

The Effectiveness of Health Personnel in The Application of Law Number 17 Of 2023 Concerning Health According to The Perspective of Health Law

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Abstract

Law Number 17 of 2023 concerning Health marks an important step in reforming the health system in Indonesia. This law aims to strengthen the national health system by establishing clear guidelines for health workers, as well as providing them with legal protection. This law integrates various aspects of health, including primary health services, referral services, use of health technology, and funding, under one more comprehensive legal umbrella. Although it is hoped that it will improve the quality of health services and increase protection for medical and health personnel, its implementation raises various responses. Some health workers welcomed this new regulation, but there were also those who criticized several provisions which were considered still ambiguous and open to different interpretations. Significant issues that arise include opening up opportunities for foreign health workers and changing the status of Registration Certificates (STR), which are valid for life. The successful implementation of this law is very dependent on the adaptation and acceptance of health workers to the new regulations. Therefore, collaboration is needed between the government, professional organizations and health workers to ensure this law can be implemented effectively and fairly. In addition, further revisions and clarifications are needed for articles that are still controversial, in order to avoid uncertainty and increase clarity in the implementation of the duties of health workers in Indonesia.

Keyword: Effectiveness, Health Personnel, Health Law

1. INTRODUCTION

The definition of a health worker is every person who has received both formal and non-formal education who dedicates themselves to various efforts aimed at preventing, maintaining and improving the level of public health. Health law is law that is Lex Specialist, namely law that contains exceptional norms to protect providers and receivers service health. This is because general legal regulations (Lex Generalis) often do not accommodate the essence of Health Law. One of the clauses in Law Number 17 of 2023 concerning Health is the Lex Law Specialist, stated that "every medical and health personnel will receive legal protection as long as they carry out their duties in accordance with professional standards, professional ethics, as well as the patient's health needs" which will not be found in general legal regulations. There are 3 human rights (HAM) that underlie the legal concept of health, namely the right to obtain health care (the right to health care), the right to self-determination (the right to self determination), and the right to obtain information (the right to information). The right to health care and the right to self determination arises from Article 25 of The United Nations, Universal Declaration of Human Rights (UDHR) 1948 and Article 1 of the United Nations, International Convention Civil and Political Rights (ICCPR) 1966. Health care must also meet the right to information in The Declaration of Helsinki, Recommendations Guiding Doctors in Clinical Research by the 18th World Medical Assembly, Finland, 1964. Thus, the health care program originates from the three human rights which must be respected, protected and fulfilled, and is formulated in health law legislation. In this context, Law Number 17 of 2023 concerning Health (Health Law) is an important milestone that reflects the Government's commitment to dealing with various dynamics in the health sector. The Health Law is expected to be an important instrument that can overcome these challenges. By detailing rights and obligations, as well as setting implementation strategies, this law is expected to become a strong foundation for positive transformation in the national health system. The Health Law brings

significant changes in various aspects, such as primary care, referral services, health security, funding, human resources and health technology. Therefore, an in-depth understanding of the implications and implementation strategies is crucial to ensure successful implementation. Article 1 number 7 in Law Number 17 of 2023 defines health workers as individuals who serve in the health sector, have a professional attitude, knowledge and skills through higher education, and for certain types require authority to carry out health efforts.

2. RESEARCH METHODOLOGY

This research uses a descriptive analytical method with a normative juridical approach (Fuqoha, 2020). Analytical descriptive, namely describing applicable laws and regulations linked to legal theories. The normative juridical approach is by reviewing or analyzing secondary data in the form of applicable laws and regulations (Sudrajat, 2023). Secondary data used in this research are primary legal materials such as national legal sources, secondary legal materials such as materials that provide explanations of primary legal materials in the form of documents (Sriono et al., 2021). Data collection in this research was carried out using library research and document study. Secondary source data or materials in the form of the Criminal Code, Law Number 17 of 2023 concerning Health, and other legal and regulatory sources related to medical disputes. These references and rules were obtained via *Google scholar*. The results of the research are presented in the form of this article. The data obtained was collected and analyzed using qualitative normative methods. Normative because this research focuses on regulations that apply as positive legal norms that regulate legal issues regarding health workers, especially the medical profession.

3. RESULT AND DISCUSSION

According to Article 1 numbers 6 and 7 of Law Number 17 of 2023, "medical personnel are every person who dedicates themselves to the field of Health and has a professional attitude, knowledge and skills through medical or dental professional education who requires authority to carry out Health Efforts", whereas "a health worker is every person who dedicates themselves to the field of Health and has a professional attitude, knowledge and skills through higher education which for certain types requires the authority to carry out Health Efforts". Based on the meaning of this article it can be concluded that medical personnel are doctors and dentist, while health workers are professions in the health sector other than doctors and dentists, such as nurses, midwives, pharmacists, pharmaceutical technical personnel, physiotherapists, clinical psychologists, and so on. Regulations regarding medical personnel and health workers were previously separated in several laws, but after the enactment of Law Number 17 of 2023 the regulations were combined in one law. Law Number 17 of 2023 is one of the Health Law Laws which is a special law or *Lex Specialist*. General legal regulations in the Criminal and Civil Codes are often inconsistent with the essence of Health Law. For example, a public transportation driver who has a driver's license, because of his negligence, hits a pedestrian and causes the pedestrian to be seriously injured, cannot be compared to a doctor who has a SIP (Practicing Permit), when carrying out his medical profession, he is negligent and causes his patient to be seriously injured. This is because in the medical or therapeutic health world the miracle (miracle or therapeutic miracle) that the patient hopes will always go hand in hand with therapeutic risk (therapy risk). Article 1 number 7 in Law Number 17 of 2023 defines health workers as individuals who serve in the health sector, have a professional attitude, knowledge and skills through higher education, and for certain types require authority to carry out health efforts. Attitude power health to the latest health law can different. Some of them accept with good because constitution this give clear guide in carry out task and not quite enough answer they.

They consider Constitution This as step proceed in increase system health in Indonesia. However, there is also power health that has view critical to constitution this. They opinion that a number of chapter in Constitution the Still open For different interpretations and bring up confusion. For example, art about authority And not quite enough answer power health still not yet explained in a way detailed so that give rise to uncertainty in operate task they. In fact, it has someone is holding it action peace that speaks rejection or request the law reviewed return so that understanding about chapter articles that raise pros and cons can discussed. There are some issues that arise related with the latest Health Law. One of them is problem regulations to use technology in service health. The law Not yet give clear guidelines related with use of telemedicine or service health distance far other. This matter become attention power health of those who use it technology the in practice daily they. The newly passed Health Law caused various reactions, similar to the

response to the Job Creation Law which also used the Omnibus Law method. This Health Law is considered to make it easier for foreign doctors to practice in Indonesia, but the Indonesian Doctors Association (IDI) is concerned that this law favors investors and ignores the rights of the community, medical personnel and health workers regarding legal protection and patient safety. Article 248 paragraph 1 of the Health Law states that foreign medical personnel who can practice in Indonesia are those with specialist and sub-specialist status as well as health workers with a certain level of competency who have taken part in a competency evaluation. Apart from that, article 251 regulates that foreign medical and health personnel can work in Indonesia if there is a request from health service facilities as needed. For almost 20 years, professional organizations and specialist associations have carried out their mandate and experience in maintaining and improving the quality and competence of their members.

Therefore, the Ministry of Health should collaborate with existing professional organizations and associations, and integrate them into platforms such as Satu Sehat, SDMK, and Pelataran Sehat. Although the new Health Law provides a clearer and more comprehensive framework for health workers, it requires revision and clarification of several articles that still cause confusion so that health workers can carry out their duties better and avoid different interpretations. The effectiveness of this applicable law seems to depend on how receptive health workers are to the new regulations that have been passed by the Ministry of Health. Some people have welcomed this new regulation. But there are also those who do not accept and give criticism harshly. But like it or not, laws that have been passed must be implemented properly for health workers. Health workers carry out activities that have been authorized by law with full attention. The issue regarding this new law is very hot among medical personnel. There are only a few that are unacceptable to health workers. Others have worked very well and effectively so far. Some things that are not effective after the passing of this latest law are the opening up of opportunities for health workers. This is a very important issue because this law opens up opportunities for foreign health workers to work in Indonesian health facilities. Previously, the rule requiring foreign health workers to speak Indonesian had been removed. This raises concerns that the allocation of foreign health workers is only for upper middle class patients. According to health workers, this is very ineffective regarding the problems with this new law.

The opening of foreign medical personnel is very unprofitable for medical personnel in Indonesia itself. This opportunity has been opened to cause problems in Indonesia. Furthermore, what is ineffective is regarding changes to STR status. This law changes the STR status of health workers and medical personnel, which currently requires renewal every five years, to be valid for life, like a diploma. The STR will continue to be issued by the Council, which will become an integrated unit of the Indonesian Medical Council (KKI) or the Indonesian Health Personnel Council (KTKI). This latest law has become effective. Law Number 17 of 2023 also confirms that medical personnel and health workers will be legally protected as long as they carry out their professional duties within the scope of health services. This is in accordance with the Health Law paradigm which distinguishes errors in carrying out professional duties within the scope of medical services (malpractice) and errors in carrying out professional duties outside the scope of health services which constitute criminal errors (Unlawful Profession and Usual Unlawful). Furthermore, Law Number 17 of 2023 mandates the formation of a Professional Disciplinary Council for Medical and Health Personnel, as well as implementing restorative justice mechanisms and alternative dispute resolution outside of court to resolve medical disputes. This is in line with the process of resolving medical disputes according to Health Law, namely through "positives" defences medical profession" (internal justice) which is handled by health professionals and mediation with related parties or without going to court.

4. CONCLUSION

Law Number 17 of 2023 concerning Health is an important step in efforts to reform the health system in Indonesia, which aims to improve health services, protect health workers, and integrate various aspects of health services under one clearer and more comprehensive legal umbrella. This law recognizes the crucial role of health and medical personnel by providing them with legal protection, as long as their duties are carried out in accordance with professional and ethical standards. This law brings significant changes in various aspects, including primary and referral health services, funding, human resources, and the use of health technology. However, the implementation of this law is not free from challenges and criticism, especially related to regulations on the use of technology such as telemedicine and opening opportunities for foreign medical personnel to work in Indonesia. Although many accept this law as positive progress, there are also those who criticize several of its articles, which is considered still confusing and open to various

interpretations. Issues such as eliminating the obligation to speak Indonesian for foreign health workers and changing STR status to be valid for life have raised concerns among local health workers. The effectiveness of this law will depend greatly on health workers' acceptance and adaptation to the new regulations that have been passed. Therefore, collaboration is needed between the government, health workers and professional organizations to ensure that this law can be implemented effectively and fairly, and provide maximum benefits for society and the health system in Indonesia. Apart from that, it is necessary to revise and clarify articles that are still a source of confusion and debate so that health workers can carry out their duties better and avoid different interpretations.

REFERENCE

- Agustina, S., et al . "Perceptions of Law Enforcement Officials Regarding the Implementation of Lex Principles Specialist Derogat Legi Generali in the Criminal Justice System". *Legal Issues* 41, no. 4 (October 2012): 540-548.
- Chaeria , Y., Busthami , D., & Djanggih , H. (2020). Implications of the Position of Medical Personnel (Informed Consen) Regarding Hospital Liability. *Petitum* , 8 (April 1), 1-19.
- Harahap, RA (2022). *Health Ethics and Law: Revised Edition* . Merdeka Kreasi Group.
- Johnson, Alice E., et al. "Legal Issues in Healthcare : A Comprehensive Review ." *Journal of Health Law & Policy* 25.2 (2023): 145-168.
- Johnson, Sandra H., et al. *Health Law and Bioethics : Cases in Context* . New York : Wolters Kluwer Law & Business, 2018.
- Meher , C., Sidi, R., & Risdawati, I. (2023). Use of Personal Health Data in the Big Data Era: Legal and Policy Challenges in Indonesia. *Nursing Journal* , 7 (2), 864-870.
- Montgomery , Jonathan. *Introduction to Health Law* . London: Routledge , 2019.
- Muliarini , P. (2021). Legal Framework for Patient -Based Health Services Centered Care . *The Journal of Hospital Accreditation* , 3 (01), 10-16.
- Pongtambing , YS, Sampetoding , EA, & Manapa , ES (2023). Health Information Systems and Telemedicine : Narrative Reviews . *Compromise Journal : Community Professional Service Journal* , 1 (4), 52-58.
- Republic of Indonesia. *Law Number 17 of 2023 concerning Health* . Jakarta: State Secretariat, 2023.
- Republic of Indonesia. *Law Number 36 of 2009 concerning Health* . Jakarta: State Secretariat, 2009.
- Smith, Robert W., et al. " Ethical Considerations in Health Law: A Global Perspective ." *International Journal of Health Policy and Management* 8.3 (2022): 201-215.
- Suparman, Eman. *Health Law* . Jakarta: Rineka Cipta Publishers, 2020.
- Supriyatin, U. (2018). Legal Relationship Between Patients and Medical Personnel (Doctors) in Health Services. *Galuh Justisi Scientific Journal* , 6 (2), 184-194.
- WHO. *Health Law and Ethics* . Geneva : World Health Organization , 2021. Available at : <https://www.who.int/ethics>