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Legal Aspects of Patients’ Rights from the Perspective of Health Law According to Law Number 17 of 2023

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Abstract

The transformation of the healthcare system in Indonesia through the enactment of Law Number 17 of 2023 concerning Health represents an important step in strengthening legal protection for patients. The law aims to ensure that patients receive proper healthcare services, clear medical information, and legal protection within the doctor–patient relationship. However, limited awareness and understanding of patient rights among both healthcare providers and patients often contribute to medical disputes and ineffective implementation of legal provisions. Therefore, an analysis of patients’ rights from the perspective of health law is necessary to clarify their legal position and implications in healthcare services. This study aims to analyze the legal aspects of patients’ rights under Law Number 17 of 2023. The research employs a normative juridical method with a qualitative approach. Data were collected through library research and document analysis of statutory regulations, legal doctrines, and relevant scholarly literature obtained from reputable academic sources. The data were analyzed using qualitative descriptive and juridical interpretation to understand the regulation and implementation of patients’ rights in Indonesia’s health system. The results show that the law strengthens patient protection by regulating fundamental rights such as the right to obtain health information, the right to appropriate healthcare services, the right to consent to or refuse medical treatment, the right to access medical records, and the right to seek a second opinion. These provisions reinforce patient autonomy and promote a more balanced doctor–patient relationship in healthcare practice.

Keywords:
Rights; Health; Law

INTRODUCTION

The Health Transformation marks a new era for improving healthcare services in Indonesia. One product of this transformation is Law No. 17 of 2023 concerning Health. Law No. 17 of 2023 is expected to be a bright spot in affirming patient rights, considering that one of the causes of medical disputes is ignorance of the rights of each healthcare provider, both doctors and patients (Emanuel et al., 2023). Therefore, knowledge and understanding of patient rights are crucial for both medical personnel and patients to ensure good healthcare services. Patients' rights are regulated to receive adequate healthcare services and clear information regarding their condition. However, to guarantee these rights, patients are also required to provide honest and clear medical information as their obligation (Jaury Douglas & Prasetyo, 2024).

In the past, doctors were often considered superior to their patients, giving the impression that the relationship between doctor and patient was a one-way street, like a parent and child, with patients viewed solely as legal objects. However, over time, this relationship has changed. There is no longer a sense of superiority between a doctor and a patient; today, the relationship between doctor and patient is considered equal (horizontal contractual), and patients are now considered legal subjects (Ardi et al., 2023; Mustafa & Darmawan, 2024; Yu et al., 2015). The therapeutic contract is a term that represents the current relationship between doctor and patient, where a contract is agreed upon between the doctor and patient to produce a mutually beneficial decision. However, its implementation does not always run smoothly, often resulting in problems that lead to medical disputes (Niru Anita, 2021). A lack of awareness of patient rights and obligations in hospitals is suspected to be a major contributing factor (Yu H, 2015).

In his book, "*Health Law for Prisoners and Community Inmates in Indonesia*" (Suhartini, 2019) divides the right to health into the right to receive health services and the right to receive health protection. The right to receive health services encompasses access, facilities, quality, and other aspects related to the service (Ikhsan & Christianto, 2022; Karjoko et al., 2021; Susila, 2021). Health protection, on the other hand, encompasses legal protection. According to (Soeroso, 2015), the elements of a legal relationship are divided into three: legal subject, legal object, and relationship (link). The legal subjects here are doctors and patients, the legal object is health services, and the relationship refers to the rights and obligations of these legal subjects.

The enactment of Law Number 17 of 2023 concerning Health marks the beginning of an era of health transformation. This is expected to bring about changes in all aspects of health care, particularly patient rights, to improve the quality of health care in Indonesia. It is hoped that understanding patient rights by both doctors and patients will reduce the incidence of medical disputes.

Several recent studies have discussed issues related to patients' rights, but mostly in partial and fragmented ways. Kim (2024), for example, reviewed the legal doctrine of informed consent and emphasized that doctors must provide information sufficient to protect the patient's right to self-determination. (Bolcato et al., 2024) comparatively showed that European healthcare systems increasingly treat informed consent as a mandatory legal requirement and stress communication about treatment alternatives and material risks. In the Indonesian context, (Putra, 2024) analyzed the protection of patient rights through medical record confidentiality and hospital information disclosure systems, demonstrating that access to information and record protection remain central concerns in legal health governance. These studies are valuable, but they tend to focus on particular dimensions of patient rights rather than comprehensively examining the normative construction of patients' rights under Indonesia's newest health statute (Jansen, 2022; Ng, 2024).

Based on that literature, the main research gap lies in the absence of an integrated juridical analysis that specifically examines patients' rights under Law Number 17 of 2023 as a newly consolidated legal regime. Existing studies have discussed informed consent, medical records, malpractice, or dispute resolution separately, while limited scholarship has systematically analyzed how the 2023 law redefines the legal position of patients as rights-bearing subjects within a transformed health system. In addition, the relationship between patient autonomy and exceptions based on public health protection, such as infectious disease control, still requires clearer legal interpretation. This gap shows the need for a study that not only identifies the list of rights in the new law, but also interprets their legal implications for doctors, hospitals, and patients.

This study is urgent for at least three reasons. First, legal reform without doctrinal clarification may create implementation ambiguity in healthcare practice. Second, inadequate understanding of patients' rights may contribute to disputes, mistrust, and weak legal protection in service delivery. Third, current global developments in patient autonomy, consent, privacy, and health-data governance show that patients' rights are becoming more complex, not less. Recent literature on consent in AI-related health data, consent policies, and disclosure obligations confirms that healthcare law is moving toward stronger patient-centred accountability. For Indonesia, this means that understanding the 2023 Health Law is urgent not only for present service delivery, but also for anticipating future medico-legal challenges.

The novelty of this research lies in its effort to offer a comprehensive normative-juridical reading of patients' rights under Law Number 17 of 2023 by connecting legal doctrine, patients' autonomy, service standards, informed consent, medical record access, and the right to seek other professional opinions within one analytical framework. Unlike prior studies that discuss one issue at a time, this research places those rights as an integrated legal construction of patient protection in Indonesia's new health law regime. The study also becomes novel because it interprets the law not merely as a codification of prior norms, but as part of a broader health transformation that adapts patient rights to newer governance demands, including transparency, accountability, and public health emergencies.

Accordingly, the purpose of this research is to analyze the legal aspects of patients' rights from the perspective of health law after the enactment of Law Number 17 of 2023, especially concerning the right to health information, the right to appropriate healthcare services, the right to consent to or refuse medical action, the right to access information in medical records, and the right to seek the opinion of other healthcare professionals. More specifically, this research seeks to explain how those rights are regulated, how they alter the legal position of patients in the doctor–patient relationship, and what legal consequences arise for healthcare providers and institutions in implementing those rights within Indonesian health services.

The expected contribution of this research is both theoretical and practical. Theoretically, it contributes to the development of Indonesian health law scholarship by clarifying the doctrinal foundation of patients' rights under the new law and by enriching discussions on legal protection, autonomy, and accountability in healthcare. Practically, the study can serve as a reference for legislators, hospitals, doctors, legal practitioners, academics, and patients in understanding the scope and implementation of patient rights more accurately. The objective and benefit of this research, therefore, are to provide a stronger conceptual basis for legal certainty, to support better protection of patients in healthcare services, and to encourage future empirical or socio-legal studies on how the guarantees of Law Number 17 of 2023 operate in real healthcare settings in Indonesia.

RESEARCH METHOD

This research employed a normative juridical research design with a qualitative approach to analyze the legal aspects of patients' rights from the perspective of health law under Law Number 17 of 2023. Normative legal research focuses on examining legal norms, legal principles, and statutory regulations that govern a particular legal issue. The population of the research consisted of legal documents and regulations related to patients' rights within the Indonesian healthcare legal framework, including the Constitution, Law Number 17 of 2023 concerning Health, ministerial regulations, and other relevant legal provisions. The sample of the study included selected statutory articles, legal doctrines, scholarly journal articles, and relevant literature from reputable databases such as Google Scholar and Scopus that specifically discuss patients’ rights, informed consent, medical records, and the doctor–patient relationship. The sampling technique used in this research was purposive sampling, where legal materials were selected based on their relevance to the research topic.

The research instrument used in this study was a document analysis guideline, which served to systematically identify and categorize legal norms related to patients’ rights. The validity of the data was ensured through source triangulation, comparing information obtained from laws, academic literature, and previous research findings to ensure consistency and credibility. Reliability was maintained by applying consistent coding procedures during document analysis and cross-checking interpretations of legal provisions. Data collection techniques included library research and document study, involving the collection of primary legal materials (statutes and regulations), secondary legal materials (books, journal articles, and legal commentaries), and tertiary legal materials (legal dictionaries and encyclopedias). The research procedure began with identifying legal issues, collecting relevant legal materials, classifying and organizing the data, and then conducting a systematic review of the legal provisions governing patients’ rights.

The data obtained were processed and organized using reference management and qualitative analysis software, such as Microsoft Word, Mendeley, and NVivo, to facilitate coding, categorization, and interpretation of legal documents. Data analysis was conducted using a qualitative descriptive and juridical analysis technique, which involved interpreting statutory provisions, comparing legal doctrines from previous research, and examining the implications of Law Number 17 of 2023 on the protection of patients’ rights. The analysis also employed statutory and conceptual approaches to understand the relationship between legal norms, healthcare practice, and patient protection. Through this analytical process, the study aimed to produce a comprehensive understanding of how patients’ rights are regulated and implemented within Indonesia’s contemporary health law framework.

RESULTS AND DISCUSSION

The enactment of Law Number 17 of 2023 concerning Health demonstrates the government's commitment to initiating an era of health transformation. This law is believed to strengthen the legal framework, particularly in protecting patient rights in Indonesia. In addition to the medical relationship, there is also a legal relationship within the doctor-patient relationship. While the medical relationship is typically unequal, with the doctor perceived as superior to the patient, from a legal perspective, the relationship is considered balanced. The patient's rights are the doctor's obligations, and the doctor's rights are the patient's obligations. Both the doctor and the patient are considered legal subjects. In practice, this relationship sometimes leads to problems, leading to medical disputes. One of the causes of these problems is each party's ignorance of their rights or the absence of clear regulations governing those rights.

In Law No. 17 of 2023 concerning Health, the discussion of patient rights is contained in Article 276 where there are seven points that emphasize patient rights, including the patient's right to receive information about his/her health, the patient's right to receive adequate explanations regarding the health services he/she receives, the patient's right to receive health services in accordance with medical needs, professional standards, and quality services, the patient's right to refuse or agree to medical treatment, except for medical treatment necessary for the prevention of infectious diseases and the management of outbreaks or epidemics, the patient's right to access information contained in medical records, the patient's right to ask for the opinion of medical personnel or other health workers, and the patient's right to obtain other rights in accordance with the provisions of laws and regulations. The law emphasizes that the state guarantees and protects patients in health services.

Right to Information on Health and Healthcare Services

Patients have the right to clear and complete information regarding their health condition and the medical procedures to be carried out. If a hospital or healthcare provider fails to provide sufficient information, administrative sanctions or legal claims may be imposed under Law Number 17 of 2023. Patients, as clients of healthcare facilities, are entitled to protection and services that meet their needs. Patients are encouraged to be well-informed and understand their rights and obligations, as well as those of their family members.

While Law Number 17 of 2023 does not explicitly describe the right to information in a single provision, Article 293 paragraph (3) specifies that the explanation must at least include: diagnosis, indications, the healthcare actions to be taken and their purpose, potential risks and complications, alternative actions and their risks, risks if no action is taken, and prognosis after treatment.

Explanations about health conditions, healthcare services, and medical procedures must be provided directly to the patient and/or their closest family members, whether requested or not. Such information must also consider whether the patient is competent to receive it. For patients under 18, patients with severe mental disorders, unconscious patients, or those under the influence, consent must be given by the closest family members. This explanation must comply with Article 45 paragraph (3) of Law Number 29 of 2004 on Medical Practice, which requires including estimated costs borne by the patient (Mahesa, 2017).

The explanation must be given in clear, comprehensible language or through other means that facilitate understanding. It must be documented in the medical record, including the date and time, the name and signature of the person providing the explanation, and the name and signature of the recipient. If the doctor or dentist considers that providing the explanation may harm the patient's health, or if the patient refuses, the explanation may be given to the closest family member in the presence of another healthcare professional as a witness.

The explanation must be provided by the attending physician or one of the team of physicians treating the patient. If the attending physician is unavailable, a competent physician must be delegated to provide the explanation. Certain healthcare professionals directly involved in the patient's care may also provide the explanation (Mahesa, 2017). The provisions in Law Number 17 of 2023 regarding information distribution aim to improve the quality of healthcare services.

Right to Healthcare Services According to Medical Needs, Professional Standards, and Quality Services

Quality healthcare is healthcare that satisfies every user, meeting the average satisfaction level of the population, and is implemented in accordance with established codes of ethics and service standards (Suhada & Lubis, 2017). The World Health Organization (WHO) (Organization, 2018), in its global publication 'Primary Health Care: Closing the Gap between Public Health and Primary Care', states that healthcare that meets medical needs prioritizes accessibility, efficiency, quality, and continuity of care. Primary healthcare encompasses not only treatment but also prevention and promotion. Effective healthcare is characterized by timely and targeted responses to patient needs, including services for children, adults, pregnant women, and the elderly. The WHO also emphasizes that healthcare must be integrated with secondary and tertiary healthcare services and delivered by competent medical personnel in accordance with global competency standards (WHO, 2018).

The patient's right to receive health services according to medical needs addresses existing problems, in practice it is not uncommon to find overtreatment or undertreatment of caregivers, patients with a one-day fever are often found to be immediately given antibiotics without any evidence of bacterial infection, or vice versa, patients with a long fever with evidence of bacterial infection but are not given antibiotics. Therefore, this law emphasizes that health services must be provided to patients according to medical needs, meaning providing therapy/action only if it is truly needed by the patient based on a medical diagnosis.

Patients have the right to receive health services in accordance with professional standards. In practice, professional standards are guidelines that must be adhered to by medical personnel. Professional standards regulate various aspects of health services, such as competence, clinical skills, and ethical behavior that must be implemented by medical personnel. This is intended to provide clear boundaries for doctors and specialists to ensure appropriate services are provided and to avoid errors in actions or treatment. For example, general practitioners cannot perform cesarean sections on pregnant women. This is not intended to reduce the health services provided, but rather the ability of general practitioners to handle cesarean deliveries with the potential for complications is deemed inadequate and can pose a risk to patients. Therefore, the professional standards currently established by the council and collegium of doctors and stipulated by the Minister of Health serve as a control mechanism in implementing the quality of health services and preventing the risk of malpractice. Medical personnel who do not follow professional standards in their services are at risk of negligence, which can be subject to legal and administrative sanctions in accordance with the negligence and the impact of their negligence according to the law.

Right to Refuse or Consent to Medical Actions, Except for Mandatory Actions for Public Health Protection

Medical procedures are not performed solely based on a doctor's decision. This does not mean that a doctor is more knowledgeable and can immediately perform a medical procedure. However, medical procedures can be performed if they are medically indicated and approved by the patient or guardian (if the patient is unable to make a medical decision). Medical decisions are considered important and complex because they relate to patient responsibility. Medical decisions, whether to agree or not, are made after receiving information from medical personnel. These decisions relate to patient rights and often involve legal aspects. Medical procedures can include surgery, medication administration, diagnostic procedures, or other interventions aimed at curing or alleviating symptoms of a disease (Jonsen et al., 2022). When a patient agrees to a medical procedure by signing a consent form, it means the patient is giving full consent to the procedure based on the benefits, risks, and possible complications that may arise from the procedure. This consent is crucial for maintaining patient autonomy and protecting their rights. For example, a patient with heart disease may consent to coronary artery bypass surgery after the doctor explains the risks and benefits in detail (Beauchamp & Childress, 2019).

Medical decisions are primarily made by the patient, except in certain cases where the patient is deemed incapable of making medical decisions, such as in the case of patients with severe mental illness or minors. If the patient is deemed incapable of making medical decisions, the decision can be delegated to an authorized third party, such as a guardian, family member, or court. This is where the ethical challenge arises between the patient's wishes and the healthcare professional's moral or legal obligation to provide care deemed in the patient's best interests (Mahesa, 2017).

However, reflecting on the COVID-19 pandemic, Law No. 17 of 2023 is also adaptive. Therefore, there are cases where even patients themselves cannot refuse medical treatment to maintain public health and safety. A concrete example is government-mandated vaccinations, such as during the COVID-19 pandemic, and mandatory vaccinations for newborns. This is done to prevent the wider spread of diseases that are feared to impact the wider community (Filip, 2022). In this case, the principle of the majority is prioritized, so that an individual's right to refuse treatment is weighed against the rights of others to be protected from health risks. This is suspected to be a new regulation in the Health Law as a lesson learned from the COVID-19 pandemic. This regulation represents a form of state responsibility in public health efforts. Thus, the decision to approve or refuse medical treatment is influenced not only by medical information alone, but also by the ethical, legal, and even social frameworks underlying each action. Doctors and medical personnel have an obligation to respect patients' decisions, but they must also navigate existing legal and ethical boundaries.

Right to Access Information Contained in Medical Records

A medical record is a record of a patient's illness, created by a medical professional. In some cases, this medical record is crucial, particularly when discussing legal aspects. The medical record details the patient's health, diagnosis, therapy, and other medical history. Patients have the right to know the information contained in the medical record. This also embodies the principle of transparency in medical ethics. Under the laws of many countries, patients have the right to request and view copies of their medical records to ensure the accuracy of the information and make better decisions about the care they receive (Jonsen, 2020).

Patient access to medical records is also crucial to ensuring transparency in the patient-physician relationship. This allows patients to fully understand the proposed treatment plan and monitor their health progress. Furthermore, this right of access is crucial for ensuring genuine informed consent, as patients must be aware of relevant information before agreeing to any medical procedure. In this context, openness and access to information play a crucial role in maintaining trust between patients and healthcare providers. However, gaining access to medical record information does not necessarily mean patients can request their own records, which often leads to misunderstandings and conflicts. Patients can request copies of their medical records, not the entire record, as medical records are also protected by the state.

However, there are also some legal restrictions on access to medical record information, as regulated by law or hospital policy. For example, in certain situations, doctors or healthcare professionals may refuse to provide medical information if they believe access could harm the patient's emotional or psychological well-being. However, most regulations provide exceptions only in very specific circumstances, taking into account the balance between patient rights and protection against potential negative consequences (Rawbone R, 2013).

Right to Seek the Opinion of Other Healthcare Professionals

Seeking the opinion of a medical professional or other healthcare professional is often considered offensive. However, it is a patient's right to obtain a second opinion to strengthen or contrast their opinion. In many cases, patients cannot directly make medical decisions. This is not a sign of distrust in the doctor, but rather a need to seek other perspectives to strengthen their medical decisions. This also illustrates the bioethical principle of patient autonomy in medical decision-making. Patients have the right to obtain sufficient medical information, including consultation with other healthcare professionals, to ensure that decisions regarding their health are based on a complete and accurate understanding.

This right is recognized in many legal systems, including the principle of informed consent. Patients have the right to seek the opinion of another physician without pressure or influence from the primary healthcare professional providing the diagnosis or recommendation. This is also crucial to ensuring that the medical decisions made by patients are the best and most appropriate for their medical condition.

In the United States, the patient's right to a second opinion is enshrined in law, which allows patients the freedom to seek a second opinion without hindrance. The Health Insurance Portability and Accountability Act (HIPAA), which regulates the privacy and security of health information, also ensures that patients can access their medical records for further consultation with other healthcare professionals. If a patient requests a second opinion, the primary healthcare professional must provide sufficient information and not hinder the patient's access to other healthcare professionals who may have differing perspectives (Gostin, 2021; Herring, 2018).

In Indonesia, this right is also protected by the Health Law, which guarantees patients the right to a second medical opinion. Patients not only have the right to request a second medical opinion but also the right to choose or change their healthcare provider if they feel the need. However, despite this right being recognized, implementation often faces challenges, such as limited access or high costs for a second consultation.

Furthermore, healthcare professionals providing a second opinion are still bound by an obligation to provide accurate medical information and comply with professional standards. Therefore, if there is negligence or inaccuracy in providing an opinion, the healthcare professional providing the second opinion may be subject to legal sanctions or malpractice lawsuits if the failure to do so results in harm to the patient (Jonsen, 2020).

CONCLUSION

Law Number 17 of 2023 concerning Health marks a new era of healthcare transformation. Previously, various laws concerning health, such as Law 29/2004, Law 36/2009 on Health, Law 44/2009 on Hospitals, and Ministerial Regulation of Health Regulation 4/2018, have been consolidated into a single product, with several amendments and additions to facilitate public access to information on health regulations. In this study, Law Number 17 of 2023 concerning Health represents an improvement in legal protection for patients, particularly regarding patient rights. Patient rights are further strengthened and clarified, particularly regarding access to information, receiving services based on medical needs, and participating in medical decision-making. Compared with its predecessor, this law provides clearer, more specific, and more adaptive protection for patient rights. Law Number 17 of 2023 concerning Health represents a significant reform in the regulation of patient rights by unifying previously fragmented provisions into a comprehensive framework. The novelty of this study lies in its normative-juridical analysis, which highlights how the law strengthens patients' rights in access to information, need-based medical services, and participation in decision-making. This research contributes to health law studies by providing a clearer understanding of the legal foundations and concepts of patients' rights under the new law. However, because this study relies solely on secondary data and doctrinal analysis, its findings are limited to a normative perspective without empirical basis. Future research is needed to complement this study through socio-legal or empirical approaches to assess how the provisions are implemented in practice and their actual impact on patients and healthcare providers.

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