

# Indonesian Health Law a Study of The Development and Implementation of Law of The Republic of Indonesia Number 17 Of 2023 Concerning Health

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## Abstract

Health law in Indonesia has undergone significant transformation in facing the dynamics of community needs and global challenges. As a country committed to improving the health of its citizens, Indonesia has implemented various regulations covering aspects of health services, management of medical personnel, medical education, and disease control. However, the sectoral approach in previous regulations often resulted in overlapping authorities, different legal interpretations, and challenges in policy implementation. To address the need for legal harmonization in the health sector, the government has enacted Law of the Republic of Indonesia Number 17 of 2023 concerning Health (hereinafter referred to as the Health Law) as a new foundation in the development of national health law. This study discusses how the implementation of Law Number 17 of 2023 concerning Health can strengthen the harmonization of the health legal system in Indonesia in overcoming overlapping regulations and improving the quality of national health services. This study was conducted using a normative legal approach method. This research has a conclusion that although the 2023 Health Law has great potential in strengthening the harmonization of the health legal system and improving the quality of services, its implementation is not free from challenges. Some of the main challenges include: Infrastructure and Human Resource Limitations: Many health facilities, especially in remote areas, still face limitations in infrastructure and adequate medical personnel to support the implementation of digital technology and health information systems; Resistance to Change: Some health workers and health institutions may show resistance to the changes stipulated in the 2023 Health Law, especially if they are not given adequate training or socialization; Inter-agency Coordination: Harmonization of regulations requires close coordination between various government agencies, such as the Ministry of Health, BPJS Kesehatan, and local governments. Lack of coordination can hamper the implementation of regulations. The author's suggestion in this study is that this law can create the harmonization needed to improve efficiency, transparency, and quality of health services. However, the success of implementing this law depends on the ability of the government, health institutions, and the community to overcome existing challenges. With the right implementation strategy, the 2023 Health Law can be a solid foundation for a more equitable and quality national health system.

## Keyword:

Legal Analysis, Organ Donation, Health Law, Religion

## 1. INTRODUCTION

Health law in Indonesia has undergone significant transformation in facing the dynamics of community needs and global challenges. As a country committed to improving the health of its citizens, Indonesia has implemented various regulations covering aspects of health services, management of medical personnel, medical education, and disease control. However, the sectoral approach in previous regulations often resulted in overlapping authorities, different legal interpretations, and challenges in policy

implementation. To address the need for legal harmonization in the health sector, the government has enacted Law of the Republic of Indonesia Number 17 of 2023 concerning Health (hereinafter referred to as the Health Law) as a new foundation in the development of national health law. The Health Law adopts an omnibus law approach that harmonizes and revokes various sectoral laws in the health sector. This law replaces previous regulations, such as Law Number 36 of 2009 concerning Health, Law Number 44 of 2009 concerning Hospitals, and Law Number 4 of 1984 concerning Infectious Disease Outbreaks. This revocation reflects an effort to build a more integrated, adaptive, and responsive legal system to the challenges of the digitalization era, globalization, and the post-COVID-19 pandemic. The history of the development of health law shows how Indonesia has moved from a colonial approach based on the 1949 Drug Ordinance to modern regulations that place information technology and universal access as the main pillars. With the emergence of new challenges such as the threat of a pandemic, cyber-attacks on health data, and the unequal distribution of health facilities in remote areas, the Health Law is present as a strategic solution to strengthen the foundation of the national health system. One important aspect highlighted in this law is the strengthening of the state's role in regulating, supervising, and ensuring quality health services. Article 8 of the Health Law emphasizes that every citizen has the right to receive decent health services without discrimination. In addition, this regulation also includes reform of medical education, which was previously regulated by the Health Law on Medical Education, to ensure the availability of competent and evenly distributed health workers throughout Indonesia. In addition to harmonizing sectoral regulations, the Health Law also emphasizes the use of digital technology to improve the efficiency of health services. One of them is the management of electronic medical records (EMR), which is regulated in detail to maintain the confidentiality and security of patient data. This shows that this law is not only oriented towards solving regulatory problems, but also encouraging digital transformation as a key element in the future health system. However, although the Health Law provides a comprehensive legal basis, its implementation faces a number of challenges. Lack of health infrastructure in remote areas, unequal distribution of medical personnel, and resistance to change among health professionals are some of the obstacles that require serious attention. In addition, harmonization with technical regulations that support the implementation of this Health Law, such as hospital operational guidelines and the implementation of health quarantine policies, is a priority to ensure its effectiveness. A study of the history and development of health law in Indonesia, especially the Health Law, provides an in-depth perspective on how this regulation is designed to address the needs of the community in facing health challenges in the modern era. The holistic approach promoted by the Health Law is expected to not only provide a strong legal basis, but also increase public trust in the national health service system. With the presence of the Health Law, Indonesia has a great opportunity to strengthen its legal system, improve inclusive health services, and place health as a top priority in sustainable national development.

### *Formulation of The Problem*

How can the implementation of Law Number 17 of 2023 concerning Health strengthen the harmonization of the health legal system in Indonesia in overcoming overlapping regulations and improving the quality of national health services?

### *Benefits of Research*

#### 1. Academic Benefits

Academic benefits are a requirement in completing educational assignments at the Islamic University of Bandung and the results of this study can add to the literature of Doctoral Law Study Program Students, Faculty of Law, Islamic University of Bandung.

#### 2. Theoretical Benefits

The theoretical benefit is to provide a contribution of thought or as a basis and reference for subsequent research and improving the quality of knowledge.

## **2. RESEARCH METHODOLOGY**

### 1. Writing Nature.

This writing uses descriptive research. Descriptive writing aims to accurately describe the characteristics of an individual, condition, symptom or certain group or to determine the spread of a symptom or to determine whether or not there is a relationship between one symptom and another in society.

2. Writing Type.

This type of writing uses a normative legal approach or this library is a writing that examines document studies, namely using various secondary data such as laws and regulations, court decisions, legal theories, and can be in the form of opinions of scholars.

3. Method of collecting data.

The data collection technique in this writing is by using the Library Writing method . *Research* ) Library technique is "Bibliography writing carried out by reading, reviewing and recording various literature or reading materials that are in accordance with the topic, then filtered and poured into a theoretical framework of thought".

4. Data Types.

The author in this study uses Secondary Data , namely "data obtained or collected by people conducting research from existing sources". Secondary data is in the form of books, journals, encyclopedias, magazines, papers, articles and others that are relevant to the problem regarding the author's research title.

5. Data analysis.

In the process of analyzing data in this study, qualitative analysis was used , which is a method of analyzing data sourced from legal materials based on concepts, theories, laws and regulations, and expert opinions and the research's own views.

### 3. RESULT AND DISCUSSION

*Implementation of Law Number 17 Of 2023 on Health can Strengthen The Harmonization of The Health Legal System in Indonesia in Overcoming Overlapping Regulations and Improving The Quality of National Health Services*

Law Number 17 of 2023 concerning Health (Health Law) is an important milestone in the journey of the health law system in Indonesia. As an omnibus law that replaces a number of previous health laws, such as law number 36 of 2009 concerning Health and Law Number 29 of 2004 concerning Medical Practice, this regulation seeks to create harmonization in the national health law system. In this context, the implementation of the Health Law is key to overcoming overlapping regulations that have so far hampered the effectiveness of health services while improving the quality of health services in Indonesia. Before the health law was passed, the health legal system in Indonesia faced major challenges in the form of overlapping regulations. This can be seen from the many laws that regulate the health sector sectorally without adequate coordination. For example, law number 36 of 2009 on health often conflicts with law number 29 of 2004 on medical practice, especially in terms of supervision of medical practice and legal responsibility of doctors. Likewise, law number 38 of 2014 on Nursing and Law Number 18 of 2014 on Mental Health have several inconsistencies that cause difficulties in implementation at the field level. The health law adopts an omnibus law approach, *which unites* various previously separate legal regulations into one integrated regulatory framework. This approach aims to create harmony between various aspects of health law, such as health workers, medical practice, medical education, hospital services, and public health. This harmonization is important to eliminate normative conflicts that often cause legal uncertainty for stakeholders, including health workers, health institutions, and the community. Article 81 of the Health Law stipulates that the government is required to ensure the provision of integrated health services based on information technology. This regulation is the basis for harmonizing the national health information system, which was previously regulated sporadically in various regulations. With this integration, patient data, electronic medical records, and referral systems can be managed more efficiently, reducing the potential for conflict between regulations and improving coordination between agencies. In addition, Article 144 of the Health Law emphasizes that all health workers must have a practice permit issued based on national standards. This eliminates the dualism of regulation that previously occurred, where different regulations provided inconsistent practice permit standards, especially for doctors, nurses, and midwives. One of the main objectives of the Health Law is to improve the quality of health services in Indonesia. The quality of health services is not only determined by the ability of medical personnel, but also by the legal system that supports these services. By uniting various regulations in one legal framework, the health law provides a strong foundation for strengthening the health service system. Article 102 of the Health Law encourages the use of digital technology in health services, including telemedicine, electronic medical records (EMR), and cloud- based health information systems. These technologies enable patients in remote areas to access quality

health services without having to travel long distances. In addition, an integrated national health information system allows for better coordination between primary, secondary, and tertiary health facilities, thereby speeding up response times in handling emergency cases.

The Health Law also emphasizes the importance of continuing education and training for health workers. Article 123 of the Health Law, for example, stipulates that all health workers are required to participate in continuing professional development programs (*continuing professional development*) facilitated by the government. This provision aims to ensure that health workers always follow the latest developments in science and technology in the medical field, so that they can provide the best service to the community. The Health Law pays special attention to legal protection for health workers. Article 157 of the Health Law stipulates that health workers who carry out their duties in accordance with professional standards and operational procedures cannot be prosecuted if unavoidable medical complications occur. This regulation provides legal certainty for health workers, so that they can work calmly without fear of facing baseless lawsuits. In addition to improving quality, the Health Law also aims to expand public access to health services. Article 65 of the Health Law states that the government is responsible for providing equitable health facilities throughout Indonesia, including remote and border areas. The implementation of this article is expected to reduce the gap in health services between urban and rural areas. Although the Health Law has great potential in strengthening the harmonization of the health legal system and improving the quality of services, its implementation is not free from challenges. Some of the main challenges include: (1) Infrastructure and Human Resource Limitations: Many health facilities, especially in remote areas, still face limitations in infrastructure and adequate medical personnel to support the implementation of digital technology and health information systems (2) Resistance to Change: Some health workers and health institutions may show resistance to changes stipulated in the Health Law, especially if they are not given adequate training or socialization (3) Inter-Agency Coordination: Regulation harmonization requires close coordination between various government agencies, such as the Ministry of Health, BPJS Kesehatan, and local governments. Lack of coordination can hamper the implementation of regulations.

#### 4. CONCLUSION

The Health Law is a major step in strengthening Indonesia's health legal system. By unifying previously separate regulations, the law creates the harmonization needed to improve efficiency, transparency, and quality of health services. However, the successful implementation of this law depends on the ability of the government, health institutions, and the community to overcome the challenges. With the right implementation strategy, the Health Law can become a solid foundation for a more equitable and quality national health system.

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