

THE NATURE OF NURSING PRACTICE IN POSITIVE LAW IN INDONESIA

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Abstract

The purpose of this study is to find the nature of Nursing Practice in Indonesia. This study is a normative legal research, namely research conducted on legal principles, legal rules in the sense of values (norms), concrete legal regulations and legal systems. The technical collection of legal materials in this study is a literature study (bibliography study) through the collection of legal materials as written information originating from various legal sources in the form of legislation, jurisprudence, conventions, legal science books, legal journals, and legal reviews, then the technical collection of legal materials in this study also uses documentation studies, namely by recording information from legal materials related to legal reconstruction in the regulation and supervision of nursing practices in Indonesia, normatively or ideas or ideas. The results of the study show that in essence, nurses as a profession always and always serve sincerely to fellow human beings, prioritizing the interests of nursing assistance and patient health above their own personal interests, which are in the form of bio-psychosocial-spiritual cultural humanistic services using a holistic approach, based on nursing science and skills, and using the Nursing Code of Ethics as the main requirement in implementing Nursing Care.

Keywords: Nature, Nursing, Indonesian Law.

INTRODUCTION

It should be understood that the goal of the Indonesian nation as stated in the Opening of the 1945 Constitution is to protect all Indonesian people and all of Indonesia's territory and to advance public welfare, improve the nation's life, and participate in implementing world order based on independence, eternal peace and social justice, so health development is directed at increasing awareness, willingness, and ability to live healthily for everyone in order to increase the highest level of public health that can be realized. In line with the above goals, in the body of the 1945 Constitution of the Republic of Indonesia, hereinafter abbreviated as the 1945 Constitution, Article 28H paragraph (1) states "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and has the right to receive health services."¹

Health is one of the main capitals in the framework of the growth and development of the nation which has an important role in the formation of a just, prosperous and prosperous society. Health is also one of the elements of general welfare that must be realized as the ideals of the Indonesian nation as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia which is implemented through continuous and sustainable national development based on Pancasila and the 1945 Constitution.² Good and quality health services are one part of the national development goals and are also one of the human rights that must be considered and obtained by everyone in Indonesia equally without exception. Law Number 36 of 2009 concerning Health in the considerations in letter a states that "Health is a human right and one

of the elements of welfare that must be realized in accordance with the ideals of the Indonesian nation as referred to in Pancasila and the 1945 Constitution of the Republic of Indonesia".³

The consideration above in letter a contains the meaning that health services are required to have maximum arrangements so that everyone gets maximum service without exception, both from political and economic aspects as part of human rights that cannot be ignored on the basis of group or ethnic interests, religion, race and social strata in society.⁴ In the consideration of Law Number 36 of 2009 concerning Health in letter b it also states that every activity in an effort to maintain and improve the highest level of public health is carried out based on the principles of non-discrimination, participation, and sustainability in order to form Indonesian human resources and increase the resilience and competitiveness of the nation for national development. The success of health development is very much determined by the implementation of sustainable and continuous development across sectors and programs. One form of implementing health development can be implemented through the implementation of health services which include nursing services or practices as stated in the consideration of Law Number 38 of 2014 concerning Nursing.⁵

Based on Law Number 38 of 2014 concerning Nursing, Chapter I, Article 1, number 4, Nursing Practice is a service provided by nurses in the form of Nursing Care which is based on a series of interactions between nurses and clients and their environment to achieve the goal of fulfilling the needs and independence of clients in caring for themselves which must be carried out responsibly, accountably, with quality, safely and affordably by nurses who have competence, authority, ethics and morals.⁶ Likewise, legal protection for every Indonesian citizen without exception has been regulated in the 1945 Constitution. Thus, this legal protection not only protects the legal relationship between the subject and the object of law individually, but also provides protection between individuals and legal entities, and/or between legal entities and other legal entities. This occurs as a result of the demands of human life needs,⁷ for example, the needs as stated in Law of the Republic of Indonesia Number 44 of 2009 concerning Hospitals, Article 1 paragraph (4) states that, "A patient is any person who consults about their health problems to obtain the necessary health services, either directly or indirectly at a Hospital."

This article shows the existence of direct and indirect legal relationships in obtaining health services, one example of which is consultation. Likewise, Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection, has also mandated in the context of health services in Article 4 regarding consumer rights, in this case health services/patients have the right to comfort, security and safety in obtaining health services. In addition, it is also explained that patients or consumers also have the right to correct, clear and honest information regarding the conditions and guarantees of services, including the right to be heard regarding their complaints regarding the quality and guarantees of services provided.

Since the enactment of Law Number 8 of 1999 concerning Consumer Protection, lawsuits against health services in court have been very rare due to the pattern of relations which is still paternalistic.⁸ where patients still have a submissive attitude towards health service providers. However, over time, increasing developments in science and technology and demands of

society, gradually the relationship or connection will change into a partnership relationship where the position of service providers is equal to that of consumers of health services.⁹ In relation to the Republic of Indonesia Law Number 13 of 2003 concerning Manpower, in Article 4, the objective of Manpower development is to empower and utilize the workforce optimally and humanely, realize equal employment opportunities and provide a workforce that is in accordance with national and regional development needs, provide protection to the workforce in realizing welfare and improving the welfare of the workforce and their families.¹⁰ The main objects of protection according to Law No. 13 of 2003 concerning Employment include protection of rights in employment relations, protection of basic workers' rights to negotiate with employers and strike, protection of occupational health and safety and special protection for female workers, children and people with disabilities.

In labor protection in Indonesia, there is often an imbalance in worker protection which includes not being economically protected in the form of sufficient income, not being socially protected in the form of occupational health insurance, freedom of association, and not being protected in the right to organize, and technically protecting workers in the form of work safety and security. Referring to data from BPS RI through Sakernas (National Labor Force Survey) in 2019 - 2021 in 34 provinces throughout Indonesia due to the impact of the Covid 19 Pandemic, the number of workers who were laid off was 894,573 people, 29.12 million people of working age were affected by the Covid pandemic, 0.76 million people stopped looking for work, 1.77 million people were temporarily unemployed and 24.03 million workers experienced reduced working hours.¹¹ The data above also includes nurses who were laid off.

In terms of the number and new graduates of nurses in Indonesia, the BPS (Central Statistics Agency) of the Republic of Indonesia noted that the number of nurses in Indonesia in the 2021 period reached 511,191 people, which means an increase of 16.65% from the previous year of 438,234 nurses.¹² with a job absorption rate of 20% in institutions such as hospitals, educational institutions, medical practices and independent practices, while the rest are unemployed,¹³ (Nursalam, 2022) related to licensing problems, low nursing competency, low absorption in the labor market, increasingly high output of graduates of health education institutions, and digital technology factors that threaten the increasingly narrow job market for nurses. It is necessary to pay attention together that each year there are 43,150 nursing graduates with the number absorbed being 15,000, while the rest add to the long list of unemployed in the health/nursing services sector of around 28,000 people per year. (Nusron Wahid, BNP2TKI). In terms of licensing, nursing practice still faces obstacles, which require acceleration in order to eliminate practice problems in Indonesia.

It should be noted that Health Law is included in the "lex specialis" law which specifically protects the duties of the health profession as a health worker. Health law itself regulates the rights and obligations of each service provider and service recipient, whether as a patient, family or as a community group.¹⁴

As a reference for protection and legal certainty for nurses and other health workers, which means that the state's presence in realizing the capacity for health development is required to provide protection and legal certainty to nurses and patients as providers and recipients of

nursing services.¹⁵ This has been enforced by the Laws that underlie health workers in providing health services to the community, including Law of the Republic of Indonesia No. 29 of 2004 concerning Medical Practice, Law of the Republic of Indonesia No. 36 of 2009 concerning Health, Law of the Republic of Indonesia No. 44 of 2009 concerning Hospitals, Law of the Republic of Indonesia No. 36 of 2014 concerning Health Workers, Law of the Republic of Indonesia No. 38 of 2014 concerning Nursing, and PMK RI No. 26 of 2019 concerning Implementing Regulations of Law of the Republic of Indonesia No. 38 of 2014 concerning Nursing.¹⁶ All of the above is aimed at providing plegal protection, legal certainty, and legal justice for patients, the community and health workers.¹⁷ From the description above, after the enactment of Law of the Republic of Indonesia Number 38 of 2014 concerning Nursing and Regulation of the Minister of Health of the Republic of Indonesia Number 26 of 2019 concerning the Implementing Regulations of Law of the Republic of Indonesia Number 38 of 2014 concerning Nursing, which provides a new breakthrough for nurses in Indonesia in resolving the problems of nursing practice in Indonesia.

As the responsibility of the government and private sector with partnerships with the community, in Law of the Republic of Indonesia No. 38 of 2014 concerning Nursing in Chapter V concerning Nursing Practice¹⁸ Article 28 paragraph (1) states that Nursing Practice is carried out in Health Service Facilities and other places according to the target clients. In Article 28, paragraph (2) of the Nursing Practice as referred to in paragraph (1) above is not only carried out in Service Facilities but can also be carried out in Independent Nursing Practice.¹⁹ Looking at the recent past or around the last five years, several phenomena of cases have occurred in society as a result of errors and negligence committed by health care professionals, including nurses, which are fatal actions as one of the acts of malpractice or malfeasance that culminate in administrative, civil and criminal lawsuits that occur as a result of health workers' lack of understanding of the profession and the law.

From the explanation above and followed by the rampant cases that occur involving the nursing profession which seems to be affected by low and risky legal protection, support is needed to resolve the problems faced by nurses, especially nurses who carry out Nursing Practice. Returning to the problems above after the enactment of the Nursing Law and PMK RI No. 26 of 2019, Article 2 regulates the types of nurses, licensing, implementation of nursing practice, independent practice of nurses, the need for health/nursing services in a region and guidance and supervision.²⁰ However, in the implementation of the PMK, all regulated areas have not yet run properly, thus raising concerns about the occurrence of unclear norms in several areas regulated by the PMK in question. Based on the background description above, it is interesting to study the problems of nursing practice in Indonesia in all areas regulated in the Law, Regulation of the Minister of Health, Regional Regulations of Provinces and Districts/Cities as a new phenomenon since the enactment of Law of the Republic of Indonesia Number 38 of 2014, so the author considers it necessary to conduct a study in the context of Legal Reconstruction in the Order and Supervision of Nursing Practice in Indonesia

METHOD

Types of Research

In this research, normative legal research (legal research) is used, namely research conducted on legal principles, legal rules in the sense of values (norms), concrete legal regulations and legal systems,²¹ including systematics, level of synchronization, history and comparative law²² which is related to the substance being studied, namely that related to legal reconstruction in regulating and supervising nursing practices in Indonesia.

Approach

In this dissertation research, the approaches used are:

- a. Philosophical Approach, is a research to find the justification, why nursing practice in Indonesia is formulated or formed in such a way. This approach is used to answer the problem 1.
- b. Conceptual Approach (Conceptual Approach), is an approach that examines the conceptual views of experts related to the problem being discussed. This approach is used to answer problems 2 and 3.
- c. Comparative Approach, is an approach that compares the legal system or laws of a country with the legal system or laws of one or more other countries regarding the same matter, including court decisions.²³ This comparison is needed in order to find out the similarities and differences of the legal system or Nursing Law in Indonesia with other countries. This approach is used to answer problems 1, 2, and 3.
- d. Statutory Approach is conducted to examine all laws and regulations related to the issues discussed. This approach is to answer problem 3.

Types and Sources of Legal Materials

The legal materials required in this dissertation research come from:

- a. Primary legal materials, in this study the legal materials that will be used in analyzing the problem are legal materials sourced from the Basic Law (staat fundamental norm), health law, medical law, nursing law, hospital law, health worker law, employment law, consumer protection law, Omnibus law and related laws and regulations.
- b. Secondary legal materials are legal materials that aim to provide an explanation of primary legal materials. Secondary legal materials such as health bill drafts, medical bill drafts, nursing bill drafts and legal science books. Research results in journals and magazines, and other legal writings such as scientific opinions of legal experts.
- c. Non-legal materials are legal materials that are of a supporting nature to primary legal materials and secondary legal materials, such as legal dictionaries, language dictionaries, encyclopedias, newspaper articles and/or magazines.

Legal Material Collection Techniques

The technical collection of legal materials in this study is a literature study (bibliography study) through the collection of legal materials as written information originating from various legal sources in the form of legislation, jurisprudence, conventions, legal science books, legal journals, and legal reviews, then the technical collection of legal materials in this study also uses documentation studies, namely by recording information from legal materials related to legal reconstruction in the regulation and supervision of nursing practices in Indonesia, normatively or ideas or ideas. The recording is carried out carefully and selectively which will support and complement legal materials obtained from other sources.

Legal Material Analysis

All legal materials obtained from the literature will then be analyzed by building arguments based on logic, through interpretation or interpretation of various legal materials, so that accurate and comprehensive answers to problems related to legal reconstruction in the regulation and supervision of nursing practices in Indonesia are obtained.

RESULTS AND DISCUSSION

The Nature of Nursing

In essence, nursing as a profession always serves humanity, prioritizing the health interests of clients above their own interests, the form of service is humanistic, using a holistic approach, implemented based on nursing science and tips and using a code of ethics as the main requirement in implementing nursing care. The professional relationship between nurses and clients which essentially refers to a positive interaction system between nurses and clients or establishing a therapeutic relationship which means that every interaction carried out provides a therapeutic impact that allows clients to develop better. By creating a professional nurse-client relationship, nurses as providers of nursing services or nursing practitioners will gain trust (professional trust)

According to the Indonesian Ministry of Health 1983, the essence of nursing is a form of professional service that is an integral part of health services based on nursing science and tips in the form of comprehensive bio psycho social spiritual services aimed at individuals, groups and communities, both sick and healthy, which cover the entire process of human life. Nursing services provided are based on nursing science and tips that integrate attitudes, intellectual abilities, and technical skills of nurses into the desire and ability to help others, both sick and healthy, in order to be able to meet their health needs.

In general, nursing has its own nature, namely: First, as a science and art. It is something that in its application is more towards applied science by using knowledge, concepts and principles and considering art in meeting basic human needs and various groups of sciences including basic natural sciences, behavioral sciences, social sciences, clinical and community nursing sciences and in practice using a scientific approach that is oriented towards the problem-solving process in order to meet basic human needs. Second, as a profession that is oriented towards

service, then in its daily life nursing tries with all actions or activities to help clients or humans in overcoming the effects of health or illness problems in their lives to achieve well-being. Third, it has three means in nursing services, including individuals, families and communities as clients. Fourth, nursing services cover the entire range of health services.

Philosophy of Nursing

It is a basic view of the nature of humans and the essence of nursing that becomes the basic framework in nursing practice. The nature of humans as biopsychosocial and spiritual beings, in essence nursing is a science and a skill, a profession that is oriented towards service, has a client level (individual, family, group and community) and services that cover the entire range of health services as a whole. The nature of nursing is as follows:²⁴

- As a science and art, it is a science which in its application is more towards applied science.
- As a profession that is oriented towards service to help people overcome health and illness problems in life to achieve well-being.
- As a health service that has three targets, including individuals, families and communities as clients.
- As a Collaborator with other health teams. By having a health coaching program, disease prevention, early diagnosis of healing and rehabilitation and disability limitation.

While the essence includes:

- Viewing patients as whole (holistic) beings whose biopsychosocial and spiritual needs must be met in a comprehensive manner and cannot be done unilaterally or partially.
- The form of nursing services must be provided directly while paying attention to humanitarian aspects.
- Everyone has the right to receive care regardless of ethnicity, beliefs, social status, religion and economics.
- These nursing services are an integral part of the health service system considering that nurses work within a health team and not alone.
- The patient is active partners in health services, not passive recipients of services.

The Relevance of Philosophy of Science to Nursing

Nursing philosophy is a basic belief about nursing knowledge. Nursing which contains the basic understanding of human biology and their behavior in healthy and sick conditions, especially focusing on their responses to situations.²⁵

Nursing Philosophy aims to guide nursing activities carried out. Nursing adopts a holistic view of humans, namely bio-psycho-social-spiritual human needs. Nursing activities are carried out with a humanistic approach, in the sense of appreciating and respecting human dignity, paying attention to clients and upholding justice for fellow human beings. Nursing is universal in the sense that it does not differentiate between race, gender, age, skin color, ethics, religion,

political affiliation, and socio-economic status. Nursing philosophy examines the causes and laws underlying reality, as well as curiosity about the picture of something that is more based on logical reasons than empirical methods.

Nursing philosophy is the basic thinking that nurses must have as a framework for thinking, decision making and acting given to clients in the range of health and illness, which views humans as holistic beings, whose biological, psychological, social, cultural and spiritual needs must be met through comprehensive, systematic, logical nursing care efforts, by paying attention to the humanitarian aspect that every client has the right to receive care without distinguishing between ethnicity, religion, social and economic status. The difference between nursing philosophy and the philosophy of other disciplines.

Role, Function and Authority of Nurses Based on Statutory Provisions in Indonesia

According to the Indonesian Minister of Health Regulation HK.02.02/MenKes/148/1/2010 concerning the permit and implementation of nursing practice, a nurse is someone who has graduated from nursing education, either domestically or abroad in accordance with the provisions of the law. A nurse is someone who has completed a nursing education program, is authorized in the relevant country to provide services, and is responsible for improving health, preventing disease and serving patients.²⁶

According to Henderson, nurses have a unique function, namely helping individuals who are healthy or sick, from birth to death, to be able to carry out daily activities independently, using their strength, will, or knowledge. Meanwhile, in the General Provisions of Article 1 paragraph 1 of Law Number 38 of 2014 concerning Nursing, what is meant by "a nurse is someone who has graduated from higher education in nursing, either domestically or abroad, which is recognized by the government in accordance with statutory provisions".²⁷ So a nurse is someone who has graduated from nursing education and has the ability and authority to carry out nursing actions based on their field of knowledge and provide holistic and professional health services for healthy and sick individuals. Nurses are obliged to fulfill patient needs including bio-psycho-socio and spiritual.

Furthermore, in the nursing aspect, it cannot be separated from the role of nurses in carrying out their profession. Role is a set of behaviors expected by others towards a person, according to their position in a system. Roles are influenced by social conditions both from within and from outside and are stable. So the role of nurses in question is a way to unite nursing activities in practice, where they have completed their formal education which is recognized and authorized by the government to carry out nursing duties and responsibilities professionally in accordance with the nursing code of ethics.

In providing nursing services/care, nurses pay attention to individuals as holistic and unique beings. Their main role is to provide nursing care to clients including: nursing treatment, observation, health education and carrying out medical treatment in accordance with the delegation given.²⁸

Principles of Nursing Practice

Nursing Practice is a service provided by nurses in the form of nursing care (Law 38/2014). Nursing as an integral part of health services in Indonesia, realizes that the need for nursing services is universal for clients (individuals, families, groups and communities), therefore the services provided by nurses are always based on noble ideals, pure intentions for the safety and welfare of the people without distinguishing nationality, ethnicity, skin color, age, gender, political and religious beliefs and social status. Therefore, the arrangement of nursing practices is based on; humanity, scientific values, ethics, benefits, justice, protection, health and safety of clients.²⁹

1. Humanity; what is meant by "principle of humanity" is a principle that must reflect the protection and respect of human rights and the dignity of every citizen and resident without distinguishing between ethnicity, nation, religion, social status, and race.
2. Scientific value, what is meant by "scientific value" is that nursing practice is carried out based on scientific knowledge and technology obtained, either through research, education or practical experience.
3. Ethics and professionalism, what is meant by "principles of ethics and professionalism" is that the regulation of nursing practice must be able to achieve and improve the professionalism of nurses in carrying out nursing practice and have professional ethics and a professional attitude.
4. Benefits; this principle aims for nursing to provide the greatest possible benefits to humanity in order to maintain and improve the health of the community.
5. Justice; what is meant by "principle of justice" is that nursing must be able to provide equitable, affordable, quality and non-discriminatory services in health services.
6. Protection; namely, the regulation of nursing practice must provide the greatest possible protection for nurses and the community.
7. Client health and safety. What is meant by "principle of client health and safety" is that nurses in providing nursing care must prioritize the health and safety of clients.

Development of Nursing in Indonesia

Like the development of nursing in the world in general, the development of nursing in Indonesia was also influenced by socio-economic conditions, namely the colonization of the Dutch, British and Japanese colonial governments and the situation of the Indonesian government after Indonesia's independence. The development of nursing in Indonesia is basically divided into the period before independence and the period after independence (old order and new order).³⁰

During the Dutch colonial period, nurses came from the native population called *velpleger* assisted by *zieken oppaser* as caregivers for the sick. They worked at the Binnen Hospital in Jakarta which was established in 1799 to maintain the health of Dutch staff and soldiers. The efforts of the Dutch colonial government in the health sector at that time included: the Army

Health Service which in Dutch was called the Military Gezondheids Dienst and the People's Health Service or Burgerlijke Gezondheids Dienst. The establishment of this hospital included Daendels' efforts to establish hospitals in Jakarta, Surabaya and Semarang, but it was not followed by significant developments in the nursing profession because its purpose was solely for the benefit of the Dutch army.

When the VOC was in power, the British Governor General Raffles (1812-1816) paid great attention to the health of the people. Starting from his motto "Health belongs to mankind", he made various efforts to improve the health of the indigenous population. Actions taken included: general vaccination, improving the way of treating patients with mental disorders and paying attention to the health and care of prisoners.³¹

After the colonial government returned to the hands of the Dutch, efforts to improve the health of the population progressed. In Jakarta in 1819 several hospitals were established, one of which was the Stadsverband Hospital located in Glodok (West Jakarta). In 1919 this hospital was moved to Salemba and is now called Cipto Mangunkusumo Hospital (RSCM). Currently RSCM is a national referral center and national education. During this period (1816-1942), several private hospitals owned by Catholics and Protestants were also established, for example: the Indonesian Church Association (PGI) Hospital Cikini-Central Jakarta, St. Carolus Hospital Salemba-Central Jakarta, St. Boromeus Hospital in Bandung and Elizabeth Hospital in Semarang. Along with the establishment of the above hospitals, nursing schools were established. PGI Cikini Hospital in 1906 organized nursing education, then RSCM organized nursing education in 1912.

The defeat of the allied forces and the arrival of Japan (1942-1945) caused the development of nursing to decline. If the Renaissance had a negative impact on the development of British nursing, then the Japanese occupation was a dark period for the world of nursing in Indonesia. Nursing work during the Dutch and British eras was done by educated nurses, while during the Japanese era, the nursing duties were not carried out by people who had been educated to become nurses. Hospital leaders were also taken over from the Dutch to the Japanese. At that time, medicines were very minimal, so that disease outbreaks appeared everywhere. Bandage materials were also limited, so banana leaves and banana stems were used as bandage materials.

The development of the health sector began in 1949. Hospitals and medical centers began to be built. In 1952, nursing schools were established, namely the Nurse Teacher School and the Junior High School Nursing School. Professional nursing education began to be established in 1962 with the establishment of the Nursing Academy owned by the Ministry of Health in Jakarta to produce beginner professional nurses. Almost at the same time, Amper owned by the Ministry of Health was also established in Ujung Pandang, Bandung and Palembang.

In Indonesia, nursing has achieved very significant progress and even a great leap forward. This began with the achievement of a joint agreement at the National Nursing Workshop in January 1983 which accepted nursing as a professional service and nursing education as professional education. In the 1983 Nursing Workshop, the basics for the development of Higher Nursing Education were formulated and compiled. As a realization, the curriculum for

the D-III Nursing education program was compiled, and continued with the compilation of the curriculum for the Bachelor of Nursing (S1) education.

The development of professional nursing services cannot be separated from professional nursing education. Nursing education is no longer vocational education but aims to produce nursing personnel who master the science of nursing who are ready and able to carry out professional nursing services/care to the community. The level of nursing education has even reached the Doctoral level. Higher nursing education is expected to produce professional nursing personnel who are able to carry out renewal and improvement of the quality of nursing services/care, as well as the arrangement of the development of the nursing profession. The development of nursing is not only due to the shift in health problems in society, but also the pressure of the development of nursing science and technology and the development of the nursing profession in facing the era of globalization.

The establishment of the Nursing Science Study Program (PSIK) in 1985 was a momentum for the revival of the nursing profession in Indonesia. As the embryo of the Faculty of Nursing, this institution was pioneered by Indonesian nursing figures, including Achir Yani S, Hamid, DN. Sc; the late Dra. Christin S Ibrahim, MN, Phd; Tien Gartinah, MN and Dewi Irawaty, MA, assisted by several experts from the Health Science Consortium and nine nursing experts from the World Health Organization (WHO). In 2000, the Nursing Science Study Program (PSIK) began to appear at various universities in Indonesia (Airlangga University, Gajah Mada University, Hasanudin University, Andalas University and University).

In 1974, precisely on March 17, the Indonesian National Nurses Association (PPNI) was founded. As a fusion of several previously existing nursing organizations, PPNI experienced several changes in the form and name of the organization. The embryo of PPNI was the Association of Verpleger Boemibatera (PKVB) in 1921. At that time, the nursing profession was highly respected by the community regarding the noble task carried out in caring for the sick. The birth of the 1928 Youth Pledge, encouraged the change of name of PKVB to the Association of Verpleger Indonesia (PKVI). This name change was related to the spirit of nationalism. PKVI survived until 1942 in connection with Japan's victory over the Allies.

Along with the proclamation of independence on August 17, 1945, professional nursing organizations grew. Three professional organizations that existed between 1945-1954 were the Indonesian Health Care Professionals Association (PDKI), the Islamic Nursing Professionals Association (Perjurais) and the Health Workers Union (SBK). In 1951, there was a renewal of the nursing professional organization, namely the fusion of existing organizations into the Indonesian Health Care Professionals Association (PDKI) as an effort to consolidate professional organizations without including SBK because it was involved in the Indonesian Communist Party (PKI) rebellion.

In the period 1951-1958 a congress was held in Bandung and the name of PDKI was changed to Persatuan Pegawai Dalam Kesehatan (PPDK) with membership not only from nurses. In 1959-1974 there was a grouping of nursing organizations including the Indonesian Women Nurses Association (IPWI), the Indonesian Nurse Teachers Association (IGPI) and the

Indonesian Nurses Association (IPI) in 1969. Finally on March 17, 1974 all nursing organizations except the Health Workers Union merged into one national professional organization called the Indonesian National Nurses Association (PPNI). This name is the one that is officially used as the name of the Indonesian nursing professional organization until now.

Challenges in Nursing Education in Indonesia

The recognition of the nursing body of knowledge in Indonesia began in 1985, when the nursing study program was first opened at the Faculty of Medicine, University of Indonesia. With the recognition of the body of knowledge, the nursing profession is no longer considered an occupation, but a profession that is equal to other professions in Indonesia. In 1984, a curriculum was developed to prepare nurses to become professional workers, teachers, managers, and researchers. This curriculum was implemented in 1985 as the Nursing Study Program at the Faculty of Medicine, University of Indonesia. In 1995, the study program became independent as the Faculty of Nursing, its graduates are called nurses or professional nurses. The Postgraduate Nursing Program began in 1999. Now there is a Masters Program in Nursing and a Specialist Program in Medical-Surgical, Community, Maternity, Child and Mental Nursing.³²

Since 2000, there has been a euphoria of the Establishment of Nursing Institutions, both at the Diploma III (nursing academy) and Strata I levels. The growth of nursing institutions in Indonesia has become uncontrollable. Like mushrooms in the dry season. This means that in times of difficult employment, the production process of nursing personnel has actually increased rapidly. Worse still, the facts on the ground show that the organizers of higher nursing education come from pure business people and from non-nursing professions, so that understanding of the nature of the nursing profession and the direction of development of nursing universities is poorly understood. Not to mention the infrastructure tends to be forced, if any, it is very limited. Currently in Indonesia there are 32 Health Polytechnics and 598 Nursing Academies that are regionally owned, ABRI and private (DAS) which have produced around 20,000 - 23,000 nursing graduates each year. When compared to the number of needs to support a healthy Indonesia 2010 of 6,130 people each year, there will be a surplus of around 16,670 nurses each year.³³

One of the toughest challenges is improving the quality of Human Resources (HR) of nursing staff, which although in terms of quantity is the largest number of health workers and has the longest contact with patients, in terms of quality it is still far from the expectations of the community. The macro indicator is that the average level of formal education of nurses working in health service units (hospitals/health centers) is only SPK graduates (equivalent to high school/high school). Departing from this condition, in the period 1990-2000 with financial assistance from the World Bank, through the "health project" (HP V) program, a special D III nursing class was opened in almost every district. In addition, the World Bank also provides assistance to improve the quality of teachers and lecturers through the "GUDOTEN" program. This program is an acceleration to upgrade the level of education of nurses from an average of only having an SPK educational background to a Diploma III (Nursing Institution). Another

objective of this program is expected to be able to reduce the gap between nurses and doctors so that nurses are no longer extensions of doctors (Extended physicians arms) but can become working partners in providing health services.

Government policies related to the nursing education system in Indonesia are Law no. 2 of 1989 concerning national education, Government Regulation no. 60 of 1999 concerning higher education and the Decree of the Minister of National Education no. 0686 of 1991 concerning Guidelines for the Establishment of Higher Education (Munadi, 2006). The development of a quality nursing higher education system is a way to produce professional nursing personnel who meet global standards. Other things that can be done to improve the quality of nursing education graduates are:³⁴

1. Standardization of levels, quality, curriculum of educational institutions.
2. Changing the language of instruction in nursing education by using English. All lecturers and teaching staff in nursing education institutions must be able to speak English actively,
3. Closing down unqualified nursing institutions.
4. The institution must be led by a person with a nursing education background.
5. Institutional managers should provide their own color in the institution in the form of local content, for example emergency nursing, pediatric nursing, coronary nursing.
6. Curriculum standardization and ongoing evaluation of teaching staff in nursing education institutions.
7. The Department of Education, Department of Health, and professional organizations and other sectors involved starting from the licensing process also have a moral responsibility to provide guidance.

Challenges in Nursing Practice Settings

Nursing practice is an independent action by nurses through collaboration with the client system and other health workers in providing nursing care according to the scope of their authority and responsibility in various service settings, including individual and group nursing practice.

The regulation of the implementation of nursing practice aims to provide protection and legal certainty to recipients and providers of nursing services. Maintaining and improving the quality of nursing services provided by nurses.

There are several reasons why the Nursing Practice Law is needed: First, philosophical reasons. Nurses have made a major contribution to improving health. Nurses play a role in providing health services ranging from government and private services, from urban to remote villages and borders. However, this dedication has not been balanced with the provision of legal protection, and even tends to be an object of law. Nurses also have scientific competence, rational, ethical and professional attitudes, a high spirit of dedication, are disciplined, creative, skilled, have noble character and can uphold professional ethics. In addition, this Law has

objectives, a clear scope of the profession, the absoluteness of the profession, the common interests of various parties (society, profession, government and other related parties), balanced representation, optimization of the profession, flexibility, efficiency and harmony, universality, justice, and equality and inter professional suitability (WHO, 2002).

Second, legal reasons. The 1945 Constitution, Article 5, states that the President holds the power to form laws with the approval of the House of Representatives. Likewise, Law Number 23 of 1992, Article 32, explicitly states that the implementation of treatment and/or care based on medical science and/or nursing science, can only be carried out by health workers who have the expertise and authority to do so. Meanwhile, Article 53 states that health workers have the right to obtain legal protection in carrying out their duties in accordance with their profession. In addition, Article 53 states that health workers in carrying out their duties are obliged to comply with professional standards and respect patient rights. On the other hand, technically it has been in effect.³⁵

Third, sociological reasons. The community's need for health services, especially nursing services, is increasing. This is because there is a paradigm shift in the provision of health services, from a medical model that emphasizes services on disease diagnosis and treatment, to a more holistic healthy paradigm that views disease and symptoms as information and not as the focus of service. In addition, the community needs easily accessible nursing services, quality nursing services as an integral part of health services, and legal certainty for the provision and implementation of nursing services.

Nursing is one of the professions in the world of health. As a profession, of course the services provided must be professional, so nurses must have competence and meet the standards of nursing practice, and pay attention to the code of ethics and professional morals so that the community receives quality nursing services and care. But if we look at the existing reality, the world of nursing in Indonesia is very concerning. The phenomenon of "gray areas" in various types and levels of nursing that exist as well as with other health professions is still difficult to avoid.

In an emergency like this, the so-called "gray area" is often difficult to avoid. So nurses whose job is to be beside clients for 24 hours often experience client emergencies while there is no doctor on duty. This forces nurses to take medical actions that are not within their authority for the safety of the client. Actions taken without delegation and instructions from a doctor, especially in health centers that only have one doctor who functions as the health center manager, often create situations that require nurses to take medical action. This phenomenon has certainly been encountered often in various health centers, especially in remote areas. With this transfer of function, it is certain that the function of nurses will be neglected. And of course this does not receive legal protection because it is not professionally accounted for.

Then the phenomenon of weakening public trust and the rampant legal demands on the practice of health workers including nursing, are often identified with the failure of health service efforts. Only nurses who meet the requirements are allowed to practice nursing.

Currently, the pressure from all elements of nursing for the need for a Nursing Law is increasing. The description above is sufficient to illustrate how important the Nursing Law is not only for nurses themselves, but also for the community as recipients of nursing care. Since the 1983 National Nursing Workshop was held which determined that nursing is a profession and nursing education is in higher education, various methods have been carried out to advance the nursing profession.

In 1989, PPNI as a nursing organization in Indonesia began to fight for the formation of the Nursing Law. Various important events occurred in the effort to make this Nursing Law a success. In 1992, the Health Law was passed, which recognized nursing as a profession (Health Law No. 23, 1992).³⁶ This event is significant, because previously the recognition that nursing was a profession was only stated in government regulations (PP No. 32, 1996). And the proposed Nursing Law was only ratified as the Nursing Bill in 2004.

We need to know that to make a law can be done in 2 ways, namely through the government (UUD 1945 Article 5 paragraph 1) and through the DPR (State Legislative Body). For almost 20 years, PPNI has been fighting for the Nursing Bill through the government, in this case the Indonesian Ministry of Health. The funds spent are not small. But in reality, until now the Nursing Bill is ranked 250 in the National Legislation Program (Prolegnas), which in 2007 was ranked 160 (PPNI, 2008).

State Responsibility for Nursing

Human Rights have been substantially regulated in the 1945 Constitution of the Republic of Indonesia. One of the human rights regulated is the right to health. Article 28H, paragraph (1) of the 1945 Constitution, states firmly that "everyone has the right... to obtain health services".³⁷ With the inclusion of the right to health into the constitution, the right to health is officially a positive legal right protected by the government and the government is obliged to fulfill the health rights of its citizens through real and concrete efforts. The right to health has a broader scope, it does not only concern the rights of individuals per se, but includes all factors that contribute to a healthy life (healthy self) for individuals, such as environmental issues, nutrition, housing and others. While the right to health and the right to medical services which are patient rights, are more specific parts of the right to health.

It has become a consensus in the Indonesian constitution that the right to health is a fundamental human right. The basic philosophy of guaranteeing the right to health as a human right is the *raison d'être* of human dignity.³⁸ Health is a fundamental right of every human being. Therefore, every individual, family and society has the right to obtain protection for their health, and the government is responsible for regulating and protecting so that the community's right to a healthy life is fulfilled, including the poor who cannot afford it. To ensure that health rights can be fulfilled, the 1945 Republic of Indonesia Constitution, Article 34 paragraph (3) emphasizes that:

*"The state is responsible for providing health service facilities..."*³⁹ Article 28H paragraph (3) mandates that: "Everyone has the right to social security that enables the development of oneself fully as a dignified human being."

The provisions of Article 28H paragraph (3) are related to Article 34 paragraph (2) which reads: "The state develops a social security system for all people and empowers weak and disadvantaged communities in accordance with human dignity."

The Constitution has mandated that the provision of health facilities is the responsibility of the state, and the state is also responsible for ensuring that the public can access these health service facilities.

The existence of provisions regarding social welfare in the 1945 Constitution of the Republic of Indonesia is the embodiment of the concept of a welfare state (welvaart staat or welfare state), the state actively participates in the welfare of its people (welfare state)⁴⁰, or known as verzorgingsstaat, or sociale rechtsstaat (social legal state), where the state is required to realize welfare and social justice for all its people.⁴¹

With the enactment of Law Number 40 of 2004 concerning the National Social Security System (SJSN), it is strong evidence that the government and related stakeholders have a great commitment to realizing social welfare for all its people. Through SJSN as a form of social protection, it is essentially aimed at ensuring that all people can meet their basic needs for a decent life. Types of social security programs include:

- a. health insurance;
- b. accident insurance;
- c. pension plan;
- d. pension guarantee; and
- e. death guarantee.⁴²

Law Number 11 of 2009 concerning Social Welfare. Article 4 states that: "The state is responsible for organizing social welfare". The provisions of Article 9 paragraph (1) letter a state that: Social security is intended to: "guarantee the poor, abandoned orphans, abandoned elderly, physically disabled, mentally disabled, physically and mentally disabled, former chronic disease sufferers who experience socio-economic disability problems so that their basic needs are met". Article 10 paragraph

Reads: "Social welfare insurance is organized to protect citizens who are unable to pay premiums so that they are able to maintain and preserve their level of social welfare."

Law Number 40 of 2004 concerning the SJSN, has mandated in Article 5 paragraph (1) in conjunction with Article 52 to accelerate the formation of the Social Security Administration Agency by law. On the date

On November 25, 2011, Law Number 24 of 2011 concerning the Social Security Administration Agency (BPJS Law) was enacted.

Since the enactment of Law Number 40 of 2004 concerning the SJSN, the social security program has been implemented by 4 (four) implementing bodies, as follows:

1. Social Security Company for Workers (Jamsostek);
2. Civil Servant Savings and Insurance Fund (TASPEN) Limited Liability Company (Persero);
3. Indonesian Armed Forces Insurance Company Limited (ASABRI);
4. Health Insurance Limited Liability Company (ASKES).

With the enactment of Law Number 24 of 2011 concerning the Social Security Administering Body (BPJS). The Social Security Administering Body, originally consisting of 4 (four) Social Security Administering Bodies, will then transform into 2 (two) Administering Bodies and be in the form of a public legal entity, namely: (a) BPJS Kesehatan; and

(b) BPJS Employment.⁴³

Health insurance developed by the Government is health insurance based on the SJSN Law and the BPJS Law. Health insurance formulated by the SJSN Law is health insurance organized nationally based on the principles of social insurance and equity principles. Article 19 states that "Health insurance is organized with the aim of ensuring that participants receive health care benefits and protection in meeting basic health needs". Basic health needs are the need for health services that allow a sick person to recover so that he can function normally according to his age.

In the implementation of health insurance, three important elements need to be considered, namely: (a) how funds are collected; (b) how risks are shared; and (c) how the funds collected are used as efficiently and effectively as possible.⁴⁴

The National Social Health Insurance (JKSN) program is intended to provide comprehensive health service benefits, ranging from preventive services such as immunization and family planning to catastrophic disease services such as heart disease and kidney failure. Both government and private health service institutions can provide services for the program as long as they sign a cooperation contract with the government.⁴⁵

According to General Comment Number 14 on Article 12 of the International Covenant on Economic, Social and Cultural Rights on the Right to the Attainment of a High Standard of Health, it states that guarantees of access to adequate health services include financial accessibility, namely that health services must be affordable for all citizens.⁴⁶ Therefore, the government is bound by the responsibility to ensure the availability of financial resources for the provision of adequate health services so that they are affordable for all levels of society.

Law Number 40 of 2004 concerning the National Social Security System (SJSN), explains that the state's responsibility in fulfilling citizens' access to health is to issue a health insurance policy or program that is fair and accessible to all citizens. The government is obliged to formulate and implement a policy of a fair insurance guarantee system for citizens, including health insurance for citizens.

The provisions in Article 57 of Law Number 36 of 2009 concerning Health are: (1) Every person is willing to keep confidential their personal health condition that has been disclosed to health service providers; (2) The provisions regarding the right to confidentiality of personal health conditions as referred to in Paragraph (1) do not apply.

The rights and obligations of nurses are determined in the Decree of the Minister of Health 1239/2001 and the Decree of the Director General of Medical Services No. YM00.03.2.6.956 which was stipulated in Jakarta on October 19, 1998.

Based on the decision of the Director General of Medical Services, nurses have the following rights and obligations: Nurses' rights, consisting of: 1) obtaining legal protection in carrying out duties in accordance with their profession; 2) developing themselves through specialized skills according to their educational background; 3) rejecting the wishes of clients/patients that are contrary to laws and regulations, professional standards, and professional codes of ethics; 4) being treated fairly and honestly by the hospital, clients/patients, and/or their families; 5) increasing knowledge based on developments in science and technology in the field of nursing; 6) obtaining complete information from clients/patients who are dissatisfied with their services; 7) receiving guaranteed protection against work risks related to their duties; 8) being included in the preparation/determination of hospital service policies; 9) having their privacy respected and having the right to sue if their good name is tarnished by clients/patients or their families and other health workers; 10) refusing other parties who provide recommendations/requests to take actions that are contrary to laws and regulations, professional standards, and codes of ethics; 11) receive appropriate awards/rewards for their professional services in accordance with the regulations/provisions applicable in the hospital; 12) receive the opportunity to develop a career in accordance with their professional field.

Nurses' Obligations, consist of: 1) complying with all hospital regulations in accordance with the relationship between employees and the hospital; 2) entering into a written agreement with the hospital; 3) fulfilling matters that have been agreed upon/agreements that have been made; 4) providing nursing services/care in accordance with professional standards and the limits of their authority; 5) respecting the rights of patients/clients; 6) referring clients/patients to other nurses/health workers who have better expertise/abilities; 7) providing opportunities for clients/patients to always be able to stay in touch with their families, to practice their religion as long as it does not conflict with health service provisions; 8) providing adequate information about nursing actions to clients/patients or their families in accordance with the limits of their authority; 9) making accurate and continuous documentation of nursing care; 10) improving the quality of nursing services in accordance with nursing professional standards; 11) continuously following developments in nursing science and technology; 12) providing emergency assistance in accordance with the limits of their authority; 13) keep confidential everything he knows about the client/patient, even after the client/patient dies, unless requested by the authorities.

Based on the Decree of the Minister of Health 1239/2001, the rights and obligations of nurses are as follows: Obligations of nurses: 1) have a permit to work or to practice nursing (for nurses who graduated from abroad, they must first adapt) (Articles 1, 3, 6, 8); 2) assist government

programs in the health sector (Article 18); 3) improve the quality of professional services (for practicing nurses) (Article 19); 4) include a nurse's practice permit in their practice room (Article 21); 5) meet the requirements for quality of service in the form of the availability of minimum facilities and infrastructure for (practicing nurses) (Articles 22, 23), and practice in accordance with the provisions of laws and regulations (Article 30); 6) collect a number of credit points (provisions of the Minister of Administrative and Bureaucratic Reform 94/2001); 7) carry out nursing functions based on the provisions of the Guidelines of the Minister of Health 1239/2001.

Nurses' Rights, Minister of Health Decree 1239/2001 does not specify nurses' rights explicitly and in detail. Minister of Health Decree 1239 specifies the authority of nurses in carrying out nursing practice in Articles 15 and 20. Article 15 specifies the rule that nurses in carrying out nursing practice have the authority to: 1) carry out nursing care which includes assessment, determination of nursing diagnosis, planning, carrying out nursing actions and nursing evaluation; 2) nursing actions as referred to in point (1) include: nursing intervention, nursing observation, health education and counseling; 3) in carrying out nursing care as referred to in numbers (1) and (2) must be in accordance with the nursing care standards set by professional organizations; 4) medical action services can only be carried out based on a written request from a doctor.

Article 20 determines the following rules: 1) in an emergency situation that threatens the life of a patient/client, the nurse is authorized to carry out service actions outside the authority as referred to in Article 15; 2) services in an emergency as referred to in paragraph (1) are intended to save lives. Authority, which contains the freedom to carry out or not carry out the abilities inherent in a person's position, as with rights, something that can be demanded to be fulfilled by another person/party, both authority and rights, there is no obligation for the owner to carry them out.

CONCLUSION

In essence, nurses as a profession always and always serve sincerely to fellow human beings, prioritizing the interests of nursing assistance and patient health above their own personal interests, which are in the form of bio-psychosocial-spiritual cultural humanistic services using a holistic approach, based on nursing science and tips, and using the Nursing Code of Ethics as the main requirement in implementing Nursing Care.

In essence, the professional relationship between nurses and patients is a relationship in the nurse-patient interaction system in a therapeutic nursing relationship that every therapeutic nursing interaction between nurses and patients that is carried out should be expected to have an impact on changes towards healing patients to develop better. As one of the obligations of nurses in providing nursing services to patients is to carry out effective therapeutic communication as a reciprocal forum for nurses and patients who develop and prioritize a sense of family in nursing so that professional trust is created which has an impact on optimizing the healing of patients and their families. The essence of nursing which is currently believed to be a form of professional service which is an integral part of health services based on nursing

science and skills in the form of comprehensive bio-psycho-social-spiritual-cultural services aimed at individuals, families, groups and communities, both sick and healthy, which covers the entire cycle of human life processes.

Footnotes

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