

# Legal Perspectives of Palliative Care in Indonesia

Rudi Mahruzar, Marice Simarmata, Muhammad Arif Sahlepi

## Abstract

This research confirms that the implementation of palliative care in Indonesia has gained comprehensive and humanitarian-oriented legal legitimacy through the harmonization of the latest regulations in Law Number 17 of 2023 concerning Health and the Criminal Code Number 1 of 2023, which explicitly guarantees the protection of patient rights and legal certainty for health workers who work according to professional standards by placing criminal law as The *Ultimum Remedium* instrument in resolving medical disputes, although the effectiveness of its implementation in the field still requires acceleration of strengthening human resource capacity, widespread community socialization, and sustainable operational policy support to ensure optimal quality of life for patients with terminal diseases.

**Keywords:** Palliative Care, Healthcare Law, Patients, Healthcare Workers.

Rudi Mahruzar<sup>1</sup>

<sup>1</sup>Health Law Study Program, Universitas Pembangunan Panca Budi, Indonesia  
e-mail: [rudi\\_mahruzar@yahoo.com](mailto:rudi_mahruzar@yahoo.com)<sup>1</sup>

Marice Simarmata<sup>2</sup>, Muhammad Arif Sahlepi<sup>3</sup>

<sup>2,3</sup>Health Law Departement, Universitas Pembangunan Panca Budi, Indonesia  
e-mail: [ichesmart@yahoo.co.id](mailto:ichesmart@yahoo.co.id)<sup>2</sup>, [arifsahlepi@dosenpancabudi.ac.id](mailto:arifsahlepi@dosenpancabudi.ac.id)<sup>3</sup>

2nd International Conference on Islamic Community Studies (ICICS)

Theme: History of Malay Civilisation and Islamic Human Capacity and Halal Hub in the Globalization Era

<https://proceeding.pancabudi.ac.id/index.php/ICIE/index>

## Introduction

Palliative care is an integral part of the health care system that focuses on improving the quality of life for patients and their families facing chronic, progressive, and life-threatening illnesses. This approach emphasizes pain and symptom management, psychosocial support, and meeting spiritual needs while upholding human dignity. (*World Health Organization*. (2020)). As the prevalence of non-communicable diseases and the elderly population in Indonesia increases, the need for palliative care is becoming increasingly significant. (Peraturan menteri kesehatan Republik Indonesia. (2023)).

In practice, palliative care cannot be separated from a legal perspective. Medical decisions in palliative care often involve legal and ethical issues, such as consent to medical procedures, the patient's right to refuse therapy, the limitation or discontinuation of life-sustaining therapy, and the use of certain medications such as opioids. (*World Health Organization*. (2020): Undang-undang Republik Indonesia nomor 17 tahun 2023 tentang kesehatan). Therefore, a clear legal perspective is needed to provide legal certainty and protection for patients, families, and health workers.

In Indonesia, regulations in the health sector originate from the Undang-Undang Dasar Negara Republik Indonesia tahun 1945 as the highest legal norm. (Undang-Undang Dasar Negara Republik Indonesia tahun 1945). Further regulations are contained in the Civil Code, the Criminal Code, and their subordinate regulations. Regarding health and criminal law, the Indonesian government has updated health regulations through the Criminal Code (KUHP) nomor 1 tahun 2023, Undang-Undang nomor 17 tahun 2023 concerning Health, along with technical policies and implementing regulations, including the Minister of Health Regulation. These updates have a direct impact on palliative care services in Indonesia. (Undang-undang Republik Indonesia nomor 17 tahun 2023: Kitab Undang-Undang Hukum Perdata (KUHPer): Kitab Undang-Undang Hukum Pidana (KUHP) Nomor 1 Tahun 2023: Atqiya dan kawan-kawan, (2025)).

## Research Objective:

To understand the legal basis for palliative care in Indonesia.

## Research Methodology

This paper uses a literature review method with a normative legal approach. Data were obtained from Indonesian laws and regulations relating to healthcare and palliative care, including the Civil Code, Criminal Code No. 1 of 2023, Law No. 17 of 2023 concerning Health, and regulations of the Minister of Health of the Republic of Indonesia. (Undang-undang Republik Indonesia nomor 17 tahun 2023: Soekanto, S., dan Mamudji, S. (2019)).

In addition, secondary sources were also used in the form of textbooks and scientific articles related to discussing palliative care, health law, and medical ethics. (*World Health Organization*. (2020): Peraturan menteri kesehatan Republik Indonesia. (2023)).

## Results

### 3.1 Palliative care

Palliative care, within the framework of Indonesian health regulations, is understood as care that focuses on the patient's quality of life, not solely on curative efforts. This concept aligns with the World Health Organization (WHO) definition, which emphasizes a holistic, multidisciplinary, and patient-centered approach. (*World Health Organization*. (2020)). Health regulations in Indonesia, both old and updated, adopt this principle by placing palliative care as part of continuous, patient-centered health services. (Undang-undang Republik Indonesia nomor 17 tahun 2023).

### 3.2 Undang-Undang Dasar 1945 (UUD 45)

Undang-undang dasar negara Republik Indonesia tahun 1945 (UUD 1945) is the highest legal source that serves as the basis for all laws and regulations in Indonesia, including

regulations in the health sector, particularly palliative care. The constitutional principles contained in the UUD 1945 provide a normative basis for recognizing the right to health, protecting human dignity, and the state's responsibility to provide equitable health services. (Undang-Undang Dasar Negara Republik Indonesia tahun 1945).

Pasal 28H ayat (1) UUD 1945 affirms that everyone has the right to live in physical and spiritual well-being, to have a home, and to receive health services. This provision serves as the constitutional basis for the provision of palliative care as part of fulfilling the right to health, particularly for patients with chronic, progressive, and life-threatening illnesses. Palliative care, which is oriented towards improving the quality of life and alleviating suffering, aligns with the constitutional mandate to ensure welfare and a just and civilized humanity. (Undang-Undang Dasar Negara Republik Indonesia tahun 1945).

Besides that, pasal 28D ayat (1) UUD 1945 guarantees every person's right to recognition, assurance, protection, and fair legal certainty. In the context of palliative care, this provision provides a legal basis for protecting patient rights, including the right to medical information, the right to consent to or refuse medical treatment, and the right to receive services that comply with professional and ethical standards. This legal certainty, along with legal protection, is also important for healthcare workers to be able to practice palliative care without fear of legal consequences, provided they act in accordance with statutory regulations. (Undang-Undang Dasar Negara Republik Indonesia tahun 1945).

Furthermore, pasal 34 ayat (3) UUD 1945 states that the state is responsible for providing adequate health care facilities and public services. This provision emphasizes the state's obligation to ensure accessible palliative care for all levels of society, including vulnerable groups such as the elderly and terminally ill. Thus, palliative care is not merely viewed as a service option, but as part of the state's responsibility to create a just and humanitarian-oriented health system. (Undang-Undang Dasar Negara Republik Indonesia tahun 1945).

Conceptually, the values contained in UUD 1945, Especially respect for human rights, human dignity, and social justice, serve as the philosophical and legal foundations for the development of palliative care regulations in Indonesia. The Civil Code, Criminal Code Number 1 of 2023, Law Number 17 of 2023 concerning Health, and their implementing regulations can be seen as concrete manifestations of the constitutional mandate in the health sector, including ensuring high-quality, humane, and legally certain palliative care. (Undang-undang Republik Indonesia nomor 17 tahun 2023: Undang-Undang Dasar Negara Republik Indonesia tahun 1945: Kitab Undang-Undang Hukum Perdata (KUHPer): Islami A dan kawan-kawan, (2025)).

### **3.3 Kitab Undang-Undang Hukum Perdata**

Kitab undang-undang hukum perdata (KUHPerdata) is one legal perspective in the implementation of palliative care in Indonesia, particularly in regulating the legal relationship between patients, families, and healthcare workers. In the context of healthcare, the relationship between patients and healthcare workers is essentially a civil law relationship arising from an agreement, whether originating from an agreement or from a law. (KUHPer ).

Pasal 1313 KUHPerdata A contract is defined as an act by which one or more people bind themselves to one or more others. In palliative care, a therapeutic contract is formed when a patient or their family agrees to a medical procedure offered by a healthcare professional. This contract is inspanning verbintenis, meaning an obligation to make maximum efforts in accordance with professional standards, not an obligation to guarantee a specific outcome. This is particularly relevant in palliative care, where the primary goal is not healing, but rather improving the patient's quality of life. (KUHPer).

Furthermore, pasal 1320 KUHPerdata The principle regulates the requirements for a valid agreement, namely agreement between the parties, competence, a specific matter, and a lawful cause. This principle serves as the legal basis for implementing informed consent in palliative care. Consent to medical procedures must be given freely, consciously, and after the patient has

received complete information regarding the patient's health condition, treatment options, benefits, risks, and prognosis. If the patient is no longer legally competent, consent can be given by family members or a legitimate representative in accordance with statutory provisions. (KUHPer).

KUHPerdata also regulates civil liability in the event of default or unlawful acts. Pasal 1365 KUHPerdata states that any unlawful act that causes harm to another person requires the perpetrator to compensate for that loss. In palliative care, this provision provides legal protection for patients if healthcare workers perform actions outside professional standards or without valid consent. Conversely, this provision also serves as a basis for protection for healthcare workers, because as long as palliative care is provided in accordance with professional standards, service standards, and with valid consent, it cannot be automatically considered an unlawful act. (KUHPer).

Besides that, KUHPerdata contains the principle of respect for the rights and dignity of legal subjects, which is in line with the philosophy of palliative care. Patients are viewed as legal subjects who have the right to determine their choices regarding the medical treatment they will receive, including the right to refuse or discontinue therapy that is deemed no longer providing clinical benefit. This principle of patient autonomy gains legal legitimacy through the regulation of engagement and consent in hukum perdata pasal 1338 ayat (1) (KUHPer).

Thus, KUHPerdata provide a strong legal foundation for the practice of palliative care in Indonesia, especially in the aspects of consent for medical treatment, the legal relationship between patients and health workers, and civil liability mechanisms. pasal 1321(KUHPer).

Provisions in KUHPerdata further strengthened and enriched by Law Number 17 of 2023 concerning health and technical regulations in the field of palliative care, thus forming a complementary and sustainable legal framework.

### **3.4 Kitab Undang-Undang Hukum Pidana Nomor 1 Tahun 2023**

Kitab undang-undang hukum pidana (KUHP) nomor 1 tahun 2023 As a new national criminal law product, it has important implications for healthcare practices, including palliative care. This updated KUHP emphasizes the protection of human life as a primary legal interest, while also accommodating developments in medical science, medical ethics, and human rights through a more proportional and contextual approach. ((KUHP) Nomor 1 Tahun 2023).

- Protection of life and prohibition of acts of taking life.

KUHP nomor 1 tahun 2023 expressly prohibits acts that result in the death of a person. This provision is reflected, among other things, in pasal 459 KUHP, which regulates the act of taking a life at the victim's request (euthanasia). This article emphasizes that anyone who intentionally takes the life of another person at their request will still be subject to criminal penalties. ((KUHP) Nomor 1 Tahun 2023).

In the context of palliative care, the provisions pasal 459 KUHP ini It is crucial to clearly define the boundary between legally valid palliative care and the prohibited practice of euthanasia. Palliative care does not aim to hasten or cause a patient's death, but rather to alleviate suffering and improve the quality of life in terminal or life-threatening illnesses. Therefore, palliative measures, including aggressive pain control or palliative sedation, cannot be considered euthanasia unless there is a purpose or intent to take the patient's life. (*World Health Organization*. (2020): (KUHP) Nomor 1 Tahun 2023).

- Elements of error and criminal responsibility of health workers

KUHP nomor 1 tahun 2023 pasal 11 dan pasal 12 emphasizes the importance of the element of fault (*mens rea*) in criminal liability. Health workers can only be held criminally liable if there is evidence of intent or gross negligence that violates the law. This principle is relevant to palliative care practices, where some medical procedures can have clinical consequences in the form of decreased consciousness or vital functions. ((KUHP) Nomor 1 Tahun 2023).

The use of high doses of opioids for medical management of severe pain can cause side effects, including respiratory depression. However, as long as the action is performed based on

medical indications, in accordance with professional standards, and with valid consent, the element of intent to cause death is not met. Therefore, such actions are not criminally punishable under the provisions of the Act. KUHP. Thus, the act of administering high doses of opioids to control severe pain which medically has the potential to cause respiratory depression, cannot be punished based on pasal 11 dan pasal 12 KUHP nomor 1 tahun 2023 because the element of intent to cause death was not fulfilled. In addition, this action also received legal justification based on pasal 39 dan pasal 42 KUHP nomor 1 tahun 2023, as long as it is carried out in accordance with medical indications, professional standards, and valid approval ((KUHP) Nomor 1 Tahun 2023).

In addition, regulations regarding criminal acts due to negligence in KUHP nomor 1 tahun 2023 equires a clear causal relationship between the act and the consequence and a violation of due care standards. This provides legal protection for palliative care workers who have acted in accordance with professional standards and service guidelines. Regulations regarding criminal acts due to negligence in KUHP nomor 1 tahun 2023, especially as reflected in pasal 12, pasal 13, and pasal 20, requires negligence, a clear causal relationship between the act and the consequence, and a violation of due care standards. This provision provides legal protection for palliative care workers who have acted in accordance with professional standards and service guidelines, which is also justified under pasal 39 KUHP nomor 1 tahun 2023 ((KUHP) Nomor 1 Tahun 2023).

- The principle of *ultimum remedium* in health services

One of the important approaches in KUHP nomor 1 tahun 2023 is the affirmation of criminal law as the *ultimum remedium*, the last resort in law enforcement. This principle is particularly relevant in palliative care, given the complexity of medical decisions, ethics, and communication with patients and families. The principle of criminal law as the *ultimum remedium* in KUHP nomor 1 tahun 2023 reflected in pasal 51 and pasal 52, which places criminal punishment as a last resort in law enforcement. This principle is particularly relevant in palliative care, given the complexity of medical decisions, ethical considerations, and communication between healthcare professionals, patients, and families. ((KUHP) Nomor 1 Tahun 2023).

Issues arising in palliative care, such as differences of opinion regarding the limitation of life-sustaining therapy, are generally best resolved through ethical, administrative, or civil mechanisms. This approach aligns with the nature of palliative care, which emphasizes communication, empathy, and respect for human dignity, and prevents the criminalization of medical practices carried out professionally and in good faith. (*World Health Organization*. (2020): Peraturan menteri kesehatan Republik Indonesia. (2023): *World Medical Association*. (2017): Beauchamp, T. L., dan Childress, J. F. (2019): Komisi Nasional Etik Penelitian dan Pelayanan Kesehatan (KNEPK). (2018)).

- Harmonization KUHP with undang-undang kesehatan

Provisions in KUHP nomor 1 tahun 2023 must be understood systematically and harmoniously with undang-undang nomor 17 tahun 2023 regarding health and technical policies on palliative care. The health law legitimizes palliative care as part of legitimate health care, while KUHP provide clear criminal limits to prevent abuse of medical authority (Undang-undang Republik Indonesia nomor 17 tahun 2023: (KUHP) Nomor 1 Tahun 2023).

With this harmonization, palliative care services provided in accordance with professional standards, service standards, and laws and regulations are not only legally valid under health law but also protected from criminal prosecution. This provides legal certainty for healthcare workers while ensuring the protection of patients' rights and dignity at the end of life. (Undang-undang Republik Indonesia nomor 17 tahun 2023: (KUHP) Nomor 1 Tahun 2023).

- Practical implications for palliative care (Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO): World Health Organization*. (2018)).

The results of the study show that KUHP nomor 1 tahun 2023 This does not hinder the provision of palliative care, but rather provides a clearer and more adaptive legal framework. Palliative care is positioned as a legitimate and humane medical practice, as long as it does not violate the principle of protecting life and does not aim to end the patient's life.

Thus, a proper understanding of the criminal provisions in KUHP nomor 1 tahun 2023 It is very important for health workers to be able to carry out palliative care professionally, ethically and legally safely.

**3.5 Undang-Undang Nomor 17 Tahun 2023 About Health** (Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO): World Health Organization.* (2018)).

Undang-undang nomor 17 tahun 2023 on health is a comprehensive regulation that replaces undang-undang nomor 36 tahun 2009 and become the primary legal perspective in the provision of health services in Indonesia, including palliative care. This law reinforces a life-course approach to health services, one that is patient-centered and upholds human rights and dignity. Within this framework, palliative care gains clearer legal legitimacy as an integral part of the national health care system.

- Recognition of palliative care in the health care system (Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO): World Health Organization.* (2018)).

Explicit recognition of palliative care can be found in pasal 31 undang-undang nomor 17 tahun 2023, which states that individual health services include promotive, preventive, curative, rehabilitative, and/or palliative care. This provision has important legal significance because it places palliative care on a par with other forms of health care, not as an additional or optional service.

By including palliative care within the scope of individual health care, the state normatively recognizes that improving the quality of life and alleviating patient suffering is a legitimate and essential goal of the health system. This aligns with the WHO principle that palliative care should be provided early and not limited to the end-of-life phase.

Besides that, pasal 180 undang-undang nomor 17 tahun 2023 emphasizes the role of primary health care facilities, particularly community health centers (Puskesmas), in providing health services, including palliative care. This provision demonstrates the expansion of access to palliative care at the community level, which is particularly relevant for patients with chronic and terminal illnesses who require ongoing care outside of the hospital.

- Principles of quality, safety and service standards (Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO): World Health Organization.* (2018): Radbruch L, et al, (2020)).

The principles for providing safe and quality health services are regulated in pasal 23 and pasal 24 undang-undang nomor 17 tahun 2023. These articles emphasize that every health effort must be carried out responsibly, in accordance with service standards, and guarantee patient safety.

In the context of palliative care, this regulation provides a legal basis for implementing palliative care standards, including pain control, complex symptom management, and psychosocial and spiritual support. Healthcare workers providing palliative care are required to adhere to professional standards and standard operating procedures to ensure that their palliative care is legally legitimate and cannot be viewed as outside of legitimate medical practice.

- Patient rights in palliative care (Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO).* (2014): *World Health Organization.* (2018): Fong et al, (2024): Brieva O L et al, (2009)).

Protection of patient rights is a central aspect in undang-undang nomor 17 tahun 2023. pasal 276 regulates the patient's right to obtain complete and honest information regarding their

health condition, medical action plans, and possible risks and prognosis of the disease. This Pasal also affirms the patient's right to give consent or refuse medical treatment.

These provisions are directly relevant to palliative care, which often involves complex decision-making, such as withholding or withdrawing life-sustaining treatment. Recognizing a patient's right to refuse medical treatment provides a legal basis for respecting the autonomy of palliative care patients, as long as the decision is made consciously and based on adequate information.

Furthermore, pasal 293 undang-undang nomor 17 tahun 2023 emphasizes the obligation to obtain informed consent for healthcare services before providing medical treatment. In palliative care, this consent encompasses not only invasive procedures but also decisions about symptomatic therapy, opioid use, and palliative sedation, all of which must be based on clear communication between healthcare professionals, patients, and families.

- Obligations and legal protection of health workers (Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018)).

Undang-undang nomor 17 tahun 2023 also provides legal certainty for health workers. Pasal 285 and pasal 291 The law stipulates that medical and health personnel are required to provide services in accordance with their authority, professional standards, and service standards. This provision affirms that palliative care provided in accordance with applicable competencies and guidelines constitutes a legally valid medical procedure.

Besides that, regulations regarding medical records in pasal 296 and pasal 297 is a crucial instrument in palliative care. Complete and accurate documentation of the patient's condition, clinical decisions, consent for medical procedures, and communication with the family serves as a legal protection tool for patients and healthcare professionals in the event of future legal disputes.

### 3.6 Palliative Care Technical Policy.

As a follow-up to undang-undang nomor 17 tahun 2023, kementerian kesehatan Republik Indonesia publish keputusan menteri kesehatan Republik Indonesia nomor HK.01.07/MENKES/2180/2023 Regarding guidelines for the implementation of palliative care. These guidelines clarify the implementation of legal norms by addressing the targets for palliative care patients, the multidisciplinary approach, the role of healthcare workers, and the palliative care network at various levels of healthcare facilities. (Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018): Putranto R et al, (2017)).

These guidelines strengthen the position of palliative care as part of sustainable, community-based health care, and bridge legal norms with clinical practice in the field.

- Implications and challenges of implementation (Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018)).

although undang-undang nomor 17 tahun 2023 While the Indonesian government has provided a strong legal basis for palliative care, its implementation still faces challenges, including limited trained human resources, unequal access to services between regions, and limited public understanding of the goals and benefits of palliative care. Furthermore, the integration of palliative care into the national health financing system still requires strengthening to ensure the sustainability of services.

- Technical policies for palliative care services (Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018)).

Palliative care technical policies are an important instrument for bridging general legal norms in the law with healthcare practices on the ground. Within the context of the Indonesian legal system, these technical policies serve as a concrete form of implementation. undang-

undang nomor 17 tahun 2023 regarding health, particularly in ensuring the provision of quality, safe, and patient-oriented palliative care services.

- Position of technical policies in the hierarchy of Health regulations (Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018)).

Legally, the technical policy for palliative care is in the category of implementing regulations and administrative policies which originate from the authority of attribution and delegation of the Minister of Health as regulated in undang-undang nomor 17 tahun 2023. Pasal 4 and pasal 6 undang-undang This emphasizes the role of the central government in determining policies, standards and guidelines for the implementation of health services.

Within this framework, technical policies are not merely administrative in nature but also have binding normative force for healthcare facilities and healthcare workers. Technical policies serve as operational guidelines that ensure that palliative care is implemented uniformly, standardized, and in accordance with patient safety principles.

- Guidelines for the implementation of palliative care services as an implementation instrument (Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018).

One of the main technical policies in palliative care is keputusan menteri kesehatan Republik Indonesia nomor HK.01.07/MENKES/2180/2023 regarding guidelines for the implementation of palliative care. These guidelines are a direct derivative of the provisions pasal 31 undang-undang nomor 17 tahun 2023 which includes palliative care as part of individual health care.

The guidelines provide an operational definition of palliative care, establish the target audience for palliative care patients, and establish a holistic and multidisciplinary approach to care. Substantially, these guidelines emphasize that palliative care is not limited to the end-of-life phase but can be provided early, alongside curative or rehabilitative therapy, according to the patient's clinical needs.

- Setting standards for patient service and safety ((Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018): Suryadi T, Kulsum, (2018)).

The technical policy for palliative care is also closely related to provisions regarding the quality and safety of health services as regulated in pasal 23 and pasal 24 undang-undang nomor 17 tahun 2023. Pasal-pasal This requires that all health services be provided in accordance with service standards and professional standards.

In palliative care guidelines, this principle is embodied in the regulation of palliative care standards, including pain management, complex symptom management, psychosocial and spiritual support, and interprofessional coordination. With these technical standards, palliative care performed by healthcare professionals is legally legitimized and cannot be viewed as outside of legitimate medical practice.

- Regulation of the role of health workers and a multidisciplinary approach ((Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018): Ferrell et al, (2018)).

The technical policy for palliative care emphasizes a multidisciplinary approach as a key principle. This is in line with the provisions pasal 285 undang-undang nomor 17 tahun 2023, which regulates the obligations of health workers to provide services according to their competence and authority.

The technical guidelines define the roles of doctors, nurses, pharmacists, psychologists, social workers, and other healthcare professionals in a proportional and complementary manner. This division of roles has important legal implications, as each healthcare professional

can only be held accountable within their professional scope of authority. Thus, the technical policy provides legal certainty while preventing overlapping responsibilities in palliative care.

- Facility and community-based palliative care ((Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018)).

The technical policy for palliative care also accommodates the expansion of access to services through various levels of health care facilities. This provision aligns with Pasal 180 undang-undang nomor 17 tahun 2023, which emphasizes the role of first-level health care facilities, including community health centers, in the provision of health services.

Palliative care guidelines emphasize that palliative care can be provided in hospitals, community health centers, and other healthcare facilities, as well as through community-based services and home care. This regulation has legal significance because it emphasizes that palliative care is not exclusive to referral hospitals but is part of primary healthcare services accessible to the wider community.

- Patient rights in technical policies for palliative care services ((Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018)).

The technical policy for palliative care also strengthens the protection of patient rights as regulated in pasal 276 dan pasal 293 undang-undang nomor 17 tahun 2023. The technical guidelines emphasize the importance of effective communication, providing comprehensive information, and implementing informed consent at every stage of palliative care.

In palliative care practice, technical policies provide guidance on respecting patient decisions, including decisions to refuse or discontinue certain therapies. This provides an operational legal basis for implementing the principle of patient autonomy and prevents legal conflicts between healthcare professionals and patients' families..

- Medical documentation as an instrument of legal protection ((Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018)).

The medical documentation aspect receives special attention in the technical policy for palliative care. This provision is in line with pasal 296 and pasal 297 undang-undang nomor 17 tahun 2023 which regulates the obligation to record and store medical records.

Palliative care guidelines emphasize that every clinical decision, consent for medical treatment, and communication with the patient and family must be fully and accurately documented. This documentation serves not only as a means of continuity of care but also as a legal protection for patients and healthcare professionals in the event of future disputes.

- Challenges of implementing technical policies ((Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018)).

Although comprehensive technical policies for palliative care have been developed, their implementation still faces various challenges. These challenges include limited human resources trained in palliative care, uneven availability of services across Indonesia, and differences in the capacity of healthcare facilities.

Furthermore, the integration of technical policies for palliative care into the national health financing system still requires strengthening to ensure sustainable palliative care. This demonstrates the need for technical policies to be supported by cross-sectoral policies, ongoing education for healthcare workers, and effective oversight mechanisms.

### 3.7 Patient Rights and Legal Protection for Palliative Care Health Workers

Palliative care is a form of healthcare that has unique characteristics because it focuses on the quality of life of patients with chronic, progressive, and life-threatening illnesses. This characteristic requires balanced legal protection between the rights of patients as legal subjects and legal certainty for healthcare professionals as providers of care. Undang-undang nomor 17

tahun 2023 on health as the latest health regulation provides a more comprehensive legal framework to ensure this balance. ((Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018): Gwyther Liz, et al, (2009)).

- Patient rights in palliative care ((Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018)).

Undang-undang nomor 17 tahun 2023 regarding health, it firmly places patients as the main subject in the provision of health services. Pasal 276 undang-undang nomor 17 tahun 2023 states that every patient has the right to receive complete, honest, and easily understood information regarding their health condition, planned medical treatment, alternative treatments, risks, and prognosis. This provision is particularly relevant in palliative care, given that medical decisions are often complex and directly impact the patient's quality of life.

The right to information serves as the legal basis for respecting the principle of patient autonomy in palliative care. Patients have the right to know that the goal of palliative care is not to cure the disease, but rather to control symptoms, reduce suffering, and improve quality of life. With adequate information, patients can actively participate in medical decision-making in accordance with their values, beliefs, and preferences.

Furthermore, pasal 276 undang-undang nomor 17 tahun 2023 also affirms the patient's right to consent to or refuse medical treatment. In the context of palliative care, this provision provides a legal basis for a patient's decision to refuse certain medical procedures, including life-sustaining therapy that is deemed no longer clinically beneficial (futile treatment). Respect for this right to refuse medical treatment should not be viewed as a neglect of the healthcare professional's obligations, but rather as an implementation of the principles of human rights and patient dignity.

Provisions regarding consent to medical procedures are strengthened in pasal 293 undang-undang nomor 17 tahun 2023 which requires informed consent before providing healthcare services. In palliative care, informed consent encompasses not only invasive procedures but also the use of high-dose opioids, palliative sedation, and decisions to limit or discontinue therapy. Therefore, consent for medical procedures in palliative care must be based on effective, empathetic, and ongoing communication between healthcare professionals, patients, and families.

In addition, patient rights in palliative care are also closely related to the protection of human dignity as guaranteed by undang-undang dasar negara Republik Indonesia tahun 1945. Palliative care that respects patient decisions, spiritual values, and psychosocial conditions is a concrete manifestation of fulfilling the right to health that is just and humane.

- Legal protection for health workers in palliative care services ((Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018)).

In addition to protecting patient rights, undang-undang nomor 17 tahun 2023 also provides legal certainty and protection for health workers who provide palliative services. Pasal 285 undang-undang nomor 17 tahun 2023 The law stipulates that medical and health personnel are required to provide services in accordance with their competence, authority, professional standards, and service standards. This provision also serves as the basis for legal protection, as medical procedures performed in accordance with applicable standards are legally valid..

In palliative care, healthcare workers often face ethical dilemmas and legal risks, particularly regarding the use of opioid medications, palliative sedation, and decisions about limiting therapy. However, as long as these actions are based on clear medical indications, in accordance with palliative care guidelines, and with valid consent, healthcare workers cannot be held legally responsible. This principle aligns with the concept of inspanning verbintenis in

civil law, where healthcare workers are obligated to make maximum efforts in accordance with professional standards, not to guarantee specific outcomes.

Legal protection for health workers is also strengthened through the regulation of medical records in pasal 296 dan pasal 297 undang-undang nomor 17 tahun 2023. Complete and accurate medical records serve as essential legal evidence in the event of a dispute between a patient and a healthcare professional. In palliative care, documentation of the patient's condition, clinical considerations, therapeutic decisions, and communication with the patient and family are crucial tools for ensuring transparency and accountability in care..

Apart from protection in the realm of health law and civil law, protection of health workers is also related to criminal law. Kitab undang undang hukum pidana nomor 1 tahun 2023 emphasizes that criminal liability requires an element of wrongdoing in the form of intent or negligence that violates the law. Palliative care that aims to reduce a patient's suffering and is not intended to take a life cannot be classified as a criminal act, as long as it is carried out in accordance with professional standards and statutory regulations..

Thus, Law Number 17 of 2023 concerning health, which is harmonized with KUHPerdata dan KUHP nomor 1 tahun 2023, Establish a legal framework that balances patient rights protection and legal certainty for healthcare workers. This framework is essential to prevent the criminalization of palliative care practices carried out professionally and in good faith.

- Implications for palliative care practice ((Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: Kitab Undang-Undang Hukum Perdata (KUHPer): *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018): Kansil Christine S T, Rachel Adeline Siregar, (2024),

The results of the study show that strengthening the aspects of patient rights and legal protection for health workers in undang-undang nomor 17 tahun 2023 provides strong legitimacy for the provision of palliative care in Indonesia. Palliative care is positioned as a legitimate, ethical, and humane medical practice, positioning patients as autonomous legal subjects and healthcare workers as protected professionals as long as they act according to standards.

However, the implementation of these legal norms still requires strengthening through capacity building of healthcare workers, community outreach, and strengthening of technical policies and financing systems. Without adequate understanding, potential legal conflicts in palliative care can still arise, even if the normative framework is in place.

### **3.8 Challenges in the Implementation of Palliative Care Law** ((Peraturan menteri kesehatan Republik Indonesia. (2023): Undang-undang Republik Indonesia nomor 17 tahun 2023: *World Health Organization (WHO)*. (2014): *World Health Organization*. (2018)).

Although the Indonesian palliative care law has been updated, its implementation still faces various challenges. These challenges include limited trained human resources, unequal access to palliative care across regions, and a lack of public understanding of the concept and purpose of palliative care.

Furthermore, the integration of palliative care into the national health financing system still requires strengthening to ensure sustainable and equitable delivery. This suggests that regulatory reforms need to be accompanied by effective operational policies, education, and oversight.

## **Conclusion**

Law in Indonesia provides legal certainty and legal protection in the provision of palliative care services. Kitab undang-undang hukum perdata, Kitab undang-undang hukum pidana nomor 1 tahun 2023, undang-undang nomor 17 tahun 2023 on health and technical guidelines from the Ministry of Health of the Republic of Indonesia, emphasizes palliative care as an integral part of the health care system and as a patient's right.

A comprehensive understanding of the legal perspective on palliative care is crucial for healthcare professionals to ensure that the services provided not only meet clinical requirements but also comply with legal and ethical requirements, with optimal implementation. Palliative care is expected to improve patients' quality of life and provide legal protection for all parties involved.

## References

- [1] *World Health Organization*. (2020). *Palliative care*.
- [2] Peraturan menteri kesehatan Republik Indonesia. (2023). Pedoman penyelenggaraan pelayanan paliatif.
- [3] Undang-undang Republik Indonesia nomor 17 tahun 2023 tentang kesehatan.
- [4] Undang-Undang Dasar Negara Republik Indonesia tahun 1945.
- [5] Kitab Undang-Undang Hukum Perdata (KUHPer).
- [6] Kitab Undang-Undang Hukum Pidana (KUHP) Nomor 1 Tahun 2023.
- [7] Atqiya dan kawan-kawan, (2025), Perlindungan Hak Warga Negara dalam Negara Demokrasi : Perspektif Konstitusional dan Hak Asasi Manusia, *Jurnal Pendidikan dan Kewarganegara Indonesia*, 2(2), 174-186.
- [8] Soekanto, S., dan Mamudji, S. (2019). Penelitian Hukum Normatif.
- [9] Islami A dan kawan-kawan, (2025), Perlindungan Hukum Bagi Tenaga Kesehatan Terhadap Kekerasan di Fasilitas Pelayanan Kesehatan, *Media Hukum Indonesia*, 3(4), 102-107
- [10] *World Medical Association*. (2017). *WMA Declaration on End-of-Life Medical Care*.
- [11] Beauchamp, T. L., dan Childress, J. F. (2019). *Principles of Biomedical Ethics* (8th ed.). *Oxford University Press*.
- [12] Komisi Nasional Etik Penelitian dan Pelayanan Kesehatan (KNEPK). (2018). Pedoman Etik Pelayanan Kesehatan pada Akhir Kehidupan.
- [13] *World Health Organization (WHO)*. (2014). *Strengthening of Palliative Care as a Component of Comprehensive Care throughout the Life Course*. Geneva: WHO.
- [14] *World Health Organization*. (2018). *Integrating Palliative Care and Symptom Relief into Health Systems*. Geneva: WHO.
- [15] Radbruch L, et al, (2020), *Redefining Palliative Care A New Consensus-Based Definition*, *Journal of pain and symptom management*, 60(4), 754-764
- [16] Fong et al, (2024), Predictors and outcomes of withholding and withdrawal of life-sustaining treatments in intensive care units in Singapore: a multicentre observational study, *Journal of Intensive Care*, 12(13), 1-10
- [17] Brieva O L et al, (2009), *Withholding and withdrawal of life-sustaining therapies in intensive care: an Australian experience*, *Critical Care and Resuscitation*, 11(4), 266-268