Legal Protection of Medical Personnel in Voluntary Health Services

Riska Febria Afrila, Henry Aspan, Muhammad Arif Sahlepi

Abstract

Voluntary health services constitute an integral component of efforts to achieve equitable health access in Indonesia; however, medical personnel involved face complex legal risks due to unclear legal protection under conditions of limitation. This study aims to analyze the legal protection arrangements for medical personnel in voluntary health services under Law Number 17 of 2023 concerning Health, and to formulate policy recommendations to strengthen such protection. The research employs a normative juridical method, combining statutory and conceptual approaches, and utilizes descriptive-prescriptive analytical techniques across primary, secondary, and tertiary legal materials. The findings indicate that although Articles 439 and 440 of Law Number 17 of 2023 have established a foundation for legal protection, implementation continues to face significant challenges, including ambiguity in the definition of "specific limitation conditions," problematic informed consent in emergencies, difficulties in proving service standards, incomplete medical documentation, and the absence of operational legal protection mechanisms. The study concludes that comprehensive measures are necessary to strengthen legal protection by formulating specific derivative regulations, establishing registration and legal protection insurance systems, strengthening the role of professional organizations, providing health law training, and promoting community education, requiring synergy among government, professional organizations, academics, and civil society.

Keywords: Legal Protection; Medical Personnel; Voluntary Health Services

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Introduction

Health services represent a fundamental right of every citizen guaranteed by the constitution, as stipulated in Article 28H paragraph (1) of the 1945 Constitution, which states that every person has the right to live in physical and spiritual prosperity, to reside, and to obtain a good and healthy living environment, as well as the right to obtain health services. In efforts to realize equitable health access, numerous medical personnel provide voluntary health services through government programs, non-governmental organizations, or individual initiatives to reach underserved communities or those in remote areas. These voluntary health services reflect the dedication and moral responsibility of medical personnel in realizing community welfare; however, this activity simultaneously carries complex legal risks for the medical personnel involved.

In practice, medical personnel providing voluntary health services frequently encounter various challenges not experienced in regular medical practice. Limited medical facilities, inadequate health equipment, non-sterile environmental conditions, and emergency situations requiring rapid decision-making constitute components of the complexity of voluntary health services. These conditions place medical personnel in positions vulnerable to legal claims whether administrative, civil, or criminal particularly when medical service outcomes fail to meet patient or family expectations. Nevertheless, voluntary medical personnel have made substantial contributions to efforts toward equitable health access and improvement of community health status, especially in areas difficult to reach by formal health service systems.

One crucial issue that frequently emerges concerns the ambiguity of legal status and legal protection for medical personnel conducting voluntary health services. Law Number 17 of 2023 concerning Health, which constitutes an update to Law Number 36 of 2009 concerning Health, regulates legal protection for health workers in Articles 439 and 440. Article 439 states that health workers operating in accordance with professional standards, service standards, operational procedure standards, and professional codes of ethics cannot be prosecuted legally. Meanwhile, Article 440 provides legal protection for health workers performing life-saving actions or disability prevention in emergency situations and/or under specific limitation conditions. However, implementation of these articles in the context of voluntary health services continues to generate legal uncertainty, particularly regarding proof of service standards under facility and resource limitations inherent to voluntary health services.

Furthermore, the issue of informed consent presents particular challenges in voluntary health services. Article 27 of Law Number 17 of 2023 stipulates that every medical action must obtain consent from the patient or family after receiving complete and clear explanation regarding the medical action to be performed. In voluntary health service practice, especially in remote areas or disaster situations, the informed consent process frequently cannot be conducted ideally due to time constraints, emergency conditions, or communication limitations with patients. This creates an ethical and legal dilemma for medical personnel, who must choose between providing immediate assistance to save patient lives or following strict administrative procedures that potentially impede urgent medical treatment.

In the context of health law, legal protection for medical personnel encompasses not only protection from legal prosecution but also assurance that medical personnel can exercise their profession safely and free from undue pressure. Article 438 of Law Number 17 of 2023 regulates the obligation of health service facilities to provide legal protection to health workers in executing their duties. However, in voluntary health services frequently conducted outside formal health facilities, this protection mechanism becomes unclear. Questions regarding who

bears responsibility for providing legal protection, what mechanisms of protection exist, and to what extent such protection can be provided constitute issues requiring in-depth examination.

1. Voluntary Health Services as Part of the National Health System

Voluntary health services have become an integral component of efforts to achieve Universal Health Coverage (UHC) in Indonesia. Programs such as free health services, mass treatment, social health services, and health services in disaster situations all involve active participation of medical personnel on a voluntary basis. The Ministry of Health of the Republic of Indonesia in its Strategic Plan for 2020-2024 emphasizes the importance of community and health worker participation in realizing healthy society. Voluntary health services constitute one strategy for reaching community groups not yet served by formal health systems.

However, in practice, voluntary health services are frequently conducted without adequate preparation, both administratively and in terms of legal protection. Many medical personnel perform voluntary services without fully understanding the potential legal risks they may face. Research conducted by Pratama and Sari (2023) demonstrates that 68% of medical personnel involved in voluntary health services lack adequate understanding regarding legal protection available to them. This indicates the necessity for legal education for medical personnel involved in voluntary health services, as well as the need for more specific and clear regulations regarding legal protection in the context of voluntary health services.

2. Legal Challenges in Voluntary Health Services

One primary challenge in voluntary health services concerns the discrepancy between ideal service standards and field realities. Law Number 17 of 2023 establishes health service standards that must be met by health workers, including facility standards, equipment, and operational procedures. However, in voluntary health services, particularly in remote areas or emergency disaster conditions, these standards frequently cannot be fulfilled. The question that subsequently arises concerns whether medical personnel can be prosecuted legally if services provided fail to meet established standards, even when such non-compliance occurs due to facility and resource limitations beyond medical personnel control.

Another frequently encountered problem relates to medical documentation. Article 277 of Law Number 17 of 2023 stipulates that every medical action must be documented in complete and accurate medical records. In voluntary health services, especially under emergency conditions or resource limitations, medical documentation frequently cannot be optimally conducted. The absence or incompleteness of medical documentation can become a weakness in legal defense of medical personnel should legal prosecution occur. Research by Nugroho and Larasati (2024) demonstrates that in cases of lawsuits against medical personnel conducting voluntary services, incomplete medical documentation constitutes one factor weakening medical personnel positions in legal proceedings.

3. Legal Protection under Law Number 17 of 2023

Law Number 17 of 2023 concerning Health has introduced significant changes in regulating legal protection for health workers. Article 440 paragraph (1) explicitly states that health workers performing life-saving actions or disability prevention in emergency situations and/or under specific limitation conditions cannot be prosecuted legally, either civilly or criminally, provided such actions are performed in accordance with professional standards, service standards, operational procedure standards, or codes of ethics. This provision provides broader protection space for medical personnel, particularly in urgent and resource-limited situations such as voluntary health services.

However, implementation of this article in practice continues to raise questions. What constitutes "specific limitation conditions" in the context of voluntary health services? How can

proof be established that medical actions have been performed according to professional standards under facility limitations? Who possesses authority to determine whether a condition can be categorized as an emergency situation or specific limitation condition? This ambiguity potentially generates legal uncertainty for medical personnel conducting voluntary health services. Therefore, more specific implementing regulations and clear verification mechanisms are required to ensure that legal protection promised by law can be effectively implemented in the field.

4. Research Urgency and Development of More Comprehensive Regulations

Considering the importance of voluntary health services in the national health system and the complexity of legal problems faced by medical personnel involved, in-depth examination of legal protection for medical personnel in voluntary health services is required. This research becomes important for identifying existing legal gaps, analyzing implementation effectiveness of legal protection regulated in Law Number 17 of 2023, and formulating policy recommendations that can strengthen legal protection for medical personnel without reducing patient rights to receive quality health services.

Furthermore, the government needs to formulate more specific derivative regulations concerning voluntary health services, including registration mechanisms for voluntary health service activities, minimum standards to be met, informed consent procedures under limitation conditions, and clear and accessible legal protection mechanisms for medical personnel. Additionally, insurance systems or legal protection guarantees need to be developed for medical personnel conducting voluntary health services, enabling them to perform humanitarian duties with confidence without concern for unfounded legal prosecution. Support from medical professional organizations such as the Indonesian Medical Association (IDI) and other health professional organizations also becomes key in providing advocacy and legal assistance for members involved in voluntary health services.

Legal protection for medical personnel in voluntary health services constitutes a multidimensional issue involving legal, ethical, and health policy aspects. Although Law Number 17 of 2023 has provided an improved legal framework, implementation challenges in the field remain significant. Through comprehensive research, development of more specific regulations, and strengthening of support systems for medical personnel, voluntary health services can continue to develop as an important component of the national health system while ensuring adequate legal protection for medical personnel who sincerely dedicate themselves to community health.

Research Methodology

This research employs a normative juridical method with statutory approach and conceptual approach to analyze legal protection of medical personnel in voluntary health services. The study focuses on analyzing legal substance in Law Number 17 of 2023 concerning Health, particularly Articles 438, 439, and 440 regulating legal protection for health workers. This research also examines related implementing regulations, health law literature, and scientific journals discussing implementation of legal protection in the context of voluntary health services. As explained by Marzuki (2021) in Legal Research, the normative juridical approach is conducted by examining various formal legal regulations such as laws, government regulations, and legal literature containing concepts and legal theories relevant to research problems. This method was selected because the research focuses on identification and analysis of legal norms regulating protection of medical personnel in voluntary health services, which currently continues to generate uncertainty in field implementation.

Data analysis techniques are conducted descriptively-prescriptively using primary legal materials in the form of Law Number 17 of 2023 concerning Health (Republic of Indonesia, 2023), secondary legal materials in the form of health law books, accredited scientific journals, and relevant previous research results, as well as tertiary legal materials in the form of legal dictionaries and encyclopedias. Descriptive analysis is employed to systematically describe existing legal arrangements, while prescriptive analysis aims to provide policy recommendations that can strengthen legal protection for medical personnel in voluntary health services without reducing patient rights. According to Ibrahim (2020) in Normative Legal Research Methodology, prescriptive analysis in legal research aims to provide argumentation based on research findings, which in this research context involves formulating legal solutions to normative vacuums or implementation ambiguity in legal protection of voluntary medical personnel. Analysis results are expected to serve as references for policymakers in formulating more specific and comprehensive derivative regulations, and to provide legal certainty for medical personnel dedicating themselves to voluntary health services.

Results 1. Legal Protection Arrangements for Medical Personnel in Law Number 17 of 2023

Law Number 17 of 2023 concerning Health has provided a more comprehensive legal foundation for health worker protection compared to previous legislation. Article 439 of Law Number 17 of 2023 affirms that health workers performing duties in accordance with professional standards, service standards, operational procedure standards, and professional codes of ethics cannot be prosecuted legally. This provision provides preventive protection for medical personnel exercising their practice professionally. Meanwhile, Article 440 paragraph (1) specifically regulates protection for health workers performing life-saving actions or disability prevention in emergency situations and/or specific limitation conditions. According to Hanafiah and Amir (2020), this legal protection constitutes state appreciation for health worker dedication under non-ideal conditions, including voluntary health services.

However, implementation of this provision in voluntary health service practice encounters several obstacles. First, the concept of "specific limitation conditions" has not been clearly defined in either the law or its implementing regulations, generating multiple interpretations in application. Second, the mechanism for proving that medical actions have been performed according to professional standards under limitation conditions remains problematic, especially when medical documentation is incomplete. Research by Santoso and Wibowo (2023) demonstrates that in 15 lawsuit cases against medical personnel conducting voluntary services during 2020-2023, ambiguity in interpreting "specific limitation conditions" became the primary debate in trial proceedings. This aligns with Guwandi's (2021) opinion that legal uncertainty in health worker protection can generate "defensive medicine" effects whereby medical personnel become reluctant to conduct voluntary services due to concerns about facing legal prosecution.

2. Informed Consent Problematic in Voluntary Health Services

Informed consent constitutes a fundamental aspect of health services regulated in Article 27 of Law Number 17 of 2023, requiring patient or family consent after receiving complete explanation regarding medical actions to be performed. In voluntary health services, particularly in remote areas or disaster situations, the informed consent process faces significant practical challenges. Emergency conditions requiring rapid action, time limitations, communication barriers due to language differences or patient education levels, and minimal administrative facilities constitute obstacles in ideal informed consent implementation.

According to Komalawati (2019), under such conditions, medical personnel face dilemmas between obligations to save patient lives and obligations to fulfill strict informed consent administrative procedures.

Research by Hartono and Kusumawati (2024) involving 250 medical personnel engaged in voluntary health services demonstrates that 72% of respondents experienced difficulties in implementing complete informed consent procedures, and 58% acknowledged having performed medical actions without adequate informed consent due to emergency conditions. Although Article 440 of Law Number 17 of 2023 provides protection in emergency situations, proving that such situations constitute genuine emergencies and that actions were performed according to professional standards remains a legal challenge. Sampurna et al. (2020) emphasize the importance of documenting emergency conditions and medical personnel's maximum efforts in obtaining consent as evidence of good faith in performing humanitarian duties. To address this problematic, special regulations regarding modification of informed consent procedures in voluntary health service contexts are required while maintaining principles of respect for patient autonomy.

3. Challenges in Proving Service Standards under Limitation Conditions

One crucial aspect in legal protection of medical personnel concerns proving that health services have been performed according to applicable standards. Article 439 of Law Number 17 of 2023 requires fulfillment of professional standards, service standards, and operational procedure standards as prerequisites for legal protection. However, in voluntary health services, these standards frequently cannot be fully met due to facility limitations, medical equipment, medications, and non-ideal environmental conditions. The question that arises concerns whether medical personnel can be held liable when services provided fail to meet ideal standards due to objective limitations beyond their control. According to Cahyono (2020), in assessing medical actions, the principle of "reasonableness" must be applied, considering actual conditions under which health services are provided, not ideal standards applicable in fully equipped health facilities.

Medical documentation becomes an important element in proving service standards, as regulated in Article 277 of Law Number 17 of 2023, which mandates that every medical action be documented in complete and accurate medical records. In voluntary health services, medical documentation is frequently suboptimal due to time limitations, human resources, and recording systems. Case studies by Pramono and Hidayat (2023) demonstrate that incomplete medical documentation constitutes a critical factor weakening medical personnel positions in 68% of malpractice lawsuit cases involving voluntary health services. Guwandi (2022) emphasizes that despite limitation conditions, medical personnel must continue attempting to create minimal documentation recording patient conditions, actions performed, and medical reasoning behind clinical decisions. Therefore, simplified yet adequate medical documentation systems need to be developed for voluntary health services, along with special training for medical personnel regarding medical documentation under limitation conditions.

4. Absence of Operational Legal Protection Mechanisms

Although Article 438 of Law Number 17 of 2023 obligates health service facilities to provide legal protection to health workers, in the context of voluntary health services frequently conducted outside formal health facilities, this protection mechanism becomes unclear. Questions regarding who bears responsibility for providing legal protection. whether activity organizers, non-governmental organizations, or government, have not been definitively answered in existing regulations. Research by Kusuma and Wijayanti (2024) identifies that 82% of voluntary health service activities lack clear legal protection mechanisms for medical

personnel involved, and 76% of medical personnel do not know to whom they can request legal assistance when facing prosecution. According to Triwibowo and Bahri (2021), this absence of operational legal protection mechanisms creates uncertainty that can reduce medical personnel motivation to engage in voluntary health services.

Additionally, unavailability of insurance systems or legal protection guarantees specifically for voluntary health services increases medical personnel vulnerability. Unlike developed countries possessing Good Samaritan Laws providing legal immunity for medical personnel providing voluntary assistance, Indonesia has not yet established similarly comprehensive regulations. Article 440 of Law Number 17 of 2023 can be considered a form of Good Samaritan Law; however, implementation requires more detailed implementing regulations. Pohan (2020) recommends establishment of integrated protection systems involving government, professional organizations, and insurance institutions to provide legal protection guarantees for medical personnel conducting voluntary health services. These systems must encompass legal assistance, legal process financing, and professional reputation protection for medical personnel facing unfounded prosecution.

Based on analysis of various problematics above, several strategic measures are required to strengthen legal protection for medical personnel in voluntary health services. First, the government needs to issue Government Regulations or Minister of Health Regulations specifically governing voluntary health services, including clear definitions of "specific limitation conditions," emergency situation criteria, and service standard modifications applicable under limitation conditions. Second, registration and certification mechanisms for voluntary health service activities need to be developed, containing risk mapping, mitigation plans, and legal protection mechanisms for medical personnel involved. Third, establishment of special insurance systems or legal protection funds managed by government together with professional organizations to cover legal defense costs for medical personnel facing prosecution resulting from voluntary health services performed in good faith.

Fourth, professional organizations such as the Indonesian Medical Association (IDI) and other health professional organizations need to strengthen advocacy roles and legal assistance for members involved in voluntary health services. Fifth, regular health law training needs to be conducted for medical personnel who will engage in voluntary health services, encompassing understanding of legal rights and obligations, informed consent procedures under emergency conditions, and minimal medical documentation requirements. Sixth, education campaigns for communities regarding conditions and limitations of voluntary health services are required, enabling community expectations regarding health service outcomes to be more realistic and reducing potential for unfounded legal prosecution. Implementation of these recommendations requires commitment and coordination among government, professional organizations, academics, and civil society to create legal ecosystems supporting development of voluntary health services as integral components of the national health system.

Conclusion

Legal protection for medical personnel in voluntary health services constitutes a crucial issue requiring serious attention from various stakeholders. Law Number 17 of 2023 concerning Health has provided an improved legal foundation through Articles 439 and 440, providing protection for health workers operating according to professional standards and performing rescue actions in emergency situations or specific limitation conditions. However,

implementation of these provisions in voluntary health service practice continues to face various significant challenges, including ambiguity in defining "specific limitation conditions," problematic informed consent implementation in emergency situations, difficulties in proving service standards under facility limitations, incomplete medical documentation, and absence of operational legal protection mechanisms for medical personnel performing services outside formal health facilities.

To address these problems, comprehensive measures are required, including: first, formulation of more specific derivative regulations governing voluntary health services with clear definitions and criteria; second, establishment of registration and certification systems for voluntary health service activities encompassing legal protection mechanisms; third, development of insurance systems or special legal protection funds for voluntary medical personnel; fourth, strengthening professional organization roles in advocacy and legal assistance; fifth, conducting regular health law training for medical personnel; and sixth, education campaigns for communities regarding conditions and limitations of voluntary health services. Implementation of these recommendations requires synergy and strong commitment among government, professional organizations, academics, and civil society to create legal ecosystems supporting voluntary health services as integral components of the national health system while ensuring adequate legal protection for medical personnel dedicating themselves to community health without reducing patient rights to receive quality and safe health services.

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