

***LEGAL PROTECTION AGAINST CONSUMERS WHO BUY
AND BUY HARD MEDICINE WITHOUT A DOCTOR'S
PRESCRIPTION IN PHARMACIES AND DRUG STORES
BASED ON THE CONSUMER PROTECTION LAW
(Research study at the Lhokseumawe Health
Service)***

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ABSTRACT

The sale of prescription drugs without a doctor's prescription remains a significant public health issue, especially in pharmacies where narcotics like tramadol are sold improperly. Despite laws like Law No. 8 of 1999 on Consumer Protection and Government Regulation No. 51 of 2009, some pharmacies continue to sell these drugs without prescriptions, posing health risks such as poisoning and death. Lack of supervision and awareness worsens the problem, particularly in cities like Lhokseumawe. This study uses a juridical-empirical approach, combining legal texts and interviews in Lhokseumawe, focusing on consumer protection and the Health Department's efforts to prevent unauthorized sales. The study reveals that, while laws exist, enforcement is weak, and pharmacies remain a source of risk. The Health Department has taken steps like inspections and education, but challenges persist due to public awareness gaps and insufficient penalties. Effective legal enforcement, public education, and stricter penalties are needed to address this issue. A collaborative effort from pharmacies, law enforcement, and the public is vital for improving consumer health protection.

Keywords: *Prescription drugs, consumer protection, pharmacy regulations, public health.*

1. PROBLEM BACKGROUND

One of the important elements in health services is medicine, so that the community needs to have knowledge about the proper use of medicine. Medicine is a material that is included in biological products that are used to influence or investigate basic science systems (physiology) or study and diagnosis of diseases through examination of organs, tissues, body fluids, and the whole body (pathology) in order to determine the diagnosis, prevention, healing, recovery, improving health for humans.¹

Purchases of medicine generally tend to be made at pharmacies, pharmacies play a role in meeting the needs of various kinds of medicines for the community. Pharmacies provide various kinds of medicines needed by the community so that people buy medicine at pharmacies more often. However, in making purchases of medicine at pharmacies, of course not all medicines can be purchased by consumers, there are some medicines that require a doctor's prescription to be able to buy them,

Lack of supervision by related parties, of course the prohibition on buying drugs without a doctor's prescription does not apply in some pharmacies, pharmacy managers easily sell hard drugs without a doctor's prescription to consumers who want them. Usually consumers buy these hard drugs for bad purposes because hard drugs usually contain narcotics so that consumers use them.

Hard drugs have strong properties that if used without a doctor's prescription will cause dangerous side effects such as poisoning the body, making the disease worse and triggering other diseases as side effects, to causing damage to the outside and inside of the user's body, and can even cause death.

Health is the most important thing needed by the human body. Efforts to improve the quality of human life in the health sector are a very broad and comprehensive effort, these efforts include improving public health both physically and non-physically. In the National Health System, it is stated that health concerns all aspects of life whose scope and reach are very broad and complex. Maintaining health is very necessary for humans, the use of hard drugs without a doctor's prescription will certainly affect human health

¹ Ratner, Buddy D., Allan S. Hoffman, Frederick J. Schoen, and Jack E. Lemons. *Biomaterials science: an introduction to materials in medicine*. Elsevier, Brazil, 2004, page 23.

However, pharmacies do not care as long as they can sell at a higher price. Lack of supervision ultimately makes it easy for individuals to access hard drugs without a doctor's prescription at pharmacies. Even though legally there are provisions that clearly regulate the terms of sale of hard drugs, there are still pharmacies that sell hard drugs to consumers.

Of course, consumers must also receive protection as stated in Law Number 8 of 1999 concerning Consumer Protection in Article 8 Paragraph (1) which explains that "Business actors are prohibited from producing and/or trading goods and/or services that do not meet or do not comply with the required standards and provisions of laws and regulations.

According to Law Number 8 of 1999, what is meant by consumer protection is all efforts that guarantee legal certainty to provide protection to consumers, while what is meant by consumers is every person who uses goods/or services available in society, both for the benefit of themselves, family, other people, or other living things and not for trading.

The sale and purchase of hard drugs is found in almost every region, because sometimes there are rogue pharmacies that sell hard drugs without a doctor's prescription.² Of course, this also happens in Lhokseumawe City, because there are still people who get or consume hard drugs, one of which is tramadol, which is a hard drug that must use a doctor's prescription. Next, the most frequently used drug is amoxicillin, consumers can easily get amoxicillin without a doctor's prescription, even though this drug is a hard drug because it has a special logo.

As in Article 24 letter c of government regulation number 51 of 2009 states that "handing over hard drugs, narcotics and psychotropics to the public must use a doctor's prescription as stipulated in the laws and regulations". Of course, based on this article, the sale of hard drugs must use a doctor's prescription and if not using a doctor's prescription is a prohibited act.

This certainly requires supervision related to the purchase of hard drugs without a doctor's prescription at the pharmacy, because these hard drugs will cause consumers to have side effects that will be felt later and tend to harm consumers so

² Silverman, Milton, Mia Lydecker, and Philip Lee. *Bad medicine: The prescription drug industry in the third world*. Stanford University Press, California, 1992, page 22.

that supervision is very much needed in the sale and purchase of hard drugs without a doctor's prescription.

The distribution and supervision of drugs must of course be taken seriously, as the party that has the responsibility, of course the Health Service must be able to make various efforts to prevent the sale and purchase of hard drugs in pharmacies or drug stores without a doctor's prescription. Because by making efforts to prevent the sale and purchase of hard drugs without a doctor's prescription, it is hoped that it will reduce the circulation of hard drugs without a doctor's prescription, especially in the city of Lhokseumawe.

2. RESEARCH METHODS

This study uses a juridical-empirical method, combining written legal analysis (secondary data) with field studies (primary data) to understand the application of law in society, supported by a case and conceptual approach. Data were obtained through literature studies and interviews in the Lhokseumawe area with informants and respondents related to illegal drug sales cases, referring to the provisions of the 1945 Constitution of the Republic of Indonesia, the Civil Code, and Law Number 8 of 1999 concerning Consumer Protection. Data analysis techniques are descriptive and deductive, including reduction, presentation, and drawing conclusions to produce an in-depth picture of the legal issues studied.

3. DISCUSSION

3.1. Legal Protection for Consumers Purchasing Prescription Drugs Without a Doctor's Prescription at Pharmacies and Drug Stores

The issue of purchasing prescription drugs without a valid prescription raises significant legal, ethical, and public health concerns.³ In many jurisdictions, including Indonesia, laws regulate the sale and distribution of prescription drugs to safeguard public health. These regulations are aimed at preventing misuse, ensuring the proper use of medication, and protecting consumers from potential harm. However, the reality is that some pharmacies and drug stores sell these medications

³ Calfee, John E. "Public policy issues in direct-to-consumer advertising of prescription drugs." *Journal of Public Policy & Marketing*, Volume 21 Issue 2, (2002): 174-193.

without requiring a valid prescription, which exposes consumers to various risks and challenges their legal protection.

Legal protection for consumers in such cases is derived from health and consumer protection laws. Indonesia's Law Number 8 of 1999 concerning Consumer Protection (Undang-Undang Perlindungan Konsumen) establishes the right of consumers to receive accurate information about the goods and services they purchase. Selling prescription drugs without a doctor's prescription violates this right because it denies consumers the critical medical guidance necessary for safe use.⁴ Furthermore, Law Number 36 of 2009 concerning Health (Undang-Undang Kesehatan) mandates that pharmacies and drug stores adhere to proper procedures in dispensing medication, ensuring they are not misused or sold irresponsibly.

When a consumer unknowingly purchases a prescription drug without a prescription, they are at risk of adverse side effects, incorrect dosage, or drug interactions. This puts their health and safety in jeopardy. Pharmacies and drug stores that engage in such practices can be held accountable for negligence under consumer protection laws. They are required to provide complete and truthful information about the medication, including its side effects, contraindications, and the importance of medical supervision.

However, the enforcement of these regulations remains a challenge. Many consumers lack awareness of their rights or the risks associated with purchasing medication without a prescription. Additionally, oversight mechanisms may not be stringent enough to ensure compliance by pharmacies and drug stores. To address these gaps, a multi-faceted approach is required. Public awareness campaigns can educate consumers about the dangers of self-medication and the importance of consulting healthcare professionals.⁵ At the same time, regulatory authorities need to strengthen monitoring and impose strict penalties on pharmacies and drug stores that violate the law.

In cases where consumers experience harm due to the improper sale of prescription drugs, they have the right to seek legal recourse. Under Indonesian law,

⁴ Flanigan, Jessica. *Pharmaceutical freedom: Why patients have a right to self-medicate*. Oxford University Press, Britania Raya, 2017, page 16.

⁵ Koinig, Isabell, Isabell Koinig, and Forschungsgruppe Konsum und Verhalten. *Pharmaceutical Advertising as a Source of Consumer Self-Empowerment*. Springer Gabler, London, 2016, page 31.

consumers can file complaints with the Consumer Dispute Resolution Agency (Badan Penyelesaian Sengketa Konsumen, BPSK) or pursue legal action in courts. Remedies may include compensation for medical expenses, damages for harm suffered, and penalties for the offending business.

Ultimately, ensuring legal protection for consumers in this context requires collaboration between regulatory bodies, healthcare providers, and the public. By enforcing existing laws, raising consumer awareness, and promoting ethical practices among pharmacies and drug stores, the risks associated with the unauthorized sale of prescription drugs can be minimized. This not only safeguards public health but also upholds the integrity of the healthcare and pharmaceutical sectors.

3.2. Efforts by the Lhokseumawe Health Department to Prevent the Sale of Prescription Drugs Without a Doctor's Prescription at Pharmacies and Drug Stores

The improper sale of prescription drugs without a doctor's prescription poses a significant risk to public health and undermines the integrity of pharmaceutical regulations.⁶ In Lhokseumawe, the Health Department plays a crucial role in mitigating these risks by implementing various preventive measures to ensure compliance with health laws and safeguard the community. These efforts are aimed at reducing the unauthorized distribution of prescription drugs while promoting responsible pharmaceutical practices.

One of the primary efforts undertaken by the Lhokseumawe Health Department is intensifying inspections and monitoring of pharmacies and drug stores. Regular and unannounced inspections are conducted to verify that these establishments adhere to legal requirements, including ensuring that prescription drugs are only dispensed upon presentation of a valid doctor's prescription. Pharmacies found violating these regulations are subject to warnings, fines, or even suspension of their operating licenses. This strict oversight serves as a deterrent and encourages compliance among pharmacy operators.

⁶Light, Don, ed. *The risks of prescription drugs*. Columbia University Press, New York, 2010, hlm. 22.

Additionally, the Health Department actively conducts educational campaigns and outreach programs targeted at both pharmacy operators and the general public. For pharmacy operators, training sessions are organized to enhance their understanding of the legal and ethical responsibilities associated with dispensing medications. These sessions emphasize the importance of following proper procedures to protect consumers and uphold public trust. For the public, awareness campaigns highlight the dangers of purchasing and consuming prescription drugs without professional medical guidance, including the risks of misuse, side effects, and drug interactions.

Collaboration with law enforcement agencies is another essential strategy employed by the Health Department. Joint operations between the Health Department and local police are conducted to crack down on illegal sales of prescription drugs. These operations often focus on identifying and shutting down unauthorized drug stores or pharmacies that fail to comply with the law. By working closely with law enforcement, the Health Department enhances its capacity to enforce regulations effectively.

To further strengthen preventive efforts, the Health Department encourages community involvement in monitoring and reporting violations. Residents are urged to report instances of pharmacies or drug stores selling prescription drugs without prescriptions. The Health Department has established complaint mechanisms, including hotlines and online platforms, to facilitate this reporting process. This participatory approach not only increases vigilance but also empowers the community to take an active role in protecting public health.

In the long term, the Health Department of Lhokseumawe is also advocating for policy improvements and stricter regulations at the regional level. This includes proposals for higher penalties for violations and more stringent licensing requirements for pharmacies and drug stores. By strengthening the legal framework, the Health Department aims to create a robust system that deters illegal practices and promotes adherence to healthcare standards.⁷

⁷ Brinkerhoff, Derick W. "Accountability and health systems: toward conceptual clarity and policy relevance." *Health policy and planning*, Volume 19, Issue 6, (2004): 371-379.

In conclusion, the Lhokseumawe Health Department's efforts to prevent the unauthorized sale of prescription drugs encompass a multi-pronged approach involving inspections, education, enforcement, community engagement, and policy advocacy. These comprehensive measures are essential in addressing the challenges posed by the illegal sale of prescription drugs, protecting public health, and ensuring the responsible operation of pharmacies and drug stores in the region. Through consistent and collaborative action, the Health Department strives to uphold the integrity of pharmaceutical regulations and promote a healthier community.

4. CONCLUSION

In conclusion, the unauthorized sale of prescription drugs without a valid doctor's prescription remains a critical issue, posing serious risks to public health and undermining the integrity of pharmaceutical regulations. Legal protection for consumers is provided through various laws such as Indonesia's Consumer Protection Law and Health Law, which aim to ensure safe medication use and consumer rights. However, the challenges in enforcing these laws, such as consumer unawareness and inadequate oversight, necessitate comprehensive solutions. These include increased public awareness, stronger regulatory enforcement, and the promotion of ethical practices among pharmacies and drug stores.

The efforts by the Lhokseumawe Health Department to prevent the sale of prescription drugs without a prescription are commendable and essential. Through regular inspections, educational programs, and collaboration with law enforcement, the department plays a crucial role in curbing illegal practices. Community involvement and advocacy for stronger policies also contribute to reinforcing these preventive measures. Together, these efforts not only protect consumer health but also ensure the adherence to legal and ethical standards within the pharmaceutical sector. It is essential to continue and expand public education campaigns to inform consumers about the dangers of purchasing prescription drugs without a prescription. These campaigns should emphasize the risks associated with misuse and the importance of consulting healthcare professionals.

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