

Implications of Therapeutic Communication for Avoiding Lawsuits in Health Services

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Abstract

Health services in Indonesia have a very important role in improving the welfare of the Republic of Indonesia. To prevent misunderstandings between patients and paramedics in health services, good communication is needed. Communication in health services can be called therapeutic communication. Previous research mostly only highlights the importance of using informed consent as valid proof of a therapeutic agreement, therefore in this research the important point is that in implementing informed consent, adequate, detailed, and easy to understand information must be given to the patient, this can be done by providing information using therapeutic communication. This article uses a literature study of legal research methods with a normative approach and a conceptual approach. Sources of research material used in this literature review include journal articles, legal regulations, and books. Therapeutic communication should be carried out in the entire series of patient care, especially in conveying informed consent, where the patient must receive a detailed explanation regarding the diagnosis, therapy plan, risks if treatment is carried out or not carried out, and the treatment prognosis, so that the patient can determine properly what treatment is needed. will be chosen consciously. When the treatment carried out is determined by the patient and carried out based on mutual agreement, this will reduce the possibility of disputes between the doctor and the patient. Therapeutic communication cannot completely prevent lawsuits and medical disputes, but by carrying out effective therapeutic communication, patients and paramedics can have equal views regarding the patient's condition, treatment plans, and the risks that may occur if medical action is or is not carried out.

Keywords

Therapeutic communication, Lawsuits, Health care

Introduction

Health services in Indonesia have a very important role in improving the welfare of the Republic of Indonesia (Zaluchu & Yusra, 2022). However, health problems involving the complex anatomy and physiology of the human body often cause differences in understanding between Health

Submission: 26 July 2024; **Acceptance:** 8 August 2024



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Human Resources (paramedics) and patients. This difference in understanding can give rise to unequal perceptions regarding the concept of therapeutic agreements that occur in health services (Sinaga, 2021).

In April 2024 in Ngawi Regency, a 31-year-old woman died allegedly due to complications after having her wisdom teeth removed in December 2023 (Saputri, 2024). The patient's family suspected malpractice so the patient's family filed a lawsuit. The patient's family felt that the dentist who extracted the wisdom teeth did not explain the risks of tooth extraction and did not have empathy because she did not show emotional concern for the patient and his family. In this case, the patient expects the dentist to explain the diagnosis, medical risks, prognosis, so that the patient and his family can decide on a better action to take. Apart from that, patients also expect good communication between the dentist and the patient and the patient's family to strive for optimal patient health.

A therapeutic agreement is an agreement between a doctor and a patient in health care practice. The agreement itself has the definition of a reciprocal relationship between two parties who agree on one thing. Meanwhile, therapeutic means "in the field of treatment" (Busro, 2018). Therapeutic is different from therapy which means "treatment". The agreement between the doctor and the patient is not just about treatment but the entire treatment process in a broader sense, covering the diagnostic, preventive, rehabilitative and promotive areas so that this agreement is also called a Therapeutic Agreement (Muhith & Siyoto 2021).

The definition of a therapeutic agreement is based on the Preamble to the Indonesian Medical Code of Ethics which is attached to the Decree of the Minister of Health of the Republic of Indonesia Number 434/Men.Kes/X/1983 concerning the Applicability of the Indonesian Medical Code of Ethics for Doctors in Indonesia, stating the following regarding a therapeutic agreement: "*A therapeutic agreement is The relationship between doctors and sufferers is carried out in an atmosphere of mutual trust (confidential), and is always filled with all the emotions, hopes and worries of human beings.*" In short, it can be said that a therapeutic agreement is a relationship between two legal subjects who bind themselves to each other on the basis of mutual trust (Is & Wardah, 2019).

The agreement between a doctor and patient in a therapeutic agreement is not an agreement that promises results (*Resultaat Verbintenis*) but rather an agreement where both parties are committed to making optimal efforts to improve the patient's health status (*Inspanning Verbintenis*) (Alam, 2018). Apart from that, the complexity of the anatomy and physiology of the human body is sometimes difficult for non-paramedics to understand. This can cause a discrepancy between patient expectations and reality.

Differences in perception and misunderstandings that occur between paramedics and patients in health services can give rise to legal problems (Pradana & Novianto, 2023), especially if the reality that occurs does not match the patient's expectations. Legal problems in the health sector are often referred to as medical disputes (Widjaja & Aini, 2022). These medical disputes can have serious consequences for patients and health service providers, so an in-depth understanding of the legal regulations governing medical disputes in Indonesia is needed.

To prevent misunderstandings between patients and paramedics in health services, good communication is needed (Yubiliana, 2017). Communication in health services can be called therapeutic communication. By creating good therapeutic communication between paramedics and patients, it is hoped that there will be equal perspectives between patients and paramedics, so that there is no gap between the patient's expectations and the reality that occurs so that if an unexpected medical risk or complication occurs, the patient can understand the situation (Ansyori, 2022).

Methodology

This article uses a literature study in legal research method with a normative approach and a conceptual approach. Sources of research material used in this literature review include journal articles, legal regulations, and books. This literature review was created by collecting, analyzing, and synthesizing information from various scientific sources that are relevant to the implications of therapeutic communication for avoiding lawsuits in health services. The qualitative and conceptual approach taken is needed to show links between previous studies, build a theoretical foundation to produce a new literature study from several better developed concepts. By using this qualitative approach, it is hoped that this research can provide an in-depth understanding of the dynamics of medical dispute prevention from a legal perspective, as well as produce relevant recommendations to improve fair and sustainable medical dispute prevention.

Results and Discussion

Language is the main tool in legal communication. In a legal context, language must be used precisely, clearly, and bindingly. Skills in choosing the right words and constructing accurate sentences are essential to ensure that legal messages are conveyed correctly. Effective legal communication can have a major impact on the outcome in a case. Conversely, poor or inappropriate communication can lead to wrong interpretations or even losses in legal proceedings. Understanding how legal communication influences legal outcomes is essential to becoming a successful legal practitioner. By understanding the basics of legal communication, we can build a solid foundation for developing more advanced communication skills in the complex world of law. The following chapters will guide through further concepts and practical strategies to improve our legal communication skills (Putri & Firmansyah, 2022).

This article uses Legal Communication Theory by Shannon-Weaver (Putri & Firmansyah, 2023). This theory emphasizes the communication process as the transmission of signals or messages from sender to recipient through communication channels. In health and law practice, it is important to ensure that legal messages are conveyed clearly and are not distorted during the transmission process. Language is the main tool in legal communication. This theory discusses how language is used in legal documents, legal argumentation, and the judicial process. By understanding the role of language in law, professionals can optimize its use to ensure that legal messages are conveyed accurately and effectively. Language has a very important role in the legal system. In addition to communication skills, legal communication ethics and etiquette are also important in ensuring that professional relationships are maintained, and the integrity of the legal profession is properly maintained. Health services in the eyes of the law are a therapeutic

agreement where the doctor and patient are both categorized as legal subjects. For this reason, paramedics must understand and comply with the principles of communication ethics in all aspects while providing services in therapeutic transactions. By understanding the importance of effective legal communication and adhering to applicable ethical principles, paramedics can ensure that they provide quality legal services and properly meet patient needs.

Medical disputes are sometimes not only caused by paramedic negligence but can also be caused by differences between reality and patient expectations (Hayati et al., 2021). In health services there are medical risks and complications which are sometimes difficult for paramedics to predict and treat. These risks and complications in serious circumstances can cause disability and even death of the patient. Paramedics will always try to make maximum efforts to cure patients, but the possibility of medical risks occurring beyond the will of the Doctor or Patient, so the Patient and/or the Patient's Family should be informed in advance (Emilia & Alpiyah 2024).

Information regarding the diagnosis, treatment plan, treatment prognosis, and risk of complications must all be conveyed in detail and patiently to the patient through therapeutic communication contained in informed consent. Law of the Republic of Indonesia Number 17 of 2023 concerning health includes Approval of Health Service Actions in Article 293 Paragraph (2) which states "*Consent as referred to in paragraph (1) is given after the patient has received an adequate explanation.*" Then in Paragraph (3) it is stated "*The explanation as intended in paragraph (2) includes at least: a. diagnosis; b. indication; c. Health Service actions carried out and their objectives; d. possible risks and complications; e. other treatment alternatives and their risks; f. risks if action is not taken; and g. prognosis after receiving treatment.*" (LRI, 2023).

In providing health services to patients, paramedics should show empathy (Emilia & Alpiyah 2024). This is also stated in the Indonesian Medical Code of Ethics (KODEKI) Article 14 which states "*A doctor is obliged to be sincere and use all his knowledge and skills for the benefit of the patient, when he is unable to carry out an examination/treatment or in the best interests of the patient, for with the patient's/family's consent, he/she is obliged to consult/refer the patient to another doctor who has the expertise to do so.*" What is meant by a sincere attitude is: An attitude to maintain the honor of the noble profession of medicine and the commendable behavior of a doctor which is characterized by being friendly, polite and dignified towards patients; Be sincerely responsible for all acts of service that are solely intended for the benefit of the patient; Be empathetic, share your feelings and desire to immediately resolve the patient's health problems. The empathetic attitude of paramedics in providing health services can be done with therapeutic communication (Vita, 2021). Therapeutic communication is defined as a type of communication that focuses on building a positive and empathetic relationship between paramedics and patients (Transyah & Toni, 2018). The goal of therapeutic communication is to create a safe, comfortable, and supportive environment in which patients can express their feelings, concerns, and needs.

Communication involves two or more parties who have common rules and goals. The function of communication is forming self-concept, expressing self-existence, forming relationships, conveying feelings, teaching, entertainment, and so on. The first function of communication is to convey information to other people, so the communicator's hope is that the person who receives the message can know the things they want to know about the information. Second, the function of communication is to disseminate information that is educational to other

people, so that the communicant gets the benefits of knowledge from the information they get. The third function, communication, also functions as a form of instruction to someone (communicant). Furthermore, communication functions to influence and change the attitudes of people who receive the message (Agritubella, 2018).

Principles of effective therapeutic communication include a) Self Awareness: paramedics must be aware of their own values, beliefs and biases so as not to influence interactions with patients; b) Empathy: Paramedics must strive to understand and respect the patient's point of view; c) Trust: building trust between patients and paramedics is an important thing to optimize health services; d) Realistic Goals: paramedics should not promise healing but promise optimal efforts to work together to do their best to achieve patient recovery; e) Context: Paramedics must pay attention to the situation in which communication occurs, including the patient's environment, background, culture, mental condition, and education. f) Participation: Paramedics must be able to actively participate in the communication process, listen carefully, and respond well to patient complaints (Pertiwi et al., 2022).

Fundamental factors of communication include a) Communicator, namely the sender of the message who has the knowledge and ability to convey information. b) Message, which is the entire material conveyed by the communicator either verbally or using media. c) Media, namely communication channels as a medium for messages to pass from the message giver to the message recipient; d) Communicant, namely the person or institution who receives the message or information conveyed; e) Effect, namely the result of a communication process related to the influence of the message conveyed by the communicator.

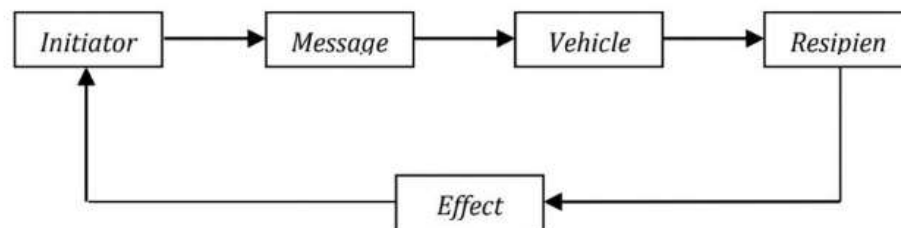


Figure 1. Five Fundamental Factors of Communication
Source: Pertiwi et al. (2022)

Apart from these five fundamental factors, things that must be done in therapeutic communication are f) Response; and g) Feedback. The patient's response and feedback to the information provided by the paramedic can be a reference for whether the information provided by the paramedic has been truly understood or not. Therapeutic communication must occur in two directions. Paramedics and patients can both be communicators and communicants. The patient becomes the communicator in providing information about the condition he feels and the history of his illness, then the paramedic becomes the communicator who provides information regarding the diagnosis, medical risks, complications and prognosis for the patient (Yubiliana, 2017). The following is a diagram to make it easier to understand the benefits of therapeutic communication in avoiding the possibility of lawsuits in health services.



Figure 2. Informed Consent as A Legal Proof in Therapeutic Agreement

Based on this explanation, it can be concluded that therapeutic communication has an important role in health service practice. Therapeutic communication cannot completely prevent lawsuits and medical disputes, but by carrying out effective therapeutic communication, patients and paramedics can have equal views regarding the patient's condition, treatment plans, and the risks that may occur if medical action is or is not carried out. With a feeling of mutual understanding between the patient and the paramedic, the possibility of filing a lawsuit becomes smaller. In therapeutic communication, what must be understood is that both patients and paramedics have a very important role and have their respective portions as communicators and as communicants and have equal roles.

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