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CRIMINAL LAW ENFORCEMENT ANALYSIS AGAINST INDEPENDENT PRACTICE MIDWIVES IN COMMITTING UNLAWFUL ACTS

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Abstrak

The phenomenon of maternal and infant mortality in Banten Province is still high. Based on data released by the *United States Agency for International Development* (USAID) Jalin, in Banten Province every week there are an average of 5 mothers and 27 newborns who die the highest deaths are in Pandeglang Regency with 59 cases. and when the public's need for health services increases, especially midwife services, it is not balanced by the expertise and skills of midwives to form a good service work mechanism. So often we also find midwife services not in accordance with their authority. The problems that the author will discuss are related to the criminal law enforcement of the actions of midwives who are against the law and the authority of independent practice services in Pandeglang Regency and the implementation of legal policies regarding criminal acts in cases of malpractice in Pandeglang Regency. The method used in this study is a normative juridical descriptive method using a problem approach with the Law by prioritizing primary data and secondary data. The results of this study that midwives who carry out obstetric services are not in accordance with applicable regulations, will be sanctioned in accordance with the Minister of Health of the Republic of Indonesia Number. 1464/Menkes/PER/X/2010 on the licensing and administration of midwife practices. Sanctions given to midwives can be in the form of revocation of the midwife's practice license, revocation of Surat Izin Praktek Bidan temporary, or it can also be a fine. In addition, midwives can also be sentenced to prison if they violate the laws and regulations. If a midwife violates the code of ethics, the settlement of this matter is carried out by the midwife professional forum, namely the Midwife Professional Council or the Indonesian Midwife association.

Keywords: Law Enforcement, Midwives, and Unlawful Acts

INTRODUCTION

The Constitution of the Republic of Indonesia of 1945, mandates that welfare for all Indonesians is a right and obligation for the state to fulfill it, this is stated in Article 28H Paragraph (1) which states that: *"Everyone has the right to live a prosperous life born and mentally, reside, and get a good and healthy living environment and the right to obtain services health."*(Ardinata, 2020)

The welfare in question is a health development effort that is always sought to improve continuously so that healthy people as an investment in development can live productive lives, therefore health implementation continues to be carried out by the government, one of which is the provision of health facilities and also qualified health workers to support the Indonesian government's program of healthy and prosperous living,

in this case the government is obliged to facilitating because health services are a form of fulfillment of human rights.(Pribakti, 2019)

The implementation of health services is inseparable from the involvement of various parties, including health facilities, health workers and patients themselves, health workers are implementers of health services which are the main key to achieving health development goals.(Hanum & Yanuarita, 2020; Mujiati & Yuniar, 2016) Health workers as providers of health services to patients with the best quality in accordance with their respective sciences. Health workers themselves are divided into medical and non-medical personnel. Midwives are one of the non-medical health workers whose competence is to provide obstetric services which is an integral part of health services.(Anggraeni, 2019)

Article 23 paragraphs (1 and 2) of Law Number 36 of 2009 concerning Health that health workers are authorized to provide health services, while the health services in question must be in accordance with their field of expertise. In addition, in paragraph (3) it is also stated that in providing health services, health workers must have a permit from the government. The health workers in question include medical personnel, nursing personnel and midwives; and pharmaceutical personnel, public health workers, nutritionists, physical therapy personnel and medical technical personnel.(Agustina, 2016)

The provision of health workers in Indonesia is a way to support the improvement of the level of health of the Indonesian people in accordance with the ideals of the nation. Health workers include doctors (medical personnel), midwives (obstetricians), and nurses (nursing personnel). In carrying out their duties, doctors certainly cannot serve alone, doctors are assisted by the presence of midwives and nurses.(Ningsih & Suwandi, 2018; Yuningsih, 2014)

Midwives can practice in a variety of service settings, including at home, community, hospital, clinic or other health units. The Indonesian Midwives Association stipulates that an Indonesian midwife is a woman who graduated from midwife education recognized by the government and professional organizations in the territory of the Republic of Indonesia and has competencies and qualifications to be registered, certified and or legally licensed to carry out midwifery practice.(Amalia & Handayani, 2022; Panggabean, 2018)

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Given the large responsibility and workload of midwives in serving the community, the government together with the Midwifery Professional Council or the Indonesian Midwives Association have sought education for midwives in order to produce graduates who are able to provide quality services and can act as health workers Profesional. (Argaheni dkk., 2022) The work of a midwife is a profession, so in its implementation in addition to basing on service standards set by laws and regulations, it must also be subject to a code of ethics set by a professional organization so that a midwife as one of the health workers must not only be responsible to the community based on laws and regulations but must also be accountable to professional organizations (midwifery) on the basis of the midwife's code of ethics it can be said that responsibility is a burden carried by a person on the basis of his actions. (Turingsih, 2012)

According to Jimly Asshiddiqie. "Law enforcement is the process of making efforts to establish or function legal norms in a real way as a code of conduct in traffic or legal relations in the life of society and state. (Asshiddiqie, 2016) The definition of law enforcement can also be viewed from the point of view of the object, namely in terms of the law. In this case, the sense also includes a broad and narrow meaning. In a broad sense, law enforcement also includes the values of justice that live in society. But, in a narrow sense, law enforcement only concerns formal and written enforcement of regulations. (Moho, 2019)

Law enforcement serves as a protection of human interests. For human interests to be protected, laws must be implemented. The execution of the law can take place normally, peacefully but it can occur also due to violation of the law. In this case the law that has been violated must be enforced. It was through law enforcement that the law became a reality. (Muhlashin, 2021)

Many things that were not in the limelight before are now coming to the fore and are in the spotlight of society, m isalnya only about the problem of malpractice which is a legal problem faced in the practice of obstetrics. (Utomo, 2015) In talking about the problem of malpractice we are not only talking about obstetric problems and practices, but kita must also look at the reciprocal relationship between the midwifery profession and society, antara

midwife and patient there is a very close interdependence a ntara one with the other.(Pribakti, 2019)

Based on laws and regulations as a legal responsibility, it can be divided into the seriousness of the patient's disease, the condition of the delivery mother, the type of medical action carried out by the midwife, complications of diseases that have existed before or after the action, the patient's lack of knowledge of the drugs given by the midwife are some of the factors that can affect the success of the midwife in exercising her authority as a health worker.(Ariany, 2017)

When the public's need for health services increases, especially midwife services, it is not balanced by the expertise and skills of midwives to form a good service work mechanism. So often we also find midwife services not in accordance with their authority. Based on data obtained from the Pandeglang Regency Health Office in 2020, facts were obtained about unlawful acts against the authority of independent practice midwife services in Pandeglang Regency.

The problem faced is that more and more midwives have permission to carry out medical activities so easily, so that it allows the emergence of midwives who are not competent to handle emergency cases irresponsibly, the large amount of cashus malapractice so far is due to the leeway of related parties to carry out independent practice without strict supervision

Malpractice does not only focus on the medical profession, but also applies to other medical personnel, such as midwives as one of the medical personnel who work and organize independent practices around their residences. Midwives have an important task in counseling and health education, not only to women, but also to families and communities. This activity must include *Antenatal Care* education and preparation for parenthood and can extend to women's health, sexual health or reproductive health, the role and function of midwives in carrying out practical actions as stated in Law No.4 of 2019 concerning Midwifery

The phenomenon of maternal and infant mortality in Banten Province is still high. Based on data released by the *United States Agency for International Development* Jalin, in Banten Province every week there are an average of 5 mothers and 27 newborns who die. In

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2016, the total maternal deaths reached 240 people, the highest number of maternal deaths was in Pandeglang Regency with 59 cases.

Given the large responsibility and workload of midwives in serving the community, the government together with the Midwifery Professional Council or the Indonesian Midwives Association have sought education for midwives in order to produce graduates who are able to provide quality services and can act as health workers Profesional. The work of a midwife is a profession, so in its implementation in addition to basing on service standards set by laws and regulations, it must also be subject to a code of ethics set by a professional organization so that a midwife as one of the health workers must not only be responsible to the community based on¹ laws and regulations but must also be accountable to professional organizations (midwifery) on the basis of the midwife's code of ethics it can be said that responsibility is a burden carried by a person on the basis of his actions.

A very attention-grabbing and stirring case in Pandeglang Regency, where the first case was the rampant case of a sungang baby that occurred in a clinic in the Pandeglang area at the end of 2020 and also a case of malpractice involving a midwife in Pandeglang Regency in 2018. The case of the death of the first child breech baby who gave birth with the help of a midwife without any help to be referred to the nearest health facility that is more adequate and **more** complete facilities in carrying out childbirth, until now the two cases are still under further investigation by the police.

Based on data cited by dati media in the period from 2016 to 2022, there are many cases of malpractice that occur in Banten Province as follows data:

¹(Article 24 paragraphs 1 and 2 Undang-Undang No. 36 of 2009 concerning health).

Table 1.3 Local Malpractice Data

No	CASE	INFORMATION
1	The case of the death of a breech baby in Sukaresmi District, Pandeglang Regency in 2018	Die
2	The case of the Breech Baby in Panimbang District, Pandeglang Regency in 2020	Die
3	The location of Breech at Drajat Prawaira Hospital in Serang City in 2018 as many as 43 pregnancies	4 babies died
4	Location of baby Sungsang Mrs Imas in Malang Nengah Curug Serang City in 2019	Die
5	The incident of the death of Mrs Enah's twin babies in Lebak Gedong Kec. Sindang Official pandeglang regency in May 2021	Die

Table 1.3 informs that there are 2 (two) cases that are very attention-grabbing and make a stir in Pandeglang Regency, where the first case is the rampant case of sungang babies that occurred in a clinic in the Pandeglang area at the end of 2020 and also a case of malpractice involving a midwife in Pandeglang Regency in 2018. The case of the death of the first child breech baby who gave birth with the help of a midwife without any help to be referred to the nearest health facility that is more adequate and more complete facilities.

Around the end of July 2020 at 21.07 or 09 pm, a patient named Mrs Rosih who was pregnant with her gestational age of 29 weeks past 6 days experienced headache accompanied by high body temperature (fever) and tingling body, so she came to the midwife's place to practice independently accompanied by her husband and was handled directly by Midwife Y. From the results of the examination, it is estimated that Mrs. Rosih

in addition to experiencing the deman of the patient Mrs. Rosih also had contractions on the left side, with this Midwife Y suggested to stay at the practice place waiting for observation and continuation of the fetus in her womb, If the fetus in Mrs. Rosih's womb is dangerous then the fetus in the womb must be removed immediately.

Although there have been many patients who have given birth at the midwife's parktek Y place, the case in Mrs. Rosih's pregnancy is a very high-risk thing, but Midwife Y said that there will be no effect of the feeling of deman and tingling on the fetus conceived by Mrs. rosih if she later gives birth, Believing, Mrs. Rosih and her husband also agreed to give birth at that place. So they agreed to observe or monitor the next pregnancy condition until the fetus in the womb was completely removed but the ill-fated baby with the breech location was not helped and died.

METHODOLOGY

The legal research based on its purpose consists of first; normative legal research, which includes research on legal principles, research on legal systematics, research on the degree of legal synchronisation, legal history research, and legal comparative research. Secondly; sociological or empirical legal research, which includes, research on legal identification (unwritten) and research on the effectiveness of law. This research uses an empirical juridical approach.(Ali, 2021)

The approach method used in this study is normative juridical, namely legal research carried out by examining library materials or secondary data as basic material for research by conducting a search of regulations related to the problems discussed. The main point of study is law which is conceptualized as a norm or rule that applies in society and becomes a reference for everyone's behavior, so that normative legal research focuses on the inventory of positive law, legal principles and doctrines, legal discoveries in cases *in concreto*, systematics. law, the degree of legal synchronization, the comparison of laws and the history of the law.(Muhamimin, 2020)

The normative juridical approach is about legal research methods that function to see the certainty of Legal Protection and also legal certainty in providing information on

approval of medical *acts informed consent* carried out at Banten General Hospital which is connected with Law Number 36 of 2014 concerning Health Workers.

RESULT AND DISCUSSION

Based on data obtained from the Pandeglang Regency Health Office in 2020, facts were obtained about unlawful acts against the authority of independent practice midwife (BPM) services in one of the sub-districts in Pandeglang Regency. There was an incident of perinatal kamatian (newborn) with breech location occurring in the work area of the Pandeglang District Health Office.

Around the end of July 2020 at 21.07 or 09 pm, a patient named Mrs Rosih who was pregnant with her gestational age of 29 weeks past 6 days experienced headache accompanied by high body temperature (fever) and tingling body, so she came to the midwife's place to practice independently accompanied by her husband and was handled directly by Midwife Y. From the results of the examination, it is estimated that Mrs. Rosih in addition to experiencing the deman of the patient Mrs. Rosih also experienced contractions on the left side, with this Midwife Y suggested to stay in the practice place waiting for observation and the continuation of the fetus in her womb, If the fetus in the womb mrs. Rosih is dangerous then the fetus in the womb must be removed immediately.

In the case of a criminal act of medical malpractice or medical negligence committed by health workers / midwives in Pandeglang Regency with the initials Bd. Y. as a village midwife on duty precisely in Sukaresmi District, Pandenglang Regency on Friday, September 19, 2020 at around 21.42 WIB, he had committed gross negligence which resulted in the recipient of health services dying or resulting in death. from the point of view of criminal liability, the midwife y can be held liable because it is not mentally defective, not because it is forced to act, not because of the office and orders of the ruler he did it or which is stipulated in the Regulation of the Minister of Health regarding anyone who cannot be held accountable. If guided by this, the defendant must absolutely be held accountable for all his actions.

The concrete rules in Law Number 4 of 2019 concerning Midwifery also serve to create an activity in an effort to maintain and improve public health and in the context of

forming human resources and increasing the resilience and competitiveness of the nation for national development in the health sector. The magnitude of the health impacts in national development demands attention to health in the archipelago. Health problems will cause economic losses to the country. Efforts to improve the degree of public health also mean investment for the development of the State.

Health workers who commit negligence are the same as malpractice. Malpractice carried out by health workers, can be in the form of medical malpractice, which is carried out when he carries out his profession in the field of medicine in this case it can be in the form of intentional acts such as in certain misconducts, acts of negligence or incompetence / beyond his unwarranted competence in the form of injuries or suffering losses to the party being handled.

Regulation of the Minister of Health No. 1464/ Menkes / per / X / 2010 concerning Permits and Implementation of Indonesian Midwife Practices in CHAPTER III Of The Implementation of Practices Article 9 specifies that midwives in carrying out practices, are authorized to provide services that include maternal health services; child health services; and women's reproductive health and family planning services

Article 10 paragraph (1) specifies that the health services provided by the midwife to pregnant women as referred to in Article 9 letter a are provided during the pre-pregnancy period, pregnancy, puerperium, breastfeeding period and the period between two pregnancies. Article 13 paragraph (1) in addition to the authority of the midwife as referred to in paragraph (2) maternal health services as referred to in paragraph (1) include counseling services during the pre-inspiration period; antenatal services in Normal pregnancy; normal delivery services; the service of normal puerperal mothers; the service of breastfeeding mothers; and counseling services in the second community of pregnancy.

Law enforcement as a process, in essence, is an application of discretion that concerns making decisions that are not strictly regulated by the rules of law, but have an element of personal judgment. Conceptually, the essence of law enforcement lies in the activity of integrating the relationship of values described in the stable rules and attitudes of action as a series of elaboration of final stage values, to create, and also to maintain and maintain the

peace of life associations. The conception, which has a philosophical basis, requires further explanation so that it will appear further concrete.

Human beings in the association of life basically have a certain view of what is good and what is bad. These views are always manifested in certain pairs, for example, there are couples with the value of peace, pairing of the value of public interests with the value of personal interests and so on. In law enforcement the pair of values needs to be aligned. The pair of values that are synchronized requires a concrete description because the value is usually abstract. The onkret elaboration occurs in the form of a rule of law, which may contain prohibition or ability. These rules become guidelines or benchmarks for behaviors or attitudes of actions that are considered appropriate or that should be.

The context of this thesis study, in connection with Muladi's opinion, stated, "The use of legal remedies (including criminal law) in law enforcement is one of the efforts to overcome social problems including in the field of criminal law enforcement policy". Therefore, it is necessary to follow up all efforts to implement law enforcement properly in accordance with the provisions specified in the legislation.

Criminal law policy (*penal policy*) is also essentially a criminal law enforcement policy. Criminal law enforcement policy is a series of processes consisting of three stages of policy. First, the formulaive policy stage or the legislative policy stage, which is the stage of drafting/formulating criminal law. The second stage, the judicial/applicative policy stage, is the stage of applying criminal law. The third stage, the administrative/executive policy stage, is the implementation/execution stage of criminal law.

Penal policy that is repressive, but actually also contains a preemptive element, because with the threat and criminal conviction of delik, it is hoped that there will be a *deterrent effect*. In addition, penal policy is still needed in overcoming crime, because criminal law is one of the means of social policy to channel social *dislike* or social *disapproval /hatred* (*social disapproval social abhorrence*) which is also expected to be a means of social protection (*social defence*). That is why it is often said, that "penal policy" is an integral part of "*social defence policy*".

- 1. Analysis of the Authority of Independent Practice Midwives in Elements of Against the Law**

Based on the results of the chronology of the case of handling the baby located breech in Sukaresmi District, Pandeglang Regency, in the case of Mrs. Rosih, the researcher argued that this was in accordance with the documentation that should have been handled in a more serious health facility, not carried out at the place of independent midwife practice, it was caused by several reasons after seeing the status or *informed Consent* as follows:

a. Age Identity/Parity

In the case of Mrs. Rosih, she was 42 years old. According to Manuaba (2010), the safe age for pregnancy and childbirth is at the age of 20 to the age of 35 years. Pregnancy at the age of less than 20 years usually the uterus has not grown to an adult size and the pelvis is not perfect or the reproductive apparatus is immature, as a result of which the delivery is stuck or long, and the age of more than 35 years is also a risk because the mother's health decreases, as a result of which it has a greater probability of problems in pregnancy such as pregnancy with breech location, preeclampsia, and bleeding.

The results of Mrs. Rosih's study according to the author's analysis are not included in the reproductive age for the delivery of a pregnant woman, it is because she is older than the patient Mrs. Rosih is more than 35 years old. Thus in the case there is no gap because Mrs. Rosih with the age of 42 years is considered more vulnerable and has a high risk in childbirth so it is highly recommended to give birth in a safer place with more complete facilities. This was also revealed by one of the officials in the Pandeglang District Health Office who revealed that the authority of the midwife's own health service has been stipulated in its nomenclature, namely Paraturan Meteri Kesehatan, if it deviate from the existing rules, it is clear that it has violated the existing rules.

b. Age of emptiness

Pregnancy history in the case of breech baby location in Mrs. Rosih's patient when visiting the independent midwife practice at that time Mrs. Rosih's gestational age based on the first day of menstruation was dated September 27, 2020 the gestational age was 29 weeks more than 6 days.

According to Mufdillah If the menstrual cycle is 28 days The Estimated Day of Birth can be calculated by adding 7 on the date, subtracting 3 or adding 9 in the month, and adding 1 or fixed on the year (+7, -3, +1) / (+7, +9, +1). thus according to the author's analysis of the explanation above it is very clear that the condition of the fetus in the womb of Mrs. Rosih is problematic and requires more accurate delivery assistance from the energy of the mothership, but in that circumstance the midwife Y did not immediately provide information to immediately refer the patient because the access taken was far from the crowd or precisely in remote areas.

Based on this, the actions taken by practicing midwives have committed violations and are against the authority of the law, from a legal point of view, the health worker profession can be held accountable under civil law, criminal law and administrative law. On the other hand, as stated by policymakers in Pandeglang Regency, the existence of village midwives is needed, especially access to health services in remote areas which are very minimal and far from the crowds of the city, the sanctions given are in the form of sanctions with a light category.

Minor Violation Sanctions in the form of administrative sanctions are generally imposed on offenses classified as minor categories, administrative sanctions are private in nature imposed by state administrative officials or officials, reprimand sanctions are verbal and written reprimands. The imposition of this reprimand sanction to the sanctionee must be informed of the type of guilt. This type of sanction is mild and the reprimanded party is still given the opportunity to improve themselves, sanctions in the form of administrative actions against midwives can be carried out by ministers, provincial governments, and district/city governments as stated in Articles 23 and 24 of the Minister of Health Regulation Number. 1464 / Minister of Health /PER/X/2010 concerning Permits and Implementation of Midwife Practices.

c. Main complaints

The arrival of Mrs. Rosih's patient who experienced a pregnancy with a breech baby to an independent practice midwife health facility with the main complaint felt by the pregnant woman in addition to feeling a bit feverish, the most striking thing the patient felt was the tingling in the left hand.

Based on this information, researchers can analyze that the complaints that occur in Mrs. Rosih's patients are already in a serious status and need special treatment by an obstetrician who will later be given more intensive treatment, the thing that Midwife Y should do at that time is to refer her to more complete health services. a mistake or omission made by health workers, be it a doctor, nurse and also a midwife and also other health workers in carrying out their profession that is not in accordance with the standards of their profession and standard operating procedures, as a result of these errors or omissions the patient suffers serious injuries, even dies, the action can be categorized as malpractice.

d. Education

In the case of Mrs. Rosih, the patient who gave birth with a baby in a breech location in one of the sub-districts in Pandeglang Regency had the last educational background taken by the patient was elementary school (SD). According to researchers with an educational background, it can influence a person, including someone's behavior about a person's lifestyle and outlook on life

With the education possessed by Mrs. Rosih, researchers can analyze that Mrs. Rosih is educated in a low category, although categorized as low education, but can receive information about the location of the breech, with layman's language given by health workers, and obtained by reading books, from Television, and from other people or friends in their environment, however, the health workers do not provide clear information to patients, so that information that is difficult to obtain by patients can be conveyed through information that is better understood by patients with an easy-to-understand understanding.

Regulation of the Minister of Health of the Republic of Indonesia Number 28 of 2017. In the implementation of obstetrics practice, midwives have the authority in addition to providing health services to pregnant women, they must also be able to educate and provide appropriate counseling to patients in need.

Looking at the records and interview results, the researcher assumed that the midwife should also formulate immediate actions that should be formulated to save the mother and also the baby in Mrs Rosih's womb, the actions in question include the midwife being able to carry out actions by reference but in its implementation the midwife instead carried out independent actions that resulted in the death of the baby. on that basis the midwife Y had violated the authority that should have been given by the midwife practice so that his actions can be categorized as an offense and negligence

So the conclusion is that the analysis that the author can convey can be known from the Kepenvoy of the Minister of Health Kesehatan Number. 1464 / MenKes /per/X/2010. Article 23 paragraph (1) specifies that in the context of implementing supervision as referred to in Article 21, Ministers, provincial governments and district / city governments can provide administrative actions to midwives who violate the provisions of the implementation of practices in this regulation. Paragraph (2) of the article specifies that the administrative action as referred to in paragraph (1) of the offence committed by Midwife Y in the act of carrying out maternity assistance with the location of the breech baby in Kabuapten Pandeglang falls into an offense with the category of **Medium** offense, so that the sanctions given through oral reprimand, and written reprimand, as well as the revocation of Surat Ezin Kerja Bidan / Surat Izin Praktek Bidan for a while no longer than 1 (one) year;

2. Analysis of the Role of the Indonesian Midwives Association of Pandeglang Branch in the Case of Handling Breech Babies in Pandeglang Regency

It has been stated previously that legal policy is a legal regulation formulated and determined by the authorized bodies as a guideline, so in this study the researcher highlighted the role of the Indonesian Midwives Association (IBI) Ranting

Pandeglang which acts in its capacity as an official as a professional organization of midwives, the organization has duties and responsibilities in legal protection for patients and is obliged to carry out quality control midwifery services in the working area of Pandeglang Regency. It is this aspect of legal protection that regulates and determines the rights and obligations of each legal subject.

The regulation of the rights and obligations of the implementation of health services between patients and midwives is stated in the Regulation of the Minister of Health Number. 1464 of 2010 concerning Permits and Implementation of Midwife Practices. To maintain the implementation of these rights and obligations, supervision from various parties is needed, especially the branch of the Indonesian Midwives Association which houses where health services or independent practices are carried out. In addition, according to him, the form of legal protection for all midwives in the working area of the Pandeglang Regency Branch is reflected in Surat Tanda Registration and Surat Izin Praktek Bidan he has, as well as a certificate of training competence. The Indonesian Midwives Association supervises independent practice midwives in the form of preventive supervision. The purpose of this preventive supervision is to prevent deviations from occurring by independent practice midwives in providing midwifery services. This preventive supervision includes an assessment of scientific abilities and skills (competencies) as well as midwives' compliance with the code of professional ethics and the ability to practice independently continuously and continuously.

Since the issuance of the Pandeglang Regent Regulation, it is known that there has been a decrease in independent practice midwives where the original 332 became 182 active independent practice midwives spread across the work area of the Indonesian Midwives Association, Ranting Pandeglang. The regulation aims at legal protection for patients, especially maternal health, where the Indonesian Midwives Association carries out the mandate of these provisions. The Indonesian Midwives Association requires each member to attend training. The form of training that is

²The results of an interview with Mrs. Eni Yati as the Chairperson of the Indonesian Midwives Association Ranting Pandeglang on September 20, 2021

currently being programmed is Normal Childbirth Care. Meanwhile, from the internal of the Indonesian Midwives Association itself for a form of preventive supervision through assessment, training, seminars and socialization to independent practice midwives

In terms of the position of the body or organization authorized to supervise, the form of supervision carried out by the Indonesian Midwives Association, internal supervision is supervision carried out by an agency which is organizationally or structurally still included in the government environment itself. This is the Indonesian Midwives Association, a midwife professional organization that is authorized to regulate members by conducting supervision to maintain and improve the quality of midwifery services, as well as supervision in the form of organizational meetings, training, seminars and socialization of the latest regulations.

The form of supervision by the Indonesian Midwives Association Ranting Pandeglang on the implementation of the authority of practice midwives in their work areas in terms of supervision time is preventive supervision (prevention). Preventive supervision itself is supervision carried out before the issuance of a decision or government decree with the intention that there are no errors or deviations in carrying out service activities in independent practice, the Indonesian Midwives Association is in charge and responsible for maintaining, controlling the quality of service and service of the midwife profession continuously.

Based on this, researchers can draw the conclusion that the form of preventive supervision by the Indonesian Midwives Association located in the Branch of Pandeglang Regency is by assessing the scientific ability of skills (competencies) when the midwife applies for a practice permit in the form of a recommendation letter for independent practice. In addition, compliance with the midwife's code of professional ethics and the ability to practice independently through branch, branch and group meetings, as well as supervising the implementation of financial services through training and seminars.

The case that happened to the midwife Y when carrying out childbirth assistance with the location of the breech baby which is the condition of the breech

fetus and premature because it is known that her gestational age Mrs R who gave birth at the midwife Y practice was 29 weeks 6 days old. While the duration of pregnancy starting from ovulation to partus (childbirth) is approximately 280 days (40 weeks) and not more than 300 days (43 weeks), 40 weeks of pregnancy, on that basis what should be done by Midwife Y is by means of referral actions to more complete health services, but on the grounds that access is far from the crowds of the city and complete health facilities is difficult and takes a long time so that Midwife Y does her own delivery so that the fetus cannot be saved.

The actions taken by Midwife Y seen from a layman's point of view do not want to burden patients but from a legal point of view the action has violated the Regulation of the Minister of Health (Permenkes) Number 1464 of 2010 concerning the permit and implementation of midwife practice article 9 which has been stated where the limits and authority of actions that can be taken by a midwife, thus childbirth assistance measures outside the authority of the midwife can be subject to sanctions in accordance with the regulations Law Numbers. 4 Of 2019 Article 45, under which midwives may be subject to sanctions in the form of a. Verbal reprimand; b. Written reprimand; c. Administrative fines; and/or d. Revocation of permits, provisions regarding procedures for imposing administrative sanctions as referred to in paragraph (2) are regulated by a Regulation of the Minister of Health of the Republic of Indonesia.

So the conclusion is that it can be known from the Ministry of Health Number. 1464 / MenKes / per / X / 2010. Article 23 paragraph (1) specifies that in the context of implementing supervision as referred to in Article 21, the case of malpractice committed by the midwife is resolved through the Pandeglang Branch Midwife Professional Ethics Council as a non-penal effort against this malpractice case. The Indonesian Midwives Association as an organization that oversees can provide administrative actions to midwives who violate the provisions of the implementation of practices in this regulation. Subsection (2) of the said article specifies that the administrative action referred to in subsection (1).

Administrative sanctions imposed against acts of malpractice by the Midwife Professional Ethics Council are fines, the size of the fine will be determined by the law that regulates it, the act of maternity assistance carried out by Midwife Y in Pandeglang Regency is included in the violation with the category of **Medium** violation. As for the sanctions being in medical violations in the form of freezing until the revocation of the certificate, this sanction is a temporary and forever termination, for cases of handling breech babies in Pandeglang Regency, sanctions are given through oral reprimands, and written reprimands, as well as the revocation of sipb and SIKB midwife practice licenses for 1 (one) year

CONCLUSION

From the discussion above, it can be concluded that:

1. The midwife's action in carrying out assistance in the delivery of breech babies in the case taken as data in Pandeglang Regency has provided services to patients, but in this case it can be categorized as an unlawful act because the midwife's service has provided services that exceed her authority, namely helping childbirth with a premature fetal condition with a breech location. In this case, the midwife is contrary to the Peraturan of the Minister of Health Number 1464 of 2010 concerning Permits and Implementation of Midwife Practices, Hospital Law Number. 44 Of 2009 and the Code of Ethics and authority of midwives. Both of these things are theoretically unlawful acts in the narrow sense. Based on this, midwives who provide maternity assistance to babies located breech in Pandeglang Regency can be categorized as unlawful and have committed violations with the category of moderate violations so that the sanctions given by the Midwife Professional Council or the Indonesian Midwives Association Ranting Pandeglang are in the form of sanctions through oral reprimands, and written reprimands, as well as the revocation of the Midwife Practice License temporarily at least the longest in the form of sanctions through oral reprimands, and written reprimands, as well as the revocation of the Midwife Practice License (SIPB) temporarily at least the longest in the period of 1 (one) year
2. The application of legal policies related to malpractice cases involving village midwives in the work area of Pandeglang Regency must be based on legal principles,

namely efforts to protect human rights, separation or division of powers, implementation of people's sovereignty, the implementation of government based on applicable laws and regulations. From a legal point of view, the health worker profession can be held accountable under civil law, criminal law and administrative law. On the other hand, as stated by policymakers in Pandeglang Regency, the existence of village midwives is needed, especially access to health services in these remote areas which is very minimal with a very long distance from the city crowds but to realize the Non-Penal legal policy by means of *prevention without punishment*), then there is a need for a deterrent effect including the application of administrative sanctions and civil sanctions as well as the influence of public views on crime and guidance through the mass media (*influencing views of society on crime and punishment*).

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