

Analysis Juridical Legal Protection to Nurse by Association Indonesian National Nurse (PPNI) Post Republic of Indonesia Law Number 17 of 2023 concerning Health

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Abstract

Post ratified Republic of Indonesia Law Number 17 of 2023 concerning Health, Law Nursing has abolished with ratified Republic of Indonesia Law Number 17 of 2023 concerning Health, so moment This existence The PPNI organization does not arranged , so remove his role For give protection law to nurse and be worry for nurse in operate task diverse health services potency problem . Study This discuss about Nurses' Rights and Obligations As Health Workers in Providing Health Services, Position Organization Unity Indonesian National Nurse (PPNI) Post Republic of Indonesia Law Number 17 of 2023 concerning Health, Legal Protection for Nurses By Organization Unity Indonesian National Nurse (PPNI) Post Republic of Indonesia Law Number 17 of 2023 concerning Health with use method *Normative* juridical research is research that reveals a problem, situation or event by providing a comprehensive, broad and in-depth assessment from the perspective of legal science, namely by examining legal principles, legal rules and legal systematics. This moment Legal Protection for Nurse only implied in a way general in Article 273 (1) of the Health Law states Medical Personnel and Health Workers in carrying out practice entitled: a. get legal protection throughout carry out duties in accordance with professional standards, professional service standards, standard procedures operations, and professional ethics, as well as needs Patient Health . This Legal Protection can provided by the Organization Known nurse with Unity Indonesian National Nurse (PPNI) as arranged Article 41 of Republic of Indonesia Law Number 38 of 2014 concerning Nursing and its explanation which emphasizes "What is meant with Organization Nurse is Organization Profession Nurse is Unity Indonesian National Nurse (PPNI)". Based on condition this is very unfortunate PPNI's role is not arranged Again in Republic of Indonesia Law Number 17 of 2023 concerning Health, though so PPNI as organization Profession has have a legal entity as receptacle independence united and gathered and issued thought as mandate the Republic of Indonesia constitution in Article 28 and Article 28E paragraph (3) of the 1945 Constitution get protection law from organization the place shelter so that can operate its function that is give protection law to Its members are nurses throughout Indonesia.

Keyword: Legal Protection, Nurses, PPNI

1. INTRODUCTION

Preamble to the Constitution Year 1945 clearly stated the ideals of the Indonesian people which were also the national goals of the Indonesian people. The national goal is to protect the entire Indonesian nation and all of Indonesia's blood, promote general welfare, educate the life of the nation and participate in implementing world order based on freedom, eternal peace and social justice. This is a form of National Development. Health development is part of national development which is aimed at increasing awareness, willingness and ability to live healthily for everyone in order to achieve the highest level of public health, as an investment for the development of productive human resources. For reach objective the so every citizens

have the right on protection law, incl Nurses in Indonesia so they can give health services to public with comfortable and full responsibility through his organization. Maintenance development health covers health efforts and resources its power must done in a way integrated and sustainable across various fields and progress knowledge knowledge and technology has increase level well-being society and awareness will life Healthy. This matter influence increasing need services and equality that includes manpower, facilities and infrastructure good amount even so quality. Therefore That required arrangement for protect giver and recipient service service medical. The state's responsibility in providing public services is contained in the 4th paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution) which confirms that the aim of the establishment of the Republic of Indonesia was to advance general welfare and educate the life of the nation. The mandate in these provisions is contained in the constitution as the highest law (*supreme law of the land*) means that the State is obliged to meet the needs of every citizen through a government system that supports the creation of public services in order to fulfill the basic needs and civil rights of every citizen as stated in Article 28H paragraph (1) of the 1945 Constitution. "Everyone has the right to live prosperous physically and mentally, have a place to live, and have a good and healthy living environment and have the right to receive health services." Furthermore in context health services, then power health can gather in something organization his profession as receptacle Independence United and Gathered and Issued Thought as mandate the Republic of Indonesia constitution in Article 28 and Article 28E paragraph (3) of the 1945 Constitution get protection law from organization the place take shelter. Definition Nurses according to Article 1 (2) of Republic of Indonesia Law Number 38 of 2014 concerning Nursing (hereinafter referred to as the Nursing Law) which has been revoked with enactment Republic of Indonesia Law Number 17 of 2023 concerning health (next called the health law) states, confirms and defines that a nurse is someone who has graduated from higher education in nursing, both at home and abroad, which is recognized by the government in accordance with the provisions of statutory regulations. Article 36 letter a of the Law Nursing also emphasizes that nurses in carrying out nursing practice have the right to obtain legal protection as long as they carry out their duties in accordance with service standards, professional standards, standard operational procedures. Protection law this can also be provided by the organization his profession that is Indonesian National Nurses Association (next abbreviated with PPNI). This freedom of organization is an important component for democracy because it empowers everyone to express opinions. The right to organize includes the right to form an organization and join an organization. "The right to organize guarantees the protection of freedom in choosing the organization that each person wants," said Sandrayati Moniaga, Commissioner for Studies and Research at Komnas HAM.

The previous position of the PPNI organization was regulated and stated firmly in the Nursing Law, but after its ratification Republic of Indonesia Law Number 17 of 2023 concerning Health which does not contain any mention exists organization Profession including PPNI so that give rise to problem how protection law for nurse in the future, so he submitted lah formal test by the Executive Board of the Indonesian Doctors Association (PB IDI), the Executive Board of the Indonesian Dentists Association (PB PDGI), the Central Board of the Indonesian National Nurses Association (DPP PPNI), the Central Board of the Indonesian Midwives Association (PB IBI), and the Central Board of the Indonesian Pharmacists Association (PP IAI). That moment this formal test the Still took place in Court Republic of Indonesia Constitution. That formal test the has rejected by the Court Constitution of the Republic of Indonesia at the session reading decision Thursday February 29, 2024 so that existence PPNI organization in previous law arranged in Article 41 and explanation Constitution Nursing. The existence of health law is still relatively new, in development in Indonesia, originally developed by Fred Ameln and the late Prof. Oetama in the form of medical law. The rapid development of life in the health sector in the form of a national health system has resulted in the need for broader regulations, from medical law to matters relating to health (health law). The health law that exists in Indonesia today cannot be separated from the legal system adopted by a country and/or society, so there are 2 (two) legal systems in the world, namely the codified civil law system and the common customary law system. *Law system* then it is possible to have a mixed legal system, especially for a pluralistic (*pluralistic*) society like Indonesia which makes it possible to adopt a mixed legal system. In connection with this, in order to provide legal certainty and protection, both for providers of health services and for recipients of health services, to improve, direct and provide a basis for development in the health sector, it is necessary to have a dynamic health legal instrument. There have been many changes to health rules, especially regarding the rights and obligations of the parties involved in health efforts as well as legal

protection for the parties involved, Because law is symptom social in the middle society, wrong the only one problems in the field health. Legal protection is an illustration of the working of the legal function to realize legal objectives, namely justice, benefit and legal certainty. Legal protection is a protection given to legal subjects in accordance with legal rules, both *preventive* (prevention) and repressive (countermeasures), both written and unwritten in order to enforce legal regulations. According to Satjipto Rahardjo, the law protects a person's interests by allocating power to him to act in his interests in a measurable manner. Interests are the target of rights, because rights contain elements of protection and recognition. Then legal protection is contributed as a form of service, and the subject being protected. Legal protection is protection provided to legal subjects in the form of legal instruments, both preventive and repressive, both written and unwritten. In other words, legal protection is an illustration of the function of law, namely the concept where law can provide justice, order, certainty, benefit and peace. Objective protection law for nurse in line with Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code, which is also in accordance with the objectives of criminal law, which according to Soedarto, if criminal law is to be used, it should be seen in the overall relationship of criminal politics (*social defence planning*). Previously protection law for nurse arranged in Article 36 letter a of the Law Nursing which states: "Nurse in carry out Practice Nursing entitled: a. obtain protection law throughout carry out task in accordance with standard service, standard profession, standard procedure operations, and provisions Regulation Legislation". This Legal Protection can provided by the Organization Known nurse with Unity Indonesian National Nurse (PPNI) as arranged Article 41 of the Law Nursing and Explanations on Explanations Article 41 of the Law Nursing clear emphasized "What is meant with Organization Nurse is Organization Profession Nurse is Unity Indonesian National Nurse (PPNI)".

Constitution Nursing has abolished with Ratified Republic of Indonesia Law Number 17 of 2023 concerning Health, so moment this existence the PPNI organization does not arranged, so remove his role for give protection law to nurse and be worry for nurse in operate task diverse health services potency problem. Moment This Legal Protection for Nurse only implied in a way general in Article 273 (1) of the Health Law states Medical Personnel and Health Workers in carrying out practice entitled: a. get legal protection throughout carry out duties in accordance with professional standards, professional service standards, standard procedures operations, and professional ethics, as well as needs Patient Health. In the case of health workers providing on-site health services service health, there are many potential problems that are very detrimental to nurses especially protection the law lasts This provided by the organization PPNI profession to its members, therefore the author is interested in discussing this problem which the author then gives the title: Legal Protection to Nurses By Organization Unity Indonesian National Nurse (PPNI) Post Republic of Indonesia Law Number 17 of 2023 concerning Health. Every research has objectives that must be achieved, so this research aims in accordance with the problem formulation above, so the objectives of this research are: (1) To know the Rights and Obligations of Nurses As Health Workers in Hospital Health Services; (2) To know and analyze Position Organization Unity Indonesian National Nurse (PPNI) Post Republic of Indonesia Law Number 17 of 2023 concerning Health; (3) Legal Protection to Nurses By Organization Unity Indonesian National Nurse (PPNI) Post Republic of Indonesia Law Number 17 of 2023 concerning Health.

Benefits of research

1. Theoretical

It is hoped that it can provide intellectual contributions to add to the known scientific knowledge in the fields of Law and Health and both moment This with Health Law;

2. Practical

It is hoped that it can provide maximum benefits for academic circles, especially addressing crucial health problems related to law. in frame activity Health services to public.

2. RESEARCH METHODOLOGY

This research is *normative juridical research*, namely research that reveals a problem, situation or event by providing a comprehensive, broad and in-depth assessment from the perspective of legal science, namely by examining legal principles, legal rules and legal systematics. In collecting data, document study is used, namely by studying secondary materials, in the form of legislation, other regulations, books, papers and journals related to what is being studied. The data obtained is then analyzed qualitatively, namely a

method of data analysis that is not based on numbers or statistics, so that the data obtained in library research is then presented in logical sentences to obtain a description of legal protection against nurses by the Association Indonesian National Nurse (PPNI) as receptacle Nurses' organization in Indonesia.

3. RESULT AND DISCUSSION

Theoretical framework

Theoretical frameworks are concepts that are actually abstractions from the results of thought or a frame of reference which aims to identify social dimensions that are considered relevant by researchers. Every research is always accompanied by thoughts theoretical. This is because there is a close reciprocal relationship between theory and the activities of collecting, managing and analyzing cases. Snellbecker interpret that "theory as device a symbolically integrated proposition and a theory besides works for explain facts, too capable predict or prove the facts are in the middle public". Objective theory very clear, that is, in a generalist manner question knowledge and explanation connection between something symptom social and meaningful from observations made as a scientific activity, research requires theories in the form of assumptions, concepts, definitions and professions to explain a social phenomenon systematically by formulating relationships between concepts. Starting from the research problem as explained previously, several theories were used which were used as analytical tools in dissecting the research problem of this thesis. As for the framework the theories used in study This that is :

1. *Grand Theory* : Theory of Legal Certainty

The theory of legal certainty by Gustav Radbruch states that anything created must have goals and objectives. So every legal rule that is made has a goal, this goal is a value that humans want to realize. There are three main legal objectives, namely: (1) Justice for balance; (2) Certainty for determination; (3) Benefits for happiness.

Legal certainty is linked to legal justice, so they will often be inconsistent with each other. This is because, on the one hand, it is not uncommon for legal certainty to ignore the principles of legal justice, on the other hand, it is not uncommon for legal justice to ignore the principles of legal certainty. If in practice there is a conflict between legal certainty and legal justice, then legal justice must take priority. The reason is that legal justice is generally born from the conscience of the giver of justice, while legal certainty is born from something concrete. That Legal certainty contains two meanings. First, the existence of general rules makes individuals know what actions they can and cannot do. Second, in the form of legal security for individuals from government arbitrariness regarding general regulations, individuals can know what the state can impose or do on individuals. Legal certainty requires the creation of general regulations or general rules that apply generally, and results in the duty of general law to achieve legal certainty (for the sake of order and justice for all Indonesian people). This is done to create a safe and peaceful atmosphere in the wider community. Rules and the implementation of these rules create legal certainty. Legal certainty describes a situation where Human behavior, whether individuals, groups or organizations, can be bound and within the corridors outlined by legal regulations. In law there must be justice and legal certainty and legal certainty is important so that people are not confused, but justice and legal certainty themselves are two sides of the same coin. There is no need to conflict between justice and legal certainty. The sentence cannot be cut, meaning that justice is definitely synonymous with fair certainty. If this uncertainty occurs, it means injustice for many people. Don't do it because you want to bring about justice for one person, but instead create injustice for many people. Apart from that, there must be legal certainty, the aim of the law is to realize justice and order. Justice, legal certainty and order must be realized simultaneously in order to create peaceful living together. Law is closely related to justice. There are even people who believe that law must be combined with justice, so that it is truly meaningful as law. Therefore, through a just legal system, people can live peacefully towards physical and spiritual prosperity. For most adherents, positivism demands that the laws that are formed be fair. The law contains a demand for justice. A just law is a law that is in accordance with the wisdom and beliefs of the people. Legal certainty has two aspects, namely the matter of being able to determine (*bepaalbaarheid*) the law in concrete matters, meaning that parties seeking justice want to know what the law is in a particular case, before they start a case, and legal certainty means security. Law, meaning protection for the parties against judge's arbitrariness. Reinhold Zippelius differentiates legal certainty in two senses, namely:

- a) Certainty in its implementation, meaning that the law that is officially promulgated is implemented with certainty by the state. Everyone can demand that the law be implemented and that demand will

definitely be fulfilled and every violation of the law will be prosecuted and subject to sanctions according to the law as well;

- b) Certainty of orientation, meaning that the law must be clear, so that the public and judges can be guided by it. This means that every term in the law must be formulated clearly and unequivocally so that there is no doubt about what action is meant. Certainty of orientation requires that the procedures for making and promulgating laws are clear and publicly known. This certainty of orientation also requires that the law be developed continuously and in accordance with principles. Laws must be interrelated, must point in one direction so that society can make plans for the future, and laws must not be made that conflict with each other.

Middle Theory : Law Enforcement Theory

Expected legal ideas and concepts become real. Law enforcement is a process that results in various things, this thinking is strengthened by the habits of the people who are called law enforcers, namely the police, prosecutors and judges. Law enforcement is a process that involves many things. Law enforcement lies in the activity of harmonizing the relationship between values described in stable rules and responding to attitudes and actions as a series of final stages of value elaboration to create, maintain and maintain peaceful social life. Law functions as protection for the interests of every human being. In order for human interests to be protected, the law must be implemented. Implementation of the law can take place both normally and peacefully, but it can also occur due to violations of the law. In this case, the law that has been violated must be enforced, it is through law enforcement that the law becomes a reality. Conceptually, the essence of law enforcement lies in the activity of harmonizing the relationship between values described in stable rules, attitudes of action as a series of value translations at the final stage, to create, maintain and maintain peaceful social life, while *Black's Law Dictionary* define law enforcement (law enforcement), namely: " *the detection and punishment of violations of the law. This term is not limited to the enforcement of criminal law. for example, thr for information complied for law enforcement purpose and furnished in confidence . Then exemption of a variety of noncriminal (such as national security laws)* ". Enforcement law aim For reach objective law . Through enforcement law , expected objective law can achieved so that law can works as it should be. Law maintain peace and endeavor happen something balance between interests the. With thereby law can reach objective fair with exists balance between protected interests for every person For obtain part through containing regulations continuity interests in Latin is : "*ius suum cuique tribuere* " .

Applied Theory : Legal Protection Theory

Legal protection is all efforts made to guarantee the existence of legal certainty which is based on all the regulations or rules contained in a life together. Soetjipto Rahardjo stated "legal protection is an effort in a person's interests by means of power over him and one of the characteristics and objectives of the law itself is to provide protection for society, by realizing it in the form of legal certainty so that society can enjoy the rights given as legal protection towards society." Philipus M. Hadjon interprets "that the principle of legal protection for Indonesian society combines the ideology of Pancasila with the concept of legal protection for western people. In the concept of legal protection, there is recognition and protection of Human Rights (HAM), so that the principle of legal protection for the Indonesian people is the principle of recognition and protection for human dignity which is based on Pancasila related to the principle of the rule of law." Legal protection is providing protection for human rights that are harmed by other people and this protection is given to the community so that they can enjoy all the rights granted by law or in other words legal protection is various legal efforts that must be provided by law enforcement officials to provide a sense of security, both mentally and physically from disturbances and various threats from any party . A protection can be said to be legal protection if it has the following elements:

- a) There is protection from the government towards its citizens
- b) Guarantee of legal certainty
- c) Relating to citizens' rights
- d) There are punitive sanctions for those who violate them
- e) In general , protection can take the form of: interest nor object or goods

Conceptual Framework

A conceptual framework is also called a theoretical framework or a literature review. A conceptual framework is characterized by the emergence of a connection between facts and theory, which can be in descriptive, pictorial and other forms. Framework draft show channel study like what is the problem, what is the solution (theory), and what are the results . Framework conceptual can also be called a research map. According to opinion from Roscoe Pound that justice in results concrete that it can provide to public. He saw it too that results obtained should be obtained That should form satisfaction need man as much as possible with the smallest sacrifice , pounds Alone say that He Alone like see “ increasingly widespread recognition and satisfaction to something needs , demands or desires through control increasingly social widespread and effective exists guarantee to exists interest social in something business for the more effective in avoid formations in enjoy resources or increasingly *social engineering* effective.

Nurses' Rights and Obligations As Health Workers in Hospital Health Services

Nurse in operate his task as Health workers have right as regulated in Article 273 of the Health Law, namely :

1. Medical personnel and health workers in carrying out practice have the right to:
 - a) obtain legal protection as long as they carry out their duties in accordance with professional standards, professional service standards, standard operational procedures and professional ethics, as well as the patient's health needs ;
 - b) obtain complete and correct information from patients or their families;
 - c) receive appropriate salaries/wages, service benefits and performance allowances in accordance with statutory provisions;
 - d) get protection on safety, occupational health and security;
 - e) obtain health insurance and employment guarantees in accordance with statutory provisions;
 - f) receive protection from treatment that is not in accordance with human dignity , morals, decency and socio-cultural values ;
 - g) receive awards in accordance with statutory provisions ;
 - h) get the opportunity to develop themselves through developing competence, knowledge and career in their professional field ;
 - i) refuse the wishes of the Patient or other parties which conflict with professional standards, service standards , standard operational procedures, codes of ethics, or provisions of laws and regulations; and
 - j) obtain other rights in accordance with the provisions of statutory regulations.
2. Medical personnel and health workers can stop health services if they receive treatment that is not in accordance with human dignity , morals, decency and socio-cultural values as intended in paragraph (1) letter f, including acts of violence, harassment and bullying. Whereas obligation Nurse arranged in Article 274 of the Health Law as following Medical Personnel and Health Workers in carrying out mandatory practices :
 - a) provide health services in accordance with professional standards , professional service standards, standard operational procedures, and professional ethics as well as patient health needs ;
 - b) obtain consent from the patient or his family for the action to be given;
 - c) maintain patient health secrets;
 - d) make and keep records and/ or documents regarding examinations, care and actions taken; And
 - e) refer patients to medical personnel or other health personnel who have the appropriate competence and authority .

Position Organization Unity Indonesian National Nurse (PPNI) Post Republic of Indonesia Law Number 17 of 2023 concerning Health

The national level nursing organization which is a forum for nurses in Indonesia is the Indonesian National Nurses Association (PPNI) which was founded on **March 17 1974** and was a combination of

various nursing organizations at that time. Nurse own right constitution gather and associate as organization profession other like Bond Indonesian doctors (IDI, etc. However Post delete it Constitution Number 38 of 2014 concerning Nursing with ratified Republic of Indonesia Law Number 17 of 2023 concerning Health no Again arrange about position Unity Indonesian National Nurse (PPNI). Organization Known nurse with Unity Indonesian National Nurse (PPNI) as arranged Article 41 of the Law Nursing and Explanations on Explanations Article 41 of the Law Nursing clear emphasized "What is meant with Organization Nurse is Organization Profession Nurse is Unity Indonesian National Nurse (PPNI)". Function from PPNI organizations are :

1. As a forum for nursing staff who have a unified will in accordance with position, profession and environment to achieve organizational goals
2. Holistic human development programs without distinguishing between class, ethnicity, descent, religion/belief in God Almighty
3. Accommodating, integrating, channeling and fighting for the aspirations of nursing staff as well as developing the professionalism and welfare of nursing staff.

No arranged Organization Nurse namely PPNI inside Republic of Indonesia Law Number 17 of 2023 concerning Health so cause loss disappearance PPNI's position in the Health Law.

Legal Protection to Nurses By Organization Unity Indonesian National Nurse (PPNI) Post Republic of Indonesia Law Number 17 of 2023 concerning Health

The existence of PPNI is a social organization that was formed on the basis of professional similarities. This organization was founded on March 17 1974 as a result of the fusion of various previously existing nursing organizations as stated in the 2010-2015 PPNI AD/ART which was ratified in Balikpapan on May 29 2010. Existence This was proven by the presence of PPNI at the Asean Economic Community event (MEA) which is a harmonization forum, one of the meanings of which is sharing and influencing each other. *Tracks A good record from a nation will create opportunities for other countries to consult.* The more influential it is, the more other countries will follow what they want, which means that an influential nation has less homework to do in the AEC arena. PPNI was the only non-governmental organization present at the meeting. Representatives of other countries are the council or *board of nursing*, while from Indonesia was represented by the BP PPSDM Quality Center . The commitments of countries, especially Indonesia, in the MEA are one opportunity to improve policies and institutions to improve the quality of nursing in Indonesia. For this reason, since 2015 PPNI has never missed attending *ASEAN meetings Joints Coordinating Committee on Nursing (AJCCN)* at independent expense. Protection law for nurse previously by the government to nurse Already arranged in Article 27 and Article 36 of the Law Number 36 of 2009 concerning Health, which contains explain that nurse entitled obtain protection law throughout carry out task in accordance with standard service , standard profession , standard procedures , and Article 36 a of the Law Number 38 of 2014 concerning Nursing that mentions : Nurse in carry out Practice Nursing entitled : to obtain protection law throughout carry out task in accordance with standard service , standard profession , standard procedure operations , and provisions Regulation Legislation ; However with ratified Republic of Indonesia Law Number 17 of 2023 concerning Health no Again arrange the existence of PPNI as organization public in give protection law for its members with firm , so based on condition this is very unfortunate PPNI's role is not arranged Again in Republic of Indonesia Law Number 17 of 2023 concerning Health, though so PPNI as organization Profession has have a legal entity as receptacle Independence United and Gathered and Issued Thought as mandate the Indonesian constitution in Article 28 and Article 28E paragraph (3) of the 1945 Constitution. This moment Legal Protection for Nurse only implied in a way general in Article 273 (1) of the Health Law states Medical Personnel and Health Workers in carrying out practice entitled: a. get legal protection throughout carry out duties in accordance with professional standards, professional service standards, standard procedures operations, and professional ethics, as well as needs Patient Health. Nurse as Health workers have the right get protection law from organization the place shelter so that can operate its function that is give protection law to its members are nurses throughout Indonesia, with thereby in a way law no inhibit PPNI to give protection law to members , because PPNI itself own legality as organization profession.

4. CONCLUSION

Legal Protection for Nurses which is only implied in general in Article 273 (1) of Law of the Republic of Indonesia Number 17 of 2023 concerning Health should be further regulated through regulations at the level below the Law in order to provide certainty of legal protection that is not only general, but firm and specific to the nursing profession and also mentions the role, position of the nurse organization, namely the Indonesian Nurses Association (PPNI) which has been instrumental in helping the government to protect nurses in Indonesia. The author suggests that PPNI as an Indonesian nurses organization should encourage the government to issue the regulation while still providing protection to Indonesian nurses.

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