

The Balance of Legal Protection Between the Rights of Patients and Medical Personnel from the Perspective of Health Law

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ARTICLE INFO

Keywords:

Legal protection;
Patient rights;
Medical personnel;
Health Law

Article history:

Received 2025-12-18
Revised 2026-01-19
Accepted 2026-02-20

ABSTRACT

This study aims to analyze the balance of legal protection between the rights of patients and medical personnel from the perspective of Law Number 17 of 2023 concerning Health. The dynamics of healthcare services demonstrate the need for fair legal certainty for patients as service recipients and for medical personnel as professional practitioners. This study uses normative legal methods with a statutory and conceptual approach. Legal materials are analyzed qualitatively through systematic and teleological interpretation of provisions governing patient rights, consent for medical procedures, and professional protection for medical personnel. The results show that normatively, the law has accommodated a balance of legal protection by strengthening patient rights and providing protection for medical personnel who work according to professional standards. However, challenges remain in the implementation aspect, particularly in dispute resolution mechanisms and proving medical negligence.

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1. INTRODUCTION

Health is a fundamental right of every citizen which is not only related to biological aspects, but also concerns social, economic and legal dimensions (Jayantara & Arief, 2024; Naurah, Saragih, Pratiwi, & Iswahyudi, 2025). According to Karwur, Lumunon, & Tinangon (2024) In Indonesia's national legal system, the guarantee of the right to health is constitutionally legitimized through Article 28H of the 1945 Constitution, which states that everyone has the right to receive health services. The normative implementation of this constitutional mandate is comprehensively outlined in Law Number 17 of 2023 concerning Health, which serves as the umbrella regulation within the national health legal system (Mochammad Rakha Haikal Fadillah & Lindawaty S. Sewu, 2025). This law is present as a form of reform of health regulations which were previously spread across various sectoral regulations, as well as a response to the increasingly complex dynamics of health service practices (Sibarani, 2017). The relationship between patients and medical personnel is basically a legal relationship of a therapeutic nature (therapeutic contract), which arises from an agreement to carry out certain medical efforts based on professional standards and service standards (Lestari, Muhammad, Kautsar, & Jenie, 2023). This relationship is not merely contractual, but also contains ethical, professional, and humanitarian

dimensions. Patients, as legal subjects, have the right to complete and honest medical information, the right to informed consent, the right to confidentiality of health data, and the right to receive safe and quality services. On the other hand, medical personnel have a professional obligation to provide services in accordance with their competence and standard operating procedures, but also have the right to legal protection while carrying out their profession in accordance with statutory provisions (Aprillia et al., 2025).

Before the enactment of Law Number 17 of 2023, regulations regarding patient rights and protection of medical personnel were spread across several regulations, including Law Number 36 of 2009 concerning Health and Law Number 29 of 2004 concerning Medical Practice (Jayantara & Arief, 2024). This fragmented regulatory framework often leads to differing interpretations in law enforcement, particularly in cases of alleged medical malpractice. Often, law enforcement focuses on the criminal aspect without first considering ethical and professional disciplinary mechanisms, raising concerns about the criminalization of medical personnel. In recent years, the increasing reporting of cases of alleged medical negligence and public scrutiny of the quality of healthcare services indicate a shift in the relationship between patients and medical personnel (Eko Pujiyono, 2023; Khairunnisa Taha Oponu, 2024). Patients are increasingly aware of their rights and are demanding greater transparency and accountability. However, at the same time, medical professionals face significant legal pressure, whether in the form of civil lawsuits, criminal reports, or administrative sanctions. This situation has the potential to give rise to the practice of defensive medicine, where medical procedures are performed not solely based on the best clinical judgment, but rather driven by an effort to avoid legal risks (Dewi, Ekarini, Yusuf, & Prayuti, 2025; Pendekatan et al., 2023). If this situation is allowed to continue, it will not only be medical personnel who will suffer losses, but also patients and the health care system as a whole.

In this context, a proportional balance of legal protection is required between the rights of patients and the rights of medical personnel. This balance does not mean absolutely equalizing the two, but rather placing each right and obligation fairly in accordance with the principles of justice, legal certainty, and benefit. Patient protection must guarantee access to justice in the event of negligence or a violation of service standards (Widayat, 2019). Conversely, protection for medical personnel must ensure that any professional action carried out in accordance with standards cannot be immediately criminalized without an objective, expertise-based evidentiary mechanism. Law Number 17 of 2023 concerning Health seeks to harmonize norms by strengthening professional standards, disciplinary mechanisms for medical personnel, and procedures for resolving disputes in the health sector (Herisasono & Penelitian, 2024). This law also clarifies the position of informed consent as a fundamental element in a therapeutic relationship, while providing a more systematic legal basis for the legal protection of medical personnel (Sintyasari & Risdawati, 2025). However, the effectiveness of these norms in creating balance still requires further analysis, especially from the perspective of legal protection theory and the principle of proportionality.

Secara teoretis, perlindungan hukum terhadap pasien dan tenaga medis dapat dianalisis melalui teori perlindungan hukum yang dikemukakan dalam doktrin hukum administrasi dan hukum perdata, yang menekankan pentingnya perlindungan preventif dan represif (YUHANNA & Irfan, 2023). Preventive protection is realized through the regulation of service standards, transparency obligations, and professional oversight mechanisms. Meanwhile, repressive protection is realized through dispute resolution mechanisms and law enforcement when violations occur. The main challenge in health law is how to balance these two forms of protection without compromising either party (Christanto, Yuyut Prayuti, & Arman Lany, 2024). The question that then arises is whether the normative construction in Law Number 17 of 2023 truly reflects the principle of balance between protecting patient rights and protecting the medical profession. Are existing norms capable of preventing over-criminalization of medical personnel while still guaranteeing patients' rights to justice and safety? These questions are crucial for in-depth study, given that the healthcare sector is a strategic sector that concerns the broader public interest.

Based on the background description, this study will examine: (1) how the regulation of patient rights and protection of medical personnel is from the perspective of Law Number 17 of 2023 concerning Health; (2) to what extent these regulations reflect the principles of balance and proportionality in legal

protection; and (3) what are the normative implications for the practice of health services in Indonesia. By using a normative juridical approach and analysis of relevant laws and legal doctrines, this study is expected to provide a conceptual contribution to the development of national health law, while also offering constructive recommendations for policy makers and legal practitioners in creating a fair and balanced legal protection system.

2. METHODS

This research uses a normative legal research method (doctrinal legal research), namely research that focuses on the study of applicable written legal norms, legal principles, and legal doctrines that develop in academic literature (Erliyani, 2020). According to Purwati, (2020) This approach was chosen because the object of the research study lies in the normative construction of the balance of legal protection between the rights of patients and medical personnel, as stipulated in Law Number 17 of 2023 concerning Health and relevant laws and regulations. Normative legal research positions law as an autonomous system of norms, so the analysis focuses on consistency, harmonization, and synchronization between laws and regulations. In this context, the research not only identifies norms governing patient rights and the protection of medical personnel but also analyzes how these norms are formulated, interpreted, and implemented within the framework of the principles of justice, legal certainty, and benefit.

2.1. Data Types and Sources

This research uses three types of sources, namely:

1. Primary Legal Materials, including laws and regulations related to health and medical practice, particularly Law Number 17 of 2023 concerning Health, and its derivative regulations, such as the Minister of Health Regulation concerning informed consent.
2. Secondary Legal Materials, in the form of legal literature, textbooks, scientific journals, academic articles, research findings, and expert opinions discussing patient legal protection, the responsibilities of medical personnel, and health law.
3. Tertiary Legal Materials, in the form of legal dictionaries, encyclopedias, and other supporting sources that help explain the legal terms and concepts used in this research.

Analysis Techniques

The analysis of legal materials was conducted qualitatively using a descriptive-analytical method. Descriptive analysis was used to systematically outline regulations regarding patient rights and the protection of medical personnel within the framework of Indonesian positive law. Furthermore, an evaluative analysis was conducted to assess whether existing norms reflect the principles of balance and proportionality in legal protection. The legal interpretation in this study employed several interpretation methods, including grammatical interpretation (based on the text of the law), systematic interpretation (placing the norm within the entire legal system), and teleological interpretation (interpreting the norm based on the purpose of its creation). With this combination of methods, this study is expected to provide a comprehensive analysis of the normative construction of legal protection in the health sector.

3. FINDINGS AND DISCUSSION

3.1. Normative Construction of Patient Rights in Health Law

Based on the results of a review of Law Number 17 of 2023 concerning Health, it was found that the regulation of patient rights has been systematically strengthened compared to previous regulations. This law emphasizes that everyone has the right to receive safe, quality, and humane health services. These rights include the right to correct and clear information regarding health conditions, the right to give approval or refusal of medical procedures (informed consent), the right to confidentiality of health data, and the right to obtain protection for their safety while receiving medical services. Normatively,

strengthening patient rights aims to emphasize the patient's position as a legal subject with autonomy in determining the medical procedures to be undertaken. In a therapeutic relationship, the patient is no longer positioned as an object of care, but rather as a partner with the right to participate in medical decision-making. This demonstrates a paradigm shift from paternalism to patient-centered care. When compared with Law Number 36 of 2009 concerning Health, there is a more integrated harmonization of norms in Law 17 of 2023, particularly in the aspects of consent for medical procedures and the protection of health data. These findings demonstrate the intention of lawmakers to provide stronger legal certainty for patients. However, from an implementation perspective, potential problems remain, particularly in proving allegations of medical negligence. Normative provisions that provide space for complaints or lawsuits for patients must be balanced with objective, expertise-based evidentiary mechanisms to avoid inequality for medical personnel.

3.2. Legal Protection for Medical Personnel within the Framework of Professionalism

In addition to strengthening patient rights, this study found that Law 17 of 2023 also provides a firmer legal basis for medical personnel. This protection is provided as long as medical personnel carry out their duties in accordance with professional standards, service standards, and standard operating procedures. Historically, professional protection was previously regulated in Law Number 29 of 2004 concerning Medical Practice, which emphasized professional disciplinary mechanisms through honorary councils and professional organizations. In the latest regulation, this approach is integrated into a single health legal umbrella, creating regulatory simplification. The research findings indicate that normatively, the law has attempted to avoid direct criminalization of medical personnel by placing professional standards as the primary parameter in assessing negligence. Thus, the element of professional negligence must first be proven through ethical and disciplinary mechanisms before entering the criminal realm. However, in practice, concerns remain about the over-criminalization of medical personnel due to public pressure and media exposure. This situation has the potential to give rise to the phenomenon of defensive medicine, a tendency for medical personnel to perform excessive medical procedures or avoid certain procedures to minimize legal risks. This situation can disrupt the effectiveness of healthcare services and lead to increased medical costs.

3.3. Balance Analysis and the Principle of Proportionality

Based on a normative analysis of patient rights and medical personnel protection, this study found that the law textually accommodates both interests. However, the balance of legal protection is determined not only by the formulation of norms but also by their implementation mechanisms. From a proportionality perspective, patient protection must guarantee access to justice when service standards are violated. However, such protection must not override the rights of medical personnel to obtain professional protection and legal certainty. Therefore, the ideal medical dispute resolution mechanism prioritizes a progressive approach, starting with ethical and administrative resolution before proceeding to civil or criminal proceedings. The research findings indicate that the law provides the normative basis for this gradual approach. However, its effectiveness depends heavily on the quality of professional oversight institutions, the independence of disciplinary boards, and the capacity of law enforcement officials to understand the technical aspects of medicine.

3.4. Normative Implications for Health Care Practice

The implication of the more integrated regulations in Law 17 of 2023 is the creation of a more comprehensive legal framework. Theoretically, this has the potential to increase public trust in the healthcare system while providing a sense of professional security for medical personnel. However, to achieve a substantive balance, several strengthening measures are needed, including:

1. Developing more detailed technical guidelines regarding professional standards and service standards.

2. Strengthening mediation mechanisms or alternative medical dispute resolution mechanisms.
3. Improving legal literacy for medical personnel and the public.

Thus, the findings of this study indicate that normatively, the latest regulations have led to harmonization of legal protection between patients and medical personnel. However, the ideal balance can only be achieved if the implementation of these norms is consistent, proportional, and based on the principles of justice.

4. CONCLUSION

Based on the research and discussion regarding the balance of legal protection between patient and medical personnel rights from the perspective of Law Number 17 of 2023 concerning Health, several important conclusions can be drawn. First, normatively, Law Number 17 of 2023 has strengthened the legal framework regarding patient rights through more systematic and integrated regulations. The rights to medical information, informed consent, confidentiality of health data, and the right to safe and quality services are emphasized more comprehensively than in previous regulations. This demonstrates the legislators' orientation to position patients as legal subjects with autonomy and clear protection within the therapeutic relationship.

Second, the law also provides a basis for legal protection for medical personnel as long as their actions comply with professional standards and standard operating procedures. The integration of regulations previously spread across Law Number 36 of 2009 concerning Health and Law Number 29 of 2004 concerning Medical Practice demonstrates regulatory harmonization aimed at creating legal certainty. Protection for medical personnel is crucial to prevent excessive criminalization and maintain professional independence in providing healthcare services. Third, this study found that, textually, the regulations have moved toward a balance in legal protection between patients and medical personnel. However, this balance remains normative and does not fully guarantee substantive balance in practice. The main challenge lies in implementation, particularly in the mechanism for proving alleged medical negligence and the coordination between ethical, administrative, civil, and criminal mechanisms. Without the application of the principle of proportionality and clear stages of dispute resolution, the potential for inequality in legal protection can persist. Thus, it can be affirmed that Law Number 17 of 2023 has provided a sufficient normative foundation to strike a balance between the protection of patient rights and the protection of the medical profession. However, the effectiveness of this balance depends heavily on the quality of implementation, strengthening professional discipline institutions, and improving legal literacy among medical personnel and the public. Therefore, health law reform efforts should not stop at regulatory updates but must also be accompanied by improvements to the enforcement system and legal culture in the healthcare sector.

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