

ABSTRACT

Health is one of the most important human rights in human life and society. Until now, access to cheap or affordable prescription drugs is still a problem or obstacle in improving public health for people with out-of-pocket expenses (non-BPJS). In addition, the number of generic prescription drugs that are much cheaper than non-generic drugs is still low, especially in private healthcare facilities. This research aims to provide suggestions of regulation on price control of prescription drugs and regulation on generic prescription drugs that will assure certainty and be more affordable for the public in the context of protecting consumers in Indonesia. The methodology of this research is doctrinal legal research and is supported by empirical studies. The approaches are the statute approach, conceptual approach, and comparative approach. The main points of the research findings consist of two things, those related to the price of prescription drugs and the prescription of generic drugs. The first finding is that the Highest Retail Price (Harga Eceran Tertinggi/HET) is a price set by the company and has the potential to be unlimited because there is no limit control from the Government. Currently, there are still many cases of drugs sold over HET with minimal supervision of the Government (Badan Pengawasan Obat dan Makanan/BPOM) which does not focus on price issues. The absence of law is found as the drugs' prices regulated by the Government are those listed in the National Formulary and some other generic drugs, while the rest have not been regulated. Therefore, the suggestion is to set ceiling prices for prescription drugs with the restrictions on price comparison between three types of drugs, namely generic drugs, branded generic drugs, and the originator; and having a refund mechanism for drugs with prices above HET to assure the rights of consumers to get compensation under the Consumer Protection Law. The second finding is that the regulation on generic drugs prescription already exists but there are still few doctors who prescribe generic drugs because of the ineffectiveness of the current regulations. Additionally, patients have not been involved in the treatment decisions after receiving a complete explanation from the doctor (Providing information to patients is the consumer's right under the Consumer Protection Law). Therefore, the suggestion is to associate "the action of prescribing generic drugs" with the extension of doctor's license, namely the Registration Certificate (STR); so that doctors will prescribe generic drugs without the need for close supervision because they have personal interests. With the increase in the prescription of generic drugs, the financing of health services, nationwide as well as individually, can become cheaper or more affordable.

Keywords: *Prescription Drugs Price Setting, Generic Drugs Prescription, Consumer Protection*