

LEGAL PROTECTION FOR NURSES IN HEALTH SERVICES BASED ON LAW NO. 10 OF 2004”

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ABSTRACT

Legal protection for nurses did not touch the human rights aspects, especially the civil-political aspect, in fact Law N° 10 of 2004 already existed and is used as a support point or basis to regulate the rights of nurses, but substantively it does not clearly regulates, so that the demands of nurses' rights have been ignored by the government. The absence of more specific laws and regulations generates multiple interpretations for each individual (nurse). Therefore, to prevent things like this, the government should immediately create specific legislation on nurses' rights so that they can respond to the various problems faced by nurses and can create legal certainty and justice for nurses.

Keyword: legal protection nurse, in health services, based on law

INTRODUCTION

Health is part of the human rights guaranteed in article 57 of the RDTL Constitution of 2002, which states that 1. The State recognizes the right of all citizens to health, medical services and sanitation. 2. The state must develop a national health system that is universal, general and within the limits of the state's capacity, free of charge, based on the law. 3. The national health service should, as far as possible, adhere to participatory management. In relation to the State which is responsible for the provision of adequate public services. The provision of public service facilities in the healthcare sector, one of which is a hospital. Hospital institutions run by the government or the private sector are in the form of inpatient, outpatient and emergency services, which are provided for the benefit of the community. The implementation of health services in hospitals has complex characteristics and organizations. In addition, hospitals need human resources as the main support in hospital health services. The human resources that should be owned by a hospital are permanent staff, namely medical and medical support staff, nursing staff, pharmaceutical staff, hospital management staff and non-health workers. The nurse has a duty to perform nursing care that includes assessment, determination of nursing diagnoses, planning, execution of nursing actions and nursing assessments. Doctors and nurses work together and need each other to deliver healthcare to patients. Nurses cannot act independently without instructions from physicians in performing medical actions on patients. Physicians' instructions should be given to nursing professionals who already have a certificate of registration and/or license to practice as a nurse. Based on the Guido Valadares Hospital Nursing Statute, it is stated that the attributions delegated from doctors to nurses are divided into two, namely, the delegated and the mandatory. Delegable tasks, namely, the delegation of responsibilities from doctors to nursing professionals to carry out a medical action whose responsibility passes from doctors to the recipients of the tasks. The mandatory task is the assignment of a doctor to a professional nurse to carry out a medical action. Nurses as members of the profession are responsible for providing nursing services in accordance with their authority in an independent and collaborative manner. This is possible because nurses have knowledge and nursing tips that support their professional practice. The professional practice that is characteristic of the profession must be maintained

and improved to maintain high standards of performance. Nursing staff must always develop and improve their professional skills. Health problems are increasingly complex, society's demands for health services are increasing, changes in health systems and advances in science and technology require nurses to assume greater responsibilities. As a consequence, nurses must be responsible for all decisions made. Therefore, it is necessary to have a legal force that regulates the authority of nurses who work to control nursing practice, protecting the community and nurses themselves. However, during the year 2002 until now, there are several issues that have not been resolved by the government, with regard to the rights and obligations of nurses in the exercise of their functions and functions as health services, namely: Firstly, issues legal provisions, although in article 8 of Law n° 2004, it regulated the rights of health services in general, but maintaining and protecting the rights of nurses specifically does not mean empty norms. Marginalized the principles of legal certainty and justice. Related to the principle of legal certainty, the government needs to establish special legislation on nurses' rights. An example is the right to obtain a lawyer if there is a case. negligence, administrative problems that affect nurses, you can request legal advice under the terms of article 34 no. and also in the exercise of their functions and functions can be legally protected, even though the nurse has committed negligence that resulted in criminal sanctions for their actions that were submitted to the Timor-Leste's Public Prosecutor's Office, was limited to one report and the case was closed. So on the side of justice that is ignored by the government, because when compared to the duties of doctors and nurses described earlier, nurses have heavier duties and functions, because doctors are limited to just examining patients, so nurses do the supervision. full of patients. if the government does not consider the rights of nurses, through the formation of special legislation, justice for nurses will not accrue properly. Second, sociological problems, from legal uncertainty and injustice to nurses' rights, do indeed have significant implications for the implementation of the national health system and for nurses' lives. Implications for the national health system, where there are nurses who neglect their duties and functions, if the government does not establish more specific legislation to protect the role of nurses during the supervision of patients. In addition, the implications for the lives of nurses who have responsibilities in a family directly or indirectly, as it is common knowledge that they are not only responsible for the family, but there are also responsibilities for customs that must be obeyed and obeyed. Therefore, the government of the democratic republic of Timor-Leste Needs to be aware of these issues through special legislation. Third, the political issue that is a precursor of legislation for the life of the State in general and specifically for the rights of nurses, has never received government attention, although the labor law has regulated their rights differently from other bodies. but the practice of managing health is not at all visible, where the dominance of political parties is too strong to have a real impact on the implementation of the national health system, for example; the appointment of directors, heads of departments for cleaning depends on the ruling political party in government. In addition, marking is contrary to what is desired by health workers, because at each period the marking system such as this is carried out can have a real effect on the national health system and the rights of nurses described above cannot be achieved. as a whole • legal protection for nurses is not perfectly applied and the effectiveness of the national health system is undermined by the dominant political power. Fourthly, there are two theoretical problems, first, from the theory of legal certainty, where there is no special legislation that regulates the rights of nurses as an example of the right to defend oneself in court, the right to obtain a lawyer despite the constitution of the RDTL and the criminal procedure code. so to avoid multiple interpretations or legal uncertainty, as expressed by Sudikno Mertokusumo, is one of the conditions that must be met in law enforcement, he said; Legal certainty is; "justifiable protection against arbitrary actions,

meaning that a person will obtain something that is expected in certain circumstances", therefore, the government needs to provide legal protection for nurses' rights through the establishment of special legislation. Associated with Aristotle's theory of justice, namely; the theory of distributive justice, commutative justice, vindictive justice. First, distributive justice (justitia distributive) is justice that applies proportionately in the field of public law in general. Second, commutative justice is justice by equating realization and counter-realization. Third, vindictive justice is justice in terms of imposing punishment or compensation for criminal acts. A person is considered just if he is sentenced to corporal punishment or a fine according to the amount of punishment that has been determined by the criminal act he has committed. also defended justice. Aristotle describes "justice is political virtue, by the rules of the state it is regulated and these rules the etherion of what is right". With regard to the Aristotelian theory of justice, commutative and vindictive justice, since nurses in the exercise of their attributions and functions of health services must obtain legal protection according to the services they provide. In fact, with the various problems that exist as a country that is still in the process of development in all fields, the State needs to establish priorities in the health sector because the community really needs adequate health services from hospitals, doctors and nurses, for that the government's role is very crucial to protect every individual, its citizens. The formulation of the problem is whether the rights of nurses were legally protected in the care of patients based on Law No. 10 of 2004? The normative legal research type uses the conceptual analysis approach type, the statutory approach and the comparative approach, the use of legal materials Primary legal materials The legal materials secondaries are tertiary. Collection of materials using system sheets and bibliographic sheets Legal Materials Analysis uses deductive reasoning.

ANALYSIS AND DISCUSSION

Nurses' rights were legally protected in patient care based on Law Number 10 of 2004

With regard to paragraph 1 of article 8 of paragraph 1 of article 8 of the Law of paragraph 10 of paragraph 1004 concerning Professionals -The law professionals who: health, namely those of a deontological nature, taking into account the social relevance of their activity. Based on the content of the article above, firstly, paragraph 1 only provides a general explanation of the professional rights and obligations of health professionals (nurses) in general, but does not explain in detail what the rights of nurses are. East has been independent for 20 years, many laws and regulations have not been formed, so the implementation of the national health system is based only on Law number 10 of 2004 and has not been replaced or did not exist until now. their duties as health care providers. Therefore, to avoid various problems that occur in the ministry of health, hospitals to clinics, government or national parliament, it is necessary to think about establishing legislation as mentioned above, because as a country that has sovereignty, attention must be paid to the needs of the community, one of the what are the rights of nurses, Quoting the opinion of Satjipto Rahardjo, Legal protection is providing human rights protection (HAM)) who are harmed by others and this protection is given to the community so that it can enjoy all the rights conferred by law. From this view, there are three (2) meanings that need to be digested: First, the protection of human rights that are harmed by others means that human rights substantially require that individual rights receive special attention from the State through the establishment and enforcement of laws and regulations. , as the State of RDTL needs to be attentive to the rights of nurses that have not been considered, as can be seen in many health laws and regulations that do not yet exist, this causes the rights of nurses to be marginalized if there are problems that afflict them individually or in a group, here requires the direct

involvement of the State to provide legal protection to nurses. Secondly, protection is given to the community so that it can enjoy the rights conferred by the law, that is, the law formed must give protection to the rights of the members of the community, so that the comfort, the well-being in the life of the nation and state can be enjoyed. Likewise, this is not obtainable by the public. nurses who exercise their functions and functions as providers of health services to the community, because equal rights are only obtained by certain groups or certain agencies, in fact, in the labor law of RDTL, the burden of civil servants' rights are distributed evenly, but if you look at their duties and roles as healthcare professionals. According to the definition of legal protection, then legal protection must be given by the government to nurses in the form of health regulations and policies that are legally protected. Currents are carried out in the field, namely through the provision of mental health service facilities for nurses, provision of mental health workers and adequate mental health supplies. So that it can provide legal security and justice for the entire community without exception, including for nurses in fulfilling the protection of their rights to health services. Thus, the legal protection of rights needs to be carried out by the State, so that individual rights can be enjoyed equally by every nurse who performs her duties and functions as a health service for the community.

NURSES' RIGHTS FROM A HUMAN RIGHTS PERSPECTIVE

Rights are the embodiment of freedom in society, while the consequences of rights are responsibilities in the form of obligations. Therefore, in everyday life, freedom is always linked to responsibility, in line with rights that are always linked to obligations. This means that if you make a claim to rights, it needs to be balanced with obligations. In order to create a balance between the two, these rights need to be regulated in laws and regulations in order to limit the rights claims made. The term Human Rights (HAM/Human Rights) is formed etymologically from three words, namely, rights, human rights and human. Right means true, real, certain, permanent and obligatory. The word Basic means everything that is fundamental and fundamental that is always connected to its object. With this explanation, Human Rights can be interpreted as fundamental human rights. Soetandyo Wignjosoebroto defines human rights as “fundamental rights that are universally recognized as inherent rights of human beings because of their nature and nature as human beings”. In essence, human rights are inherent and universal. According to Soetandyo: Rights are called 'universal' because these rights are declared to be part of the humanity of every human being, regardless of skin color, sex, age, origin, culture, religion and belief. While the word 'inherent' or 'inherent' is used because these rights are owned by every human being only because of their existence as a human being and not because of a gift from any power organization. Due to the inherent nature of human rights, these rights cannot be taken away or revoked. So, basically, the right is linked to each individual and cannot be taken by others. Associated with the rights of nurses that are neglected by the State, this has deviated from the principles of human rights and the opinion of Soetandyo above, because if we look at the experience of the state RDTL through the health system as regulated in article 57 of the Law of 2002 The constitution of RDTL and Law No. 10 of 2002 of 2004 did not meet the needs of individual rights, both nurses' rights and patients' rights. The first reason, regarding nurses' rights, there is only one (1) article that regulates the rights and obligations of nurses, namely article 8 of Law no. . Both the rights and the 2002. The government or national parliament needs to enact health legislation, in particular, the rights of nurses, codes of ethics for medicine or nurses, in order to create conditions of legal certainty for nurses in providing services to the community with problems with patients. . Legal certainty is formed in the hope of providing understanding to nurses so that they always have a positive attitude and think about the state laws that have been set. With regard to legal security, linked to the national health system regulated in the

RDTL Constitution of 2002, the State has the obligation to establish laws and regulations that regulate the national health system. Health itself is one of the basic needs of human beings, so there is a saying that "health is not everything, but without health, everything is nothing", health is not everything, but without health, everything is meaningless. Everyone has the right to live a healthy life. The right to health is a right that comes from human rights. When discussing the right to health services, it is first necessary, enunciate the notion of rights. Right is the power or authority that a natural or legal person has to obtain or decide patients' disputes are regulated in article 7 of Law n° 10 of 2004, the description of the article also does not clearly explain the rights and obligations of patients, being necessary legal certainty so that their rights can be protected. The existence of legal certainty in a country also provokes efforts to regulate its right which is manifested in a law made by the government. Legislation is the applicable legal system, which is not based on a momentary decision. The principle of legal certainty is a concept to ensure that the law has been applied properly so as not to cause any harm to anyone, the law should protect and protect the collectivity from various crimes or harassment of individuals or groups and should be used as way of life for everyone. Thus, the law was formed with the aim of regulating the order of people's lives so as to create order, peace and happiness. Associated with the law that aims to regulate the order, the government needs to form legislation that is an elaboration of article 57 of the Law of 2002 Constitution of the RDTL and Law No. of protection, when combined with legal certainty in the national legal system in terms of health, creates legal uncertainty to regulate the rights of nurses who have been marginalized for a period of 20 years, in order to avoid this and the State's desire to achieve prosperity as enshrined in article 6 of the RDTL Constitution in 1999 do something. You Rights can also be described as follows: "Rights are justified claims that individuals and groups can legitimately make about other individuals or a social group or institution. To have a right is to be in a position to determine by one's own choices what others should and should not do. The Charter of Human Rights is mentioned in Chapter II. When it comes to the rights of the first nurses, nurses are also human beings who have the same rights as individuals, citizens and rights as health professionals who carry out very heavy duties and functions, although their rights have not been ratified with certainty. Second, nurses also have both civil and criminal responsibilities if in their roles they perform acts or make mistakes as professionals, they must comply with applicable legal procedures, but these responsibilities are not regulated or there are no professional nursing ethics or other rights. Described in the previous chapter. Third, just as rights must be accompanied by obligations assumed by nurses, as long as they look at the reality of the current RDTL health environment (home, clinic) that the burden of duties and functions of health nurses is in fact heavier than that of physicians, as their attributions and functions of patient supervision are not yet complete, contained in the legislation. Indeed, Law No. 10 of 2004 regulates patient care procedures and the structure of health organizations, but does not provide legal certainty for nurses if they are subject to criminal sanctions and are individually responsible, hospitals do not participate in helping these nurses. Based on the explanation above, in terms of the human rights principles described in chapter II, the basic principles that animate international human rights can be found in almost all international human rights treaties, namely 3 principles; namely: Firstly, in the exercise of their functions and functions as public health services, they are also part of the civil servants as provided for in the labor law of Timor-Leste, who are entitled to equality and equality and to be treated accordingly with human rights principles, but this runs counter to the fact that nurses are legally unprotected because there are no laws and regulations that can protect them when there is a mistake in the task, for example if the doctor cannot come to see the status of the patient, the nurse can only carry out the task, but if there is an error in the examination or in the administration of an overdose,

this responsibility is obviously assigned to the nurses, but giving or imposing punishment for them through the code of ethics for nurses cannot receive a sanction, because it was not established by the government. On the other hand, nurses may also be subject to sanctions under labor law, when obligations as public servants are not fulfilled in accordance with labor law orders, sanctions received by nurses may be in the form of reprimand, suspensions and layoffs, or when committing acts or breaking the law, when providing services to patients, still make use of labor law. However, the code of ethics for nurses does not yet exist, the malpractice is the same, and there is no law protecting the right to legal assistance, which makes Timor-Leste's national health system still weak in terms of legislation. The equality afforded to nurses and doctors who practice the same profession in relation to patients in hospitals is a separate problem because between doctors and nurses they are different in terms of treating patients, doctors only check patients and nurses they supervise while they are in the hospital, nurses sometimes replace the role of doctors when the patient needs. Judging by the principle of equality between doctors and patients, there is still discrimination, especially in the exercise of their functions, the salaries received are differentiated, as they must follow the prerequisites established by labor legislation, when associated with the theory of justice proposed by Aristotle (in Chapter II), is not in accordance with the provisions of the Civil Service Law. Firstly, the determination of working hours between doctors and nurses is not fair, as the time to supervise doctors and nurses is different, doctors only have a few hours while nurses exceed the time given to doctors and must be given accordingly. With their respective parcels, however, the parcel must be in accordance with the tasks performed by both. Third, the obligations that are fulfilled by nurses who perform their duties and functions as health services for the community, but are not in balance with their rights as human beings, since in principle legal protection must be given to nurses through training. Of laws and regulations that were not provided by the government, this right has implications on the national health system, where nurses have fulfilled their obligations as health services, but if there are problems involving actions contrary to positive law, fulfilled obligations may be subject to sanctions under Timor-Leste labor regulations. This should not drag on because if it is based solely on law number 10 of 2004 and the labor law, it is not enough to provide legal protection for nurses. Furthermore, in principle, in international human rights law, it is assumed that the State has a positive obligation to actively protect and ensure the fulfillment of these rights and freedoms. In general terms, the principles of human rights under the Human Rights Law are established on the principles of human rights in aspects of life, namely:

- 1) Right to life: Every person has the right to live, maintain life, improve his standard of living, live in peace, security, peace, happiness, physically and mentally and have the right to a good and healthy living environment.
- 2) Right to obtain justice: Every person, without discrimination, has the right to obtain justice by filing petitions, claims and legal actions, whether in criminal, civil or administrative proceedings, as well as being tried by an independent and impartial judicial process, in accordance with the law.

Based on the two aspects above, related to the health services provided by nurses, the government needs to be aware of the rights and justice of nurses. First, the right to have a life better if necessary is equivalent to a doctor because both have almost the same roles and functions in health services, according to justice, the nurse has the right to make demands for injustices received during or after care, as these demands made to put the justice in criminal, civil and administrative justice processes. Associated with three basic rights that include individual rights, social rights and cultural rights. These three rights cannot be fulfilled and

implemented in a balanced way to create a just and prosperous society if one of the rights is not fulfilled. The right to health services as a result of the interaction of these three rights Between Human Rights and Health there is a relationship of mutual influence. Often, the result of human rights violations is a health disturbance and vice versa, a violation of the right to health is also a violation of human rights. The law indirectly provides protection for all legal relationships. In essence, the two are correlated with each other. The right to health as a human right that has been recognized and regulated in several international and national instruments. Any disturbance, intervention or injustice in any way that results in the health of the human body, psyche, natural environment, social environment, regulations and laws, as well as injustice in accepted social management, constitutes a violation of the right to health as a human right. In article 12, no. 1, of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the right to health is explained as "The right of every person to enjoy the highest attainable standard of physical and mental health", covering the area of health services. Health services as a basic right for all that must be guaranteed and fulfilled by the government. Basic rights in general and health services in particular can be distinguished into basic individual rights and basic social rights. Basic individual rights are directed towards individual freedom against rulers and society. Meanwhile, basic social rights aim to provide community members with space and opportunities to develop and expand. The basic rights of individuals in health services are the right to self-determination and the basic social rights in health law are the rights to obtain health services, as health services are a system that offers space and opportunities for all. that people participate in opportunities given, provided or offered. Thus, social rights related to health services have the opportunity for each individual to make use of their rights as they should. On the basis of article 25 of the Universal Declaration of Human Rights, it is stated that the provisions relating to the right to health services are as follows: "Everyone has the right to a standard of living adequate for himself and his family, including food, clothing, shelter and health services and other social services that are absolutely necessary." It means that every citizen has the same right to enjoy health services, just as nurses have the right to be able to enjoy rights as health services Then, in the principles of Human Rights in health services there were moral values, among others:

- 1) Respect for autonomy (respecting the decision-making capacity of autonomous people);
- 2) Non-maleficence (avoiding the cause of harm);
- 3) Beneficence (providing benefits and balancing benefits, burdens and risks);
- 4) Justice (equity in the distribution of benefits and risks).

Human rights recognize the rights and obligations of each individual to be respected and defended, as well as nurses who have the same rights as citizens, therefore the government needs to pay attention to their rights as nurses through the establishment and stipulation of laws and regulations. , so that the requirements of legal certainty and legal justice can be achieved and implemented in accordance with human rights principles. Thus, the protection of nurses' rights from the perspective of human rights, where these rights were universally recognized and linked to all people, the right to legal protection as part of universal human rights that includes the three categories of Human Rights Civil policy , socio -cultural and development. As a country that has adopted universal human rights principles, it has an obligation to apply them in the life of the nation and the state through the formation of legislation on nurses' rights that do not yet exist.

LEGAL GUARANTEE OF LEGAL PROTECTION FOR NURSES

With regard to the rule of law, both written and unwritten, it contains general rules that serve as guidelines for individuals to behave in society and become limits for society to encumber or act against individuals. The existence of such a rule and the implementation of those rules creates legal certainty. Normative legal certainty is when a regulation is made and promulgated with certainty because it regulates in a clear and logical way, so that it does not cause doubt (multi interpretation), is logical and has predictability. Legal certainty is a condition in which human behavior, whether of individuals, groups or organizations, is linked to and within the corridor that has been delineated by the rule of law. The principle of legal certainty is necessary in the creation of legislation because legal certainty is the main principle of various types of principles of the rule of law that according to M. Kordela "Legal certainty as the superior principle of the system of formal principles of the state of law justifies the legal validity of a defined set of values "So legal certainty according to Maxeiner has two functions, namely, to guide the community to obey the law, to protect the community against arbitrary governmental actions that can use their power to make and enforce the rule of law. In essence, the function of legal certainty is to regulate and guide people, especially their behavior, towards better direction. Based on the two opinions above, it is related to legal certainty for the rights of health nurses that were not specifically regulated by legislation, it becomes a separate problem, because if you look at the experiences that occurred directly or indirectly in each hospital or clinic in East Timor has many problems that have not been legally resolved, therefore, to overcome the various problems that occur, it is necessary to have laws and regulations that can create legal certainty for nurses, doctors, hospitals and patients. Nurses' rights as basic rights that are indeed too important to enact include; First, the right to obtain legal protection The state legal means that the state has an obligation to provide protection directly or indirectly to nurses if there is a dispute with a patient. Here the State is obliged to help solve the problem. Second, the right to legal assistance from lawyers that has not been regulated by statute, so that if a nurse experiences or is exposed to a criminal process, she cannot request legal assistance, it is constitutionally regulated, but needs confirmation. in an implementing regulation thing useful to create legal certainty Third, the right to file a lawsuit against a claim that is not true of a patient or hospital that, intentionally or unintentionally, has filed a lawsuit in court with a verdict of not guilty. Fourth, the right to a dignified life must be considered by the government, as based on current experience there are still nurses whose lives do not conform to a decent standard of living, this needs to be declared in laws and regulations. Fifth, the right to wages that are in keeping with their profession, when looking at the roles, functions and duties and responsibilities of nurses are very burdensome and indeed they should be, but they need to be balanced against the wages provided by the state. It is not only regulated in labor law, but also needs to be regulated in health law. Of the five rights mentioned above, there are still other rights that are not specifically enacted and do not reflect the generation of civil, political, sociocultural and developmental human rights, generating legal uncertainty for nurses and the community. Therefore, to create legal certainty, Jan Michiel Otto defines it as the possibility that in certain situations:

- a) There are clear (clear), consistent and easily obtainable rules issued and recognized by the State (power).
- b) Government agencies (government) apply these legal rules consistently and are also subject and obedient to them.
- c) Citizens mainly adjust their behavior to these rules.

- d) Independent and thoughtless (judicial) judges apply the rules of law consistently when resolving legal disputes.
- e) Concrete court decisions are implemented.

Of the five elements of legal certainty described, there are 4 elements related to the thesis, the first element, although law number 10 of 2004 can be provided through the journal *República* and is easily obtained, this law does not make explicit the rights of nurses which are really very Therefore, to facilitate the protection of nurses' rights in the future, the government should provide implementing regulations or supplementary rules to support Law No. 10 of 2004 and avoid multiple interpretations by each individual. The second element, state institutions, national parliaments and the government must form laws and regulations that do not yet exist and are applied to all nurses who perform the functions and duties of health services. Third, when the laws and regulations that are formed must reflect the health culture of Timor-Leste, so that the community can adjust its behavior to the rules that are formed. Fourth, if with the existence of legislation on the rights of the health nurse, indirectly the protection of their rights can be fulfilled if there is a dispute with the patient, the nurse is subject to criminal charges, then the judge can use the legislation as a guide or reference, in addition to the penal code and civil code to impose sanctions Thus, the State has the responsibility to form laws and regulations through the national parliament:

- a) human actions that are included in the offensive environment
- b) is against the law, and
- c) can be censored

The first element is that the actions are limited to human actions that are included in the formulation of the crime. The restrictions included in the formulation of the crime are in accordance with the principle of legality provided for in article 1, no. of the act having been committed". the nurse who causes damage in the provision of health care, whether in the fulfillment of medical orders or in the exercise of collaborative or independent functions, the nurse can only be punished if it is regulated by law. in the code of ethics, professional standards and oaths and were not regulated by law, so nurses who incur losses cannot be subject to criminal sanctions. A criminal act is against the law both objectively and subjectively. The objective nature of being against the law can be seen from actions that actually violate the law, which is also called the nature of being against the law of the act, while the subjective nature of being against the law does not seem real because it is stuck to the defendant's heart. The term illegal means:

- a) is against the law;
- b) contrary to the rights (*subjectief recht*) of others,
- c) Without authority or rights; does not have to be against the law. Government institutions that have the authority to form health laws and regulations as regulated in articles 95 and 96 of the RDTL Constitution of 2002. Health legislation can create legal certainty for nurses' rights now and in the future. Future

RESPONSIBILITIES OF NURSES FOR HEALTH SERVICES

The meaning of responsibility in the Great Indonesian Dictionary is "a state of being obliged to bear everything (if something happens you can be prosecuted, blamed, prosecuted and so on) while being responsible means: 1) obliged to bear everything, take responsibility, 2) assume full responsibility. What is meant by everything, in this sense, is more directed to an

unpleasant situation. In relation to the work of nurses, these things are, for example, patient dissatisfaction, failure of nursing services, losses for Patients and their patients Observing these definitions, it is associated with the term If used, the nurse is obliged to bear all failures, losses and other unpleasant conditions experienced by the patient during treatment, both in the field of criminal law (liability) and in law civil (responsibility) the law, both criminal (responsible) and civil (responsible). Health services are related to nurses' responsibilities in the actions of health services in hospitals. This ability to take responsibility is closely related to criminal acts. Criminal acts are human actions that are inserted in the criminal environment, are against the law and can be seen from these limits three elements of criminal acts, namely:

- a) human actions that are included in the offensive environment
- b) is against the law, and
- c) can be censored

The first element is that the actions are limited to human actions that are included in the formulation of the crime. The restrictions included in the formulation of the crime are in accordance with the principle of legality provided for in article 1, no. of the act having been committed". the nurse who causes damage in the provision of health care, whether in the fulfillment of medical orders or in the exercise of collaborative or independent functions, the nurse can only be punished if it is regulated by law. in the code of ethics, professional standards and oaths and were not regulated by law, so nurses who incur losses cannot be subject to criminal sanctions. A criminal act is against the law both objectively and subjectively. The objective nature of being against the law can be seen from actions that actually violate the law, which is also called the nature of being against the law of the act, while the subjective nature of being against the law does not seem real because it is stuck to the defendant's heart. The term illegal means: (a) is against the law; (b) contrary to the rights (*subjectief recht*) of others,(c) without authority or rights; it doesn't have to be against the law. Based on this understanding, in principle, an action against the law is not limited to the violation of positive law (law), but also to the unwritten law, property and decency. Being against the law is an element of a criminal act. The unlawful element (*subjectief onrecht element*) determines the presence or absence of a criminal act, it does not determine whether someone who has committed a mistake is punished or not. For nurses who strive to provide healthcare in hospitals, with the understanding that it is against the law, as mentioned above, if the nurse violates the code of ethics or professional standards, he/she has committed an act against the law, but this it does not mean that the interested party has committed a criminal act, because the act he performed was not necessarily determined by law as a criminal act. In addition to the element that complied with the principle of legality that has the nature of breaking the law, being able to convict a nurse in an attempt to provide health services, there is an element of error in the form of intent or negligence. Aspects of civil law, in the provision of nursing care, the nurse as a profession must be responsible both to himself and to society. The responsibility here is in the form of responsibility and obligation. Liability means the willingness to take risks for the consequences arising from wrongful acts that cause harm to other persons or parties that are of a criminal nature, usually in the form of punishment, while accountability means the willingness to compensate for losses arising from your wrongful actions, which are criminal in nature. To support the nursing profession, there is currently no Timor-Leste nurses association formed as an organization according to the area of expertise of nursing science. The failure to form this union of nurses also has implications for nurses in providing health services, as this body is a legal umbrella for nurses

to obtain legal protection, as this organization needs to be formed by the government in the future, so that the legal implications for nurses can be resolved. Furthermore, in relation to nurses who commit criminal acts as regulated in article 31 of the RDTL Constitution of 2002, it is stipulated that no one can be convicted of a crime unless the court, by virtue of the legal evidence under the terms of the law, be satisfied that someone held responsible has committed an act. Accused against him". Based on this provision, the error element becomes the element that will determine the consequences of a person's actions. practice or pronouncement of the oath by nurses as health workers is investigated and determined by the Disciplinary Council of Health Workers (hereinafter MDTK) As regulated in article 4 of Law No. health professionals in the application of professional standards, it is up to the competent health officials to determine to apply disciplinary measures to health professionals who, intentionally or negligently, apply professional standards in ways that harm patients and their families.' Sudharto argues that error has three meanings:

- 1) Errors in the broadest sense, which can be equated with the notion of "responsibility in criminal law, which contains the meaning that the creator can be held responsible for his actions (verwijtbaarheid).
- 2) Errors as to the form of errors (schuld form) in the form of:
 - a) intentional (dolus, opzet, vorsah or intention)
 - b) Negligence (guilt, onachtzaamheid, nalatigheid or negligence).
- 3) Error in the strict sense is negligence (guilt).

Regarding the three meanings of error, Sudharto suggested that the use of the term error in the strict sense should be given and use the term "omission". Errors consist of three elements, namely: (1) the existence of the manufacturer's accountability capacity; (2) the existence of an internal link between the doer and his actions, which takes the form of dolus and guilt, this is called the form of error; and (3) there is no excuse that erases the mistake or excuse for forgiveness. If these three elements are met, the nurse providing health services in the hospital can be found guilty so that she can be held responsible for her actions.

CONCLUSION

Based on the discussion described in chapters III and IV, the authors formulate the following conclusions: Nurses' rights were legally protected in patient care based on law number 10 of 2004. Not yet protected by law, as law number 10 2004, did not regulate rights as fundamental rights in the generation of human rights. Therefore, the absence of laws and regulations gives rise to multiple interpretations of Law No. now, in the future, so the fragility of Timor-Leste's legal health system is based only on laws that are no longer in line with the needs of the time.

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