

## CONSENT FOR MEDICAL ACTION (INFORMED CONSENT) FOR SURGICAL ACTION AFTER THE ENFORCEMENT OF LAW NO. 17 OF 2023 CONCERNING HEALTH

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### Abstract

Health services are a form of public service aimed at improving the level of public health. In medical practice, particularly in invasive procedures such as surgical operations, medical consent or informed consent is required as a form of legal protection for both patients and medical personnel. This study aims to examine the concept, principles, and legal regulations regarding the implementation of informed consent in surgical procedures from the perspective of Law Number 17 of 2023 concerning Health. The research uses a qualitative method with a literature review approach by analyzing various relevant sources such as books, scientific journals, and legal regulations. The results show that informed consent is a communication process between medical personnel and patients that includes information about diagnosis, objectives of medical procedures, treatment processes, benefits, risks, and alternative treatments. The regulation of informed consent in Law Number 17 of 2023 concerning Health provides a clear legal basis regarding patients' rights to obtain information and give consent for medical procedures. In surgical practice, the implementation of informed consent is particularly important due to the higher level of risk associated with surgical procedures. Therefore, the proper implementation of informed consent in a clear, transparent, and lawful manner can provide balanced legal protection for both patients and medical personnel while minimizing the potential for medical disputes.

**Keywords:** *informed consent, surgical procedures, health law, patient legal protection, health law regulation.*

### INTRODUCTION

Health services are one form of public service that aim to improve the overall health status of the community. In the practice of healthcare services, especially in invasive medical procedures such as surgical actions, a legal relationship exists between healthcare providers and patients. This relationship creates rights and obligations for each party that must be carried out in a balanced manner (Fibrini, D., 2024). One form of legal protection for patients in medical procedures is the existence of medical consent or informed consent. This consent becomes an important part in ensuring that patients have received sufficient information before agreeing to a medical procedure performed by healthcare professionals. Informed consent is an approval given by the patient or the patient's family after receiving a complete explanation regarding the medical procedure that will be performed, including its benefits, risks, alternative treatments, and possible complications that may occur. This concept is not only related to medical aspects but also has ethical and legal dimensions. Through informed consent, patients are given the right to make decisions regarding medical actions that affect their bodies and health, so that the principle of patient autonomy can be respected in healthcare practices (Pebrina, A. R., 2022).

In surgical practice, the existence of informed consent is very important because such procedures carry relatively greater risks compared to other medical treatments. Therefore, medical personnel are obligated to provide clear, honest, and understandable information to patients before the procedure is carried out. This obligation also aims to prevent medical disputes between patients and healthcare providers. (Erza Gagarin, A., 2025). If the informed consent procedure is not properly implemented, it may lead to legal problems and potentially harm both the patient and the medical personnel involved. From a juridical perspective, the regulation of medical consent in Indonesia has been established in various laws and regulations, one of which is Law Number 17 of 2023 concerning Health. This law provides a more comprehensive legal foundation regarding the rights of patients to obtain information and to give consent to medical procedures that will be performed. These provisions serve as the legal basis for healthcare professionals in carrying out medical actions while also providing legal protection for patients

as recipients of healthcare services (Kesuma, S. I., 2024). Based on the above explanation, it is important to conduct a juridical study on the implementation of medical consent (informed consent), particularly in surgical procedures, from the perspective of Law Number 17 of 2023 concerning Health. This study aims to analyze the legal regulations related to informed consent and to assess the extent to which these provisions provide legal protection for both patients and medical personnel in healthcare practice. Through this study, it is expected that a deeper understanding of the legal aspects involved in the implementation of informed consent in Indonesia can be achieved.

## **LITERATURE REVIEW**

### **Concept and Principles of Medical Action Consent (Informed Consent) in Healthcare Practice**

Medical action consent or informed consent is one of the important concepts in healthcare practice related to the patient's right to know and approve medical procedures that will be performed on them. According to various health and medical law literatures, informed consent is the approval given by the patient or the patient's family after receiving complete and clear information regarding the patient's health condition, disease diagnosis, purpose of the medical procedure, the procedures that will be carried out, the expected benefits, as well as the risks or possible complications that may occur. This concept does not only have a medical dimension but is also related to ethical and legal aspects because it concerns human rights over one's body and health. Therefore, healthcare professionals have the obligation to provide information honestly, clearly, and in a manner that can be understood by the patient before any medical procedure is performed (Sulistyaningrum, H. P., 2021).

In healthcare practice, informed consent is based on several main principles, namely the principle of patient autonomy, the principle of information transparency, and the principle of consent given voluntarily without any coercion. Important elements of informed consent include the provision of adequate information, the patient's competence in understanding the information and making decisions, and consent that is given voluntarily (voluntary consent). Through the application of these principles, patients have the opportunity to consider the benefits and risks of the medical procedures that will be performed. Thus, informed consent does not merely function as an administrative procedure but also as a form of respect for patient rights and an effort to build trust between medical personnel and patients in healthcare services.

### **The Concept of Medical Action Consent (Informed Consent) in Healthcare Practice**

Medical action consent or informed consent is one of the important principles in healthcare services aimed at protecting patients' rights while providing legal certainty for medical personnel. In modern medical practice, informed consent is not merely viewed as an administrative formality in the form of signing documents, but rather as a communication process between medical personnel and patients. Through this process, patients receive adequate explanations regarding the diagnosis of their illness, the purpose of the medical action, the procedures that will be performed, the expected benefits, the possible risks, and other alternative medical actions. With complete information, patients have the opportunity to consider rationally before giving consent to the medical action that will be carried out. The concept of informed consent is also closely related to the principles of medical ethics, particularly the principle of patient autonomy. This principle emphasizes that every individual has the right to make decisions regarding their own body and health. Therefore, medical personnel have an obligation to respect the patient's decision after providing clear and understandable explanations. In addition, the implementation of informed consent also aims to build a transparent and trusting relationship between patients and medical personnel so that the healthcare service process can run more effectively and responsibly.

In healthcare practice, there are several main elements that must be fulfilled in the implementation of informed consent. The first element is the provision of complete and honest information regarding the patient's health condition and the medical action to be performed. The second element is the patient's ability to understand the information and make a conscious decision. The third element is consent given voluntarily without pressure or coercion from any party. If these three elements are fulfilled, then the consent to medical action can be considered valid both ethically and legally. Thus, informed consent plays a very important role in healthcare practice because it serves as protection for patient rights as well as a legal basis for medical personnel in performing medical actions. Proper implementation of informed consent can minimize misunderstandings between patients and medical personnel and reduce the potential for medical disputes that may arise in the future.

## **METHOD**

This study uses a qualitative research method with a literature review approach. This method is carried out by examining and analyzing various literature sources relevant to the research topic, such as books, scientific

journals, laws and regulations, and other academic documents related to medical action consent (informed consent) in healthcare practice. This approach was chosen because the research aims to understand the concepts, principles, and legal regulations regarding informed consent, particularly in surgical procedures from the perspective of Law Number 17 of 2023 concerning Health. By using a literature review method, researchers can obtain a comprehensive understanding of theories, concepts, and previous research findings that are relevant to the issues being studied. The data collection technique in this study was conducted through searching and collecting various literature sources derived from scientific journals, health law books, and laws and regulations related to the research topic. The data obtained were then analyzed using a qualitative descriptive analysis method by identifying, reviewing, and interpreting various concepts and legal provisions related to informed consent in surgical procedures. The results of the analysis were then systematically organized to provide a clear description of the implementation of medical action consent in healthcare practice and to assess how the provisions in Law Number 17 of 2023 concerning Health provide a legal protection framework for both patients and medical personnel.

## **RESULTS AND DISCUSSION**

### **Legal Regulation of Medical Action Consent in the Indonesian Health Law System**

In the Indonesian health law system, medical action consent is an aspect that is clearly regulated in various laws and regulations aimed at providing legal protection for both patients and healthcare professionals. One of the regulations governing this matter is Law Number 17 of 2023 concerning Health, which emphasizes that every patient has the right to obtain information regarding their health condition and to provide consent for the medical procedures that will be performed. In addition, provisions regarding medical action consent are also regulated in various other regulations related to medical practice and the professional ethics of healthcare workers. These regulations aim to ensure that every medical procedure carried out by healthcare professionals has gone through a process of communication and valid consent from the patient (Nadira, C. S., 2023).

From a legal perspective, informed consent becomes an important basis in the legal relationship between doctors and patients. This relationship is often referred to as a therapeutic relationship that creates rights and obligations for both parties. Various previous studies indicate that the existence of legal regulations regarding informed consent plays a role in preventing medical disputes and providing legal certainty in healthcare practice. However, in practice, several problems related to the implementation of medical action consent are still found, such as the lack of patient understanding of the information provided or inconsistencies in the procedures for obtaining consent. Therefore, studies on the legal regulation of informed consent are important to assess the effectiveness of the legal protection provided by health regulations in Indonesia.

### **Implementation of Informed Consent in Surgical Procedures and Its Legal Issues**

The implementation of informed consent in surgical procedures has a higher level of urgency compared to other medical actions because surgical procedures generally involve greater risks to patient safety. Therefore, before a surgical procedure is carried out, medical personnel are required to provide a complete explanation regarding the purpose of the surgery, the procedures that will be performed, the possible risks or complications, and the available treatment alternatives. Based on various studies in the field of health law, the process of providing informed consent in surgical procedures must be carried out clearly, transparently, and properly documented so that patients can make conscious and responsible decisions regarding the medical procedures they will undergo (Sutamaya, A. G., 2022). Although normatively the informed consent procedure has been regulated in various regulations, in practice problems still frequently occur that lead to disputes between patients and medical personnel. Several cases indicate that medical disputes often arise due to insufficient information provided to patients or non-compliance with the procedures for obtaining medical consent. This shows that the implementation of informed consent has not been fully optimal in healthcare practice, particularly in surgical procedures. Therefore, a more in-depth juridical study regarding the implementation of informed consent in surgical procedures based on the perspective of Law Number 17 of 2023 concerning Health is necessary, in order to provide a more comprehensive understanding of legal protection for both patients and medical personnel.

### **Legal Regulation of Medical Action Consent from the Perspective of Law Number 17 of 2023 on Health**

In the health law system in Indonesia, consent to medical action is an important part of legal protection for patients. Regulations regarding this matter can be found in various laws governing healthcare service practices. One of the latest regulations that governs patient rights and the obligations of healthcare workers is Law Number 17 of 2023 on Health. This law provides a more comprehensive legal basis regarding patients' rights to obtain information

and to give consent to medical actions that will be carried out. In Law Number 17 of 2023 on Health, it is explained that every patient has the right to obtain clear information regarding their health condition, including disease diagnosis, planned medical actions, the purpose of the action, possible risks, and available treatment alternatives. This right becomes the basis for patients to determine whether they will accept or refuse the medical action offered by healthcare professionals. This provision shows that health law in Indonesia recognizes the importance of active patient participation in the decision-making process related to medical actions. In addition to providing protection for patients, regulations regarding informed consent also provide legal certainty for medical personnel. With valid consent given by the patient, medical personnel have a legal basis for performing medical actions in accordance with professional standards and applicable operational procedures. This is important to prevent allegations of malpractice if the results of medical actions do not meet patient expectations. Therefore, the documentation of informed consent becomes an important part of healthcare service practice.

### **Implementation of Informed Consent in Surgical Procedures and Its Legal Issues**

Surgical procedures are one form of medical action that carries a relatively higher level of risk compared to other medical procedures. Therefore, the implementation of informed consent in surgical procedures plays a very important role in ensuring that patients fully understand the procedures to be carried out and the possible risks involved. Before surgery is performed, medical personnel are required to provide detailed explanations regarding the purpose of the operation, the stages of the surgical procedure, possible complications, and the chances of success of the procedure. In practice, consent for surgical procedures is usually stated in a written document signed by the patient or the patient's family as proof that they have received an explanation from the medical personnel. This document has an important function as administrative and legal evidence indicating that the medical action was performed with the patient's consent. However, the existence of a written document does not necessarily guarantee that the communication process between the doctor and the patient has occurred optimally. In some cases, patients sign consent documents without fully understanding the information provided.

Legal problems related to informed consent in surgical procedures often arise when patients or their families feel that they did not receive sufficient information regarding the risks of the medical action performed. This can lead to medical disputes that result in legal claims against medical personnel or healthcare facilities. In such situations, the existence of informed consent documents and evidence of communication between doctors and patients becomes very important in the legal proof process. Based on this, it can be concluded that the implementation of informed consent in surgical procedures requires serious attention from medical personnel and healthcare institutions. The process of providing information must be carried out clearly, transparently, and in a manner that is easily understood by patients so that the decisions taken are truly based on adequate understanding. With proper implementation of informed consent, it is expected that balanced legal protection can be created for both patients and medical personnel while also improving the overall quality of healthcare services.

### **CONCLUSION**

Based on the discussion, it can be concluded that informed consent is a crucial aspect of healthcare practice, protecting patient rights and providing legal certainty for medical personnel. Informed consent is not merely an administrative document, but rather a communication process between medical personnel and patients, containing information regarding the diagnosis, purpose of the procedure, procedures, benefits, risks, and alternatives. From a legal perspective, regulations regarding informed consent are stipulated in Law Number 17 of 2023 concerning Health, which affirms the patient's right to obtain information and provide consent for any medical procedure. For surgical procedures that carry a higher level of risk, the implementation of informed consent is crucial to ensure that the patient fully understands the procedure to be undertaken. Therefore, implementing informed consent clearly, transparently, and in accordance with legal provisions can minimize medical disputes and provide balanced legal protection for both patients and medical personnel in healthcare practice.

### **REFERENCES**

- Erza Gagarin, A. (2025). *Studi Dokumentasi Kelengkapan Lembar Informed Consent Tindakan Anestesi Terhadap Pasien Cito Di Rumah Sakit Daerah Gunung Jati Cirebon* (Doctoral dissertation, Universitas Bhakti Kencana).
- Fibrini, D. (2024). Perlindungan Hukum Terhadap Tenaga Kesehatan Dalam Melakukan Tindak Medis. *Iuris Studia: Jurnal Kajian Hukum*, 5(1), 147-156.

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- Filia, M. (2019). Aspek hukum persetujuan tindakan medis (informed consent) dalam penerapan teknik operasi bedah jantung. *Esensi Hukum*, 1(1), 96-108.
- Flora, H. S. (2024). Fungsi Informed Consent Bagi Dokter Dan Pasien Dalam Tindakan Medis. *Fiat Iustitia: Jurnal Hukum*, 101-112.
- Kesuma, S. I. (2024). Ulasan Undang-Undang No. 17 Tahun 2023 Tentang Kesehatan. *Jurnal Nusantara Berbakti*, 2(1), 253-261.
- Nadira, C. S., & Khairunnisa, C. (2023). Kedudukan Informed Consent Dalam Pelayanan Kesehatan di Indonesia. *Cendekia: Jurnal Hukum, Sosial Dan Humaniora*, 1(1), 28-38.
- Pebrina, A. R., Najwan, J., & Alissa, E. (2022). Fungsi penerapan informed consent sebagai persetujuan pada perjanjian terapeutik. *Zaaken: Journal of Civil and Business Law*, 3(3), 468-486.
- Prawiraharjo, B. S. U. (2023). Implementasi ide keseimbangan monodualistik dalam undang-undang nomor 1 tahun 2023 tentang kitab undang-undang hukum pidana. *Jurnal Hukum Progresif*, 11(2), 159-171.
- Salamah, U. (2023). Aspek Perlindungan Hukum Pasien Dalam Pelayana Kesehatan Informed Consent Literatur Review. *Bhamada: Jurnal Ilmu dan Teknologi Kesehatan (E-Journal)*, 14(1), 77-86.
- Sirjon, L. (2023). Kriminalisasi Delik Perzinahan Dalam Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana. *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum*, 12(1), 53-67.
- Sulistyaningrum, H. P. (2021). Informed consent: Persetujuan tindakan kedokteran dalam pelayanan kesehatan bagi pasien Covid-19. *Simbur Cahaya*, 166-186.
- Sutamaya, A. G., Ravena, D., & Zakaria, C. A. F. (2022). Informed consent as a therapeutic agreement in health services: Persetujuan tindakan kedokteran sebagai wujud perjanjian terapeutik dalam upaya pelayanan kesehatan. *Interdental Jurnal Kedokteran Gigi (IJKG)*, 18(1), 7-13.