

## ASPECTS OF LEGAL PROTECTION AND LEGAL CERTAINTY FOR MEDICAL PERSONNEL AND HEALTH WORKERS IN HEALTH SERVICE PRACTICES IN HOSPITALS

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### Abstract

This study aims to analyze legal protection and legal certainty for medical personnel in the practice of health services in hospitals, by highlighting various regulations that regulate the rights and obligations of medical personnel, doctors, and hospitals in providing health services. Legal protection for medical personnel is regulated in Law Number 17 of 2023 concerning Health, especially in Article 273, which guarantees the right of medical personnel to obtain legal protection while acting in accordance with applicable professional standards and procedures. This article provides legal certainty for medical personnel to be able to carry out their duties with a sense of security and avoid unfounded legal threats, as long as medical actions are taken in accordance with the principles of professionalism and ethics. The rights and obligations of doctors to patients are regulated in various provisions in this law, with emphasis on Article 274 which regulates the obligation of doctors to provide safe, quality, and in accordance with applicable professional standards. Doctors are required to provide a clear and thorough explanation to the patient about the medical procedure to be performed and the potential risks, and obtain approval from the patient or his family before performing the medical procedure. This aims to ensure that patients make informed decisions and that there is no violation of the patient's right to bodily autonomy. Furthermore, the hospital's obligation to provide protection for medical personnel is regulated in Article 273 and Article 274. Hospitals as health service providers have the responsibility to create a safe working environment for medical personnel and provide protection from potential physical and legal threats that are not in accordance with existing regulations. Hospitals are also obliged to ensure that every medical action carried out by medical personnel is in accordance with the applicable standard operating procedures (SOPs) and provides facilities to resolve medical disputes that may arise, either through mediation or appropriate legal processes. Through this study, it is hoped that it can be revealed how effective the legal protection provided to medical personnel in hospitals, as well as how hospitals' obligations are in supporting the sustainability of safe and professional medical practices. In addition, this study also aims to provide recommendations related to improvements in the legal protection system for medical personnel, in order to create better legal certainty in the practice of health services in hospitals

**Keywords:** *Legal protection, Legal certainty and Medical personnel*

### INTRODUCTION

Healthcare is a constitutional right of citizens as stipulated in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that every person has the right to obtain proper healthcare services. The fulfillment of this right is not only a moral obligation but also a legal duty of the state to ensure equal and quality access for all citizens. Within the context of the national health system, hospitals serve as the main pillar in carrying out this constitutional obligation, as they provide comprehensive services ranging from promotive, preventive, curative, to rehabilitative care. Hospitals function not only as places of treatment but also as centers for referral, education, research, and the development of medical science. Their strategic role requires strong regulatory-based management, particularly given the complexity of legal relationships between patients, healthcare professionals, and hospital institutions. In modern healthcare systems, hospitals are also key indicators of a country's healthcare quality. The World Health Organization (WHO) emphasizes that the quality of services in healthcare facilities is a determining factor in the overall success of a health system.

At the forefront of hospital services are medical personnel and healthcare workers who interact directly with patients. They are responsible not only for technical medical aspects but also bear ethical and legal responsibilities. High workloads, limited resources, and high public expectations make healthcare workers vulnerable to professional risks and legal disputes. Therefore, providing regulatory support, legal protection, and job certainty for medical personnel is essential to ensure the sustainability and quality of hospital services.

### **Legal Issues in Medical Practice**

In recent years, Indonesia has experienced a significant increase in the number of medical disputes and alleged malpractice cases involving healthcare professionals. Data from the Indonesian Medical Council (KKI) and media reports indicate a rising trend of patient complaints against medical personnel, both through litigation and non-litigation channels. Medical malpractice is often defined as negligence by healthcare professionals in meeting professional standards, resulting in harm to patients. This situation raises concerns, particularly because not all medical disputes are based on clear procedural violations; sometimes they arise from public perceptions formed when treatment outcomes do not meet expectations. In addition to civil disputes and malpractice, the criminalization of healthcare workers has become a major concern. There have been cases where medical personnel are reported criminally even before professional ethical and disciplinary processes are completed, potentially leading to injustice and psychological pressure. Premature criminalization not only undermines healthcare workers' trust in the legal system but may also reduce the interest of young professionals in high-risk fields such as obstetrics and gynecology. The increasing legal risks directly affect the stability of hospital services and public trust. Hospitals may become more defensive in providing services, for example by limiting certain procedures to avoid legal disputes, which ultimately reduces patient access to optimal care. A decline in public trust in medical institutions can weaken the patient-doctor relationship, thereby lowering the quality of healthcare services. Therefore, strengthening non-litigation dispute resolution mechanisms, ensuring adequate legal protection, and improving public education on medical procedures are crucial steps to maintain a balance between patient rights and the safety of medical practice.

### **Relevance of the Health Law**

Law Number 17 of 2023 concerning Health represents a fundamental reform of Indonesia's healthcare regulatory framework, which was previously governed by several sectoral laws, such as Law Number 36 of 2009 on Health and Law Number 36 of 2014 on Health Workers. This reform aims to simplify regulations, eliminate policy overlaps, and align legal provisions with developments in science, medical technology, and societal needs. Through an omnibus approach, this law centralizes healthcare regulation into a single legal instrument, thereby improving governance effectiveness. The 2023 Health Law more comprehensively regulates the rights and obligations of healthcare workers, mechanisms for resolving medical disputes, and legal responsibilities in medical practice. The new provisions emphasize the importance of implementing professional standards, service standards, and Standard Operating Procedures (SOP) as prerequisites for legal protection. In addition, medical disputes are prioritized to be resolved through professional disciplinary mechanisms and mediation before proceeding to criminal or civil litigation. This approach aims to minimize the criminalization of healthcare workers while safeguarding patients' rights to justice. The relevance of this law also lies in its effort to ensure a balance between the protection of healthcare workers and patient rights. By affirming patients' rights to quality services while providing legal certainty for medical personnel, the law seeks to create a more harmonious relationship between patients, healthcare workers, and hospital institutions. This is essential to strengthen public trust in the healthcare system, promote professionalism, and ensure the sustainability of healthcare services in Indonesia.

### **Challenges in Implementing Law Number 17 of 2023 on Health**

Despite bringing significant changes to healthcare governance, the implementation of Law Number 17 of 2023 faces several serious challenges. One major issue is the lack of clear implementing and technical regulations, many of which are still in the drafting stage. The absence of these derivative regulations makes it difficult to apply many provisions effectively in practice, leading to confusion among hospitals, medical personnel, and healthcare workers. Regulatory uncertainty may weaken the effectiveness of the law and lead to differing interpretations across institutions. Additionally, there is potential overlap in authority among professional oversight bodies and legal institutions. The Indonesian Medical Council (KKI), the Indonesian Medical Discipline Honorary Council (MKDKI), and judicial institutions often have intersecting roles in handling medical disputes. This overlap increases the risk of premature criminalization of healthcare workers before ethical and disciplinary processes are completed.

Another challenge is the low level of legal literacy among healthcare professionals. Many practitioners do not yet fully understand the legal protections provided under the new law, making them more vulnerable in disputes. Therefore, socialization programs, legal training, and the development of clear implementation guidelines are urgently needed to ensure optimal application of the law.

### **Problem Formulation**

1. How does Law Number 17 of 2023 on Health regulate legal protection for medical personnel and healthcare workers?
2. What mechanisms ensure legal certainty and dispute resolution under the law?

### **Research Objectives**

1. To conduct an in-depth analysis of how the legal framework, including Law Number 17 of 2023, provides legal protection for medical personnel, healthcare workers, and patients in hospital services, including rights, obligations, and dispute resolution mechanisms.
2. To formulate recommendations based on empirical findings and normative analysis to strengthen the implementation of the law, serving as guidance for policymakers, hospitals, professional associations, and other stakeholders.

### **Research Benefits**

This research provides both theoretical and practical benefits:

1. **Theoretical:** It enriches the study of the relationship between healthcare regulation, legal protection, and professional ethics in Indonesia, serving as a reference for further research and academic materials.
2. **Practical:** It assists policymakers, healthcare workers, and hospital managers in understanding and implementing legal provisions, helping prevent overlapping authority and strengthening dispute resolution mechanisms while improving legal literacy and public trust.

### **Theory of Legal Certainty and Professional Legal Protection**

The theory of legal certainty refers to a fundamental principle in legal systems that emphasizes clarity and consistency in rules and their application. It ensures that individuals understand their rights, obligations, and the legal consequences of their actions. Legal certainty is essential for achieving justice, as it allows individuals to predict how the law will be applied. Professional legal protection, on the other hand, aims to safeguard the rights and interests of professionals in performing their duties. It ensures a safe working environment while maintaining accountability. In the legal profession, this includes rights such as freedom of expression, the right to defend clients, and protection from interference.

### **Concept of Liability in Healthcare Services**

Liability in healthcare consists of three main dimensions: civil, administrative, and criminal. Civil liability relates to compensation for damages caused by negligence. Administrative liability concerns compliance with regulations and standards, with violations leading to sanctions such as license revocation or fines. Criminal liability applies to unlawful acts that seriously endanger patient safety, such as intentional malpractice or gross negligence. These three forms of liability collectively ensure patient protection and encourage careful medical practice.

### **Professional Standards, Informed Consent, SOP, and Code of Ethics**

Professional standards, informed consent, Standard Operating Procedures (SOP), and codes of ethics are interconnected elements in ensuring safe and high-quality services, particularly in healthcare. Professional standards define competency requirements, while informed consent ensures that patients receive adequate information to make informed decisions. SOPs provide structured guidelines to ensure consistency and minimize errors, and codes of ethics guide professional conduct, integrity, and responsibility. Together, these elements form the foundation of safe, ethical, and legally compliant healthcare practice.

## **METHOD**

This study uses a descriptive qualitative method that aims to describe in depth the conditions of legal protection and legal certainty for medical personnel and health workers in the practice of health services in hospitals. The case study approach was chosen to examine this phenomenon in a real context with a focus on the application

of Law No. 17 of 2023 concerning Health as the latest legal umbrella governing the protection of medical and health workers. This approach allows researchers to understand holistically the various dynamics and challenges faced by health workers in carrying out their duties, as well as how these national regulations are implemented in the field. The data sources of this research are secondary, including Law Number 17 of 2023 concerning Health, relevant academic literature, and other applicable laws and regulations in Indonesia. Data collection techniques are carried out through literature study and analysis of legal documents to gain a comprehensive understanding of the regulatory framework and legal protection

## **RESULTS AND DISCUSSION**

A textual analysis of Law Number 17 of 2023 concerning Health reveals that this law is the result of applying the omnibus law method, aimed at simplifying and harmonizing various regulations that were previously scattered across multiple health-related laws. However, the use of this method has also drawn criticism, particularly regarding the limited meaningful public participation in the legislative process, raising concerns about transparency and accountability in its formulation. Furthermore, although the law seeks to strengthen the national health system, its implementation still faces challenges, especially in the development of effective implementing regulations and the provision of legal protection for healthcare workers. A closer examination of the substance of the law shows that, despite efforts to improve healthcare quality and protection for medical personnel, several provisions remain ambiguous and potentially create legal uncertainty. For example, articles regulating criminal sanctions for negligence by healthcare workers are considered insufficiently clear in defining their limits, which may lead to varying interpretations and potential disadvantages for medical professionals. Therefore, further study and the formulation of comprehensive implementing regulations are necessary to ensure that the law can be effectively applied and deliver maximum benefits to both the public and healthcare workers.

### **Mechanisms of Legal Certainty and Dispute Resolution**

Mechanisms of legal certainty in dispute resolution are fundamental elements of the legal system, aimed at providing clarity and predictability for disputing parties. In civil law, legal certainty is reflected in litigation processes governed by procedural law. These processes begin with the filing of a claim by the aggrieved party, followed by evidentiary examination and proof in court. Judicial decisions are expected to provide legal certainty, particularly when they have obtained permanent legal force (*inkracht van gewijsde*). However, in practice, the enforcement of court decisions often encounters both juridical and non-juridical obstacles, which may reduce their effectiveness. Alternative dispute resolution mechanisms, such as mediation, also play an important role in establishing legal certainty. Mediation offers a more flexible, efficient, and cost-effective approach compared to litigation. In Indonesia, mediation is recognized under Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution. Nevertheless, the implementation of mediation as a mandatory step has not been fully regulated, which can create uncertainty for parties seeking non-litigation solutions. Therefore, legal reform is needed to strengthen mediation as a preliminary requirement before litigation, in order to create a more efficient dispute resolution system and clearer legal certainty.

### **Impact on Hospital Practice**

Law Number 17 of 2023 has a significant impact on hospital practices in Indonesia, particularly regarding legal responsibility and service quality. Article 193 of the law stipulates that hospitals are legally responsible for damages resulting from negligence by healthcare workers under their supervision. This provision clarifies the legal position of hospitals in malpractice cases, which was previously often ambiguous. In addition, the law encourages improvements in service standards by requiring hospitals to provide individual healthcare services in the form of specialist and subspecialist care, as well as to establish teaching hospitals that meet international standards. However, these changes also present challenges, including the need for clear implementing regulations and the readiness of hospitals to meet these new standards. As a result, hospitals must adjust their organizational structures, risk management systems, and reporting mechanisms to ensure compliance and maintain optimal service quality.

### **Legal Protection for Medical Personnel**

Law Number 17 of 2023 provides a strong legal framework for protecting medical personnel, regulating the rights and obligations of doctors toward patients, and outlining the responsibilities of hospitals in ensuring such protection. Article 273 paragraph (1) letter a affirms that medical personnel and healthcare workers are entitled to legal protection as long as they perform their duties in accordance with professional standards, service standards,

Standard Operating Procedures (SOP), professional ethics, and patient health needs. Furthermore, Article 310 stipulates that medical disputes arising from alleged errors in medical actions must first be resolved through alternative dispute resolution outside the court. This reflects an effort to protect healthcare workers from immediate legal prosecution. Patient rights are regulated in Article 276, including the right to accurate information, adequate explanations of medical procedures, appropriate services based on medical needs and standards, and the right to accept or refuse treatment. Article 277 outlines patient obligations, such as providing honest and complete health information and complying with medical advice. Hospital obligations are regulated in Article 189, which requires hospitals to provide safe, high-quality, non-discriminatory, and effective healthcare services, deliver emergency care within their capabilities, participate in disaster response, provide services for underprivileged communities, and uphold hospital ethics. Hospitals are also required to provide legal protection and assistance for their staff in carrying out their duties. Overall, the law clearly aims to create a safe and fair environment for medical practice by providing legal certainty, protecting healthcare workers from unfounded claims, and ensuring structured dispute resolution. However, challenges remain in implementation, particularly in developing implementing regulations and conducting effective legal education for healthcare workers.

### **Challenges in Implementation and Gaps in Legal Certainty**

The implementation of legal certainty in dispute resolution in Indonesia faces several obstacles. One of the main challenges is regulatory ambiguity, which often leads to multiple interpretations and inconsistency in application. Weak law enforcement and overlapping authority among state institutions further complicate the situation, creating gaps in legal certainty. Another issue is the lack of public awareness and understanding of alternative dispute resolution mechanisms such as mediation, which are often perceived as less authoritative than litigation. This is compounded by limited trust in the neutrality of mediators, especially when selection processes lack transparency. These factors collectively contribute to legal uncertainty and may disadvantage parties seeking justice.

### **Overall Impact on Hospital Practice**

The implementation of Law Number 17 of 2023 significantly affects hospital practices, particularly in legal accountability and regulatory compliance. Hospitals now bear greater responsibility to ensure adherence to stricter medical service standards and to provide clearer legal protection for healthcare workers. This requires hospitals to be more proactive in offering legal training for medical staff and strengthening risk management systems to minimize potential disputes. Additionally, hospitals must be prepared to face legal claims arising from medical errors or malpractice, which are now more explicitly regulated. While these changes are expected to improve service quality, they also demand greater resources and institutional readiness for effective implementation.

### **CONCLUSION**

Legal protection for medical personnel in the context of health services in hospitals is very vital. Medical personnel, including doctors, nurses, and other healthcare workers, are often in a position of vulnerability to legal risks due to medical errors or omissions. Law Number 17 of 2023 concerning Health provides a strong legal framework to protect medical personnel in carrying out their duties, by regulating the obligation of hospitals to provide adequate legal protection, as well as providing clear medical dispute resolution channels through mediation mechanisms or other alternative dispute resolution. However, even though legal protection has been regulated in regulations, the implementation of legal certainty in medical practice in hospitals still faces a number of obstacles. One of them is the lack of clarity in the application of several articles related to medical malpractice and negligence, which can give rise to various different interpretations of the law. This can create uncertainty for medical personnel who carry out their profession, as they do not always know the extent of their responsibility for the medical measures taken. Therefore, it is important to clarify the provisions in the law that govern malpractice, and ensure that medical personnel receive sufficient training and understanding of applicable regulations. In addition, hospitals as health service providers also have a key role in creating legal certainty and protecting medical personnel. Hospitals are obliged to ensure that their operational procedures and internal policies are in line with applicable legal provisions, as well as to provide effective legal protection for medical personnel in the face of potential lawsuits. Hospitals must also ensure that risk management systems and procedures for handling medical claims are implemented transparently and fairly.

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