


Legal Protection of the Right to Health Service Guarantee for Hospital Patients

Cut Yeni Meutia^{1*}, Redyanto Sidi², Abdul Rahman Maulana³

^{1,2,3} Faculty of Law, Universitas Pembangunan Panca Budi, Medan, Indonesia.

 : cutmeeutia@gmail.com

Corresponding Author*



Abstract

Introduction: The right to health care is a human right guaranteed in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

Purposes of the Research: This study aims to analyze the implementation of legal protection of the right to health care security for patients at the Malahayati Medan Islamic Hospital (RSIM) based on Law Number 17 of 2023 concerning Health.

Methods of the Research: The research method used is normative-empirical, by analyzing relevant laws and regulations as well as health service practices at RSIM through observation and interviews.

Results Main Findings of the Research: The results showed that RSIM has implemented legal protection of patient rights through various mechanisms, such as providing clear medical information, implementing informed consent, access to medical records, and transparent complaint services. In addition, Islamic values are applied in every aspect of service, creating an atmosphere that supports patient comfort and satisfaction. However, implementation challenges are still faced, including patients' lack of understanding of rights and obligations, limited resources, and ineffective communication between medical personnel and patients. This study concludes that while RSIM has complied with the national regulatory framework in protecting patient rights, strategic steps are needed to improve patient education, strengthen resource capacity, develop information technology, and improve the effectiveness of medical communication. By addressing these challenges, RSIM is expected to become a model hospital that excels in the legal protection of patients' rights in Indonesia.

Keywords: Legal Protection; Patient Rights; Health Services.

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INTRODUCTION

The right to health services is a fundamental right that is recognized as part of human rights, as stated in Article 28H paragraph (1) of the Constitution of the Republic of Indonesia of 1945.¹ In the article "every citizen has the right to be able to live prosperously, born and inward, to live, and to have a good and healthy living environment". This right not only serves as a constitutional guarantee, but also reflects the state's responsibility to provide a health care system that meets the standards of quality, safety, and justice for all people without discrimination. Along with changing needs of society and the development of the health world, the government has issued various regulations to support this right.² One of the important regulations is Law Number 17 of 2023 concerning Health, which strengthens the legal framework for the implementation of health services in Indonesia. This law

¹ Republik Indonesia, *Undang-Undang Dasar 1945* (Dewan Pimpinan PNI, Department Pen. Prop. Pen. Kader, 1959).

² Rinna Dwi Lestari, "Rekonstruksi Regulasi Perlindungan Hukum Bagi Dokter Dan Pasien Dalam Pelayanan Kesehatan Melalui Telemedicine Berbasis Nilai Keadilan" (Universitas Islam Sultan Agung, 2023).

regulates in detail the rights and obligations of patients, as well as the responsibilities of health service providers, with the aim of creating a system that is more responsive to the needs of the community.³

Legal protection of patients' rights is an important element in ensuring public access to decent health services. This right covers various aspects, ranging from the right to clear medical information to the right to quality health services according to the patient's medical needs. In addition, patients also have the right to refuse or agree to medical measures, except in certain circumstances such as the management of infectious diseases or outbreaks.

However, the reality on the ground shows that the implementation of these rights still faces many obstacles. Based on various studies and reports, patients are often unaware of their rights, either due to a lack of information or due to non-optimal complaint mechanisms. On the other hand, health care facilities, including hospitals, often face challenges in meeting the service standards set due to limited resources, both in terms of medical personnel and infrastructure.

Understanding this context more deeply, the Malahayati Islamic Hospital Medan, as one of the health service institutions serving the community in the North Sumatra region, is the subject of relevant research. This hospital has a vision to become a hospital with quality, safe, and affordable health services in accordance with international standards.⁴ The mission of Malahayati Islamic Hospital is committed to providing health services that suit the needs of patients, increasing professional human resources, improving the quality of facilities and infrastructure in an ongoing manner, providing excellent health services effectively and efficiently, and creating a family atmosphere in the hospital environment.

The history of Malahayati Islamic Hospital reflects a strong dedication to health services. On April 4, 1974, the first stone was laid for the construction of the operating room, which is considered the beginning of the establishment of this hospital. Right on January 14, 1975 (1 Muharam 1395 H), this hospital was inaugurated by the Governor of North Sumatra at that time, Alm. Mr. Marah Halim, with the name of Malahayati Islamic Hospital. The name "Malahayati" was chosen because of its deep meaning. This name refers to Admiral Malahayati, an Acehnese woman who fought against the Portuguese colonizers. "Malahayati" in Arabic, comes from two words: *maal*, which means treasure or wealth, and *hayaati*, which means my life, so Malahayati can be interpreted as "the wealth of my life," which is health.

Located on Jl. Pangeran Diponegoro Number 2-4 Medan, Malahayati Islamic Hospital is guided by the values that have been embedded since the beginning of its establishment. This hospital strives to provide health services that are not only oriented towards the healing and recovery of patients' health, but also on comfort, safety, and patient satisfaction. The services provided include medical and non-medical aspects that prioritize friendly and professional attitudes and behaviors. Thus, Malahayati Islamic Hospital not only has the responsibility to ensure that the health services provided meet applicable legal standards, but also to maintain the integrity of its vision as a quality and trusted health institution in Indonesia.

³ Yohnly Boelian Dachban, Redyanto Sidi, and Yasmirah Mandasari Saragih, "Tinjauan Yuridis Kesiapan Rumah Sakit Dan Tanggungjawab Rumah Sakit Pasca Peraturan Menteri Kesehatan Nomor: 24/2022 Tentang Rekam Medis Dan Kesiapan Rumah Sakit," *Jurnal Ners* 7, no. 1 (2023): 232–39.

⁴ Dachban, Sidi, and Saragih.

Although the existing legal framework has regulated the protection of patients' rights quite comprehensively, the challenges of implementation on the ground are still significant. Some of the main challenges faced by Malahayati Islamic Hospital Medan and other healthcare facilities include: 1) Limited Understanding of Patient Rights: Many patients do not understand their rights, making it difficult to demand the fulfillment of these rights when there is a violation; 2) Resource Constraints: Healthcare facilities often face limitations in terms of medical personnel, equipment, and infrastructure that can affect the quality of services; 3) Imoptimal Complaint Mechanisms: Many patients have difficulty accessing effective complaint or dispute resolution mechanisms, especially in remote areas.

Law Number 17 of 2023 concerning Health Article 276, that: Patients have the right: a) to obtain information about their health; b) get an adequate explanation about the health services he receives; c) get health services in accordance with medical needs, professional standards, and quality services; d) refuse or approve medical measures, except for medical measures necessary in the context of the prevention of infectious diseases and the control of KLB or Outbreaks; e) obtain access to the information contained in the medical record; f) ask for the opinion of Medical Personnel or other Health Personnel; and g) obtain other rights in accordance with the provisions of laws and regulations. While Article 277: Patients have the obligation: a) to provide complete and honest information about their health problems; b) comply with the advice and instructions of Medical Personnel and Health Personnel; c) comply with the provisions applicable to the Health Service Facility; and d) provide service rewards for services received.

Research on the legal protection of the right to health service guarantees is important to assess the extent to which existing regulations can be implemented effectively in the field, in the context of the Malahayati Islamic Hospital Medan, this research aims to: 1) Identify the application of legal regulations related to the protection of patient rights; 2) Examine the obstacles faced in the implementation of legal protection in hospitals; 3) Provide policy recommendations to improve the quality and accessibility of health services.

In addition, this research is also expected to contribute to the development of health law literature in Indonesia, especially related to the implementation of patients' rights in health care facilities, in the long term, the results of this research are expected to support policy reform efforts in the health sector to ensure that the right to health as a human right can be optimally protected. This research focuses on two main aspects: 1) Legal Protection Regulation: Analyzing the legal framework that governs the protection of patients' rights in Indonesia; 2) Practical Implementation at Malahayati Islamic Hospital Medan: Examine the extent to which this regulation is implemented in hospitals, including challenges and opportunities for improvement. A critical and empirical data-based approach, this study aims to provide a comprehensive overview of the legal protection conditions of the right to health services at Malahayati Islamic Hospital Medan. This research is also expected to be a reference for policymakers and health institutions to strengthen the legal protection system in the health sector.

METHODS OF THE RESEARCH

This research uses normative-empirical legal methods⁵ to analyze the legal protection of the right to guarantee health services for patients at the Malahayati Islamic Hospital Medan.

⁵ Indra utama Tanjung, *Dasar-Dasar Metode Penelitian Hukum* (Karanganyar: Pustaka Dikara), 2024).

The normative approach is carried out by examining relevant laws and regulations, such as Law Number 17 of 2023 concerning Health, as well as the principles of health law that apply in Indonesia.⁶ This analysis aims to understand the legal framework that governs the rights and obligations of patients as well as the responsibilities of health care facilities in providing quality, safe, and standard services. Meanwhile, an empirical approach is carried out through direct observation and interviews with patients, medical personnel, and hospital management to get an idea of the implementation of the regulation in daily practice. Primary data in this study was obtained from the results of interviews and field observations, while secondary data was obtained from legal literature, official hospital documents, and relevant academic journals.⁷ The data analysis technique used a descriptive-qualitative method, which focused on deciphering facts and regulations as well as testing the consistency of the implementation of legal protection at the Malahayati Islamic Hospital Medan. This research method is expected to be able to provide a comprehensive overview of the implementation of legal protection for patients, including the obstacles faced and policy recommendations that can be taken to improve the quality of health services.

RESULTS AND DISCUSSION

A. Legal Regulations Governing the Protection of the Right to Health Service Guarantee for Patients

Legal protection of the right to health service guarantees for patients in Indonesia has been regulated in various regulations, with a constitutional basis in Article 28H paragraph (1) of the Constitution of the Republic of Indonesia in 1945.⁸ This article emphasizes that "every citizen has the right to be able to live prosperously, in birth and mind, to live, and to have a good and healthy living environment", which is part of the state's efforts to ensure the welfare of the people. This right is then implemented through various laws and regulations that specifically regulate the rights and obligations of patients as well as the responsibilities of health care facility operators.⁹

Law Number 17 of 2023 concerning Health is the latest regulation that replaces the previous law and provides a more comprehensive legal basis regarding the implementation of health services, there are at least 11 laws and regulations that have been replaced.¹⁰ This law covers the rights of patients, the obligations of medical personnel, and the mechanism of supervision for the implementation of health services.

Article 276 of Law Number 17 of 2023, that: Patients have the right: a) to obtain information about their health; b) get an adequate explanation about the health services he receives; c) get health services in accordance with medical needs, professional standards, and quality services; d) refuse or approve medical measures, except for medical measures necessary in the context of the prevention of infectious diseases and the management of

⁶ Irsyam Risdawati and T Riza Zarzani, "Juridical Review of Health Service Facilities Based On Law No 17 Of 2023," in *International Conference on Health Science, Green Economics, Educational Review and Technology*, vol. 5, 2023, 15–20.

⁷ Mhd Azhali Siregar, Rahul Ardian Fikri, and Ayuda Siliton, "Principles of Legal Protection of Health Services From The Perspective Of Socio-Legal Studies," *International Journal of Synergy in Law, Criminal, and Justice* 1, no. 2 (2024): 276–84.

⁸ Rudi Rahmadsyah and Redyanto Sidi, "Kedudukan Persetujuan Tindak Medik (Informed Consent) Dalam Pelayanan Medik Terhadap Pasien Di Rumah Sakit Yang Berstatus Seorang Tersangka," *Jurnal Ners* 7, no. 1 (2023): 240–44.

⁹ Abdul Rahman Maulana Siregar et al., "Mediation as an Effective Alternative in Resolving Health Disputes," in *1st International Conference Epicentrum of Economic Global Framework*, 1, 2024, 169–204.

¹⁰ Aulia Rahman Hakim Hasibuan, Indra Utama Tanjung, and Kharisma Preety Queen Br Panjaitan, "Legal Protection for Consumers from Defamation Crimes Due to Product Reviews on Social Media," in *Law Sinergy Conference Proceeding*, vol. 1, 2024, 337–44.

Extraordinary Events or Outbreaks; e) gain access to information contained in medical records; f) ask for the opinion of Medical Personnel or other Health Personnel; and g) obtain other rights in accordance with the provisions of laws and regulations.

These rights guarantee that every patient has the right to clear information about his or her health condition, the right to choose or refuse certain medical procedures, and the right to access his or her medical records,¹¹ so that patients are not only objects of service but also legal subjects whose rights must be respected. Furthermore, the patient's obligations are also regulated in Article 277 of Law Number 17 of 2023 Patients have the obligation: a) to provide complete and honest information about their health problems; b) comply with the advice and instructions of Medical Personnel and Health Personnel; c) comply with the provisions applicable to the Health Service Facility; and d) provide service rewards for services received.

Law Number 17 of 2023 states that every health service facility is required to provide a complaint mechanism that is transparent and easily accessible to patients.¹² In addition, patients can also file complaints with relevant agencies such as the Ministry of Health or the local Health Office. If necessary, patients can take the dispute to the legal channels, either through civil courts or through dispute resolution institutions such as the Indonesian Medical Discipline Honorary Council.

The legal framework in Indonesia has provided a solid basis for protecting patients' rights to health services. This is also strengthened by the National Health Insurance Program regulated in Law Number 40 of 2004 concerning the National Social Security System and its implementation by the Health Social Security Administration Agency is a concrete step by the government in guaranteeing the right to health services for all citizens.¹³ The National Health Insurance is part of efforts to fulfill the mandate of Article 28H paragraph (1) of the 1945 Constitution and Article 34 paragraph (2), which affirm that the state is responsible for the provision of health service facilities and social security.

This program provides access to comprehensive health services through a social mutual cooperation mechanism, where contributions from participants who are able to help finance underprivileged participants, in the context of legal protection, the National Health Insurance provides a strong basis for patients to demand the right to proper and standard health services. This is reflected in Article 14 paragraph (2) of Law Number 24 of 2011 concerning the Health Social Security Organizing Agency, which states that the Health Social Security Organizing Agency is obliged to provide health services to participants in accordance with applicable regulations.

However, the National Health Insurance program also demands responsibility from patients as part of a legal obligation that must be met. These patient obligations are not only regulated in Article 277 of Law Number 17 of 2023, but are also relevant to the implementation of the National Health Insurance. Patients, as legal subjects in the health system, have the responsibility to: 1) Provide true and honest information related to their identity and health conditions, including National Health Insurance membership.

¹¹ Irsyam Risdawati et al., "Juridical Review of Health Service Facilities Based On Law No 17 Of 2023," in *International Conference on Health Science, Green Economics, Educational Review and Technology*, vol. 5, 2023, 169–204.

¹² M Fahrurrozy, Redyanto Sidi, and T Riza Zarzani, "A Legal Study of Online Transportation Company Responsibility to Consumer Accident Safety," *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)* 5, no. 2 (2022): 8831–40.

¹³ Andika Putra, Redyanto Sidi, and Syaiful Asmi Hasibuan, "Tanggungjawab Hukum Pihak Ketiga Dan Rumah Sakit Terhadap Penyelenggaraan Electronic Medical Record," n.d.

Inaccurate information can hinder proper medical services and even result in misuse of the National Health Insurance system; 2) Comply with the applicable regulations and procedures in health services based on the National Health Insurance, such as utilizing First-Level Health Facilities before being referred to the hospital. Non-compliance with referral flows can disrupt system efficiency and put a strain on higher healthcare facilities; 2) Paying off contribution obligations on a regular basis, as stipulated in Article 19 paragraph (1) of Law Number 24 of 2011. Delays or non-compliance in payment of contributions can have implications for the deactivation of membership status, which ultimately hinders patients' access to health services.

The above argument shows that the National Health Insurance system not only provides rights, but also emphasizes the principle of justice through obligations that must be fulfilled by participants.¹⁴ This balance between rights and obligations is an important element to maintain the sustainability of the National Health Insurance program and ensure equitable access to health services. Therefore, the successful implementation of the protection of the right to health services, including those provided through the National Health Insurance program, is highly dependent on patients' understanding of their legal responsibilities. Education about the rights and obligations of National Health Insurance participants must continue to be improved so that patients can understand their role in supporting a just health system. This effort must also be balanced with improving the quality of services of the Health Social Security Administration, including strict supervision of health facilities to ensure that they provide services according to the set standards.

B. Legal Protection of Patients' Rights Implemented at Malahayati Islamic Hospital Medan

Malahayati Islamic Hospital Medan (RSIM) is one of the leading health institutions in North Sumatra that is committed to providing high-quality health services, in accordance with applicable legal standards. As a hospital based on professional services, RSIM implements legal protection for patients' rights based on the national legal framework, especially Law Number 17 of 2023 concerning Health.¹⁵

In carrying out these responsibilities, RSIM facilitates patients' rights through various mechanisms, including: 1) Patient Information and Education: RSIM ensures that each patient receives clear and complete information about their health condition, medical procedures to be performed, and risks that may arise. This information is conveyed in the form of direct communication by medical personnel as well as through information boards placed in various areas of the hospital. Additional information is also available in the form of service pamphlets designed to be easy for patients and families to understand, covering service procedures, patient rights, and patient obligations during the course of receiving health services.¹⁶ 2) *Informed Consent*: As a form of legal and ethical protection, RSIM requires each patient or patient's family to sign an informed consent before medical action is performed. This document contains a detailed explanation of the procedure, benefits, and risks of medical procedures, ensuring patients understand and consent to the procedure

¹⁴ Muhammad Juang Rambe, Wahyu Indah Sari, and Danioko S Sembiring, "The Position of State-Owned Enterprises: Towards a Health Sector Super Holding Company Paradigm," in *Proceeding of International Conference on Healthy Living (INCOHELIV)*, vol. 1, 2024, 315–22.

¹⁵ Republik Indonesia, "Undang-Undang Nomor 17 Tahun 2023 Tentang," *Kuungan Negara*, 2023.

¹⁶ siyen Sim, "Faktor Yang Berhubungan Dengan Mutu Pelayanan Rumah Sakit Bhayangkara Tebing Tinggi Tahun 2019" (Institut Kesehatan Helvetia, 2019).

consciously.¹⁷ This practice is in line with Article 276 letter d of Law Number 17 of 2023, which states that patients have the right to refuse or agree to certain medical procedures. 3) Access to Medical Records: Patients have the right to access information recorded in their medical records, in accordance with the provisions of Article 276 letter e of Law Number 17 of 2023. RSIM provides a mechanism that makes it easier for patients to access this data, either directly in the hospital or through the electronic system that has been implemented.¹⁸ 4) Patient Complaint Mechanism: RSIM provides a complaint service unit that is tasked with receiving, reviewing, and resolving patient complaints related to medical services. This mechanism is designed to be transparent and fast, providing patients with a sense of security that their rights are respected and protected. 5) Nuances of Islam in Service: One of the characteristics of RSIM is the application of Islamic nuances in every aspect of service. Islamic values are manifested in a friendly attitude, patient-oriented services, and a hospital environment that supports the spiritual comfort of patients and families.

The following are the medical service mechanisms at RSIM that are designed to meet legal standards and patient convenience:

Stages of Service	Description
Registration	The patient registers in the administration section by bringing their identity, referral (if any), and filling out the form provided.
Initial Inspection	Performed by a general practitioner or specialist to determine the initial diagnosis and further treatment plan.
Informed Consent	Before the medical procedure is performed, the patient or his family signs the consent document after obtaining a detailed explanation.
Medical Measures	Medical procedures are performed by a competent medical team, in accordance with the patient's needs and the operational standards of the procedure.
Medical Records	All medical procedures are systematically recorded to support the accuracy of services and facilitate the patient's right to access information.
Complaints and Resolution	Patients can report complaints to the complaint service unit if they feel that the service is not up to standard, to be followed up quickly and professionally.

In addition to the above mechanism, RSIM provides information boards for service systems in the hospital area to make it easier for patients to understand the existing service flow. This information board is supported by service pamphlets that are concise, informative, and easy to understand for all groups. The information not only helps the patient but also minimizes confusion during the service acceptance process.

Although RSIM has made maximum efforts to protect the rights of patients, challenges in its implementation remain. Some of the challenges faced include: 1) Patient or Family Non-Compliance: Not all patients or patients' families comply with the service standards that have been set by RSIM. Some families often refuse to follow administrative procedures or even medical interventions that are deemed incompatible with their personal views. This can slow down the service process and cause misunderstandings between medical

¹⁷ Genies Wisnu Pradana, "Analisis Putusan Kasasi Tentang Tindakan Medis Tidak Sesuai Standar Operasional Prosedur Berdasarkan Keadilan, Kemanfaatan, & Kepastian Hukum (Studi Kasus Putusan Kasasi Nomor 233 K/Pid. Sus/2021)" (UNS (Sebelas Maret University), 2024).

¹⁸ Redyanto Sidi, "Kedudukan Informed Consent Pada Pelayanan Pasien Di Rumah Sakit," *Iuris Studia: Jurnal Kajian Hukum* 1, no. 2 (2020): 214–19.

personnel and patients. 2) Lack of Understanding of Patient Rights: Many patients and their families do not understand their rights and obligations while receiving health services. As a result, they tend to be hesitant or reluctant to take advantage of available mechanisms, such as access to medical records or formal complaints. 3) Limited Resources: Although RSIM has made efforts to improve facilities and infrastructure, the increasing number of patients is a challenge in maintaining consistency in service quality. This is especially noticeable at certain times when service demand exceeds the capacity of available facilities. 5) Less Effective Communication: Sometimes, explanations from medical personnel to patients are not well received due to differences in the level of understanding or language used. This can lead to misinterpretation and patient dissatisfaction with the service.

Legal protection of patients' rights at RSIM has been implemented through various comprehensive service mechanisms, including a complaint system, informed consent, and access to medical records.¹⁹ This effort is complemented by the provision of clear information through information boards, pamphlets, and service atmospheres that are thick with Islamic nuances. However, challenges such as patient non-compliance, limited resources, and less effective communication require more attention to ensure patients' rights are fully protected. So with the right strategy, RSIM can continue to improve its services and become a model for other hospitals in Indonesia in implementing legal protection for patients.

CONCLUSION

Legal protection of the right to health service guarantees for patients at the Malahayati Islamic Hospital Medan (RSIM) has been implemented in compliance with the national regulatory framework, including Law Number 17 of 2023 concerning Health. RSIM strives to provide quality and safe services through various mechanisms, such as the provision of clear medical information, the implementation of *informed consent* procedures, access to medical records, and transparent complaint services. In addition, RSIM also prioritizes the values of professionalism with the support of a comfortable and friendly atmosphere, so that it can meet medical needs while increasing patient satisfaction. However, the implementation of this legal protection faces several challenges, not all patients and their families understand their rights and obligations while receiving health services. Non-compliance with the procedures set by the hospital, ineffective communication, and limited resources and facilities are obstacles in optimizing legal protection for patients. However, RSIM continues to be committed to improving the service system to create health services that are more equitable, quality, and responsive to the needs of the community.

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¹⁹ Dachban, Sidi, and Saragih, "Juridical Review of Hospital Readiness and Hospital Responsibility after the Regulation of the Minister of Health Number: 24/2022 concerning Medical Records and Hospital Resiliency."

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