dan Guru Besar, Jakarta. Buku Kompas, 2016

In a criminal case, there is no evidence binding a judge regarding the power of proof. A criminal judge must have wondered if he believed the defendant's guilt. If an authentic deed is presented in a criminal case, the judge to have confidence in the wrongness of the accused would not need proof of the opposite, as was the civil judge.

Second, a letter made under the rule of the law Invitations or letters issued by officials regarding these matters In the order that was his responsibility and his destiny To prove something or something. Third, an affidavit from an expert with an opinion Based on his expertise in any subject or circumstance requested Officially than her. For example is the result of the visum of the repertum Expelled by a doctor. The visum can be created based on A victim's request or the request of law enforcement officials for a profit Investigations, prosecution or trial. Fourth, another letter that can only apply if there is a connection With the contents of another proof device. Letters of this type only contain Value of proof that the contents of the letter are connected to the instrument of evidence The other one In the case of letters it does not qualify to be stated As a tool of evidence, the letters could be used as clues. However, when it comes to whether or not a letter can be used as an instrument of evidence, It's left to the discretion of the magistrate.

b. The Legislation on the Doctor's Note

As for the interlink of a doctor's certificate in the criminal justice system:

- 1) Act number 29 in 2004 on medical practice..
- 2) Act number 36 in 2009 on health
- 3) Act number 8 in 1981 on criminal law Regarding the legal tools of evidence
- 4) Act number 2 in 2002 state police department
- 5) Act number 19 in 2019 on the second change By Act number 30 in 2002 on commission The fight against corruption crimes"
- 6) Act number 16 in 2004 About the prosecutor Republic of Indonesia.
- 7) Act number 12 in 1995 on correctional

2. Certificate of Doctor Release and Criminal Liability

a. Doctor's Certificate of Reference

Dr. Kartono muhammad asserted that one of the areas where a doctor's work often made contact with the law was when a doctor had to write an affidavit concerning a patient he was treating. The certificate could be used for:⁷

- 1) The interests of the criminal court while his patient is accused;
- 2) Court interests when patients become victims of criminal ACTS;
- 3) Civil interest:
 - a) Between his patient and his workplace;
 - b) Between patients and their school facilities
 - c) Between his patients and the insurance company

The certificate may state whether the patient is healthy enough to meet the requirements or is not healthy enough for them. In this "doctor's certificate" there are several things that need to be done Note, that is:⁸

⁷ Suryadhimirta, Rinanto, Hukum Malpraktek Kedokteran Disertasi Kasus dan Penyelesaiannya. Yogyakarta. Total Media. 2010

⁸ Notoatmodjo, soekidjo, Etika dan Hukum Kesehatan; jakarta; Rineka cipta. 2010

- 1) The certificate of reference is basically a temporary portrait representing the condition of his being examined. This applies primarily to brief abbreviated expressions of "healthy" or "sick." Things that were found as healthy the next day could just turn into unhealthy.
- 2) The sense of "sound" or "qualified" in the information is specific to the letter's interests. A "healthy" certificate of office for the sake of working in a certain line of work has to be tailored to conditions specified in the job Those. It's doctor's duty to do a proper examination Carefully before making such statements or information According to a doctor's code of ethics, it states that "a doctor only Verifying information or opinion.

The first role is as a clinical practitioner in treating the victim. Here the victim would have the status of a patient with all his rights and obligations. The purpose of the action of the doctor here is to recover the patient's health by performing medical procedures.

The second role is as a forensic expert in charge of judicial proceedings. Here the victim would have assumed the status of a piece of evidence and be governed in the imperative legislation. Doctor action is a fortification examination aimed at enforcing justice. This dual role is largely unnoticed by most doctors, since much of his energy and mind are poured out on treatment of medical problems. Especially when dealing with the visum et repertum problem and the various judicial issues, a doctor may feel reluctant.

Whereas a doctor's certificate is for justice Concern:

- 1) Visum et relordship;
- 2) A physician's certificate of custody;
- 3) A physician's certificate of propriety of interrogation; and
- 4) A doctor's certificate of propriety is being tried in a court of law.

In the face of Indonesia's total lack of a monopoly on corruption, there is no guarantee that a monopoly is held by a doctor who makes a certificate. It can be good in a doctor's environment to pursue his profession, with his position and with his basic position being pressured by superiors to provide pain letters, from those involved in corruption. when Occurred, signatures, and affidavits were falsified by others. As of this moment in the criminal justice system for handling corruption cases, the existence of ill health letters from doctors was authenticated by a judge's order on the crime lab at headquarters Polri.

The investigator's confidence, the public prosecutor's, and the judge's in charge of the crime Criminal corruption, based solely on the doctor's reference letter, inside

Certain circumstances should be cross check in the field or for second amendment In other doctors with or to answer public doubts, it can Request formation of an independent team of physicians who are examining. subject The fulfillment of justice, the certainty of the law, and the equality of the law became very Basically, when law enforcement has to perform its basic duties and functions Each one, especially in the process of the perpetrator Violent crimes of corruption, and attracted the attention of the public in large and public, Even the international community.

b.Criminal Accountability

To avoid, even find a way to escape criminal proceedings involving embezzlement, including using a doctor's pain letter, which in the professional setting is an independent profession, and according to the circumstances, conditions, and general circumstances of those who are examined by a doctor, is always done and tried. Especially is a country facing chaos, anda national catastrophe like the covid-19 corona pandemic, the laws of the state do not function optimally.

Specifically in anticipation of the deliberate indiscretion or even from the psychiatric doctor (giwa) who provided a psychological certificate on the part of the corruption case, was proposed by a criminal law expert Point out that, by using the law, I call perfect crime. It is perfectly said to be so wrapped up in valid laws that it is as if they were part of official law enforcement or policy. That is, what one truly evil is hidden in a legitimate act, Such as political decisions, state governance decisions, public policy decisions, Announcements of contract winners of projects, mass media promotions, inside policy The investigation, the prosecution strategy and/or the verdict, so to speak Like no crime

Some foreign legislation set others about unable to Held accountable for mental illness. Russian law, mental illness doesn't deny pruang, it's an act of choice. So, when it comes to breaking the lawsuits (ontslagvan rechtsvervolging).

So did Swedish law, no link between the can Held accountable and mentally ill. Paragraph 3 chapter 31 says: if person who has committed a criminal act has been declared in a report of this sental examination to be in need of care in a mental hospital, the court may, if it finds the need care established order his surrender for carein accord with the Mental Health Act".

The author agrees that such provisions should be incorporated into the Indonesian criminal code for the following reasons:

- a) It prevents the soul from idling. In Indonesia is known accused of female role model Julia yasin's killer, who was suspected by the papers as faking memory pain (always sleeping in the courtroom). There was a reporter who followed the accused on the bus, who seemed to be sober enough to invite a woman to take her seat.
- b) To prevent an error in the judge's case, an ailing one only comes periodically.
- c) To satisfy the victim (the family of the victim) that justice had indeed been served. Because the accused is mentally ill, they are committed to a mental hospital, not release from prosecution

Conclusion

Lapses and lapses in the doctor's certificate would have been easy. There is a strong tendency among law enforcement that a doctor's certificate is a strong instrument of evidence, and it is indisputable. In history Law enforcement of corruption in Indonesia, law enforcement has not made inadmissible verification of a genuine or fake doctor's certificate and can be accounted for scientifically and professionally. On the other hand, there has never been a second opinion of another doctor, to check the health of a person who was shown sick and indisposed to attend the judicial proceedings of the previous physician

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