



Juridical Analysis of Criminal Law Against Acts of Falsification of Health Documents as a Condition of Travel During a Pandemic Covid-19

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ABSTRACT

The case of health documents falsification related to the Covid-19 pandemic is a case that must be considered carefully, considering that the health documents falsification has an impact not only on one person but has the potential to endanger many people. The existence of a Covid-19 vaccination certificate and also false negative antigen swab test results can result in more and more virus transmission, given the lack of certainty regarding the condition of the perpetrators. This study is based on a research paper on the principles of law (*statute approach*) and the concept approach (*conceptual approach*). Legal material tracing techniques used document study techniques and qualitative analysis of studies. The act of falsifying health documents in the midst of a pandemic is punishable by a maximum of four years in prison. For perpetrators who commit criminal acts in the form of forgery of health documents in digital form can be punished with imprisonment for a maximum of 9 (nine) years and/or a maximum fine of Rp 3,000,000,000.00 (three billion rupiahs). Referring to the provisions of Article 14 of the infectious disease epidemic law, it is known that anyone who deliberately hinders the implementation of epidemic management is threatened with imprisonment for 1 (one) year and/or a fine of up to Rp 1,000,000.00 (One Million rupiahs).

ABSTRAK

Kasus pemalsuan dokumen kesehatan berkaitan dengan pandemi Covid-19 merupakan kasus yang harus diperhatikan secara seksama mengingat bahwa pemalsuan dokumen kesehatan ini berdampak tidak hanya pada satu orang tetapi berpotensi membahayakan banyak orang. Keberadaan sertifikat vaksinasi Covid-19 dan juga hasil test swab antigen negative palsu ini dapat mengakibatkan penularan virus semakin banyak mengingat tidak adanya kepastian mengenai kondisi para pelaku. Penelitian ini menggunakan jenis penelitian normatif dengan pendekatan peraturan perundang-undangan (*statute approach*) dan pendekatan konsep (*conceptual approach*). Teknik penelusuran bahan hukum menggunakan tehnik studi dokumen serta analisis kajian menggunakan analisis kualitatif. Perbuatan pemalsuan dokumen kesehatan di tengah pandemi diancam dengan pidana penjara paling lama empat tahun. Bagi para pelaku yang melakukan tindak pidana berupa pemalsuan terhadap dokumen kesehatan dalam bentuk digital dapat dipidana dengan penjara paling lama 9 (Sembilan) tahun dan/atau denda paling banyak Rp 3.000.000.000,00 (tiga miliar rupiah). Merujuk pada ketentuan Pasal 14 Undang-Undang Wabah Penyakit Menular diketahui bahwa siapapun yang dengan sengaja menghalangi pelaksanaan penanggulangan wabah diancam dengan pidana penjara selamalamanya 1 (satu) tahun dan/atau denda setinggi-tingginya Rp 1.000.000,00 (satu juta rupiah).

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I. INTRODUCTION

The pandemic period *Covid-19* it's not over yet. The Indonesian government is still implementing various policies during this pandemic, especially the requirements for several documents for people to travel (Aulia et al., 2021; Sukmawati E et al., 2018). Documents that must be owned by everyone who will travel include identity, examination results stating *negative* Covid-19 issued by the health Office, hospital, *puskesmas* or health clinic, and a certificate of having received the Covid-19 vaccine (for those who have not done the 3rd vaccination)(Rantauni & Sukmawati, 2022; Sukmawati, 2018).

Since the government established some health documents as a condition for making the trip, some unscrupulous individuals used this opportunity to offer the implementation of a medical test with the results *negative* without going through health procedures that the government has determined, namely through antigen swabs or *polymerase chain reaction* otherwise known as PCR. In addition, the government also uses a vaccination card that shows the history of receiving vaccines that a person has received as one of the health documents for travel (Meiliawan, 2021; Millah, 2020; Taufiqurrohman et al., 2020).

Antigen swabs and PCR are two common examination methods to detect the presence of coronavirus in the body. Antigen Swab is an immune examination that serves to detect the presence of specific viral antigens that indicate the presence of a current viral infection. This examination is classified as requiring a short time of about 30 (thirty) to 60 (sixty) minutes (Kalil et al., 2021). Meanwhile, PCR is a type of examination carried out to detect viruses and is considered more accurate than other tests. PCR examination is carried out by taking samples from the respiratory tract with the nasopharyngeal swab technique to determine the presence of infection in the body. To find out the results of PCR examination generally takes longer than with antigen swabs, which ranges from about 1 day (Barlev-Gross et al., 2021).

Although it has been designated as one of the health documents required for travel during the current Covid-19 Pandemic, there is still a letter of results *for negative* antigen swabs or false PCR in some areas. One of the events of the disclosure of the practice of making fake antigen letter was revealed by the police of Banyuwangi a few months ago. In this incident, the police arrested three perpetrators while another person entered the search list (DPO). The revelation of this case originated from reports from people harmed by a fake antigen swab letter. This practice has been going on for 3 months with the mutual cooperation mode offering the implementation of rapid antigen with the results *negative* without having to go through the test (Barlev-Gross et al., 2021; Lamatenggo et al., 2021).

It has been calculated that the perpetrators had forged a number 62 (sixty-two) sheets of antigen swab letters for passengers at Ketapang Port, Banyuwangi. For a piece of this fake antigen swab letter, it was sold by the perpetrator for IDR 100,000.00 (One hundred thousand rupiahs) without a clinical trial for Covid-19 detection examination. In this case, the police seized evidence from laptops, printers, and fake antigen printing paper. Cases of falsification of health documents also occurred in the Karangasem area, Bali, at the end of 2021. A total of 22 (twenty-two) people were named as suspects in the case of alleged forgery of Covid-19 vaccine certificates at Padangbai Port, Karangasem Regency, Bali. The case originated from a public report regarding the existence of a syndicate for falsifying Covid-19 vaccine certificates at Padangbai Port, Karangasem, Bali (Fakhri et al., 2019).

This syndicate targets crew members (ABK) who will depart from Padangbai port to Lembar Port, Lombok, West Nusa Tenggara. The process of making this fake vaccine certificate is done by scanning a sample of the original Covid-19 vaccine letter, which is then changed by replacing the identity on the letter with the names of the crew members who ordered the fake vaccine letter. For one sheet of fake vaccine letter requested a fee of Rp 200,000.00 (Two hundred thousand rupiahs). In this case, the police managed to secure evidence, namely 18 fake Covid-19 vaccine certificates, several mobile phones, and also cash amounting to Rp 3,400,000.00 (three also four hundred thousand rupiahs).

Police also managed to secure one unit of bus vehicles with plate number D 8774 KK green color along with vehicle registration and keys, one laptop unit, one monitor screen unit, one printer unit, and cash amounting to Rp 250.000,00 (Two hundred and fifty thousand rupiahs).

A similar case also occurred in Jakarta. In this case, Metro Jaya Regional Police managed to arrest two users of fake Covid-19 vaccination certificates. Both users claimed to buy the certificate from employees of Kapuk Muara Village. The mode carried out is in the form of making an illegal Covid-19 vaccination certificate which can even be recorded in the Pedulilindungi application. According to Metro Jaya Regional Police Chief, inspector general Pol. Fadil Imran, it is known that the two suspects purchased Covid-19 vaccination certificates that can appear on the Pedulilindungi application at different prices, namely IDR 350,000.00 (three hundred and fifty thousand rupiahs) and IDR 500,000. 00 (five hundred thousand rupiahs). Both users admitted that the reason for buying a fake Covid-19 vaccination certificate was to be able to travel freely.

The case of falsification of health documents related to the Covid-19 pandemic is a case that must be considered carefully, considering that the falsification of health documents has an impact not only on one person but has the potential to endanger many people. The existence of false Covid-19 vaccination certificates and also false negative antigen swab test results can result in more and more virus transmission, given the lack of certainty regarding the condition of the perpetrators. It is very likely that people who use these false health documents do not get vaccinated and may even be included as people who should be positive but because they use false documents, they can escape which can result in the transmission of the virus in the vicinity. In addition, the existence of the Pedulilindungi application should be used as an application that can identify vaccine history and close contact tracing instead of being used by irresponsible persons to achieve personal gain through the falsification of vaccine documents (Rahim & Rahim, 2021; Susanto & Gunarto, 2018).

II. RESEARCH METHOD

This study used a type of normative research. Referring to Peter Mahmud Marzuki's Book, Legal Research is a process to find the legal rules, legal principles, and legal doctrines to answer the legal problems faced. This study is based on a research paper on the principles of law (*statute approach*) and the concept (*conceptual approach*). Legal material tracing techniques using document study techniques and analysis of studies using qualitative analysis (Sugiyono, 2019).

III. RESULTS AND DISCUSSIONS

Referring to the provisions of the Criminal Code (hereinafter the Criminal Code), the crime of forgery of documents is understood as the forgery of letters provided for in Chapter XII, Book II of the criminal code on crimes. In general, the forgery of the letter or document has been regulated in the provisions of Article 263 of the Criminal Code (Susanto & Gunarto, 2018) which determines that:

1. "Anyone who makes a false letter or falsifies a letter that can give rise to a right, engagement or debt relief, or which is intended as evidence of a matter with the intention to use or encourage others to use the letter as if its contents are true and not falsified, shall be threatened if such use can cause losses, due to forgery of the letter, with a maximum imprisonment of six years".
2. "Threatened with the same crime, anyone who deliberately uses a false or falsified letter as if it were true, if the use of the letter can cause harm."

The understanding of the letter in the provisions of Article 263 of the Criminal Code according to R. Soesilo is "all letters, whether written by hand, printed, or written using a typewriter, and others." Further referring to the thoughts of R. Soesilo, it is understood that a false letter must be a letter that meets several things, namely:

1. "Can issue a right, such as diplomas, entrance tickets, and others;

2. Can issue an agreement, such as receivables agreement, purchase agreement, lease agreement, and so on;
3. May issue a debt relief, for example, such receipt or letter; or
4. A letter that may be used as a description for an act or event, such as a birth certificate, Postal Savings Book, cash book, Diary, transport letter, bonds, and much more”.

The act of forging a letter can also mean an attempt to change the letter so that the contents become other than the original content or so that the letter becomes other than the original. There are several ways to make a letter different from the original, including and not limited to things such as reducing the letter's content, adding or changing certain things to the letter, or forging a signature on the letter (Tjahjani, 2017). So that the change becomes different from the original (Fi'li & Soekesi, 2021).

In addition, the act of forging a letter must be accompanied by its intent and purpose, where the perpetrator intends to use it or even tell others to use it as if it is genuine and not fake (Nurlete, 2020). That is, the use of the fake letter is as a means or tool to deceive someone. In relation to such use, it must bring harm, even if the harm in question does not necessarily already exist. Losses that may occur is enough interpreted as a loss (Utami et al., 2020).

Based on the above exposure, the crime of falsifying documents can mean an attempt to change a letter or document to be different from the original letter but still used as if the letter is genuine and not fake. The use of fake documents is usually to mislead someone. Its use also results in losses, so the sanction in falsifying this letter refers to Article 263 of the Criminal Code.

Criminal sanctions for performers of forgery of Health documents during the Covid-19 pandemic

The rise of falsifying health documents violations through the Covid-19 pandemic is currently classified as very worrying, considering that some users of these fake documents use these documents to be able to travel freely. Unfortunately, the crime of falsifying health documents during the Covid-19 pandemic has greatly impacted the potential spread of the current coronavirus. Seeing several phenomena that occur in the community, fake health documents sold in the community are in the form of covid-19 vaccination certificates and antigen swab results that show negative results. These two health documents are generally sold to people who want to travel during the Covid-19 pandemic (Sari, 2022; Suwignjo & ., 2019).

Referring to the provisions of the Criminal Code, the act can be charged with criminal sanctions in accordance with the provisions of Article 268 of the Criminal Code, (Kaligis, 2021) which determines that:

1. “Anyone who falsely produces or falsifies a medical certificate of the presence or absence of disease, infirmity or disability, to mislead the general authorities or the insurer, shall be punished by a maximum imprisonment of four years.
2. Punishable by the same penalty, anyone who with the same intention uses a false or falsified certificate, as if the letter were genuine and not falsified”.

Referring to these provisions, it is understood that the creators of forgery health documents and their users can be subject to criminal sanctions. The act of falsifying health documents in the midst of a pandemic is punishable by a maximum of four years in prison. In addition, parties who only sell but do not make false health documents can also be categorized in the criminal act of fence as specified in Article 480 of the criminal code in conjunction with Article 3 of the Supreme Court Regulation Number 2 of 2012 concerning the adjustment of limits on minor crimes and the number of fines in the Criminal Code. In this provision it is determined that:

"Punishable by a maximum imprisonment of four years or a maximum fine of nine hundred thousand rupiahs:

1. any person who buys, rents, exchanges, takes a pledge, accepts a gift, or to make a profit, sells, rents, exchanges, pawns, transports, stores, or hides anything which is known or should reasonably be suspected to have been obtained from the fencing crime;
2. he who draws profit from the product of a thing, which he knows or should reasonably suspect to be derived from evil”.

The thought of R. Soesilo reaffirmed the fencing concept as stipulated in Article 480 of the Criminal Code (Kholil, 2018). The act of fence is also included in the act of "selling, exchanging, mortgaging and so on with the intention of obtaining a profit, where the goods are known or suspected to be obtained for a crime." The important thing in this concept of storage is that the goods that are objects are from evil or they are not "light" goods.

In connection with the current pandemic conditions, document forgery also occurs on electronic documents. In some cases, the perpetrators even falsified health documents in the digital form recorded in the Pedulilindungi application. This action is an offense as specified in the provisions of Article 32 paragraph (2) of Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning information and Electronic Transactions (hereinafter ITE Law), which determines that:

"Any person knowingly and without right or against the law in any way alter, add, subtract, transmit, damage, eliminate, move, hide any electronic information and/or electronic documents belonging to others or the public."

Referring to the provisions in Article 48 paragraph (2) of the ITE Law, it is determined that: "Every person who meets the elements as referred to in Article 32 paragraph (2) shall be punished with imprisonment for a maximum of 9 (nine) years and/or a maximum fine of Rp 3,000,000,000.00 (three billion rupiahs)".

Related to the implementation of the policy of applying health documents as a condition of travel is part of the prevention of infectious disease outbreaks. This is regulated in the provisions of Article 5 Paragraph (1) of Law Number 4 of 1984 concerning infectious disease outbreaks (hereinafter the infectious disease outbreak law) which determines that:

1. "Outbreak response efforts include:
 - a. Epidemiological investigation;
 - b. Examination, treatment, care and isolation of patients, including quarantine measures;
 - c. Prevention and immunisation;
 - d. Extermination of the causes of the disease;
 - e. Handling of corpses due to plague;
 - f. Counseling to the community;
 - g. Other countermeasures."

Anyone who deliberately obstructs the implementation of epidemic management as specified in the provisions of Article 5 Paragraph (1) of the infectious disease epidemic law shall be punished with imprisonment for 1 (one) year and/or a fine of up to Rp 1,000,000.00 (One Million rupiahs). The provisions on criminal sanctions are specified in Article 14 of the infectious disease outbreak act. Based on the exposure, it is understood that the fake health documents' makers and the users of fake health documents can be sentenced to criminal sanctions. The act of falsifying health documents in the midst of a pandemic is punishable by a maximum of four years in prison. For perpetrators who commit criminal acts in the form of forgery of health documents in digital form can be punished with imprisonment for a maximum of 9 (nine) years and/or a maximum fine of Rp 3,000,000,000.00 (three billion rupiahs). Referring to the provisions of Article 14 of the infectious disease epidemic law, it is known that anyone who deliberately hinders the implementation of epidemic prevention is threatened with imprisonment for 1 (one) year and/or a fine as high as.

IV. CONCLUSION

The crime of forgery of documents can mean an attempt to change a letter or document to be different from the original letter but still used as if the letter is genuine and not fake. The use of fake documents is usually to mislead someone. Their use also brings to losses. In the current Covid-19 pandemic situation, the fake health documents' makers and the users of fake health documents can be sentenced to criminal sanctions. The act of falsifying health documents in the midst of a pandemic is punishable by a maximum of four years in prison. For perpetrators who commit criminal acts in the form of forgery of health documents in digital form can be punished with imprisonment for a maximum of 9 (nine) years and/or a maximum fine of Rp 3,000,000,000.00 (three billion rupiahs). Referring to the provisions of Article 14 of the infectious disease epidemic law, it is known that anyone who deliberately hinders the implementation of epidemic management is threatened with imprisonment for 1 (one) year and/or a fine of up to Rp 1,000,000.00 (One Million rupiahs).

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