

# Patient Rights and Medical Responsibilities in Emergency Situations: An Analysis of Law No. 17 Year 2023

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## ABSTRACT

This research discusses lawful protection for medical personnel and patients in the context of emergency care. This protection plays an important role in ensuring that medical procedures are carried out quickly and appropriately in critical situations, without neglecting legal and ethical aspects. The research reviews the laws' responsibilities of medical personnel, including the obligation to save lives and prevent disability, as well as providing legal protection from potential lawsuits against actions taken in good faith. The rights of patients to receive safe, high-quality healthcare services that meet professional standards are also analyzed. This research highlights dispute resolution through mediation to avoid disproportionate law suits, and analyzes the contractual relationship between doctors and patients in the realm of civil law. The recommendations include the establishment of a specific law framework, improved law training for medical personnel, and the strengthening of dispute resolution mechanisms to support emergency actions in accordance with medical norms. This step is expected to create a health system that is fair, transparent, and responsive to the needs of the community.

## INTRODUCTION

Health is a basic need that forms the foundation for the quality of life of individuals and communities. Without adequate health, other rights, such as the right to education, employment, and social welfare, become difficult to enjoy optimally (Faqih & Arba, 2022). In medical emergencies, where the patient's condition is life-threatening or could cause permanent disability, the role of medical personnel becomes vital. Actions taken in emergency situations are often time-sensitive, requiring quick and accurate decision-making. This creates a unique dynamic in the relationship between medical personnel and patients that involves professional, moral, and the law (Rahman, 2023).

Emergency situations are among the most challenging conditions. An emergency is defined as a clinical condition in which a patient requires immediate medical attention to save their life and prevent further disability (Rudianto, 2018). This situation requires a quick response and flexibility in its implementation, often to ignore routine procedures to address serious threats to a person's safety or life. The main priority in an emergency is patient safety, with a focus on quick and effective medical action (Sajow, 2021). This definition provides a law for the implementation of responsive

and efficient health services, especially in handling urgent conditions that require intensive and immediate treatment (Widati & Asrori, 2017).

Indonesian Minister of Health Regulation No. 47 of 2018 concerning Emergency Services, or Permenkes 47 of 2018, defines emergency services as medical actions that must be taken immediately for patients in emergency conditions. The main objective of this service is to save the patient's life and prevent disabilities that may occur as a result of the situation. This regulation provides a strong law enforcement for the implementation of emergency medical services in Indonesia, emphasizing the importance of a quick and appropriate response in dealing with critical situations that threaten the life and health of patients (Widodo et al., 2023). Permenkes 47 of 2018 serves as a guideline for health service providers to ensure that emergency actions are carried out in accordance with applicable standards and with the necessary urgency.

Article 1 paragraph (4) of Minister of Health Regulation No. 47 of 2018 clarifies the definition of an emergency patient as an individual facing a threat to life or risk of disability that requires immediate medical treatment. Article 3 paragraph (2) outlines the criteria for emergencies involving various

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conditions, beside threats to the respiratory system, circulation, decreased consciousness, and hemodynamic disorders. These criteria reflect the complexity of emergency situations, where rapid medical action is often the key to saving patients' lives (Yuliawan & Susilo, 2018). This situation shows that emergency health services require a special approach that differs from regular health services, both in terms of procedures and the laws governing the relationship between medical personnel and patients (Wicaksana & Budhisulistyawati, 2019).

Emergency actions in the context of healthcare often present legal challenges for both medical personnel and patients. Medical personnel have a legal obligation to provide assistance; however, in some cases, these actions may pose legal risks if they are deemed inconsistent with medical standards or involve procedural errors. Patients, on the other hand, have the right to receive safe, high-quality medical care that meets professional standards (Faqih & Arba, 2022). When there is a discrepancy between the actions taken and the expected results, the potential for conflict with the law becomes inevitable.

In the Indonesian law system, regulations concerning emergency medical treatment cover both criminal and civil aspects. Criminal law provides protection for medical personnel who act based on the principles of humanity and good faith in saving patients' lives. Civil law, meanwhile, governs the contractual relationship between doctors and patients, including the rights and obligations of both parties. This law framework forms the basis for assessing the law's responsibility and protection in emergency situations (Rahman, 2023).

This research aims to analyze legal protection for medical personnel and patients in emergency situations. The main focus of the research includes the law liability of medical personnel, patient rights, and dispute resolution mechanisms that can be applied to reduce potential conflicts. With a normative law approach, this research is expected to provide a comprehensive understanding of the legal framework underlying emergency medical actions, as well as provide strategic recommendations for creating a fair and transparent health system.

## RESEARCH METHOD

This research uses a normative law method that aims to analyze of the law norms contained in legislation, law doctrine, and concepts relevant to law protection for medical personnel and patients in emergency situations. This approach allows for an examination of the applicable law framework and an evaluation of its application in medical practice.

The approaches used in this research include a law and regulation approach and a conceptual approach. The law and regulation approach was conducted by analyzing various regulations governing the law responsibility of medical personnel, patient rights, and dispute resolution mechanisms related to emergency actions. This analysis covers criminal law provisions, civil law, and regulations relevant to medical practice. The conceptual approach was used to explore a deeper understanding of the law concepts, such as law liability, the principle of no crime without fault, and unlawful acts. Understanding these concepts is important for assessing the law implications of emergency medical actions.

The data used in this research came from various sources, including primary data covering legislation and policy documents, as well as secondary data consisting of law literature, academic articles, and related research reports. Tertiary data, such as law dictionaries and encyclopedias, were also used to support the understanding of relevant laws and regulations.

Data collection techniques were carried out through document studies, including analysis of laws and regulations, court decisions, and supporting legal literature. Case studies were also used to identify the application of law in medical emergency situations.

Data analysis in this research uses a descriptive-analytical method, which aims to describe and analyze laws and relevant law concepts. The analysis process was carried out through the identification of laws and law concepts, substantive analysis of the norms governing responsibilities and rights, and synthesis of normative findings. This approach provides a strong basis for drawing conclusions and policy recommendations relevant to supporting lawful protection for medical personnel and patients in emergency situations.

## RESULT AND DISCUSSION

### Results of Law Analysis in Emergency Medical Actions

Emergency medical procedures require quick decisions without following standard procedures such as obtaining written consent from the patient. In the legal sphere, this is supported by Article 4 paragraph (3) letter c of Law No. 17 of 2023, which exempts patient consent in emergency situations, to ensure the saving of lives and the prevention of disability.

Criminal law principles such as *geen straf zonder schuld* (no punishment without guilt) underpin the responsibility of medical personnel, ensuring that actions based on good faith and professional

standards cannot be subject to criminal sanctions, while the results are undesirable. This is in line with Article 3 letters g and h, which emphasize the importance of safety and legal protection for medical personnel.

Emergency medical procedures have unique characteristics that require quick decision-making, often without going through standard procedures such as written consent from the patient. In law, the responsibility of medical personnel in these circumstances is regulated to protect the patient's life while also providing law protection for medical personnel (Faqih & Arba, 2022). According to criminal law, the principle of no crime without fault (*geen straf zonder schuld*) is the main basis for determining the responsibility of medical personnel. This principle ensures that actions taken with good intentions in accordance with professional standards cannot be subject to criminal sanctions, while undesirable results occur (Widodo et al., 2023).

In civil law, the relationship between doctors and patients is often categorized as an obligation of means (*inspanning verbintenis*), which requires doctors to provide their best efforts without guaranteeing specific results (Rahman, 2023). In emergency situations, this responsibility may be waived if the doctor's actions are in line with professional standards and are situationally urgent. These emergency situations, known as *force majeure*, often form the basis for the exemption of liability for medical personnel (Widati & Asrori, 2017).

### **Law Protection for Medical Personnel**

Lawful protection for medical personnel in emergency situations is emphasized in Article 12 letter d, which states that the central and regional governments are responsible for providing protection to health workers. This includes emergency situations that require medical personnel to act without fear of unfair law enforcement.

Medical personnel acting in emergency situations are protected by law, which grants them exemption from administrative obligations, such as obtaining consent for medical procedures. This protection aims to encourage medical personnel to act quickly without fear of unfair legal consequences (Sajow, 2021). According to criminal law, protection includes exemption from criminal liability if the action was urgent and based on humanitarian obligations (Rudianto, 2018). In civil law, principles such as the exclusion of liability due to *force majeure* apply to protect medical personnel in situations beyond their control, which are also regulated in various health-related regulations (Yuliawan & Susilo, 2018).

### **Rights in Emergency Medical Measures**

Patient rights in emergency situations are important in health law and are protected by basic principles that guarantee safety, security, and quality of health services (Sasmita et al., 2023). Article 4 paragraph (1) of Law No. 17 of 2023 emphasizes that every individual has the right to safe, high-quality health services that meet professional standards. This principle provides the basis for patients to receive the best possible care, even in emergency situations that require immediate action from medical personnel.

In emergency situations, however, the law provides flexibility to allow medical personnel to take immediate action without the patient's consent, as described in Article 4 paragraph (3). This flexibility is provided with the aim of saving lives or preventing disabilities that could worsen if action is delayed. This provision reflects recognition of the unique dynamics of emergency situations, where the need for swift action often leaves no room for formal procedures such as informed consent.

Although emergency situations allow medical procedures to be performed without explicit consent, patient rights remain the top priority. The principle of *salus aegroti suprema lex* (the safety of the patient is the highest law) emphasizes that all medical actions must be oriented towards patient safety (Faqih & Arba, 2022). Medical personnel are required to ensure that the actions taken are in accordance with professional standards and are carried out in good faith. Patient rights in emergency situations include:

1. The right to safe and quality healthcare: Patients must receive medical treatment that complies with professional standards and applicable operational procedures.
2. The right to non-discrimination: Patients in emergency situations have the right to equal treatment regardless of their social, economic, or legal status (Wicaksana & Budhisulistiyawati, 2019).
3. The right to information: Although written consent may be waived in emergencies, the principle of transparency must still be upheld as soon as the patient's condition allows. This includes explanations of the actions taken, the reasons behind them, and the possible risks.

In emergency situations, there is often tension between the need to act quickly and the fulfillment of patient rights, particularly in providing adequate information. This tension creates a need for an optimal balance. Article 5 paragraph (1) of Law No. 17 of 2023 explains that information must be provided in a way that is easily understood by the patient or family, even if the information is provided after the action has been taken.

This approach indicates that transparency and communication remain the obligation of medical personnel after emergency measures have been taken, even if the consent procedure could not be fulfilled beforehand. The information provided must include the reasons for taking action without consent, as well as the risks and expected outcomes.

Medical personnel need to understand that although their actions are protected by law in emergency situations, patient rights remain the foundation of healthcare ethics and law (Lethy et al., 2023). Performing emergency medical procedures that disregard patient rights can lead to lawsuits and undermine trust in the healthcare system (Khayru & Issalillah, 2022).

In a research study by Faqih and Arba (2022), it was emphasized that an approach that balances swift action with the fulfillment of patient rights contributes to strengthening accountability in health services. Wicaksana & Budhisulistyawati (2019) mentioned that educating patients or families about emergency procedures can help mitigate potential lawsuits in the future.

### **Dispute Resolution and Protection under the Law**

In emergency medical situations, disputes between patients and medical personnel may arise due to errors or negligence during treatment. To manage such disputes, the principle of *ultimum remedium* serves as an important guideline, whereby criminal law measures are only used as a last resort after mediation and administrative settlements have failed to provide an adequate solution. This provision is stipulated in Article 2 letter s of Law No. 17 of 2023, which emphasizes the importance of law certainty in protecting all parties involved.

The principle of *ultimum remedium* aims to avoid excessive use of criminal law in situations where more cooperative dispute resolution alternatives, such as mediation or administrative sanctions, may be more effective. In the context of emergency medical care, the application of this principle has several key benefits:

1. **Reducing the Burden on the Criminal Justice System:** By prioritizing non-litigation resolutions, medical disputes can be resolved more efficiently without having to take cases to criminal court, which can often be time-consuming and costly.
2. **Maintaining Professional Relationships:** The mediation approach provides an opportunity to maintain the relationship between patients and medical personnel, which is often damaged when immediately subjected to litigation.

3. **Mitigating the Risk of Non-Intentional Errors:** Emergency medical procedures are often performed under time pressure and urgent conditions. Using criminal proceedings to address unintentional errors can create a disincentive for medical personnel to make the quick decisions necessary to save lives.

Mediation is the preferred approach for resolving disputes related to emergency medical treatment. Article 29 of Law No. 17 of 2023 states that dispute resolution in health services, including in emergency situations, must prioritize mediation before involving other of the law. This approach ensures:

1. A more inclusive resolution process involving patients, medical personnel, and other relevant parties.
2. A win-win resolution, where both parties can reach a fair agreement without excessive blame.
3. Strengthened trust in the healthcare system through solution-oriented, rather than punitive, resolutions.

In cases where mediation or administrative settlement fails, criminal law may be applied. Rahman (2023) states that criminal measures should be used to deal with serious or intentional violations, such as medical acts involving gross negligence or professional misconduct. For cases of unintentional errors occurring in emergency situations, however, the principle of *ultimum remedium* asserts that criminal sanctions should be avoided if the actions were performed in good faith and based on professional standards.

The application of this principle creates an important balance between the patient's right to obtain justice for the losses suffered and lawful protection for medical personnel. With a flexible dispute resolution mechanism in place:

1. Patients retain the right to seek resolution through legal channels if mediation is unsuccessful, but only for cases that require further intervention.
2. Medical personnel feel safer in performing their duties in emergency situations, with the assurance that unintentional errors will not immediately result in criminal sanctions.

To ensure the effective application of the *ultimum remedium* principle, the following steps need to be taken:

1. Providing training for mediators who are competent in handling medical disputes to increase the success of the mediation process.
2. Develop clear guidelines on mediation steps and criteria for cases that can or cannot be pursued through criminal channels.



3. Increase public understanding of medical dispute resolution procedures, including the rights and obligations of patients and medical personnel.

Thus, the application of the *ultimum remedium* principle in resolving disputes over emergency medical treatment reflects a prudent approach to protecting all parties involved. By prioritizing mediation and administrative resolution, the healthcare system can ensure that disputes are resolved fairly without creating unnecessary legal burdens, while still leaving room for law enforcement in serious and intentional cases.

Based on Law No. 17 of 2023, more detailed regulations are needed to provide a comprehensive law framework related to emergency medical procedures. Training in law for medical personnel and better monitoring mechanisms are also needed to strengthen the implementation of this legal principle. The results of the analysis show an urgent need for clearer and more detailed regulations regarding emergency medical procedures. These regulations will ensure fairness for all parties involved. It is important, besides, to improve law training for medical personnel so that they understand their rights and obligations in emergency situations. This approach will not only strengthen law protection for medical personnel, but also guarantee the rights of patients to receive safe and quality services (Faqih & Arba, 2022; Widati & Asrori, 2017). Improving oversight and dispute resolution mechanisms is a priority to ensure the sustainability of a fair and transparent health system.

## CONCLUSION

This research found that emergency medical treatment is a responsibility that is strictly regulated

## REFERENCES

- Faqih, G. A. & H. A. Arba. (2022). Perlindungan Hukum Pasien dalam Keadaan Gawat Darurat. *Private Law*, 2(3), 522-530.
- Issalillah, F. & R. K. Khayru. (2023). Legal Perspective on Patient Rights in Complementary and Alternative Medicine (CAM), *Legalis et Socialis Studiis*, 1(2), 1-13.
- Khayru, R.K. & F. Issalillah. (2022). Service Quality and Patient Satisfaction of Public Health Care, *International Journal of Service Science, Management, Engineering, and Technology*, 1(1), 20 – 23.
- Lethy, Y.N., F. Issalillah, Y. Vitrianingsih, D. Darmawan, R. K. Khayru. (2023). Legal Protection for Patients Against Negligence of Medical Personnel, *International Journal of*
- by criminal and civil law, with lawful protection for medical personnel who act based on humanitarian principles and professional standards. Patient rights, on the other hand, remain a priority in all medical actions, with an emphasis on safety, quality of service, and non-discriminatory access (Issalillah & Khayru, 2023). Comprehensive law protection requires supportive regulations, ongoing training, and effective dispute resolution mechanisms.
- To ensure that the law protects emergency medical actions, strategic steps are needed, including strengthening regulations, improving law training for medical personnel, and establishing effective dispute resolution mechanisms. More specific regulations are needed to provide a clear law framework, especially regarding actions without consent in emergency situations. Comprehensive legal training for medical personnel is important to ensure their understanding of their rights and obligations under criminal and civil law, including conflict management and communication with patients. Besides, mediation should be prioritized as a dispute resolution solution to reduce the potential for disproportionate legal conflicts. Transparency must also be upheld by providing information to patients or families immediately after emergency actions are taken, to maintain trust and minimize misunderstandings. Oversight of health services needs to be strengthened to ensure accountability and the implementation of fair and effective regulations. With these measures, it is hoped that the health system can provide optimal law protection for medical personnel and patients, while ensuring access to safe, quality, and non-discriminatory services.
- Service Science, Management, Engineering, and Technology*, 4(2), 39-43.
- Rahman, D. N. (2023). Penyuluhan Hukum Perlindungan Hukum terhadap Tenaga Kesehatan dalam Tindakan Kedaruratan di Puskesmas Sribhawono Kabupaten Lampung Timur. *Andasih Jurnal Pengabdian kepada Masyarakat*, 4(1), 29-35.
- Republik Indonesia. (2023). *Undang-undang Nomor 17 Tahun 2023 tentang Kesehatan*. Lembaran Negara Republik Indonesia Tahun 2023 Nomor 105. Sekretariat Negara, Jakarta.
- Rudianto, R. R. (2018). Pelaksanaan Perlindungan Hukum terhadap Tanggung Jawab Dokter Jaga di Instalasi Gawat Darurat berdasarkan Hukum Positif Indonesia. *Jurnal Idea Hukum*, 4(2), 1056-1079.

- Sajow, R. A. (2021). Tanggung Gugat Rumah Sakit terhadap Pasien di Unit Gawat Darurat berdasarkan UU Nomor 44 Tahun 2009 Perihal Rumah Sakit. *Lex Privatum*, 9(6), 5-15.
- Sasmita, B. & D. Darmawan, & R. K. Khayru. (2023). Telemedicine Regulation in Indonesia: Enhancing Patient Safety and Protection, *International Journal of Service Science, Management, Engineering, and Technology*, 4(3), 29 – 35.
- Wicaksana, I. D. & A. Budhisulistyawati. (2019). Tinjauan terhadap Dokter yang Menangani Pasien Gawat Darurat Tanpa Menggunakan Informed Consent. *Jurnal Privat Law*, 7(1), 150-155.
- Widati, T. & H. Asrori. (2017). Perlindungan Hukum bagi Pasien Kegawatdaruratan BPJS dengan Diagnosa di Luar Daftar Diagnosa Gawat Darurat di RSUD Kabupaten Sukoharjo. *Jurnal Hukum dan Pembangunan Ekonomi*, 5(2), 156-164.
- Widodo, N., A. P. Putera., & N. Nugraheni. (2023). Tindakan Gawat Darurat oleh Dokter Akibat Kecelakaan pada Pasien yang Tidak Kompeten dan Tanpa Keluarga. *Collegium Studiosum Journal*, 6(1), 350-359.
- Yuliawan, I. & A. B. Susilo. (2018). Perlindungan Hukum Perawat Praktik Atas Tindakan Pelayanan Gawat dan Darurat pada Masyarakat Pedesaan di Desa Susukan Kabupaten Semarang. *Humani (Hukum dan Masyarakat Madani)*, 8(1), 42-55.

\*Zuhri, S., P. Saktiawan, F. Diagantara, S. Waskito, & K. Wijaya. (2023). Patient Rights and Medical Responsibilities in Emergency Situations: An Analysis of Law No. 17 Year 2023, *Journal of Social Science Studies*, 3(2), 181 – 186.