

The Government's Responsibility in Resolving Contract Disputes Between Pharmacy Facility Owners and Pharmacists

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KEYWORDS	ABSTRACT
Pharmacist; Contract Dispute; Government Liability; Legal Protection	Contract disputes between owners of pharmaceutical facilities (PSAs) and pharmacists in charge (APAs) often arise due to an imbalance in the rights and obligations stipulated in cooperation agreements. These contracts are often onerous for pharmacists, such as requiring them to find a replacement before resigning, without providing adequate protection. In some cases, pharmacists do not even receive the salary to which they are entitled. This research aims to analyze the legal protections available to pharmacists facing contract disputes and the government's responsibility in resolving such issues. This research uses a normative legal study method with statutory and conceptual approaches. The research findings show that legal protection for pharmacists is divided into two aspects: internal (through contracts) and external (through government regulations). However, many contracts do not have adequate dispute resolution mechanisms, and the implementation of government responsibilities is still not optimal. The study concludes that there is a need to improve cooperation agreements between PSAs and APAs by adopting the principles of equality and fairness. The government should improve supervision and law enforcement to protect pharmacists from violations of their rights. In addition, dispute resolution mechanisms, both litigation and non-litigation, should focus more on efficiency and effectiveness.

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Introduction

Pharmacies are one of the health care facilities that play an important role in ensuring the availability of medicines and pharmaceutical services for the community. A pharmacy is a pharmaceutical retail business as well as a pharmaceutical service facility. The pharmacy business is increasingly in demand because it is considered that the community will always need it and is considered to have a growing turnover. The community can get pharmaceutical products, medical devices, and Consumable Medical Materials (BHMP) as well as get pharmaceutical services.

Pharmacies have functions that are not only limited to providing drugs, but also providing information, education, and consultation services related to the safe and effective use of drugs.

Pharmacy Licensing with the ease of risk-based business licensing through the Online Single Sub-Mission (OSS) launched by the Ministry of Investment and authorized by the President of the Republic of Indonesia since August 2021 so that many business actors have established pharmacies. The pharmacy business has a KBLI code (Indonesian Standard Business Field Classification) 47721, namely retail trade in pharmaceutical goods and medicines for humans in pharmacies. The number of pharmacies is increasing every year. The Ministry of Health noted that there has been an increase in the number of pharmacies every year for the past decade. In 2021, there were 30,199 pharmacies. East Java is in second place with the highest number of pharmacies in Indonesia, with 4,250 pharmacies. This number is expected to continue to rise, given the potential of pharmacies as a promising retail business (Widi, 2022).

Pharmacy implementation can be carried out by individuals or by business entities. In the Regulation of the Minister of Health of the Republic of Indonesia Number 17 of 2024 concerning the Second Amendment to the Regulation of the Minister of Health Number 14 of 2021 concerning Business Activity Standards and Products in the Implementation of Risk-Based Business Licensing in the Health Sector (hereinafter referred to as PMK Licensing in the Health Sector) individual business actors are pharmacists while non-individuals are in the form of Limited Liability Companies, limited liability partnerships / Commanditaire Venootschap (CV), Foundations and / or Cooperatives. Collaboration in the management of pharmacies between pharmacists and owners of pharmacy facilities can be carried out through work contracts. This is regulated in the business requirements of the Health Sector Licensing PMK, namely that non-individual business actors attach a document of a cooperation agreement with a pharmacist authorized by a notary.

The pharmacist in charge of the pharmacy (hereinafter referred to as APA) is a health professional who is given full authority to manage and be responsible for all activities that take place in the pharmacy. The main tasks of the APA include procurement, storage, delivery of drugs, and providing pharmaceutical services to the community. Therefore, the presence of an APA is very necessary to ensure that the pharmacy runs in accordance with the Pharmaceutical Service Standards in Pharmacy.

APAs may resign from their jobs for a number of reasons. This condition can affect the continuity of pharmacy operations, especially if no replacement is immediately appointed. In order to ensure the smooth running of pharmacy services and avoid disruption to public access to medicines and pharmaceutical services, a replacement pharmacist is required. The existence of a replacement pharmacist is not only administrative, but also has a significant impact on the quality of public health services. Pharmacies have the potential to experience disruptions in operations, which can lead to delays or shortages in services to patients in the absence of a suitable replacement. This risks lowering the public's trust in pharmacies, and could impact the professional image of pharmacists as reliable health service providers. Therefore, having a replacement pharmacist in place before the APA resigns from his/her duties is very important. This process requires good coordination between the APA, the pharmacy owner, and relevant agencies.

Several cases recorded in the professional organization of the Indonesian Pharmacists Association (IAI) that from June 2023 there were 8 (eight) cases of pharmacist turnover problems consisting of problems in pharmacies as many as 5 (five) cases, 2 (two) cases in the Pharmaceutical Industry and 1 (one) in the Clinic and of the 8 (eight) cases 2 (two) cases of pharmacists not getting salaries from facility owners (Umar, 2024).

Provisions on obtaining a replacement pharmacist are regulated in Article 23 of Regulation of the Minister of Health Number 922/Menkes/Per/X/1993 Concerning Provisions and Procedures for Granting a Pharmacy License that any transfer of pharmaceutical management responsibilities caused by the replacement of the Pharmacist Managing the Pharmacy to the Replacement Pharmacist, a handover of prescriptions, narcotics, drugs and other pharmaceutical supplies as well as the keys to the narcotics and psychotropic storage area must be carried out. The regulation was replaced by the Decree of the Minister of Health of the Republic of Indonesia Number: 1332/MENKES/SK/X/2002 concerning Amendments to the Regulation of the Minister of Health of the Republic of Indonesia Number. 922/Menkes/Per/X/1993 concerning Provisions and Procedures for Granting Pharmacy Licenses without changing Article 23.

In the Minister of Health Regulation Number 9 of 2017 concerning Pharmacies (hereinafter referred to as PMK Pharmacy) there are only provisions regarding the transfer of responsibility if the pharmacist dies. This is stated in Article 26 of the Pharmacy PMK that before dying, the Regency / City Regional Government must appoint another Pharmacist for a maximum period of 3 (three) months and must report in writing the transfer of responsibility accompanied by the submission of Pharmacy Prescription documents, narcotics, psychotropic drugs, hard drugs, and narcotics and psychotropic storage keys while if there is a change in the Responsible Pharmacist in accordance with Article 15 paragraph (4) which states The procedure for applying for a license change for a Pharmacy that changes address and moves location or changes the Pharmacist holding the SIA as referred to in paragraph (2) follows the provisions referred to in Article 13. The SIA application only completes administrative documents including a photocopy of the STRA by showing the original STRA; photocopy of the Identity Card (KTP); photocopy of the Pharmacist's Taxpayer Identification Number; photocopy of the location map and building plan; and a list of infrastructure, facilities, and equipment.

The PMK on Health Sector Licensing changes the previous regulation only on certain business activity standards including Pharmacy Business Standards. In Number 2 of Pharmacy Business Standards Number 11 Compliance assessment and supervision point 9 a that if the pharmacy license is revoked, the Regency / City Government together with business actors must secure pharmaceutical preparations, medical devices, and BMHP at the pharmacy. This security is carried out by transferring responsibility to other pharmacists who have SIPA and / or to the authorized District / City Government.

This process must be accompanied by an official report that includes the submission of the following documents: prescriptions, narcotic and psychotropic prescriptions; narcotic and psychotropic drug data along with a list of types and quantities; certain hard drugs with a list of types and quantities; data on pharmaceutical preparations, medical devices, and other BMHP;

procurement documents such as order letters; and service reporting documents; hard drug data and / or and replacement of the pharmacist in charge only attaching document data that has changed. Based on Article 3 of the Minister of Health Regulation Number 14 of 2021 concerning Business Activity Standards and Products in the Implementation of Risk-Based Business Licensing in the Health Sector, it states that "When this Ministerial Regulation comes into force, the Ministerial Regulations governing business activity standards and product standards in the Health Sector Business Licensing are declared to still apply as long as they do not conflict with this Ministerial Regulation", this states that the PMK pharmacy is still valid as long as it does not conflict.

Cooperation between pharmacists and pharmacy owners (hereinafter referred to as PSA) is an agreement that provides benefits to both parties. APA and PSA can determine the contents of the agreement, its implementation and requirements and determine the form of the agreement in accordance with the principle of agreement law, namely the principle of freedom of contract. The replacement of pharmacists based on the regulations described above which have not been regulated by this principle provides an opportunity to regulate the search for replacement pharmacists. Another principle in the law of agreements is the Principle of Personality which determines that a person who will perform and or make a contract is only for the benefit of the individual. Several articles in the contract contain things that are burdensome for pharmacists, namely "if the pharmacist managing the pharmacy does not extend this collaboration, he is required to notify the owner of the facility in writing no later than 3 (three) months before this cooperation agreement ends with the obligation to find a replacement pharmacist" and "additional or complementary cooperation agreements made separately". In this article, the author argues that the agreement is only in accordance with the interests of the owner of the Pharmacy facility which can weaken the position of the pharmacist so that the principle of protection in the principle of agreement, especially on the pharmacist, is not fulfilled.

In the event that Medical and Health Personnel receive treatment that is not in accordance with human dignity, morals, decency, and socio-cultural values including acts of violence, harassment, and bullying as referred to in paragraph (1), Medical and Health Personnel may stop Health Services as long as it is not in the context of life-saving measures or prevention of a person's disability in an Emergency and/or in a disaster.

Cases where pharmacists do not receive salaries from facility owners are actions that go against human values. One way to respect and treat individuals in accordance with their dignity is to uphold human rights. Respecting human dignity means appreciating and recognizing the role and contribution of each individual, and rewarding achievements and efforts made, one of which is by providing a decent salary. The Government's role in the treatment that is not in accordance with dignity is regulated in Article 731 paragraph (2) of the Government Regulation to Implement the Health Law.

The Central Government, Regional Governments, and leaders of Health Service Facilities provide protection to Medical Personnel and Health Workers who stop Health Services if they receive treatment that is not in accordance with human dignity, morals, decency, and socio-cultural values including acts of violence, harassment, and bullying in accordance with their duties,

functions, and authority. Based on the background description above, the author will conduct research with the title "Government Responsibility in Resolving Contract Disputes between Pharmacy Facility Owners and Pharmacists".

Materials and Methods

This research was prepared using a normative legal research method, which is a document study, namely using legal sources in the form of laws and regulations, court decisions/ decrees, contracts/agreements/accords, legal theories, and scholars' opinions. Another name for normative legal research is doctrinal legal research, also referred to as library research or document studies (Muhaimin, 2020). This research uses a legal approach and a conceptual approach. The Law approach is carried out by examining all laws and regulations related to the legal issues discussed. In contrast, the conceptual approach is developed through views and doctrines in legal science (Muhaimin, 2020).

Normative legal research does not recognise field research (field research) because what is studied is legal material, so it can be said to be library-based, focusing on reading and analysis of the primary and secondary material. So, some say that normative legal research is a study of legal science. Therefore, normative legal research is only secondary data sources consisting of primary legal materials, secondary legal materials, and tertiary legal materials (Armia, 2022; Emedolu et al., 2024).

The collection and processing of legal materials involves a series of processes, namely identifying sources, inventorying legal materials, recording and quoting the necessary legal materials, and classifying legal materials according to their purpose of writing.

Analysis of Legal Materials. After the legal material is collected and processed, it is analyzed according to the group of problems and research objectives, starting from the identification of legal facts, examining the relevant law, and then analyzing the law's application.

Results and Discussion

How to Settle Contract Disputes

PSA and APA always want the agreement they make to work as expected. However, it cannot be denied that over time, conflicts can arise between the two parties, even though this is not expected. Disputes usually arise due to differences of opinion, differences in interpretation, interference, competition, or imbalances between parties. Conflict arises for various reasons, including (Prima, 2010):

1) Scarce Resource

Limited resources are crucial to the survival of the hostile parties. In this case, the most common method is competition, which ends with one person winning and the other losing.

2) Ambiguous Jurisdictions

A situation where obligations and rights are violated, and one party suffers a loss.

3) Intimacy

If not managed well, differences can lead to deep arguments. Disputes based on intimacy tend to be more serious than those involving participants who do not know each other, leading to distrust.

4) We-They Distinctions

Differences arising in situations where the community creates an example: if the community learns that the APA is not getting its due, this may create a negative perception of the PSA and create pressure to resolve the dispute quickly.

Contract disputes often result from fundamental errors in the contract drafting process and include a variety of factors and causes, including (Prima, 2010):

1. Lack of understanding of the business processes undertaken. This situation occurs when PSAs are only caught up in profit orientation and trial and error without anticipating the risks that might befall them.
2. Failing to recognize their business partners and focusing only on their business performance and appearance without investigating their business history.
3. The underlying business processes are not protected by law. This shows a low understanding and appreciation of activity protection.

Fisher and Ury argue that 3 (three) main elements influence the dispute resolution process, including interests, rights and positions of power. The parties to the dispute hope that their interests are realized, their rights are fulfilled, and their power status is shown, utilized and protected (Prima, 2010). Civil disputes are generally based on (Zamroni, 2022):

1. Default

That is, if the party does not carry out what has been promised and does not carry out obligations in accordance with the contract, then the action must be based on the existence of a binding relationship between the parties (plaintiff and defendant). In a tort claim, the defendant is considered to be in default if it is proven to have violated the contents of the contract. The forms of breach of contract are:

- a. Not fulfilling all contract terms.
- b. Only carry out part of the contract
- c. Delay in fulfilling contract terms.
- d. Carry out actions that have been agreed not to be carried out.
- e. Carry out unilateral termination of the contract

2. Contract-based tort (PMH)

Based on the results of the Rakernas of the Indonesian Supreme Court in 2009, cited by Zamroni (2022), the elements of unlawful acts include: There is a fault, There is loss, and There is a causal relationship between fault and loss with criteria, namely:

- a. Actions that violate the subjective rights of others;
- b. Actions that violate the perpetrator's legal obligations;
- c. Actions that go against societal norms or justice
- d. Actions that go against the behaviour that a good citizen should exhibit.

Nieuwenhuis' opinion, quoted by Zamroni (2022), states that the most significant

difference between unlawful acts and default is in the type of compensation. In default, compensation is only in the form of payment of a sum of money, while in unlawful acts, compensation can be in various forms, either money, goods, or other forms according to the will of the plaintiff.

3. Contract Cancellation

A contract must fulfil the conditions of validity of a contract, namely agreement, capability, a certain thing, and a halal cause, which are the measures to assess whether a contract is valid or void. In addition to these reasons that can be used to cancel the contract, namely :

- a. There is a defect of will (Article 1321 BW), which includes oversight, coercion, fraud, and abuse of circumstances.
- b. The requirement of capacity is not met (Article 1446 BW).
- c. There is a default (Article 1267 BW).
- d. There is a loss suffered by a third party (Article 1341 BW).
- e. The existence of compelling circumstances (Article 1553 BW).

The resolution of contractual disputes between Pharmacy Facility Owners (PSA) and Pharmacists in Charge (APA) requires a systematic approach to ensure fairness for both parties. These dispute resolution measures can be divided into two main approaches, namely preventive and repressive:

1. Preventive Approach

This approach aims to prevent disputes through good contract planning and management.

Steps include:

a. Initial Negotiations:

Before signing the contract, PSA and APA need to negotiate to equalize their understanding of each party's rights and obligations. Negotiation steps that can be taken to provide legal protection to the APA include including the APA's rights and obligations as well as the limitations, rights and obligations of the PSA and a salary scheme that adds salary sharing in the cooperation of pharmacy management (Jackson et al., 2024; Wardani, 2024). This is done at the Pre-Contract Design stage.

b. Drafting Clear Contract Clauses:

The contract should include detailed rights and obligations, including provisions related to salary, benefits, and leave entitlements, as well as obligations in the event of resignation and replacement of the pharmacist. The parties must be observant and careful in the preparation of rights and obligations, which are then systematically arranged in the form of clauses. The content of the Contract is detailed and rigid, containing the rights and obligations contained in the elements of *essesialia*, *naturalia* and *accidentalia*. Clause making is based on the One Clause One Concept, which is simple, clear, and easy to understand. The use of words must be clear so that there is no misinterpretation.

c. Alternative Dispute Resolution:

At the contract drafting stage, the parties include clauses regarding dispute resolution

mechanisms, such as deliberation, mediation, arbitration, or adjudication.

2. Repressive Approach

This approach is taken when a dispute has already occurred. Some methods that can be taken are:

a. Deliberation

The first effort in resolving disputes is to reach a consensus through deliberation. Deliberation, as one of the main solutions in resolving disputes, serves as a medium for the parties to discuss their settlement without the intervention of third parties who do not have the authority to decide or third parties who are authorized to make decisions. In order for dispute resolution through deliberation to run effectively, the following conditions are needed (Prima, 2010; Johansson et al., 2022).

- 1) The parties concerned are willing to deliberate voluntarily with full awareness;
- 2) Both sides are ready for deliberation;
- 3) Has decision-making authority;
- 4) Have relatively balanced power so as to create interdependence;
- 5) Have a willingness to solve problems

The win-win solution is part of the start of the agreement until its implementation, and if a dispute arises between the parties, it can harm the partnership pattern that has been established in the agreement and must always be avoided. Efforts to resolve disputes that arise between parties will also be directed towards a mutually beneficial settlement pattern. Therefore, deliberation in an agreement starts from the pre-agreement stage, the making of the agreement, as well as the implementation of the agreement, even in the event of a dispute. In this case, the deliberator must be able to formulate steps, stages, styles, and strategies to solve the problems that arise. Through deliberation, it is hoped that a harmonious and mutually beneficial relationship will be created between the parties so that a win-win solution relationship will support the creation of a conducive business climate.

b. Negotiation

When conducting direct negotiations, APA and PSA must act in good faith to find solutions that benefit both parties. This is in accordance with Article 1338, paragraph (3) of the Civil Code, which states that good faith must exist in every agreement. Negotiation is a form of good faith that is in accordance with the principles of civil law. Negotiation steps that can be taken to provide legal protection to APAs are as follows (Wardani, 2024).

- 1) Amend or modify the deed of covenant to include the rights and obligations of the APA and the limitations, rights and obligations of the PSA
- 2) Cancel the deed of agreement
- 3) Propose changes or establish regulations regarding the profit-sharing system in pharmacy management cooperation.

c. Mediation:

Dispute resolution uses a neutral mediator to help both parties reach a fair agreement.

Mediation will be successful if it meets the following conditions (Hadrian, 2022).

- 1) Both sides have equal bargaining power.
- 2) Both parties are concerned about the future relationship.
- 3) Related to various issues that allow for trade-offs.
- 4) There is an urgent need or deadline to complete it.
- 5) The two sides have no long-standing and deep-seated animosity..
- 6) If parties have supporters or followers, their expectations are modest, but manageable.
- 7) Setting a precedent or maintaining one is no more important than solving a pressing problem.
- 8) When parties engage in litigation, the interests of other actors, such as lawyers and guarantors, will not be treated favourably compared to mediation.

The existence of the above requirements in a dispute makes it easier for mediators to carry out their duties for dispute resolution. However, even without these requirements, mediation can still be conducted. The success of mediation in dispute resolution depends on the mediator's ability, knowledge, and experience in handling various types of disputes.

d. Arbitration:

Arbitration is an out-of-court dispute resolution based on the agreement of the parties conducted by a third party called an arbitrator. The parties declare that they will obey the arbitrator's decision. This settlement must be based on an agreement made by the parties. Dispute resolution through arbitration is in accordance with the previously agreed contract clause

An arbitration agreement written and agreed by all parties involved is necessary to carry out the arbitration process. Two types of arbitration agreements that have a legal foundation are (Rahman & Husein, 2023).

- 1) Arbitration agreements that are drafted after the dispute has arisen are referred to as "surrender clauses";
- 2) Arbitration agreements that are agreed to and made before a dispute arises are known as "arbitration clauses".

e. Litigation

Litigation is the last option if the out-of-court settlement is unsuccessful, the dispute can be brought to court in accordance with the applicable jurisdiction. Bachtiar's opinion is that dispute resolution through the courts is very slow and costly. In court litigation, disputants are generally represented by their associations or organizations. Garry Goodpaster argues that the main reasons why parties prefer to resolve disputes in court rather than through negotiation are (Prima, 2010):

- 1) Refusal to deal: If one party refuses to negotiate, the other party has no power to insist on resolving the dispute through other means.
- 2) Negotiation failures: The deliberations between the parties fail due to a lack of expertise. One of the parties believes that settlement through litigation provides a more satisfactory outcome.
- 3) Zero-sum negotiation, where both parties see the prospect of resolving the conflict through

deliberation as putting them in a "win-lose" situation. Litigation is expected to provide a stronger position to request certain matters including costs.

- 4) In the litigator-negotiator's role, lawyers who focus on litigation may not be able to identify possible settlements through dialogue, so they tend to encourage their clients to address the issue through litigation. During this process, the judge may interpret the content of the agreement with reference to the principles of fairness, good faith, and appropriateness. The decision made must reflect the balance between the rights and obligations of each party in accordance with statutory provisions...

Government Responsibility in the Settlement of Contract Disputes

One of the ideals of the founding fathers of Indonesia is to realise justice and prosperity for the people of Indonesia. This is stated in Pancasila and the 1945 Constitution. In the Preamble of the 1945 Constitution, which is also reflected in Pancasila, the Indonesian state was established "... to protect the entire Indonesian nation and the entire Indonesian homeland and to promote general welfare, educate the nation's life, and participate in implementing world order ... based on [here then the text of Pancasila appears] ... social justice for all Indonesian people. The core of the state's responsibility is the welfare of its citizens, known as the welfare state. The welfare state concept is based on the principles of equality of opportunity, equitable distribution of wealth, and public responsibility (Susetiyo & Iftitah, 2021). According to State Administrative Law (HAN), the government is responsible for carrying out the regulatory and management functions, including formulating policies to improve the quality and ensure the availability of health services, based on the principles of good governance.

Law of the Republic of Indonesia Number 25 of 2009 concerning Public Services (hereinafter referred to as the Public Service Law) Article 1 Paragraph 1 defines public service as an activity or series of activities carried out to meet service needs in accordance with applicable legal provisions, for every citizen and resident in the form of goods, services, and/or administrative services provided by public service providers. Based on this definition, public services are regulated through regulations set by the government with the main objective of meeting basic needs and improving public welfare

Health is one of the sectors of public services, indicating that health services play an important role in the state's life. The Health Law, which is the basis for health development in Indonesia, Article 2 states that "Health development is organized based on humanity, balance, benefits, protection, respect for rights and obligations, justice, gender and non-discrimination and religious norms" (Susetiyo & Iftitah, 2021).

The active role of the government in providing health services as part of public services to achieve welfare in the health sector must always follow the general principles of good governance (AAUPB). In the concept of a welfare state, the role of the government as the party responsible for ensuring the welfare and prosperity of society is increasingly important. As a state of law, government actions to provide welfare must be based on applicable regulations, although sometimes the government uses certain discretion (*freies ermesen*), which can lead to abuse of

authority and cause conflicts of interest between the community and the government.

AAUPB can be likened to guidelines or instructions that facilitate smooth relations between government and society. These principles are used as the basis for assessing and implementing administrative actions, and serve as unwritten legal norms governing government behavior (Susetiyo & Iftah, 2021).

The general principles of good governance must be applied in the implementation of public services with the following objectives (Susetiyo & Iftah, 2021):

1. Create clear boundaries regarding the rights, responsibilities, obligations and authorities of all parties involved in public service delivery;
2. Creating a public service delivery system that is in accordance with the principles of good governance and good corporate principles;
3. Ensure that public service delivery is carried out in accordance with applicable laws and regulations; and
4. Realizing protection and legal certainty for the community in the implementation of public services.

Article 10 of Law Number 30 of 2014 concerning Government Administration has explained the scope of AUPB that applies to government administration. The general principles of good governance referred to include the following (Susetiyo & Iftah, 2021):

1. The principle of legal certainty that prioritizes the basis of statutory provisions, appropriateness, constancy, and justice in every government administration policy.
2. The principle of expediency means that the benefits must be considered in a balanced manner between: (1) the interests of one individual and the interests of other individuals; (2) the interests of individuals and society; (3) the interests of citizens and foreigners; (4) the interests of one community group and the interests of other community groups; (5) the interests of the government and citizens; (6) the interests of the present generation and the interests of future generations; (7) the interests of humans and their ecosystems; (8) the interests of men and women.
3. The principle of impartiality is a principle that requires Government Agencies and/or Officials in determining and/or carrying out Decisions and/or Actions to consider the interests of the parties as a whole and not discriminate.
4. The principle of accuracy is that a Decision and/or Action must be based on complete information and documents to support the legality of the determination and/or implementation of the and/or Action so that the Decision and/or Action concerned is carefully prepared before the Decision and/or Action is determined and/or carried out.
5. The principle of not abusing authority is a principle that requires every Government Agency and/or Official not to use their authority for personal or other interests and not in accordance with the purpose of granting such authority, not to exceed, not to abuse, and/or not to mix authorities.
6. The principle of openness is a principle that serves the public to gain access to and obtain correct, honest, and non-discriminatory information in the administration of government

while still paying attention to the protection of personal rights, groups, and state secrets.

7. The principle of public interest is a principle that prioritizes public welfare and benefits in an aspirational, accommodative, and selective manner,
8. The principle of good service means providing services in a timely manner, with transparent procedures and costs, in accordance with applicable standards, and in compliance with laws and regulations.

The application of general principles of good governance in the implementation of public services for the realization of the public interest is not mentioned in Article 10 of Administrative Law Number 30 of 2014. The government, among others, determines the scope of AUPB that applies to government administration, which is stated as follows (Susetiyono & Iftah, 2021):

1. The principle of balance is a principle that requires equality between the punishment of the position and the negligence or negligence of an employee. This principle also requires clear qualifications regarding the types or qualifications of offenses or negligence committed by a person so as to facilitate their application in each existing case and in line with equality of treatment and in line with legal certainty.
2. The principle of not conflating authority. A government official has authority that has been determined in the laws and regulations in terms of material, territory, and time. These aspects of authority cannot be exercised beyond what has been determined in the applicable regulations.
3. Principles of Justice and Fairness. This principle of justice requires actions to be proportional, appropriate, balanced, and in line with the rights of everyone. Meanwhile, the principle of fairness emphasizes that every government or state administration activity should pay attention to the values prevailing in society related to religion, morals, customs, and other values.

AAUPB can serve as a foundation or guideline for government officials in carrying out their duties, as well as a measuring tool for the judiciary to assess government actions when there are parties who sue because they feel aggrieved.

Article 9 of Law No. 23/2014 on local government states that government authority is categorized into absolute government responsibilities, concurrent government responsibilities, and general government responsibilities. Absolute government responsibilities relate to responsibilities directly held by the central government, concerning the actual form of government while concurrent government responsibilities include responsibilities that are divided into central, provincial, city and district governments. Article 12 states that government responsibilities are included in concurrent government responsibilities, and Article 13 paragraph (1) states that the division of tasks between the central government, provinces, and local governments (districts or cities) is based on the principles of accountability, efficiency, externality, and strategic in accordance with national interests. Based on these principles, the criteria for government affairs under the authority of the central government are as follows (Rahman & Husein, 2023):

1. Government issues that affect the state or country.
2. Government affairs that affect state or regional boundaries.

3. The quality of political affairs between states or countries;
4. Resources are used more efficiently when the central government does government work;
5. Affairs that fall under the authority of the regional government

The division of state authority and responsibility for each level of government is regulated in Government Regulation No. 38/2007 on the Division of Government Affairs between the Government, Provincial Regional Government, and Regency/City Regional Government. The responsibilities that must be carried out must be based on the substance of respecting, protecting and fulfilling the basic rights of citizens to proper health (Isriawaty, 2015).

The government has several important responsibilities in the contract dispute resolution agreement between PSA and APA. These responsibilities cover various aspects aimed at ensuring that the contract clauses and applicable regulations are complied with. The Government's Responsibilities in the Health sector in the dispute between APA and PSA include:

1. Paragraph (1) of Article 6 of the Health Law and Paragraph (1) of Article 2 of the Government Regulation Implementing the Health Law, namely "The Central Government and Regional Governments are responsible for planning, regulating, organizing, fostering, and supervising the implementation of Health Efforts that are quality, safe, efficient, equitable, and affordable by the community."
2. Article 12 letter c of the Health Law which states that "The Central Government and Regional Governments are responsible for: c. the welfare of Medical and Health Workers....."
3. Paragraph (3) Article 59 letters a and b, namely "District / city governments are responsible for the implementation of adult health efforts including: a. organizing in accordance with standards, safe, quality, affordable adult health efforts; b. organizing and facilitating primary and advanced health services;"
4. Paragraph (1) of Article 1147 of the Implementing Regulations of the Health Law which states that "The Central Government and Regional Governments are responsible for providing guidance and supervision of the implementation of Health."
5. Paragraph (2) of Article 190 of the Job Creation Law which states that the Central Government or Regional Government in accordance with its authority imposes administrative sanctions for violations of providing overtime pay if APA works beyond working hours in accordance with paragraph (2) of Article 78 of the Job Creation Law and provides leave and rest rights in accordance with paragraphs (1), (2) and (3) of Article 79.

Based on this Article, the Government has an important role in resolving contract disputes between PSAs and APAs. This role is realized through supervision of legal protection, and administrative support.

Conclusion

Basically, the legal relationship between the Pharmacist in Charge of the Pharmacy (APA) and the Pharmacy Facility Owner (PSA) is an employment relationship (*dienstverband*). Legal protection for pharmacists in contract disputes related to resignation is still weak. Many

cooperation contracts between the Pharmacy Facility Owner (PSA) and the Pharmacist in Charge (APA) do not reflect the principle of fairness, often burdening pharmacists with unbalanced obligations, such as the obligation to find a replacement before resigning. This creates legal loopholes that can disadvantage pharmacists, especially when contracts do not contain effective dispute resolution mechanism clauses. External Legal Protection stated in the Health Law, Job Creation Law, Government Regulation to Implement the Health Law and the PMK on Licensing in the health sector have weaknesses in providing adequate legal protection for pharmacists. In addition, supervision of the implementation of cooperation contracts in health facilities has not been optimal, resulting in inequality in the working relationship between PSA and APA.

The government has an important role in resolving contract disputes between Pharmacy Facility Owners (PSA) and Pharmacists in Charge (APA) and ensuring the welfare and rights of health workers, including pharmacists. This responsibility includes preventive aspects, such as clear regulations, and repressive aspects, such as the enforcement of legal sanctions. However, these responsibilities have not been fully realized, both in the form of comprehensive regulations and consistent implementation. The lack of oversight of rights violations, such as the non-payment of pharmacists' salaries, shows the need for decisive and more structured measures on the part of the government. Dispute resolution should consider deliberation, mediation, arbitration, and litigation approaches.

References

- Armia, M. S. (2022). *Penentuan Metode dan Pendekatan Penelitian Hukum* (Fahmi, Chairul). Lembaga Kajian Konstitusi Indonesia (LKKI).
- Emedolu, C. O., Okuma, N. C., Chukwudi, R., Odigbo, J., Ojiakor, C. T., & Okeke, M. A. (2024). Intersection of Studious Legal Research Philosophies and Scientific Chics In Nigeria: A Comprehensive Analysis. *Journal of Ecohumanism*, 3(8). <https://doi.org/10.62754/joe.v3i8.5200>
- Hadrian, E. (2022). *Penyelesaian Sengketa Melalui Perdamaian Pada Sistem Peradilan Perdata Sebagai Penyelesaian Rasa Keadilan di Indonesia*. PT. Rajagrafindo Persada.
- Isriawaty, F. S. (2015). Tanggung Jawab Negara dalam Pemenuhan Hak Atas Kesehatan Masyarakat Berdasarkan Undang Undang Dasar Negara Republik Indonesia Tahun 1945 (Doctoral dissertation, Tadulako University). *Legal Opinion*, 3(2).
- Jackson, J. K., Kirkpatrick, C. M., Scahill, S. L., Mintrom, M., & Chaar, B. B. (2024). Relevance of the community pharmacy policy environment to pharmacists' performance, as reflected in stakeholders' perspectives on professionalism and standards. *Exploratory Research in Clinical and Social Pharmacy*, 16, 100499. <https://doi.org/10.1016/j.rcsop.2024.100499>
- Johansson, A., Lindahl, K. B., & Zachrisson, A. (2022). Exploring prospects of deliberation in intractable natural resource management conflicts. *Journal of Environmental Management*, 315, 115205. <https://doi.org/10.1016/j.jenvman.2022.115205>
- Muhaimin, M. (2020). *Metode Penelitian Hukum*. Mataram University Press.
- O'Sullivan, P., & McCarthy, S. (2022). A qualitative study investigating Stakeholders' perspectives on a professional body of pharmacy. *Exploratory Research in Clinical and Social Pharmacy*, 7, 100170. <https://doi.org/10.1016/j.rcsop.2022.100170>

- Prima, B. H. (2010). *Aspek Hukum Perjanjian Kerjasama antara Apoteker dengan Pemilik Sarana Apotek Ditinjau dari Hukum Perikatan* [Universitas Sumatera Utara]. <http://repositori.usu.ac.id/handle/123456789/41788>
- Rahman, L. A., & Husein, A. R. (2023). Analisis Peran Pemerintah Daerah dalam Menangani Sengketa Agraria. *Court Review: Jurnal Penelitian Hukum*, 3(05), 47–58. <https://doi.org/https://doi.org/10.69957/cr.v3i05.1377>
- Susetiyo, W., & Iftitah, A. (2021). Peranan dan Tanggungjawab Pemerintah dalam Pelayanan Kesehatan Pasca Berlakunya UU Cipta Kerja. *Jurnal Supremasi*, 92–106. <https://doi.org/10.35457/supremasi.v11i2.1648>
- Umar, R. (2024). *Permasalahan Pergantian Apoteker, Wawancara Ketua Organisasi Profesi Ikatan Apoteker Indonesia periode 2022-2026*.
- Wardani, W. (2024). *Perlindungan Hukum dan Tanggung Jawab Apoteker dalam Perjanjian Kerja Sama dengan Pemilik Sarana Apotek Melalui Akta Notaris* [Universitas Islam Indonesia]. dspace.uui.ac.id/123456789/48163
- Widi, S. (2022). *Berapa Jumlah Apotek di Indonesia?* Data Indonesia. <https://dataindonesia.id/kesehatan/detail/berapa-jumlah-apotek-di-indonesia>
- Zamroni, M. (2022). *Hukum Kesehatan: Tanggung Gugat Dokter dan Rumah Sakit dalam Praktik Pelayanan Medis*. Scopindo Media Pustaka.