

Legal Protection for Hospitals Regarding Decisions for Patients Requesting Independent Referrals

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Abstract

This study analyzes the factors that encourage patients to make self-referrals, and examines the legal responsibilities related to complications or deaths in the process. In addition, this study examines the legal protection for hospitals that follow standard procedures. The methods used are literature studies and analysis of laws and regulations. The results of the study indicate that self-referral functions as a mechanism for delegating tasks in structured health services, aiming to ensure that patients receive services that are in accordance with their medical needs. Factors that influence self-referrals include family perceptions of the patient's condition, previous service experiences, and social and economic factors. However, hospitals still have an obligation to provide accurate information and carry out initial treatment before referring patients. Legal protection for hospitals is provided if they have carried out standard medical procedures and obtained written consent from the patient or their family. Therefore, documentation of medical actions and education to patients are important aspects in minimizing possible legal risks.

Keywords:

Hospital, Self-referral, Legal responsibility

1. Introduction

In social services, referral decision-making is a crucial task because it concerns the well-being and safety of children and families. Referrals are often the starting point for assistance. Every day, social workers decide whether to investigate the issues raised in referrals. Referral decision-making is a task with significant uncertainty due to the quality and amount of information in the referral and the potential outcomes of the decision. Therefore, it is a crucial juncture in case management, as incorrect decisions can negatively impact the lives and safety of children and families. Therefore, research on the appropriate juncture for decision-making is crucial. A patient referral system is a hierarchical and structured mechanism for delegating tasks and responsibilities within health services to ensure patients receive care tailored to their medical needs. This

system aims to improve the efficiency, equity, and quality of health care. Independent patient referral decision-making is the process by which a patient or their family consciously and independently decides to refer to a higher-level or more appropriate health facility, usually after receiving information and education from a health professional. This process involves several stages and factors that influence the decision (Indonesian Medical Association Executive Board, 2016).

Based on the study of decision-making in the context of patient self-referral, there are several important stages that are passed, namely: Awareness that there is a health condition that is not normal or requires further treatment, Understanding that the condition requires a decision for further action, such as referral, Determining the expectations or results to be achieved from the referral, Correct diagnosis and understanding of the patient's condition, including existing risks, Choosing the best alternative, for example choosing the right referral facility, Weighing the benefits and risks of the available options, deciding to self-refer (Hasibuan, 2020)

For example, a patient comes to a hospital complaining of severe abdominal pain and, after examination, is diagnosed with appendicitis and advised to undergo surgery. However, the patient or his or her family declines surgery at that hospital due to religious beliefs, personal preferences, or a desire to be treated by a specific doctor at another hospital. The patient then requests a transfer to another hospital at his or her own request (self-referral/APS) (Maradona & Damayanti, 2023).

In this situation, the patient typically signs a discharge statement at their own request. The original hospital does not issue an official referral letter, so when the patient arrives at the destination hospital, the administrative and care process can be complicated due to the lack of official documentation explaining their medical history and previous procedures (Ekasafitri et al., 2019). The following documents must be prepared for transferring healthcare facilities, in accordance with applicable procedures.

1.1 Referral Letter from Originating Facility

The patient's family must obtain a referral letter from the doctor or healthcare facility treating the patient. This letter is a primary requirement for transferring to another hospital to ensure the referral process follows hierarchical procedures (Ekasafitri et al., 2019).

1.2 Official Procedures for Transferring Hospitals

If the patient is a BPJS Health participant, moving hospitals must go through the procedure for managing the transfer of health facilities which involves re-registration at the destination hospital and notification to BPJS.

1.3 Approval and Verification

After a request for a hospital transfer, the BPJS will verify and validate the data before approving the transfer. This process takes time and requires good communication between the patient's family, the originating facility, and the destination hospital. Informed consent is a mandatory component that serves as physical proof that the referral is entirely the patient's family's decision, thus protecting healthcare professionals in the event of a deterioration in the patient's condition during the journey. (Ekasafitri et al., 2019)

1.4 Reasons for Moving Hospitals

A patient's family can usually request a transfer for reasons such as closer proximity, better facilities, or other medical reasons. However, this must be supported by a medical recommendation from the attending physician.

1.5 Tiered Referrals Remain in Effect

The tiered referral system requires patients to receive a referral from a first-level facility (such as a community health center or clinic) before being referred to a higher-level hospital, except in emergency situations. Patients' families who wish to make an independent referral to move hospital must arrange an official referral letter from the original health facility and follow the applicable hospital transfer procedures, especially if the patient uses BPJS Health, so that services and insurance claims remain guaranteed (Ekasafitri et al., 2019). However, there are several consequences that the patient's family must bear when deciding on an independent referral for the patient.

1.6 Administrative consequences

It is possible that patients do not get an official referral letter which complicates the administrative process and services at the destination hospital, communication difficulties between hospitals are one of the consequences that arise due to the absence of a referral letter from the originating hospital, insurance claims such as BPJS will also experience obstacles when patients move to a hospital without an official referral letter, but in some cases the hospital will provide a referral letter so that the process does not experience obstacles (Rusyad, 2017)

1.7 Medical consequences

The risk of patient safety during transportation is the biggest risk feared by the originating hospital because the patient's condition is unstable, disruption of continuity of care will occur because the destination hospital does not have detailed information regarding the patient's condition, diagnosis, and therapy that has been undergone. Optimal healthcare services require good coordination between healthcare facilities, particularly in the process of referring patients from one hospital to another. However, in practice, it is not uncommon for patients or their families to make independent

referrals, that is, transfer to another hospital at their own request without following formal referral procedures. This decision is usually motivated by various reasons, such as a desire for better care, a hospital closer to family, or trust in a particular doctor (Sholihah, 2018)

This self-referral phenomenon has various consequences, both administratively and medically. Administratively, transfers without an official referral letter can complicate the patient's admission process at the destination hospital and potentially create challenges in securing coverage, particularly for BPJS Health (Social Security Agency) participants. Meanwhile, medically, the lack of coordination and adequate information can disrupt continuity of care and risk patient safety. Making the decision to self-refer doesn't mean healthcare professionals are simply abdicating their responsibilities to the patient. Instead, they will typically provide guidance and education about the risks associated with self-referral (Hasibuan, 2020). Based on this explanation, it is important to understand the factors that encourage self-referral and legal protection for hospitals if a patient dies while en route to the destination hospital (Gladys Nadya Arianto, Arianda Lastiur, Paulina, Saffah Salisa Azzahro, Marsha Maharani, Arsa Ilmi Budiarti, Marselino H. Latuputty, Khotimun Sutanti, Febda Risha, Gina Sabrina, Annisa Azzahra, Arif Maulana, 2024)

2. Literature Review

The discourse surrounding independent referrals within healthcare necessitates a comprehensive understanding of the legal and ethical frameworks governing medical practice and patient autonomy. Patient autonomy, a cornerstone of modern medical ethics, posits that individuals possess the right to make informed decisions about their healthcare, including the choice to seek a second opinion or specialized care from a provider outside of their current network (Shenoy, 2021). However, this right is not absolute and must be balanced against the professional autonomy of healthcare providers and the responsible allocation of resources within healthcare systems (Cave, 2019). Ethical principles like beneficence, which compels healthcare providers to act in the best interests of their patients, and non-maleficence, which requires them to avoid causing harm, further complicate the landscape when patients request referrals that may be perceived as medically unnecessary or financially imprudent (Mennella et al., 2024). The concept of choice in healthcare is central to the discussion, emphasizing that providing patients with options enhances their autonomy and informs them about their health conditions and available treatments (Zolkefli, 2017). This patient-centered approach ensures respect for individual preferences and values in healthcare decisions, aligning with ethical and legal standards promoting patient rights (Entwistle et al., 2010).

The legal system must consider the potential impact of self-referral arrangements, which may have both pro-competitive effects and the possibility of abuse, necessitating

a balance between these factors (McDowell, 1989). The intricacies of these situations become even more pronounced when considering scenarios where organizational missions or religious beliefs conflict with patient requests, raising questions about the extent to which healthcare institutions are obligated to accommodate such preferences (Schueler & Stulberg, 2020). Furthermore, the issue of family autonomy can sometimes overshadow individual patient autonomy, particularly in certain cultural contexts, influencing medical decision-making processes (Jafree et al., 2015). Navigating cultural differences and ensuring inclusivity are crucial in healthcare, particularly in multicultural environments like Australia, where misunderstandings can arise from societal differences and hinder cross-cultural functioning (Howard et al., 2025). The right to health is a fundamental human right, as recognized in the International Covenant on Economic, Social, and Cultural Rights, necessitating healthcare services that are culturally appropriate and acceptable. This international perspective underscores the need for healthcare systems to respect cultural diversity and ensure equitable access to healthcare for all individuals, irrespective of their cultural background.

2. 1. Hospital Liability and Legal Standards

Hospitals, as healthcare providers, owe a duty of care to their patients, requiring them to provide medical treatment that meets the accepted standard of care within the medical community. This duty extends to referral decisions, where hospitals must ensure that patients receive appropriate and timely referrals to qualified specialists when necessary. Failure to meet this standard can expose hospitals to liability for medical negligence, particularly if a patient suffers harm as a direct result of a delayed or inappropriate referral. To mitigate the risk of liability, hospitals often implement policies and procedures governing the referral process, including guidelines for assessing the medical necessity of referrals, documenting the rationale for referral decisions, and ensuring that patients are informed of their right to seek a second opinion. These policies are designed to promote transparency and accountability in the referral process, safeguarding both patient interests and the hospital's legal position. Moreover, healthcare providers should strive to deliver culturally sensitive care, recognizing that cultural and religious beliefs significantly shape how patients perceive health, illness, treatments, and risks (Turner, 2005). This comprehensive approach ensures that referral decisions are grounded in both medical best practices and legal obligations, protecting the rights and well-being of patients while minimizing the risk of legal repercussions for healthcare institutions.

2. 2. Analysis of Legal Cases

Examining landmark legal cases involving independent referral requests provides valuable insights into the legal principles and considerations that courts weigh when

adjudicating such disputes. Cases involving allegations of negligent referral, breach of contract, or violation of patient rights often turn on the specific facts and circumstances, including the medical necessity of the referral, the reasonableness of the hospital's decision-making process, and the extent to which the patient was informed of their options. By analyzing these cases, healthcare providers can gain a deeper understanding of the legal standards that govern referral decisions and the potential legal risks associated with denying patient requests for independent referrals. Furthermore, such analysis allows for the identification of best practices in documentation, communication, and patient education, which can help to minimize the risk of legal challenges and ensure that patient rights are protected. In cases where referral requests arise due to differing medical opinions, it is imperative to consider the patient's perspective and facilitate access to additional expertise (Ramanayake, 2013).

2. 3. Strategies for Minimizing Legal Risks

Hospitals can implement several strategies to minimize legal risks associated with patient requests for independent referrals. Establishing clear and transparent referral policies, documenting the rationale for referral decisions, and providing patients with comprehensive information about their options are essential steps in mitigating potential legal challenges. Implementing robust communication protocols between healthcare providers, patients, and specialists can also help to ensure that referral decisions are well-informed and patient-centered. Moreover, healthcare providers should strive to deliver culturally sensitive care, recognizing that cultural and religious beliefs significantly shape how patients perceive health, illness, treatments, and risks. Engaging in ongoing education and training for healthcare staff on legal and ethical issues related to referral decisions can further enhance the hospital's ability to navigate complex situations and uphold patient rights. Furthermore, hospitals can adopt innovative online referral systems to improve the safety and visibility of interspecialty referrals, while remaining cognizant of the potential weaknesses inherent in such systems, including the loss of real-time communication and the need for robust tracking mechanisms (Kwon et al., 2021). By prioritizing transparency, communication, and patient education, hospitals can foster trust, reduce the likelihood of disputes, and ensure that referral decisions align with both legal requirements and ethical principles.

3. Research Method

This study employs a qualitative literature review approach to systematically explore the existing scientific literature and legal regulations for implementing infection control protocols in healthcare settings. The literature search used specific keywords related to infection control, nurse compliance, healthcare safety, and hospital protocols. The

selection of studies followed clear inclusion criteria: (1) relevance to the topic of infection control and nursing practice, (2) availability of comprehensive qualitative data that addressed the barriers and challenges in the implementation of infection control protocols, and (3) the credibility and academic rigor of the source, which includes peer-reviewed journals, official health regulations, and reputable reports from healthcare institutions. Studies that were not directly related to the research question or lacked sufficient qualitative data on the barriers to infection control were excluded.

A thematic analysis approach was used for the analysis of the literature. This involved carefully reading through the selected studies and identifying recurring themes or patterns regarding the barriers nurses face in adhering to infection control protocols. These themes were categorized into key areas: workload, limited resources, lack of training, and weak organizational culture. Data were coded by grouping similar findings across different studies, allowing for the extraction of meaningful insights into the factors that hinder effective infection control implementation. This qualitative analysis identified critical issues and gaps in existing practices, which is essential for understanding how infection control protocols can be better integrated into nursing practice.

4. Discussion

Factors that influence families in making decisions for independent referrals include the following aspects (Wulandari et al., 2016). Patients often choose to self-refer for several important reasons. First, the family's perception of the patient's health condition significantly influences this decision. If the family feels the patient needs further care, they will often push for referral elsewhere. Furthermore, previous experiences with healthcare services also play a significant role. If the patient or their family has experienced unsatisfactory care, they are likely to seek alternatives. Social factors are also important; support or recommendations from friends and family can make patients feel more confident about self-referral. Cost is also a key consideration. Patients may choose self-referral if they find treatment elsewhere more affordable. The availability of services tailored to the patient's medical needs and clear information about the patient's health condition also significantly influences this decision. Overall, the decision to self-refer is influenced by a combination of factors including family, experience, social support, cost, service availability, and health information. Some of these factors include:

a. Family factors

A single power structure in the family will show that decision-making is done by one party, either the husband or the wife, and then each decision-making pattern will vary in terms of who has more influence in decision-making, the husband or the wife, or equally between the two.

b. Employment status factors

Employment status factors briefly include education level, gender, age, marital status, training experience, working hours, employment status, and economic conditions such as economic growth and employment opportunities. Low levels of education and quality of the workforce, an imbalance between the number of workers and jobs, and uneven distribution of the workforce are the main factors influencing employment status and unemployment.

c. Economic factors and health insurance

Family income and health insurance coverage, such as a BPJS card, significantly influence this. Families with higher incomes and health insurance tend to make self-referral decisions more quickly because cost is less of a barrier.

d. Social support

1) Emotional support

Emotional support is social support that takes the form of expressions of empathy, concern, care, and encouragement from those closest to an individual and those in their social circle. This support makes a person feel accepted in a group where they can share both good and bad experiences.

2) Award support

Esteem support is social support expressed by significant others, such as parents and family. It can also be expressed by others in the social environment, such as friends and community members. This support makes a person feel more valued and cared for, and can build their self-confidence.

3) Instrumental Support

Instrumental support is social support that takes the form of material assistance and is more tangible, such as financial donations or assistance with tasks that are particularly burdensome for the individual. This support makes the individual feel like someone is always there for them.

4) Information Support

Informational support is a form of support that is more of an advice-based approach, providing positive feedback, or providing feedback on an individual's accomplishments. This support can help someone overcome problems they cannot resolve on their own, manage stress, and improve self-evaluation. This support fosters a strong sense of compassion and concern for others.

e. Cost

Funds that must be prepared to provide or use health services to meet the needs of individuals, families, and communities. These costs include all funds needed to organize various health efforts, both from the side of health service providers (providers) such as the government and private sector, as well as from the side of consumers or the community using these services.

f. Education and occupation of family members

Family members' education and employment are two important factors that are interrelated and influence family well-being. Educational attainment determines the quality of human resources within a family, which in turn impacts the type and stability of employment available. Decent work provides a steady income, supports living expenses, and improves the quality of education for the next generation.

Legal protection for hospitals in cases where patients request independent referrals and die en route is regulated by the applicable law, Law Number 17 of 2023 concerning Health (the Health Law). Hospitals are legally responsible for losses incurred due to negligence by healthcare workers in the hospital, including doctors and other medical personnel (Article 193 of the Health Law). Hospital legal liability only applies if there is negligence (*culpa levis*) that causes losses, not intentional misconduct (*mens rea*). If the hospital has provided services in accordance with professional standards and procedures, including providing independent referrals with the patient's consent, then the hospital usually has legal protection from lawsuits for the patient's death during the referral process. Hospitals are required to provide emergency services according to their capabilities and may not refuse patients in emergency situations. Refusal without a valid reason can result in criminal sanctions and fines (Article 190 of the Health Law). Hospitals are also required to have malpractice insurance to cover compensation costs in the event of legally proven malpractice (President of the Republic of Indonesia, 2023).

Hospitals receive legal protection if they have implemented standard service and referral procedures and have not committed any negligence. If a patient dies during an independent referral without evidence of hospital negligence, the hospital cannot be held legally liable. However, if negligence is proven, the hospital is legally responsible and may be subject to sanctions and is required to provide compensation to the victim or their heirs (Eynon et al., 2020)

Several aspects of responsibility are involved in the deterioration of a patient's condition when self-referral is made at the patient's request, both from the patient's and the healthcare provider's perspective. To determine who is at fault, it is important to understand the rights and responsibilities of each party. Patients' Rights and Responsibilities: Patients have the right to make choices about their health, such as

refusing medical treatment or deciding to self-refer. However, accepting the consequences of these choices also comes with this right. In self-referral situations, the patient's primary responsibility is to inform healthcare staff about their health concerns in an honest, thorough, and accurate manner. This is essential so healthcare staff can provide appropriate advice and guidance, even if the patient chooses to self-refer. If the patient agrees, they should follow the treatment plan or instructions recommended by the healthcare provider. Patients should accept the potential consequences if they decide not to comply. Accept all consequences of their own choice to refuse prescribed therapy or ignore the guidance provided by healthcare professionals in an effort to manage their illness. Responsibilities of healthcare facilities and healthcare providers Healthcare professionals and healthcare facilities (such as the originating hospital or clinic) remain obligated even if the patient chooses to self-refer: Ensure informed consent by providing clear and complete information: Healthcare professionals must provide a thorough explanation of the patient's illness, its risks (if the patient is not formally referred or is self-referred), and available treatment alternatives. The possibility of the patient's condition worsening and the consequences of non-compliance with medical advice must be included in this explanation. (President of the Republic of Indonesia, 2023)

This needs to be well documented, for example by refusing informed consent. Making the best possible efforts within the parameters of authority and competence: Health workers treating patients at the originating health facility are required to ensure they have taken all necessary steps to stabilize the patient's condition or provide first aid in the event of an emergency, in accordance with their professional standards and competence, before making an independent referral. In emergency, hospitals and medical personnel are required to continue providing life-saving medical assistance to the patient, regardless of whether the patient subsequently makes an independent referral (President of the Republic of Indonesia, 2023).

Complete documentation: The patient's medical record should contain detailed documentation of each procedure, including the diagnosis, recommendation for referral, explanation of risks, and the patient's choice to self-refer (even if they declined a formal referral). This demonstrates that healthcare professionals have fulfilled their duties by reporting information and taking appropriate measures. In other words, if a patient becomes ill after being referred independently against their will despite being fully informed of the risks and implications, the patient is ultimately responsible for that outcome. However, there are some exceptions:

Negligence of Healthcare Workers or Healthcare Facilities: Healthcare workers or healthcare facilities may be held legally liable if a patient's condition worsens due to their negligence (malpractice) in providing initial care that does not meet professional standards or by failing to obtain adequate consent (for example, by failing to clearly explain the risks). Neglected Emergency Conditions: Healthcare or healthcare facility

workers may be considered negligent if the patient is in an emergency and they refuse to provide the necessary initial care, which causes the patient's condition to worsen (President of the Republic of Indonesia, 2023)

5. Conclusion

Self-referral is a patient's right but has legal, medical, and administrative consequences. The hospital remains responsible for the medical services provided before the patient is referred, including the obligation to provide information and first aid to the patient. Legal protection for the hospital is provided as long as the actions of the health workers are carried out according to professional standards and accompanied by informed consent. If the patient dies during the self-referral process, then the hospital has fulfilled all obligations, so there is no legal basis to sue the hospital. In health services, decision-making regarding referrals in social and health services is a complex and challenging process, especially in the context of the welfare of children and families. Referrals are often the first step in obtaining assistance, and decisions made by social workers or patients can have a significant impact on safety and health. In the health referral system, there are procedures that must be followed, including obtaining an official referral letter and undergoing verification by relevant parties, such as BPJS Health. Families of patients who choose self-referral must understand the administrative and medical consequences that may arise, including safety risks during transportation and potential difficulties in the administrative process. Responsibility in making decisions about self-referral involves various parties, including health workers who must provide clear information and support the patient's decision. In the event of a patient's deteriorating condition, legal liability can be complex, depending on whether healthcare professionals have met professional standards and applicable procedures. Legal protection for hospitals is also regulated by law, which states that hospitals cannot be held liable if they have provided services according to standards and have no committed negligence. However, if negligence occurs, hospitals can be subject to sanctions and are required to provide compensation. Therefore, it is important for all parties to understand their respective rights and responsibilities in the self-referral process to ensure patient safety and compliance with applicable laws (Gerke et al., 2020)

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