

LEGAL PROTECTION OF BEAUTY CLINIC CONSUMERS IN USE OF BEAUTY MEDICINES (STUDY IN THE BEAUTY CLINIC ALBEZITS CLINIC)

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ABSTRACT

Behind the rapid development of beauty clinic businesses in Indonesia, especially in the city of Medan, some of the users of beauty drugs as consumers feel that they are not suitable for drugs produced from beauty clinics, causing some beauty service users to complain about the drugs provided by beauty clinics. The research method used is juridical empirical. The result of this research is that the regulation of beauty medicines in terms of consumer protection consists of BPOM Regulations, Law No. 36 of 2009 concerning Health and Law no. 8 of 1999 concerning Consumer Protection. The responsibility of beauty clinics to consumers using beauty drugs consists of the responsibility of the business actor (beauty clinic) in a civil manner, the responsibility of the business actor (beauty clinic) in a criminal manner and the responsibility of the business actor (beauty clinic) administratively. Legal protection for consumers of the Albezits Clinic beauty clinic in the use of beauty medicines consisting of products and medical devices that have obtained permission from the Indonesian Ministry of Health, Drugs that have a distribution permit from BPOM, health supplements must be given based on a doctor's prescription, provide compensation for losses due to losses in the use of beauty medicines to patients and / or consumers, replacement or refunds in the event that the patient and / or consumers are not in accordance with the treatment carried out at the Albezits Clinic and compensation due to negligence of SOP violations by Albezits Clinic medical personnel.

Keywords: Legal Protection, Consumers, Medicines and Beauty Clinic.

INTRODUCTION

Nowadays it can be seen that all areas of community life have been touched by legal aspects. This is because basically humans have a desire to live regularly. However, regularity for one person is not necessarily the same as order for another. Therefore, we need rules that regulate human relations through harmony between order and legal foundations. One example is health law. Health law is part of the field of community life that regulates the relationship between humans and other humans, including the law of health in the field of beauty. Health law is a field of specialization in law that is relatively new in Indonesia. Health law includes all rules and regulations which are directly related to the maintenance and care of health that is threatened or that is damaged. The Articles of Association of the Indonesian Health Law Association (PERHUKI) state that health law is all legal provisions that are directly related to health care or services and their implementation. This concerns the rights and obligations of both individuals and all levels of society as recipients of health services and from health service providers in all aspects, organizations, facilities, guidelines for medical service standards, health science and law and other legal sources.

The development of the times and technology which is increasingly fast not only raises a need related to clothing, food and shelter and health, but also gives birth to other needs in the form of appearance needs. Without realizing it, the need to look attractive and beautiful has spread to an important need for society, especially for women. This is the reason many business actors have started to switch to offering services in the beauty sector.

The view of the importance of taking care of the body in the concept of beauty is constantly being intensified through several mass media. So that the developing phenomenon now sees that the problem of beauty is one of the basic needs that at certain times must be met by both women and men. This condition is reinforced by the existence of human nature that easily imitates reference groups, namely social groups that are the size of a person to shape their personality and behavior. Consumer behavior like this causes the need for beauty that is widespread among the people, both in small cities and in big cities such as the city of Medan.

Currently, there are hundreds of beauty businesses in Indonesia. Likewise in the city of Medan, currently there are many beauty clinics, one of which is the Albezits Clinic. The beauty industry, such as beauty clinics, is growing very rapidly in Indonesia. The need for beauty has become a primary need that must be met, especially by women. This causes the beauty industry such as beauty clinics to grow very rapidly and take various ways to attract the attention of consumers in Indonesia. Body or skin care services are one of the services offered in the beauty industry today. One of the services offered in beauty clinics is body or skin care services that use cosmetics or certain drugs and medical equipment that are supported by using sophisticated laser technology. Article 1 paragraph (5) of Law Number 8 of 1999 concerning Consumer Protection defines services as services in the form of work and achievements provided for the public to benefit consumers.

Business actors have an interest in obtaining profit, while consumers have an interest in obtaining satisfaction through fulfilling their needs for certain products / services. In such a relationship, there is often an imbalance between the two (service providers, namely beauty clinics and users of beauty drugs, namely consumers). The position of consumers as the weakest party is the target of exploitation by business actors who are socially and economically strong. In other words, consumers are parties that are

vulnerable to loss due to products / services offered by business actors. The losses experienced by consumers may arise as a result of the existence of a legal relationship between the business actor / beauty clinic and the consumer, as well as due to illegal acts committed by business actors, in this case the beauty clinic.

Losses suffered by consumers in this case must be protected by law. Legal protection is born from a binding legal relationship between beauty clinics and consumers who use beauty drugs. The legal relationship between business actors and beauty consumers is born in the existence of laws, therapeutic agreements and agreements to perform services. From this created legal relationship, 2 (two) types of accountability of business actors are created, namely liability caused by losses in consuming products and / or drugs that are sold, and liability resulting from losses for services performed by personnel medical (doctor) or executor (beautician), either in the form of default or an act against the law. Consumers who experience losses can demand compensation through non-litigation channels or litigation channels as regulated in Law Number 8 of 1999 concerning Consumer Protection.

Law Number 8 of 1999 concerning Consumer Protection states that business actors are obliged to guarantee the quality of goods / services produced and / or traded based on the provisions of the applicable quality standards for goods / services. But sometimes consumers are in a weak position, moreover consumers do not understand about their rights as consumers and most of them are reluctant to question the losses that occur because of the time, energy and costs that are spent again to get their rights as consumers.

There are two types of legal protection in Indonesia, namely preventive and repressive legal protection. Preventive legal protection is legal protection which is usually contained in statutory regulations to prevent violations, such as the existence of rules governing rights and obligations that must be fulfilled by consumers and business actors. Repressive legal protection is the final legal protection in the form of sanctions due to violations or disputes, such as the obligation to carry out compensation for parties who harm. One form of application is Law Number 8 of 1999 concerning Consumer Protection. Whereas every group of consumers who perform treatments at a beauty clinic has the right to get legal protection if there are consequences of the treatment process that are detrimental to themselves.

Behind the rapid development of beauty clinic businesses in Indonesia, especially in the city of Medan, some of the users of beauty drugs as consumers feel they are not compatible with the drugs produced from beauty clinics, causing some beauty service users to complain about the drugs and beauty services provided by a beauty clinic. So there are still many disappointments and consumer dissatisfaction with the services provided by beauty clinic business actors who are considered to be detrimental to consumers, such as peeling faces, increased acne, flushing / burning face, swelling of the face, dull skin accompanied by itching and so on. another is due to mistakes made by beauty clinic business actors, or mistakes made by consumers who use beauty drugs who use products that do not match the instructions for use.

TYPES AND RESEARCH METHOD

This type of research is empirical juridical research, namely positive legal research on people's behavior in their interactions. This empirical legal research is a study of people (legal subjects) in relationships / interactions in society so that empirical legal research is also referred to as sociological legal research. Empirical legal research is legal research that seeks to see law in a real sense or it can be said to see, examine how law works in society.

The source of this research is descriptive analysis, descriptive analysis means that this research is expected to obtain a detailed and systematic description of the problems to be studied. The analysis is intended to be based on the description, the facts obtained will be analyzed carefully to answer the problem. The source of legal materials used in this research is primary data, while empirical legal research uses primary data. Primary data in legal research is data obtained primarily from the results of empirical research, namely research conducted directly in society. Primary data sources are data taken from the source or from the field research, through interviews with interested parties or respondents who can provide the required information related to the problem to be studied. Primary data obtained through or sourced from field research, namely at the Albezits Clinic.

The data analysis used in this research is qualitative analysis. Qualitative analysis is research that refers to legal norms contained in statutory regulations as well as norms that live and develop in society. The data that is analyzed qualitatively will be presented in the form of a systematic description by explaining the relationship between various types of data, then all data are selected and processed and then analyzed by descriptive analysis so that in addition to describing and disclosing, it is hoped that it will provide solutions to the problems of this research.

RESEARCH RESULTS AND DISCUSSION

Regulation of Beauty Medicines in terms of Consumer Protection

Based on Presidential Regulation Number 80 of 2017 concerning the Food and Drug Supervisory Agency, the Drug and Food Control Agency (abbreviated as BPOM) is a non-ministerial government agency that carries out government affairs in the field of Drug and Food control. BPOM is under and responsible to the President through the Minister who administers government affairs in the health sector. The BPOM has the task of carrying out government duties in the field of Food and Drug Control in accordance with the provisions of statutory regulations. Drugs and Food consist of drugs, medicinal ingredients, narcotics, psychotropic substances, precursors, addictive substances, traditional medicines, health supplements, cosmetics, and processed food.

In carrying out the task of Drug and Food Control, BPOM carries out the following functions:

1. To formulate a national policy in the field of drug and food control;
2. Implementing national policies in the field of Medicine and Food;
3. Formulation and stipulation of norms, standards, procedures and criteria in the field of Pre-Circulation Supervision and During Circulation Control;
4. Execution of Supervision before Circulation and Supervision During Circulation;
5. Coordination of the implementation of drug and food control with central and regional government agencies;
6. Providing technical guidance and supervision in the field of drug and food control;
7. To take action against violations of the provisions of laws and regulations in the field of drug and food control;
8. To coordinate the implementation of tasks, guidance, and provide administrative support to all elements of the organization within the BPOM;
9. To manage state property / assets which are the responsibility of BPOM;
10. Supervision of the implementation of tasks within the BPOM;
11. Implementation of substantive support to all organizational elements within the BPOM.

BPOM in carrying out supervision before circulation, takes precautionary measures to ensure that drugs and food in circulation meet the standards and requirements for safety, efficacy / benefits, and the quality of the specified product. While supervision during circulation, BPOM ensures the safety, efficacy / benefits, and quality of the specified product as well as law enforcement actions. BPOM in carrying out drug surveillance, can be seen in the Presidential Regulation Number 80 of 2017 concerning the Food and Drug Supervisory Agency in the fourth section Deputy for the Control of Drugs, Narcotics, Psychotropics, Precursors and Addictive Substances and the fifth section Deputy for the Supervision of Traditional Drugs, Health Supplements. and Cosmetics.

Deputy for supervision of traditional medicines, health supplements, and cosmetics carries out functions, namely:

1. Formulation of policies in the field of supervision before circulation and supervision during circulation, including standardization, registration and supervision of the production and distribution of traditional medicines, health supplements, and cosmetics;
2. To implement policies in the field of supervision before circulation and supervision during circulation, including standardization, registration and supervision of the production and distribution of traditional medicines, health supplements, and cosmetics;
3. Formulation of norms, standards, procedures and criteria in the field of supervision before circulation and supervision during circulation, including standardization, registration and supervision of the production and distribution of traditional medicines, health supplements, and cosmetics;
4. Providing technical guidance and supervision in the framework of supervision before circulation and supervision during circulation, including standardization, registration, production supervision and distribution of traditional medicines, health supplements, and cosmetics;
5. To carry out evaluation and reporting in the field of supervision before circulation and supervision during circulation, including standardization, registration, production supervision and distribution of traditional medicines, health supplements, and cosmetics;
6. Implementation of other functions given by the head.

Access to health services is what is needed for the community in general, both for promotive, preventive, curative and rehabilitation health efforts. Article 1 paragraph 14 of Law Number 36 Year 2009 concerning Health regulates that "Health Efforts are any activity and / or series of activities carried out in an integrated, integrated and sustainable manner to maintain and improve the degree of public health in the form of disease prevention, health improvement, treatment disease, and health compliance by the government and / or society". Related to this, efforts to fulfill patient health cannot be separated from the relationship with the doctor as the party who cures the patient's health, this relationship is called the "therapeutic relationship". Meanwhile, in the area of consumer protection law, the relationship between a beauty doctor and a consumer is called a "therapeutic agreement or therapeutic transaction". The relationship between patients and doctors in health services by some academics and legal practitioners also has the same opinion, that patients can be classified as consumers while doctors and hospitals are classified as business actors in the health sector.

A therapeutic agreement or therapeutic transaction is an agreement between a doctor and a patient / consumer that gives the doctor the authority to carry out activities to provide health services to patients / consumers based on the doctor's expertise and skills. From the legal relationship in the therapeutic transaction, the rights and obligations of each party arise, the patient has rights and obligations, and vice versa, the doctor. Patients in the Health Act can be defined as consumers in the Consumer Protection Act. Juridically, a therapeutic agreement is defined as a legal relationship between doctors and patients / consumers in professional medical services based on competencies in accordance with certain expertise and skills in the health sector. Therapeutic is a translation of "therapeutic" which means in the field of medicine. This is not the same as therapy which means treatment.

A therapeutic agreement can be likened to a "verbal inspiration" because in this contract the doctor is only trying to cure the patient and the efforts made are not necessarily successful. Hermien Hadiati Koswadji argues that the relationship between doctor and patient in a therapeutic agreement rests on 2 (two) kinds of human rights which are basic human rights, namely the right to self-determination and the right to information (the right to information). So it can be concluded, in providing health / medical services to patients / consumers based on Law Number 36 of 2009 concerning Health there are aspects of legal protection for patients / consumers, namely in accordance with Article 58 of the Health Law which states that "Everyone has the right to sue. compensation for a person, health worker, and / or health provider who causes loss due to errors or negligence in the health services

they receive."In this case, drugs in the Consumer Protection Act can be categorized as goods. Goods are any objects either tangible or intangible, movable or immovable, consumable or non-consumable, which can be traded, used, used, or utilized by consumers.

Article 1 of Law Number 8 Year 1999 concerning Consumer Protection explains that consumer protection is any effort that ensures legal certainty to provide protection to consumers. In the Consumer Protection Law, it is clearly stated that the content of the rules contained in it contains elements of consumer protection and aims to protect consumers. Legal protection for consumers has been regulated in Article 4 of Law Number 8 of 1999 concerning Consumer Protection which states that consumers have a quality of comfort, security and safety in consuming goods and / or services. So in this case as a consumer all his comfort, security and safety in consuming goods and / or services are given protection to himself. The legal protection contained in the Consumer Protection Act describes what rights consumers have, what obligations consumers have to do as well as business actors. In this case, the Consumer Protection Law also regulates the rights and obligations of business actors as well as what actions are prohibited by business actors from providing legal protection to consumers.

Article 8 paragraph (1) of the Consumer Protection Law states that business actors are prohibited from producing and / or trading goods and / or services which:

1. Does not meet or does not comply with the standards required in the provisions of the statutory regulations;
2. Not in accordance with the net weight, net content or net content, and the amount in the calculation as stated on the label or label of the said goods;
3. Does not match the size, measure, scale and quantity on the label or label of the said goods;
4. Not in accordance with the conditions, guarantees, features or efficacy as stated in the label, label or description of the goods and / or services;
5. Not according to certain quality, level, composition, processing, style, mode or use as stated in the label or description of the said goods and / or services;
6. Not according to the promise stated in the label, etiquette, description, advertisement or sale promotion of the said goods and / or services;
7. Does not include the expiration date or the period of use / utilization that is best suited for certain goods;
8. Does not comply with the provisions for halal production, as stated in the halal statement on the label;
9. Not attaching labels or making descriptions of goods that make the name of the goods, size, net or net weight / content, composition, rules of use, date of manufacture, side effects, names and addresses of business actors as well as other information for use which according to the provisions must be installed / made; and
10. Does not include information and / or instructions for the use of goods in Indonesian in accordance with the provisions of the legislation in force.

Responsibilities of Beauty Clinics to Consumers of Beauty Drug Users

According to the legal dictionary, responsibility is a necessity for someone to carry out what has been obliged to him. According to law, responsibility is a consequence of the consequences of a person's freedom regarding his actions which are ethical or moral in doing an act. According to the Big Indonesian Dictionary (KBBI) responsibility is the obligation to bear everything if anything happens, it can be prosecuted, blamed, and brought up against it. According to civil law, the basis of liability is divided into 2 (two) types, namely errors and risks. Thus it is known as liability without fault and liability without fault, which are known as risk responsibility or strict liability. The basic principle of accountability on the basis of mistakes means that a person must be responsible because he made a mistake because he was detrimental to others. Meanwhile, the principle of risk responsibility is that the plaintiff's consumers are no longer obliged to do so, but the defendant producer is directly responsible for the risk of his business.

After the Consumer Protection Law is enacted, the principle of responsibility adopted in the Consumer Protection Law is the rebuttable presumption of liability principle. This can be seen in Article 19 paragraph (1) in conjunction with Article 28 of Law Number 8 Year 1999 concerning Consumer Protection. The affirmation of the theory of legal responsibility as a reference for the analysis knife in this research can be found in Chapter VI of the Responsibilities of Business Actors Article 19 of Law Number 8 of 1999 concerning Consumer Protection, namely "Business actors are responsible for providing compensation for damage, pollution, and / or consumer losses. as a result of consuming goods and / or services produced or traded. The compensation as referred to can be in the form of a refund or replacement of goods and / or services of the same type or equivalent in value, or health health care and / or provision of compensation in accordance with the provisions of the applicable laws and regulations. The compensation is given within a grace period of 7 (seven) days after the date of the transaction. The provision of compensation as referred to does not eliminate the possibility of criminal prosecution based on further evidence regarding the existence of an element of error. The provision as intended does not apply if the business actor can prove that the error is the fault of the consumer.

Every business actor, including in this case a beauty clinic, must be responsible for providing compensation for losses suffered by consumers due to the use of goods and or services traded by the business actor. Likewise, beauty clinic consumers who suffer from losses from the use of beauty medicines, the beauty clinic must be responsible for compensating for the losses experienced by consumers. Legal liability in terms of health services or medical services is the responsibility that occurs as a result of an element of error or negligence committed by health workers which is detrimental to patients and / or consumers. Beauty clinics as parties that employ health workers must take responsibility for mistakes made by their health workers.

Following are some of the responsibilities of business actors in the field of beauty clinics to patients and / or consumers who use beauty drugs:

1. Civil Responsibilities of Business Actors (Beauty Clinic)

To obtain compensation for losses suffered by consumers, the business actor can demand civil liability. There are 2 (two) forms of civil liability, namely liability for losses caused by default and responsibility for losses caused by illegal acts, consisting of liability for losses caused by Default, and responsibility for losses caused by illegal acts.

Liability for loss caused by default. Legal relations will occur when consumers come to a beauty clinic for treatment or for treatment. The legal relationship between doctors, consumers and beauty clinics is in the form of an agreement to do something, which is known as health services. Patients and / or consumers are parties who receive health services, while doctors and beauty clinics are parties who provide health services. An agreement between a patient and / or consumer and a business actor can be born from an agreement, therefore if the business actor does not fulfill the agreement, the business actor is deemed to have defaulted. The bond occurs between the consumer and the doctor as a business actor. An agreement between a doctor and a patient is known as a therapeutic agreement. A therapeutic agreement is an agreement between a doctor and a patient that gives the doctor the authority to carry out health service activities for patients based on the expertise and skills possessed by the doctor. The condition of default in the legal relationship between the doctor and the patient forms legal responsibility for the doctor for any losses that arise. Doctor default can be in the form of improper medical action, namely medical action that is contrary to the standard of the medical profession or the standard of medical service. The form of loss that can be sued due to default is in the form of material loss, namely losses that can be measured in money value, especially maintenance costs, travel costs, and drug costs. The existence of this loss must be proven that the loss is a direct result of the doctor's medical service deviating from it.

Responsibility for losses caused by illegal acts. If consumers who use beauty clinic services want to sue beauty clinics and / or doctors based on acts against the law, then the consumers must be able to prove that the skin health services performed by business actors or doctors at the beauty clinic fulfill the elements of an illegal act. As stipulated in Article 1365 of the Civil Code "Every act against the law, which brings harm to another person, obliges the person who, due to his fault, compensates for the loss." So that if there is someone who feels aggrieved due to the actions of another party, of course he will sue the other party to be legally responsible for his actions.

The elements of the act against the law are as follows: There are actions against the law, there is an error, there are losses and there is a causality relationship between acts against the law and losses

2. Criminal Responsibilities of Business Actors (Beauty Clinic)

Criminal liability is a mechanism established by criminal law to react to violations of an agreement to refuse an act, manifested in the form of prohibitions and threats of punishment for the act. Strictly speaking, what the person is accountable for is the criminal act he has committed. The basis of criminal responsibility in cases of circulation of pharmaceutical preparations in the form of use of beauty drugs and medical devices without a distribution permit by beauty clinics managed by doctors is based on Article 197 of the Health Law and Article 63 of the Consumer Protection Act.

Business actors circulating beauty drugs and medical devices without a distribution permit may be subject to criminal sanctions, namely based on Article 197 of the Health Law which states that anyone who deliberately produces or distributes pharmaceutical preparations in the form and / or medical devices that do not have a distribution permit as referred to in Article 106 paragraph (1) shall be punished with imprisonment of up to 15 (fifteen) years and a maximum fine of Rp. 1,500,000,000.00 (one billion five hundred million rupiah).

As for other sanctions that may be imposed on business actors who distribute beauty medicines and medical devices without a distribution license, they are regulated in Article 62 paragraph (1) of the Consumer Protection Law with the formulation that every business actor who trades goods and / or services that are not Fulfilling or not complying with the standards required in the statutory regulations shall be punished with imprisonment for a maximum of 5 (five) years or a maximum fine of Rp.2,000,000,000.00 (two billion rupiah).

A person is considered capable of being responsible depending on two things, namely the condition and ability of his soul. The mental state in question is that the person is not disturbed by disease and is not disabled in growth or in other words, he is conscious in carrying out his actions, whereas what is meant by mental ability is that the person is able to realize the essence of his actions and can know the negligence of the action. In addition, the existence of an error is a very important element in determining whether someone can be responsible or not. Errors can be divided into two types, namely intentional and negligent. Deliberate intention is the intention that is directed at the realization of an act as defined in the law, while negligence usually occurs because the perpetrator commits his act because he is not careful.

This means that intentional or negligence is a sign of an error. Criminal liability in a health crime can only be applied to a person who commits a health crime. Based on the foregoing, doctors as business actors who have been proven to distribute beauty drugs and medical devices without a distribution permit may be subject to imprisonment of up to 15 (fifteen) years and a maximum fine of Rp. 1,500,000,000.00 (one billion five hundred million rupiah) in accordance with the provisions in Article 197 of the Health Law or with a maximum imprisonment of 5 (five) years or a maximum fine of Rp.2,000,000,000.00 (two billion rupiah) in accordance the provisions of Article 63 of the Consumer Protection Act.

If the beauty medicines in circulation are proven to contain hazardous substances which are not in accordance with quality and safety, then doctors can also be subject to Article 196 of the Health Law with a maximum imprisonment of 10 (ten) years and a maximum fine of Rp. 1,000,000,000. 00 (one billion rupiah).

3. Administrative Responsibilities of Business Actors (Beauty Clinic)

The accountability of a business actor is administratively related to the obligations or administrative requirements that a business actor must fulfill in running his business. Strictly speaking, administrative sanctions are related to licensing given by the government to business actors, in this case a health worker. Administrative sanctions are often more effective than civil or criminal sanctions because administrative sanctions can be applied directly and unilaterally. The licensing party only needs to request prior approval from the relevant government agencies. Administrative sanctions do not need to go through court proceedings. The party who is subject to this sanction is given the opportunity to defend himself, among others, to submit the case to the State Administration court, but the sanction itself is imposed first, so that it is more effective.

Article 188 of the Health Law stipulates that the Minister can take administrative action against health workers and health service facilities that provide and or distribute pharmaceutical preparations and medical devices without a distribution permit. In addition, Article 41 of the Permenkes on Clinics also states that in the context of guidance and supervision, the Minister, Governor, head of the provincial health service, regent / mayor, and head of the district / city health service in accordance with their respective authority can take administrative action against business actors. beauty clinic that violates the provisions stipulated in the Permenkes. Administrative actions referred to in the Health Law and in the Permenkes Concerning Clinic can be in the form of verbal warning, written warning, revocation of business licenses, health worker practice licenses, or other permits granted, as well as imposing disciplinary penalties based on applicable laws and regulations.

Furthermore, Article 60 of the Consumer Protection Law also regulates the provision that the Consumer Dispute Resolution Agency has the authority to impose administrative sanctions on business actors who do not provide compensation in the form of refunds or replacement of goods and / or services of similar or equivalent value, or health care and / or giving compensation in accordance with the provisions of the prevailing laws and regulations within a period of 7 (seven) days after the date of the transaction. The administrative sanction is in the form of stipulating compensation of not more than IDR 200,000,000.00 (two hundred million rupiah). In addition, Article 63 letter f of the Consumer Protection Law also regulates the provisions regarding the revocation of business licenses which, this sanction is also an administrative sanction that can be imposed on business actors.

The responsibility of Albezits Clinic as a business actor to Albezits Clinic consumers who suffer losses due to the use of beauty medicines, namely:

1. Replacement Products, Medicines, Supplements and Free Consultation

Albezits Clinic provides product replacement guarantees if the products used or used by patients and / or consumers do not match. For example, allergies to active ingredients in products or drugs, the Albezits Clinic provides replacement products or drugs in consultation with an Albezits Clinic specialist. For example, the skin of a patient and / or consumer who is given a night cream for the case of spots, it turns out that a red and itchy rash appears on his face in less than 3 (three) days, so Albezits Clinic makes a policy to replace products with other types. As well as a form of responsibility to provide anti-irritants and antihistamines for free if an allergy occurs.

2. Replacement Treatment (Treatment) with Other Valuable Treatment

Albezits Clinic provides a patient and / or consumer satisfaction guarantee that is not compatible with the use of skincare or homecare products to patients and / or consumers of Albezits Clinic, apart from a product replacement system, drugs, supplements, it can also be in the form of clinical treatment. for free as a form of Albezits Clinic's responsibility. Replacement treatment is taken with treatment whose value is equal to the value of money for treatment paid by patients and / or consumers.

Legal Protection for Consumers of Beauty Clinic Albezits Clinic in The Use of Beauty Medicines

Philipus M. Hadjon divides legal protection into 2 (two) parts, namely preventive and repressive legal protection. Preventive legal protection is legal protection which is usually contained in statutory regulations to prevent violations, such as the existence of rules governing rights and obligations that must be fulfilled by consumers and business actors. Repressive legal protection is the final legal protection in the form of sanctions due to violations or disputes, such as the obligation to carry out compensation for parties who harm.

The affirmation of the theory of legal protection for consumers as the basis for analysis in this study, is contained in Article 4 of Law Number 8 of 1999 concerning Consumer Protection which states that consumers have the right to comfort, security and safety in consuming goods and / or services. So in this case as a consumer all his comfort, security and safety in consuming goods and / or services are given protection to himself. In addition, Article 8 paragraph (1) of the Consumer Protection Law also states that business actors are prohibited from producing and / or trading goods and / or services that do not meet or do not comply with the standards required in the statutory regulations. Legal protection of this kind is part of preventive legal protection, namely legal protection to prevent violations committed by business actors to consumers. In other words, business actors in running their businesses must pay attention to legal protection for consumers.

Legal protection theory has the aim of integrating and coordinating various interests in society because there is an interest. Protection of certain interests is carried out by limiting the interests of the other party. Legal interests are those that take care of

human rights and interests, so that the law has the highest authority to determine which human interests are regulated and protected. The legal protection contained in the Consumer Protection Act and the Health Act are in accordance with the use of legal protection theory. Where the theory of legal protection must provide protection for human rights (HAM) that are harmed by others. The Consumer Protection Act and the Health Act provide legal protection for consumers that can be found in terms of compensation. Where consumers are people who are affected by the loss or impact due to using goods and / or services from business actors.

As for the legal protection for consumers who experience losses due to errors or negligence of health workers (business actors in the health sector) who use and / or distribute products, beauty drugs, cosmetics, and medical devices have been regulated in the Health Law and Law. Consumer protection. This legal protection is in the form of the right to claim compensation for health workers who cause losses in the skin health services they receive. In addition, legal protection regarding compensation has also been regulated in Article 4 point 8 of the Consumer Protection Law which says that "Consumers have the right to receive compensation and / or compensation, if the goods and / or services received are not in accordance with agreement or not as it should be." Legal protection for consumers is also regulated in Article 58 of the Health Law, namely "Every person has the right to claim compensation for a person, health worker, and / or health provider who causes harm due to errors or negligence in the health services they receive. Claims for compensation as referred to in paragraph (1) do not apply to health workers who carry out life-saving measures or prevent someone's disability in an emergency." Article 4 point 8 of the Consumer Protection Law and Article 58 of the Health Law are forms of legal protection for consumers. Legal protection of this kind is part of repressive legal protection, namely the final legal protection in the form of imposing sanctions due to violations committed by business actors in the form of compensation.

The legal protection for consumers of the Albezits Clinic beauty clinic in the use of beauty medicines, namely:

1. Basically, the clinic has rules in administering drugs, which must be based on a doctor's prescription, and given by a pharmacist through a pharmaceutical installation. Likewise at Albezits Clinic, all products, medicines, health supplements must be given based on a doctor's prescription.
2. Medical products and devices at Albezits Clinic have obtained permission from the Indonesian Ministry of Health and beauty medicines have a distribution permit from BPOM.
3. Patients and / or consumers at Albezits Clinic get legal protection in case of cases such as incompatibilities or allergies to products, beauty drugs used, etc. due to losses in using products, beauty medicines and others. Legal protection in this case is in the form of providing compensation for losses due to the use of these beauty medicines. Compensation in this case can be in the form of replacement of drugs or a refund.
4. Replacement or refunds in the event that the patient and / or consumer is not in accordance with the treatment carried out at the Albezits Clinic, the Albezits Clinic in this case improves the facial skin condition of the patient and / or consumer as well as a refund of treatment if needed.
5. Providing compensation due to negligent SOP violations by medical personnel is also carried out by the Albezits Clinic. For example, patients and / or consumers take face peeling treatment packages. Doctors can make mistakes in the form of SOP violations in the form of applying peeling drug ingredients to the patient's face with a presentation outside of the Clinical SOP, then the individual doctor will get a warning letter and if there is a complaint from the patient and / or consumer about his facial skin and demand compensation. So Albezits Clinic is responsible for improving the condition of the patient's and / or consumer's skin and is responsible for replacing it. Loss. The replacement process, of course, begins with reviewing or reviewing problems, and first mediating by the Albezits Clinic management with patients and / or consumers.

CONCLUSIONS AND SUGGESTION

The conclusions of this study include:

1. Regulation of beauty medicines in terms of consumer protection consists of BPOM Regulations, Law Number 36 of 2009 concerning Health and Law Number 8 of 1999 concerning Consumer Protection.
2. The responsibility of beauty clinics towards consumers who use beauty drugs consists of the responsibility of the business actor (beauty clinic) in a civil manner, namely in the form of compensation, the responsibility of the business actor (beauty clinic) in a criminal manner, namely in the form of imprisonment and the responsibility of the business actor (beauty clinic). administrative, namely in the form of business license revocation.
3. Legal protection for consumers of the Albezits Clinic beauty clinic in the use of beauty medicines consisting of products and medical devices that have obtained permission from the Indonesian Ministry of Health, Drugs that have a distribution permit from BPOM, health supplements must be given based on a doctor's prescription, provide compensation for losses due to losses in the use of beauty medicines to patients and / or consumers, replacement or refunds in the event that the patient and / or consumers are not in accordance with the treatment (treatment) carried out at the Albezits Clinic and compensation due to negligence of SOP violations by Albezits Clinic medical personnel.

The suggestions in this study are as follows:

1. The regulation on beauty medicines has not been regulated clearly and in detail, the government should make a special regulation that regulates beauty medicines, so that people do not worry about consuming beauty medicines.
2. The responsibility of beauty clinics has not run according to the rules, because there are still beauty clinics that do not comply with procedures, it is better if the local government and the Indonesian Doctors Association (IDI) in this case oversee the development of beauty clinics so that beauty clinics can carry out their responsibilities according to existing regulations.
3. Albezitsc Clinic as a business actor in the field of beauty clinics has implemented legal protection for patients and / or consumers, but in this case it is still too general, it is better if Albezits Clinic is more clearly detailed what legal protection is

given to patients and / or consumers in writing so that prospective patients and / or consumers can see directly.

REFERENCES

- Adrian Sutedi. 2003. Product Responsibility in Consumer Protection Law, Bogor: Ghalia Indonesia.
- Andi Hamzah. 2010. Legal Dictionary, Indonesian Ghalia.
- Anny Isfandyarie. 2006. Legal Responsibility and Sanctions for Doctors Book I, Jakarta: Prestasi Pustaka.
- Celina Tri Siwi Kristiyanti. 2009. Consumer Protection Law, Jakarta: Sinar Grafika.
- Elisabeth Nurhaini Butarbutar. 2018. Legal Research Methods: Steps To Find The Truth In Law Science, Bandung: Refika Aditama.
- Hermien Hadiati Koeswadji. 1993. Symposium on Medical Law, National Legal Advisory Board.
- Muhammad Sadi Is. 2015. Health Law Ethics and Its Application in Indonesia, Jakarta: Kencana.
- Mukhammad Najib and Sonim. 2012. Introduction to Indonesian Law, Malang: Setara Press.
- Peter Mahmud Marzuki. 2008. Legal Research, Jakarta: Kencana.
- Philipus M and Hadjon. 2007. Legal Protection for the People in Indonesia: A Study of its Principles, Management by Courts in the General Courts, and the Establishment of State Administrative Courts, Surabaya: PT. Bina Ilmu.
- Soerjono Soekanto. 2007. Introduction to Legal Research, Jakarta: UI Press.
- Sudikno Mertokusumo. 2009. Knowing the Law: An Introduction, Yogyakarta: Liberty.
- Soerjono Soekanto. 2007. Introduction to Legal Research, Jakarta: UI Press.
- Titik Triwulan and Shita Febriana. 2017. Legal Protection for Patients, Jakarta: Prestasi Pustaka.
- Zainuddin Ali. 2009. Legal Research Methods, Jakarta: Sinar Grafika.
- Rani Apriani. (2019). Legal Protection of Consumers from Illegal Beauty Clinic Practices in Karawang, *Yurispruden*, Vol. 2, No. 1.
- Rani Apriani. (2019). "The Responsibility of Business Actors to Consumers Due to Illegal Beauty Clinic Practices in Karawang", *Journal of IUS* Vol. 7 No. 2.

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