

The Validity of Implied Consent in Medical Emergencies: Legal Construction and Accountability under the Health Law

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ABSTRACT

This normative legal research examines the validity of the implied consent doctrine in emergency situations under Indonesia's latest health legislation, Law Number 17 of 2023 concerning Health. Employing a qualitative doctrinal method through statutory and conceptual analysis, the study constructs the legal foundation, parameters, and accountability mechanisms for implied consent. The findings indicate that while the doctrine is not explicitly codified, it derives implicit legitimacy from a systematic interpretation of the law's principles: the right to timely and quality health services, the healthcare provider's duty to treat, the prohibition of refusal in emergencies, and adherence to professional standards. The validity of implied consent is strictly confined to objective life-threatening emergencies, the patient's incapacity to consent, and interventions that are directly proportionate and aimed solely at rescue. Post-action accountability is mandated through comprehensive medical record documentation, retrospective explanation to the patient or family, and internal reporting. This study concludes that implied consent operates as a legally recognized exception constructed from the synthesis of the law's provisions, designed to prioritize lifesaving intervention during critical moments while ensuring subsequent legal accountability and the restoration of patient autonomy.

INTRODUCTION

The therapeutic relationship between healthcare professionals and patients is built upon the foundation of the ethics of autonomy, which guarantees every individual the right to determine what is done to their body. This principle is embodied in the concept of informed consent, which serves as a legal and ethical prerequisite before medical interventions are performed. According to Beauchamp and Childress (2001), patient autonomy is one of the main pillars of bioethics, requiring respect for the patient's capacity to make decisions after receiving adequate information. This process involves a comprehensive explanation of the diagnosis, treatment plan, risks, benefits, and available alternatives. Respect for this autonomy is rooted in the fundamental obligations of the state and healthcare facilities to provide comprehensive protection for patient rights, from both the perspectives of positive law and medical ethics (Herisasono et al., 2023). Without valid consent, a medical action can be considered a violation of

bodily integrity (battery) or negligence, even if its purpose is curative (Bracconi et al., 2017). Therefore, in daily medical practice, obtaining informed consent is a standard procedure that cannot be ignored.

However, this paradigm of autonomy and consent faces complex challenges in medical emergency situations. Conditions such as severe trauma, cardiac arrest, or massive hemorrhage often leave patients in an unconscious state, in acute confusion, or physically unable to communicate (Halila, 2007). Meanwhile, delaying medical action to seek explicit consent can be fatal, leading to death or permanent disability that could otherwise have been prevented. This is where the concept of *implied consent* arises a legal and ethical doctrine that assumes a rational individual, if able, would consent to the life-saving measures necessary to preserve their life or limbs. This doctrine seeks to balance respect for autonomy with the principles of *beneficence* (doing good) and *non-maleficence* (doing no harm), which are also fundamental to medical ethics. In theoretical order, the implementation of

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emergency actions without conventional informed consent consistently relies on the doctrine of *presumed consent* and the *doctrine of necessity* for the patient's highest good (Abdullah et al., 2023).

Historically, the concept of *implied consent* developed from the practical needs of emergency medicine and the legal theory of necessity. Under normal circumstances, touching without permission is a violation. However, the law recognizes exceptions when such contact is urgently needed to prevent greater harm, with the assumption that a sane person would approve of the intervention if they were conscious of the situation (Puspitasari et al., 2019). The application of this doctrine is not universal or automatic; it requires strong justification based on objective factual circumstances. In the jurisprudence of many countries, including Indonesia, emergency medical actions without explicit consent can be justified if they meet certain criteria, such as life-threatening conditions, the patient's inability to provide consent, and the absence of any previously known refusal.

The legal foundation for *implied consent* in Indonesia currently requires review following the enactment of Law Number 17 of 2023 concerning Health, which replaces Law Number 36 of 2009. This new regulation contains more detailed provisions regarding rights and obligations in healthcare, including aspects of consent. The presence of this *omnibus law* simultaneously marks a new chapter of challenges and massive changes in national health development, from the perspective of legal certainty and service access to clinical governance (Harianto et al., 2024). Does the 2023 Health Law accommodate and clearly regulate the doctrine of *implied consent*, or does it instead create new ambiguities that potentially burden healthcare professionals in critical situations?

This literature study focuses on an in-depth analysis of the validity of the *implied consent* doctrine in emergency situations based on the latest Indonesian legal framework. This study is important to provide legal certainty for healthcare professionals acting based on good faith and clinical judgment to save lives, while simultaneously protecting the substantive rights of patients. By examining the provisions of the 2023 Health Law, implementing regulations, and comparisons with established principles of medical ethics, this research seeks to construct a comprehensive understanding of the legal boundaries of emergency medical actions without explicit consent. This is relevant to preventing the emergence of legal uncertainty that could hinder the provision of fast and appropriate first aid.

The first problem lies in the lack of clear normative

formulation regarding *implied consent* in Law Number 17 of 2023 concerning Health. This law, despite being more advanced in many aspects, does not explicitly use the phrase "implied consent". The absence of a specific clause for extreme emergency conditions creates a vacuum in legal interpretation. Healthcare professionals must interpret general principles within the law, such as "medical necessity" and "emergency conditions," to justify their actions (Kurniawan et al., 2024). This potentially leads to variations in understanding and practice, as well as vulnerability from the perspective of legal accountability if unexpected medical outcomes occur, as highlighted in analyses of medico-legal risks in emergency practice (Moskop, 2004). This uncertainty is prone to complicating the mapping of legal liability, especially when distinguishing the thin line between unavoidable post-operative clinical risks and negligence that triggers legal liability (Amir et al., 2024).

Second, there are issues related to the criteria and operational boundaries of *implied consent*. This doctrine does not provide *carte blanche* or absolute freedom for healthcare professionals; it only applies in very specific conditions. The problem is: what parameters can legally be used as a benchmark to determine that a situation has met the requirements for the application of *implied consent*? Is a clinical diagnosis of a "life-threatening emergency condition" sufficient, or are other conditions required, such as the absence of family who can be contacted within a reasonable timeframe? What about patients with partial consciousness disorders or children without guardians? The 2023 Health Law does not detail these criteria, leaving it entirely to the subjective judgment of healthcare professionals and professional standards. Regulatory gaps in these standard operating procedures are dangerous, as ethical and legal boundaries must be enforced rigidly to avoid administrative malpractice, such as the potential for document misuse or the falsification of health certificates that undermines professional integrity (Hartika et al., 2023). While medical professional standards may already have guidelines, their legal weight in terms of protection against lawsuits remains questionable.

Third, there is the problem concerning accountability mechanisms and post-emergency documentation. Once a rescue action relying on *implied consent* is completed, the question of accountability arises. How should healthcare professionals document the justification for using this doctrine in the medical record? Is there an obligation to obtain retrospective consent from the patient or their family once the patient's condition

has stabilized? If the family subsequently objects or questions the action taken, what is the legal position of the healthcare professional? The 2023 Health Law stipulates the obligation to maintain complete medical records, but it does not specify the contents of documentation for *implied consent* cases. Ambiguity at this stage can lead to protracted legal disputes, where healthcare professionals must prove that the situation at the time was truly urgent and precluded obtaining consent a task of proof that can become complex after clinical facts have passed.

First, the implementation of Law Number 17 of 2023, which is still in its early stages, requires various studies to guide its interpretation and application in the field. This law serves as the primary legal basis for all health administration in Indonesia. Lack of clarity regarding fundamental issues such as consent in emergency situations can create hesitation at the front lines of service, such as in Emergency Departments (ED) and intensive care units (Indina, 2024). A systematic normative analysis will help bridge the gap between statutory text and the dynamic needs of medical practice. This thorough evaluation is crucial because the guarantee of regulatory certainty will ultimately determine the patient satisfaction index regarding the quality of healthcare services, as seen in the dynamics of primary-level services at community health centers (Darmawan et al., 2022). Thus, this study contributes to the efforts of disseminating and internalizing new regulations so that they can function optimally, protecting both patients and healthcare providers.

Second, medical technology and the complexity of emergency cases continue to increase. More invasive and high-risk interventions can now be performed in emergency situations. This increases the potential for legal conflict if there is no clarity regarding the basis of consent. On the other hand, the complexity of clinical emergency management today is also influenced by the increase in chronic diseases in the community, which have a close linkage with the progression of other systemic diseases, thus demanding increasingly layered and risky rescue actions (Issalillah, 2022). Furthermore, public legal awareness is also growing, opening greater opportunities for malpractice lawsuits (Wicaksana & Budhisulistiyawati, 2019). Therefore, a clear and fair legal framework regarding *implied consent* is highly necessary as a common guideline. This research seeks to formulate these principles by referring to contemporary biomedical ethics developments and regulatory comparisons in other jurisdictions, thereby producing recommendations relevant to current challenges.

Third, from the perspective of justice and access to health, clear rules on *implied consent* impact the courage of healthcare professionals to take swift actions to save lives. Legal uncertainty can lead to "clinical paralysis" or *defensive medicine*, where healthcare professionals hesitate to act optimally due to fear of legal consequences, even though such actions are medically imperative. In a macro perspective, responsive and protective macro-health policies toward this uncertainty are primary instruments for improving the community's *quality of life* through sustainable policies that prioritize health and equal rights (Issalillah, 2021). Studies that provide comprehensive analysis and solid legal construction proposals are expected to reduce such *chilling effects*. Thus, this topic is important to guarantee that new health regulations facilitate life-saving in critical states rather than becoming a hindrance, in line with the main objective of the 2023 Health Law to improve public health status.

This research aims to analyze the validity of the *implied consent* doctrine in emergency situations based on the latest Indonesian legal framework. Specifically, this research is intended to construct a legal understanding of *implied consent* under Law Number 17 of 2023, identify the parameters and legal boundaries that limit its application, and describe appropriate accountability and documentation mechanisms for healthcare professionals. The theoretical contribution of this research is expected to enrich the field of health law, particularly in the theory of medical consent and its exceptions in emergency situations. Practically, the research results can be used as reference material for healthcare professionals, healthcare facility management, policymakers, and professional ethical guideline drafters in creating clear, valid, and protective protocols for all parties in the handling of emergency cases.

RESEARCH METHOD

This research is a qualitative normative legal literature study. A qualitative approach was selected as it aligns with the research goal to understand, interpret, and construct the meaning of the concept of *implied consent* and its governing regulations. Normative legal research focuses on examining secondary legal materials to generate doctrinal legal arguments or constructions (Marzuki, 2005). The data used are entirely secondary, encompassing primary, secondary, and tertiary legal materials. Primary legal materials consist of applicable laws and regulations, with a primary focus on Law Number 17 of 2023 concerning Health as the latest and primary regulation. Other primary supporting materials include ministerial regulations and relevant

medical codes of ethics. Secondary legal materials include textbooks, compilations of scientific journals, research articles, and academic works by experts in health law, criminal law, and medical ethics. Tertiary legal materials, such as legal dictionaries and encyclopedias, are used to clarify the definitions of technical terms.

The data collection process was conducted through a systematic and comprehensive literature review. Sources were traced using strategic keywords such as "*implied consent*," "*emergency doctrine*," "*informed consent emergency*," and "*2023 Health Law*". The search focused on reputable legal and health journal databases, higher education institution repositories, and library catalogs. Selection criteria for sources included direct relevance to the research problems, publication quality (from accredited publishers or journals), and publication year. For academic literature, priority was given to publications within well-established and widely cited ranges to ensure the validity and depth of the analysis. The validity of the secondary data was verified through source triangulation, comparing information from various credible sources and consistently referring to the official texts of laws and regulations.

The data analysis technique applied is qualitative *content analysis* and normative legal analysis. Content analysis was utilized to identify, categorize, and extract meaning from legal provisions and key concepts within the literature (Krippendorff, 2004). This technique assists in mapping how the terms "consent" and "emergency" situations are regulated and interpreted across various sources. Normative legal analysis was conducted through methods of legal interpretation, specifically grammatical (based on language), systematic (in relation to other articles), and teleological (based on the legislative intent) interpretations. The analysis stage began with the inventory and understanding of regulatory texts, followed by the identification of normative gaps and ambiguities, and subsequently developed into a coherent legal construction regarding *implied consent*. The entire analytical process was directed toward answering the research questions in an argumentative and in-depth manner.

RESULT AND DISCUSSION

The Legal Concept of Implied Consent in the Health Act

The legal construction of the *implied consent* doctrine in emergency situations under Law Number 17 of 2023 concerning Health is built through a systematic interpretation of the medical treatment consent provisions set forth in Article 293. While this law does

not explicitly use the term "implied consent" textually, a comprehensive reading reveals a normative legitimacy that accommodates the application of the doctrine. General law recognizes that confidential information may be lawfully disclosed based on implied consent (McClelland & Harper, 2022). The primary foundation is the state's recognition of every individual's right to safe, quality, and affordable healthcare, which in emergencies demands immediate action without awaiting administrative formalities. This paradigm aligns with the restructuring of national regulations focused on strengthening the legal framework for medical services while comprehensively fulfilling patient safety aspects (Mustafa & Darmawan, 2024). This framework demonstrates that the legitimacy of medical action does not always depend on the expression of explicit consent.

The interpretation of consent norms must be situated within the structure of patient rights protected by law. Article 293, paragraphs (1) and (3), asserts that every healthcare service action performed by medical or healthcare personnel must obtain consent from the patient or their family after sufficient explanation is provided. This norm establishes consent as a condition for the legality of medical action while guaranteeing the patient's right to information. However, this norm also opens space for the interpretation that consent does not always have to be in written form, but can be verbal or even implied, provided the patient exhibits cooperative behavior toward routine medical actions that are not high-risk. The fulfillment of these fundamental patient rights regarding information and medical action must be guaranteed equally, including substantive legal protection for indigent patients to avoid service discrimination (Noor et al., 2023). Such interpretive space serves as the basis for acknowledging the flexibility of consent forms in clinical practice.

Emergency situations present a legal configuration different from normal circumstances. In the context of emergencies, Article 293, paragraph (5), provides a very clear exception. This provision states that in emergency situations to save a patient's life and/or prevent severe disability, consent is not required. Doctrinally, this is the highest form of *implied consent*, where the law assumes that a rational patient would certainly consent to life-saving actions. Through this normative exception, the 2023 Health Law proportionately re-maps the boundaries of patient rights and the medical emergency responsibilities inherent to clinical decision-makers in times of crisis (Zuhri et al., 2023). Consequently, healthcare professionals have full legitimacy to act immediately without fear of violating patient rights. This exception demonstrates the law's priority

regarding the safety of human life.

Daily healthcare service practices also form legal habits recognized by the regulatory system. This legal construction also encompasses medical actions that are routine and not high-risk. In daily practice, patient consent is often considered implied through their arrival at the healthcare facility and cooperative behavior, for instance, when a patient offers an arm to have their blood pressure checked. Law Number 17 of 2023 does not negate this practice; rather, it accommodates the fact that implied consent can apply to actions that do not pose significant risks. Legal accommodation for these routine actions is crucial in maintaining the rhythm of public services, specifically to guarantee legal protection for patients accessing primary healthcare facilities such as health center (Tampil et al., 2023). This acknowledgment demonstrates the harmonization between legal norms and clinical reality.

The structure of these norms can be understood as a gradation of legal protection. Thus, there are three layers of the *implied consent* doctrine in the 2023 Health Law. First, written consent for high-risk actions as a form of maximal protection for patient rights. Second, implied consent for routine, low-risk actions, which are deemed valid through the patient's behavior. Third, *implied consent* in emergency situations, where consent is not required at all because the law deems life-saving action an absolute priority. This layering reflects the proportionality between the risk of the action and the form of consent.

Normative balance is a key feature of this law's approach. This construction shows the balance between protecting patient rights and the obligations of healthcare professionals. In normal circumstances, written or verbal consent is a requirement for the legality of medical action. However, in emergencies, delaying the acquisition of consent could contradict the principles of safe and quality healthcare. This approach is primarily based on the principle of beneficence toward patients without diagnoses and the individuals they might potentially infect. Patient autonomy will be maintained through a system that allows individuals to refuse implied consent (Chadwick et al., 2022). Therefore, the procedural exception in Article 293, paragraph (5), becomes the normative basis for the application of *implied consent*. This balance also serves to fortify medical consumer rights against information distortion, given that medical advertising regulations are currently strictly directed at protecting patients from commercialization that ignores safety (Sahidu et al., 2023). The construction confirms that rights and obligations are placed in complementary relationships.

The dimension of criminal law also provides an

additional framework of justification. Juridically, the *implied consent* doctrine in Law Number 17 of 2023 also functions as a justification (*justification*) in criminal law. Medical actions performed without explicit consent in an emergency cannot be qualified as a violation of the law, as the law itself removes the element of illegality in such conditions. This justification clause provides an equal legal umbrella for all service provider elements, including ensuring legal protection for nurses performing collaborative or independent functions during emergency situations in hospitals (Yulius et al., 2023). This protection is important to guarantee the courage to act in critical situations.

The application of this doctrine remains within the boundaries of medical rationality. Furthermore, the implementation of *implied consent* continues to be constrained by parameters of proportionality and professional standards. Medical actions must align with emergency needs and must not exceed the goal of saving a life or preventing disability. If actions are performed outside of this framework, the validity of *implied consent* can be legally challenged. This rigid constraint also applies to prevent allegations of medical malpractice by other health professions, such as midwives, such that deviations from the emergency threshold still trigger legal liability based on the criminal provisions of the 2023 Health Law (Vitrianingsih et al., 2023). Law Number 17 of 2023 emphasizes that professional standards and codes of ethics remain the primary reference. This limitation ensures that emergency authority is not misused.

Administrative accountability serves as a safeguard element in this construction. This legal construction also asserts the obligation for documentation following an emergency action. Healthcare professionals are required to record the actions taken, the emergency justification, and the patient's condition in the medical record. This documentation serves as legal proof that the action was performed according to the doctrine of *implied consent* and was not misused. The orderliness of this record-keeping is crucial, given that medical records carry legal implications and evidentiary challenges that are highly decisive in the Indonesian judicial system should a dispute arise (Ustani et al., 2024). Thus, this doctrine not only provides legitimacy for emergency actions but also demands full accountability from healthcare professionals. Such recording functions as a legal control mechanism.

This normative formulation reveals an integration of various forms of consent. Accordingly, the *implied consent* doctrine in Law Number 17 of 2023 concerning Health is built through a combination of norms regarding written consent for high-risk actions,

the recognition of *implied consent* for routine actions, and the exclusion of consent in emergency situations. This construction provides normative legitimacy for healthcare professionals to act quickly for patient safety, while simultaneously maintaining the balance between patient rights, professional obligations, and applicable criminal law principles in Indonesia. This framework demonstrates consistency between ethical, medical, and legal norms.

The right to healthcare serves as the primary foundation for this reading. The 2023 Health Law establishes that everyone has the right to receive healthcare according to their medical needs. The clause regarding "medical needs" serves as a crucial foothold. In life-threatening emergency situations, the most primary and urgent medical need is the preservation of life and the prevention of permanent disability. The process of obtaining explicit consent, which requires adequate mental capacity and communication from the patient, is often unrealistic or would, in fact, compromise the fulfillment of these urgent medical needs. The law subsequently constructs the conclusion that when emergency medical needs arise in conjunction with a patient's inability to provide consent, the provision of healthcare becomes a non-negotiable obligation. The fulfillment of this duty is considered to have received *implied consent*, as it aligns with the goal of protecting life and health the primary objects of the law. This argument places safety as the central orientation.

Professional standards provide technical legitimacy for emergency actions. Furthermore, the law regulates the obligation of healthcare professionals to provide services in accordance with professional standards and service standards. Medical professional standards, which serve as a legal reference under the law, universally recognize and mandate the obligation to provide first aid in emergencies. These standards also recognize the existence of the *implied consent* doctrine as part of professional ethics in critical situations. Thus, when a healthcare professional acts quickly without explicit consent based on emergency clinical judgment, they are, in fact, fulfilling their legal obligation to carry out professional standards. Actions consistent with these professional standards strengthen their legal position and become an integral element of the *implied consent* construction within the Indonesian health legal system. Referencing professional standards reinforces the juridical legitimacy of medical actions.

The prohibition against refusing emergency assistance reinforces the imperative nature of the norm. The 2023 Health Law contains provisions that strictly prohibit any refusal of requests for health

assistance in emergency situations. This prohibition is imperative and is linked to criminal sanctions. This imperative aspect is manifested in the legal obligation of hospitals to provide full 24-hour emergency services without interruption, especially in areas with limited accessibility (Yusran et al., 2024). Furthermore, the readiness of these facilities must be maintained continuously; failures in a hospital's internal information system that disrupt emergency services can directly result in corporate legal liability for patient losses (Yatno et al., 2023). The philosophy behind this prohibition is that in an emergency, the interest in saving lives holds the highest priority and overrides other procedural considerations. If healthcare professionals are legally prohibited from refusing to provide assistance, the logical consequence is that they must provide it. To provide legally valid assistance without explicit consent, a legal justification is required. This justification is constructed as *implied consent*. In other words, the prohibition against refusal creates a duty to act, and *implied consent* functions as a legal instrument that legitimizes the fulfillment of that duty in conditions where formal consent cannot be obtained. This norm demonstrates the transformation of an ethical duty into a legal duty.

Criminal analysis clarifies the justificatory function of this doctrine. From the perspective of criminal law, the construction of *implied consent* functions as a justification (*justification*) that removes the unlawful nature of an act. Medical actions performed on an individual without their consent generally satisfy the elements of an unlawful act. However, within the framework of the 2023 Health Law, life-threatening emergencies and a patient's inability to consent are recognized as special conditions. Medical actions performed professionally and immediately required to overcome such conditions are deemed justified by the law. This justification protects healthcare professionals from criminal charges based on violations of bodily integrity, as the law itself provides the authorization for actions taken for the higher goal of saving a life. This construction positions the law as a protector of life-saving interventions.

The principle of balance is maintained in the post-emergency stage. This construction also reveals a principle of balance between the patient's right to autonomy and the interest in protecting life. The law does not immediately extinguish the patient's right to provide consent. Instead, the law stipulates that after emergency actions are completed and the patient's condition allows, healthcare professionals are obligated to provide explanations regarding all actions taken. This provision shows that *implied consent* is a temporary

postponement of the implementation of the right to information and consent, not its abolition. The patient's right to know and consent is still recognized, but its implementation is deferred until the critical state is resolved. This approach reflects a prudent legal construction that prioritizes the safety of life during critical moments without ignoring patient rights in the subsequent stage. This mechanism maintains the continuity of rights protection.

The constitutional dimension provides the foundation for the highest value. Furthermore, the construction of *implied consent* in the 2023 Health Law must be understood in its relationship with the constitution. The 1945 Constitution of the Republic of Indonesia guarantees everyone's right to live and maintain their life and their right to healthcare. The 2023 Health Law is an operational elaboration of this constitutional guarantee. Therefore, every provision within it, including the construction of *implied consent* read implicitly, must be interpreted as the state's effort to fulfill the constitutional mandate in the most urgent contexts. Emergency medical actions performed based on the assumption of *implied consent* are essentially an instrument of the state, through healthcare professionals, to protect the citizens' constitutional right to life and health at the most decisive moments. This foundation places the doctrine within the highest hierarchy of norms.

A synthesis of norms produces a complete construction. The legal construction of the *implied consent* doctrine in Law Number 17 of 2023 is built from a synthesis of several key elements. The first element is the recognition of the right to safe and quality healthcare, which in emergencies requires speed of action. The second element is the duty of healthcare professionals to fulfill emergency medical needs and adhere to professional standards, which mandate immediate assistance. The third element is the legal prohibition against refusing emergency assistance, which creates an absolute duty to act. The fourth element is the function of *implied consent* as a justification in criminal law that removes the unlawful nature of an act. The fifth element is the recognition of the patient's right, which is only postponed, not eliminated. These five elements are interconnected and form a coherent legal construction, even though it is not stated explicitly in one specific article. This construction provides a sufficiently strong foundation for healthcare professionals to act in emergency situations with legal protection, while simultaneously asserting the state's commitment to the protection of life as the highest value. The entirety of these elements forms a consistent and applicable normative foundation.

Parameters and Limitations on the Validity of

Implied Consent

Legal limitations are the key to utilizing the doctrine of exception in the medical field. The validity of applying the *implied consent* doctrine in emergency situations under Law Number 17 of 2023 concerning Health is not absolute or automatic. A physician's responsibility to provide mandatory care in an emergency is an important exception to the human right to make decisions regarding one's own body and mind (Becker & Forman, 2020). This doctrine is a very specific exception to the fundamental principle of patient autonomy, and therefore, its implementation must be constrained by strict and clear legal parameters. The objective is to prevent the abuse of authority by healthcare professionals and to ensure that the suspension of the right to consent is genuinely based on the best interests of a patient who cannot be represented at that moment.

The first and most important parameter is the existence of an objective medical emergency that immediately threatens life or could result in permanent disability. This threat must be actual and urgent, not merely potential or expected to occur in the future. Provisions in the law that mandate immediate assistance and prohibit refusal are only active when this condition is met. The urgency of limiting this parameter is essential to position the portions of patient rights and medical responsibility proportionally, in order to minimize the legal gray area when crises occur in treatment rooms (Zuhri et al., 2023). Therefore, the clinical assessment of healthcare professionals regarding the level of urgency is the primary determinant, which must later be accountable based on applicable medical standards. This parameter confirms that an emergency must be professionally verifiable.

Patient capacity becomes the second determining factor in the validity of this doctrine. The second parameter is the patient's physical or mental inability to provide meaningful consent. This inability may take the form of unconsciousness, acute confusion, severe mental disorders, or physical conditions such as oral and throat trauma that prevent communication. Consent must be provided after adequate explanation. If the patient's condition makes the process of explanation and understanding impossible, or if doing so would cause harm due to delay, then this condition is satisfied. These extreme conditions doctrinally validate the use of *presumed consent* and the *doctrine of necessity* as legal justification for intervention in the absence of standard written consent (Abdullah et al., 2023).

However, if the patient still shows minimal cognitive ability to understand the situation and

convey their will, even while in pain, healthcare professionals remain obligated to attempt to obtain explicit consent, even if it is in a simple form. The *implied consent* doctrine does not apply if the patient actively refuses, even in an emergency condition, unless that refusal is assessed as stemming from impaired judgment caused by the emergency itself. This element of capacity ensures that the right to autonomy is not disregarded arbitrarily.

The proportionality of the action becomes the next boundary. The third, very fundamental limitation is the scope of medical actions permitted. Actions performed based on *implied consent* must be directly and proportionally aimed at addressing the life-threatening emergency. This means the action must be limited to stabilization and life-saving efforts, and not for other purposes such as research, cosmetic procedures, or elective interventions that can be postponed. The 2023 Health Law regulates the provision of responsible healthcare. This delineation of boundaries is crucial to avoid medico-legal confusion, especially when legal counsel must rigidly distinguish between unavoidable inherent post-operative risks and pure negligence that violates the scope of authority (Amir et al., 2024).

For example, performing an amputation to stop massive hemorrhage resulting from trauma may be justified, but performing reconstructive plastic surgery on the same area at the same time without consent cannot be justified by this doctrine. Proportionality requires that the benefits of the action performed far outweigh the risks, and that there are no less invasive alternatives with equal effectiveness. This boundary prevents the expansion of actions beyond the needs of life-saving.

The effort to communicate remains an obligation even though time is very limited. The fourth limitation relates to the obligation to seek and contact the family or legal guardian. Even in an emergency, healthcare professionals and healthcare facilities still have an obligation to exert optimal efforts to search for and contact the patient's next of kin to obtain consent, provided that such efforts do not worsen the situation or delay critical actions. The 2023 Health Law regulates the rights of families in the context of healthcare. If a family can be contacted in a very short time without endangering the patient, then consent from the family must be pursued. *Implied consent* applies primarily when efforts to contact the family are impossible within the required timeframe or when the family contacted is also unable to provide a quick decision. This parameter prevents healthcare professionals from relying on *implied consent* too quickly without reasonable communication efforts. This principle demonstrates

that an emergency does not completely eliminate the obligation of communication.

Professional standards serve as an objective benchmark for the validity of actions. The fifth parameter is adherence to professional standards and applicable clinical procedures. The validity of *implied consent* heavily depends on whether the action performed is part of the standard emergency care for a specific condition. Healthcare professionals must act in accordance with up-to-date medical science and skills. If the action taken deviates from accepted professional standards, the claim of *implied consent* will be nullified, and the action may be judged as negligence or malpractice. Within the national health law landscape, legal protection for patients against all forms of medical negligence is strictly guaranteed through the enforcement of competency standards (Lethy et al., 2023).

It is the obligation of healthcare professionals to comply with professional standards. Therefore, *implied consent* does not provide immunity against malpractice claims; it only justifies actions taken without consent, provided that the action itself is clinically correct and adheres to standards. This limitation step must be strictly followed to close gaps that could lead to administrative or clinical malpractice, which risks undermining the noble ethics of the medical profession (Hartika et al., 2023). Adherence to these standards serves as an indicator of professionalism.

Administrative evidentiary aspects also determine the strength of legal defense. The sixth boundary concerns comprehensive and contemporary medical documentation. Immediately after the emergency situation is under control, healthcare professionals are obligated to document in detail in the medical record the reasons why *implied consent* was applied. This documentation must include a description of the patient's condition upon admission, the nature of the urgent threat, an assessment of the patient's inability to consent, efforts made to contact the family, the medical actions taken, and the clinical rationale for each procedure. Therefore, it is important to document the reasons for applying *implied consent* in specific situations. Regardless of whether *implied consent* is explicit or implied, proper documentation regarding the considerations for applying *implied consent* is of the utmost importance (Arya, 2023). This medical record becomes the primary legal evidence proving that emergency parameters were met and that the healthcare professional acted in accordance with legal obligations and professional standards. Without adequate documentation, a defense based on *implied consent* will be very weak before the law.

Documentation functions as a bridge between clinical action and legal accountability.

Post-action transparency is part of restoring patient rights. The seventh boundary is the obligation for retrospective explanation to the patient or their family. Once the patient's condition is stable and they are capable of communicating, healthcare professionals have an ethical and legal obligation to provide a complete explanation regarding all actions taken, the reasons why such actions were performed without prior consent, and the consequences or results of those actions. This retrospective explanation is a concrete manifestation of the guarantee of patient rights from the perspective of law and medical ethics applicable in Indonesia (Herisasono et al., 2023). This obligation is not merely a formality, but a form of respect for patient autonomy and an effort to restore the therapeutic relationship. This ethical step directly contributes to maintaining patient satisfaction with the quality of service provided by the healthcare institution (Mardikaningsih, 2022). Failure to provide this explanation may be considered a violation of patient rights and could damage the legitimacy of the use of *implied consent*, even if the medical action itself was correct. This explanation confirms that patient rights continue to be recognized after the emergency phase has passed.

A history of prior refusal must be respected as an expression of autonomy. The eighth parameter is the absence of any previously known refusal. If healthcare professionals are aware either from medical ID cards, special markers, or statements from accompanying persons that a patient has specifically refused a certain type of medical action (e.g., blood transfusions based on certain beliefs), then *implied consent* for that action cannot be applied. This is because the principle of patient autonomy includes the right to refuse treatment, and a previously informed refusal must be respected. The 2023 Health Law guarantees everyone's rights in accordance with their religious and belief values. In such situations, even in an emergency, the conflict between the principle of saving a life and respect for previously known autonomous will creates a complex ethical-legal dilemma, but generally, the known autonomous will of the patient takes precedence. This provision maintains consistency in respecting individual will.

Vulnerable groups require additional attention in the application of this doctrine. The ninth limitation relates to the legal status of patients who are minors or adults under guardianship. For minor patients who are not accompanied by parents or guardians, the application of *implied consent* in principle remains

valid for life-saving actions. However, efforts to contact parents or guardians must be more intensive and recorded with great clarity. For adult patients under legal incapacity (e.g., due to severe mental disorders), the guardian is the party authorized to provide consent. *Implied consent* can be applied if the guardian cannot be contacted immediately. For vulnerable groups, special attention to legal capacity and legal representation becomes an additional parameter that must be observed. This extra protection affirms the principle of legal caution.

The time dimension limits the scope of *implied consent*. The tenth limitation is the temporal aspect. *Implied consent* is valid only for the duration of the emergency situation. Once the threat to life or limb has been overcome and the patient regains the capacity to make decisions, the authority granted by *implied consent* terminates. Any subsequent medical actions that are not of an emergency nature must obtain explicit consent from the patient. There is no justification for continuing non-emergency care under the guise of *implied consent*. Law Number 17 of 2023 distinguishes between types of healthcare services, thus the temporal parameter serves as a clear boundary between immediate life-saving actions and continuous care that requires consent. This temporal limit prevents the unauthorized expansion of emergency authority.

Institutional oversight maintains the consistency of norm application. The eleventh limitation stems from institutional supervision and accountability mechanisms. Healthcare facilities must have internal protocols regulating the use of *implied consent*. These protocols must align with existing regulations and provide for periodic audits of cases where this doctrine is applied. Such strict oversight is absolutely necessary to affirm the institutional responsibility of hospitals for medical errors potentially committed by healthcare professionals under their purview (Mening et al., 2023). Oversight by the hospital's Medical or Ethics Committee, as well as by professional organizations and the Ministry of Health, serves as an external control. Any deviation from the established parameters can lead to administrative sanctions, professional discipline, or even legal proceedings. This mechanism ensures that *implied consent* does not become a "black hole" in healthcare service accountability. This oversight system strengthens the control over emergency practices.

The orientation of legal goals serves as the final measure of the doctrine's legitimacy. The twelfth and final limitation is alignment with the objectives of health law as a whole. The application of *implied consent* must always be tested against whether it

aligns with the goal of the Health Law to improve public health to the highest degree, based on humanitarianism and respect for human dignity. The clarity of the direction of health regulation is part of the dynamics and major challenges of national health development, which continues to transform toward strengthening legal governance and ease of access to safe services (Harianto et al., 2024). If its application instead causes trauma, public distrust, or is considered a form of excessive medical paternalism, its validity is called into question. This doctrine is valid only insofar as it serves as a means to achieve a greater goal, namely the saving of lives while maintaining the patient's dignity and trust in the healthcare system. This value orientation serves as the ethical and juridical compass for its application.

Mechanisms for Accountability and Documentation Following an Emergency

The national health legal framework positions emergency actions as requiring specific and measurable justification. The mechanisms for accountability and documentation for healthcare professionals after performing emergency medical actions based on the *implied consent* doctrine constitute a legal structure that ensures accountability, transparency, and protection for all parties. Law Number 17 of 2023 concerning Health, together with Ministerial Regulations and applicable professional standards, creates a framework that connects emergency clinical actions with administrative, legal, and ethical post-action obligations.

This mechanism begins the moment the emergency situation is resolved and the patient enters the stabilization phase. At that point, the formal obligation of accountability takes effect, transforming the justification for the emergency action into a documented series of medical and legal facts. The goal is to provide objective evidence that the parameters for *implied consent* have been met and that the actions taken align with statutory regulations. This structure simultaneously confirms that emergency actions remain under the scrutiny of strict legal norms.

Professional accountability in healthcare relies heavily on the quality of timely clinical record-keeping. The primary obligation in this mechanism is the creation of comprehensive medical records, drafted concurrently with the event or as soon as possible thereafter. The 2023 Health Law mandates that every healthcare facility maintain medical records. In the context of *implied consent*, these records must not merely list diagnoses and procedures but must specifically document the justification for applying this doctrine. This includes

a detailed description of the patient's condition upon arrival that proves the emergency, clinical assessment of the patient's inability to provide consent, efforts made to contact the family or guardian if possible, and a chronology of the medical actions performed.

Every critical clinical decision, such as the choice to perform invasive intervention, must be accompanied by a brief note regarding the underlying medical considerations. Such strict recording is essential because *informed consent* is fundamentally the primary bridge to respecting patient autonomy; thus, its suspension in emergency situations must be layered with solid substitute documentation (Issalillah et al., 2023). A well-drafted medical record serves as the primary source of factual truth that can be defended before medical committees, oversight authorities, or even in court. This is crucial given that medical records carry significant juridical implications and pose distinct challenges as primary evidence within the Indonesian judicial system (Ustani et al., 2024). Diligent record-keeping serves as the main foundation for assessing the validity of the actions taken.

The administrative dimension of medical documentation expands the function of the medical record beyond mere clinical notes. In addition to being a clinical record, medical records in *implied consent* cases must also contain specific administrative documentation. This includes the names and signatures of all healthcare personnel involved, the start and end times of the action, and evidence of the delegation of responsibility if a shift change occurred. Healthcare facilities often provide specific forms or sections in electronic medical record systems to mark incidents involving *implied consent* or emergency actions without consent. This administrative order is important to ensure legal protection for doctors who must act quickly in an emergency room, even in the most extreme conditions such as emergency handling without a License to Practice at the scene (Juliarto et al., 2023).

Accurate completion of these sections is a form of administrative accountability demonstrating that the hospital is aware of and oversees the application of this doctrine. Ministerial Regulations governing the implementation of medical records provide further technical guidance that must be followed, ensuring documentation is not only medically complete but also administratively valid. Such administrative completeness strengthens the legal position of healthcare facilities when facing external evaluations.

Post-action communication is an integral part of restoring the therapeutic relationship between the patient and healthcare professionals. The next stage in

the accountability mechanism is the obligation to provide a retrospective explanation to the patient or their family. Once the patient's condition is stable and they are deemed cognitively capable, or to the next of kin who has been reached, the lead healthcare professional must conduct formal communication. This communication is not merely informal but is a structured process that forms part of continuous care. There is a patient right to information; in this case, the explanation must include the reasons why emergency action was necessary, what was done, the results achieved, and the follow-up care plan. This post-action transparency directly influences the quality of service and overall patient satisfaction with the healthcare facility (Khayru & Issalillah, 2022).

This process also provides an opportunity to answer questions, clarify misunderstandings, and symbolically restore autonomy to the patient after the critical period where that autonomy was legally suspended. For indigent patients or vulnerable groups, this retrospective transparency also serves to protect their basic rights from being ignored after the crisis (Noor et al., 2023). Evidence that this explanation has been provided for example, via consultation notes or signed letters of explanation must become part of the medical record. Such communication transparency plays a vital role in maintaining patient trust in the healthcare delivery system.

The hospital's internal system functions as an additional layer of control in the application of this doctrine. Accountability mechanisms also involve internal reporting systems within healthcare facilities. Every case in which *implied consent* is applied must typically be reported to unit leadership, such as the Head of the Emergency Department or the Medical Director, within a timeframe determined by the hospital's internal policies. These reports are more concise than complete medical records but highlight critical points and potentially serve as material for clinical audits. There is a need for continuous improvement in the quality of healthcare services. These internal reports serve as material for case reviews, ethical discussions, or evaluations of standard operating procedures.

The reported data emphasizes the importance of considering *informed consent* not merely as a documentary claim, but as an essential moment in forming a valid therapeutic alliance, which is also useful for avoiding unnecessary litigation that increasingly burdens the health system (Pallocci et al., 2023). Periodic internal evaluation through this reporting system is vital to uphold the hospital's institutional responsibility toward potential medical errors committed by its clinical staff (Mening et al.,

2023). The objective is to ensure that the application of *implied consent* is always based on strong indications and not due to deficiencies in the hospital's system or procedures that could be rectified. This process encourages a culture of reflection and continuous improvement within the clinical environment.

External oversight extends the scope of accountability to the healthcare system in general. In a broader scope, accountability mechanisms may involve reporting to external authorities in certain situations. Although not every case of *implied consent* must be reported to the Ministry of Health, there are provisions regarding the reporting of serious patient safety incidents. If emergency action based on *implied consent* results in an unexpected outcome, such as death or serious injury that may be related to the service, the healthcare facility has an obligation to report it in accordance with patient safety regulations.

Ministerial Regulations governing the Patient Safety Incident Reporting System are relevant here. This reporting is a form of public accountability and a mechanism for systemic learning, not merely for assigning individual blame. Furthermore, this form of oversight also impacts the arrangement of other external regulations, including the supervision of medical service advertising for the comprehensive protection of patients as consumers of health services (Sahidu et al., 2023). Openness to external oversight demonstrates a commitment to patient safety.

Ethical dimensions and professional discipline provide additional standards for assessing emergency clinical actions. Another important aspect of accountability is its connection to professional standards and codes of ethics. Once the action is complete, healthcare professionals are personally and collectively responsible for ensuring that their actions can be defended if reviewed by peers in clinicopathological meetings or by the Indonesian Medical Disciplinary Honorary Council. This means that documentation must demonstrate compliance with accepted clinical practice guidelines for specific emergency conditions. Compliance with these ethical standards is a crucial instrument in strengthening the legal framework for patient safety protection as well as minimizing medical and dental malpractice in Indonesia (Mustafa & Darmawan, 2024).

This accountability to the profession is independent of administrative accountability to the hospital or legal accountability to the state. A physician must be able to defend their decisions scientifically and ethically before their professional forum based on the records they have made. Similar standards of accountability apply to other health professions, such as midwifery and nursing, where

emergency authority boundaries and potential malpractice are strictly monitored to uphold patient protection (Lethy et al., 2023). Peer evaluation becomes an important mechanism for maintaining the integrity of medical practice.

Readiness to face legal processes demands more precise and objective documentation standards. Accountability mechanisms also include preparation for potential legal proceedings. A complete medical record is the primary evidence in facing civil lawsuits or criminal reports. Therefore, documentation must be created with the awareness that it may be read by legal experts, judges, and other medical experts who may not have been involved in the care. Records must be clear, objective, and avoid subjective statements that are accusatory or defensive in nature. The principle that "if it is not recorded, it is considered not done" holds strongly.

The existence of such neat and objective documentation becomes the main pillar of legal protection for patients as well as medical personnel in various levels of healthcare facilities, including primary care services such as Community Health Centers (Tampil et al., 2023). In legal defense, a series of documents consisting of medical records, internal reports, and proof of explanation to the patient will be used to construct a narrative that healthcare professionals acted in accordance with their legal obligations in a valid emergency. The precision of language in medical records determines the strength of a legal defense.

Institutional responsibility cannot be separated from individual responsibility within the healthcare delivery system. Furthermore, healthcare facilities have a corporate responsibility to create and oversee an environment that supports good documentation and accountability. This includes providing adequate medical record systems, continuous training for staff on the importance of documentation in emergency cases, and establishing periodic audit procedures for *implied consent* cases. The 2023 Health Law mandates that healthcare facilities ensure quality and safety. This corporate responsibility also includes information technology infrastructure readiness, where hospitals can be held legally accountable if information system disruptions interfere with documentation and medical service flows (Yatno et al., 2023).

On the other hand, the institution is also obligated to ensure the existence of clear internal regulations to provide legal protection for nurses and other healthcare professionals who carry out delegated medical actions in critical situations within the hospital (Yulius et al., 2023). This internal audit aims to identify patterns, gaps in training, or resource shortages that might contribute

to the frequency of *implied consent* usage, so that systemic improvements can be made. Consistent institutional support strengthens safe and well-documented clinical practices.

Finally, the accountability mechanism must be viewed as a cycle that leads to learning and quality improvement. Data collected from *implied consent* case documentation must be analyzed to gain insights into the types of emergencies that occur most frequently, the effectiveness of team responses, and areas for protocol improvement. This cycle of analysis is crucial in supporting social support systems and the availability of long-term healthcare for all layers of the population, including the elderly who often face sudden medical emergency situations (Khayru, 2022). The results of this analysis must be fed back to healthcare professionals through continuing medical education meetings, revisions of standard operating procedures, or emergency simulations. Thus, this mechanism is not merely reactive and defensive, but also proactive and constructive, aiming to increase readiness and reduce uncertainty in handling future emergency situations, which in turn can minimize the need to rely on *implied consent*. Such a learning cycle strengthens the resilience of the healthcare system.

This entire system demonstrates the integration of legal, ethical, and clinical norms. Taken as a whole, the accountability and documentation mechanism following emergency actions based on *implied consent* constitutes a complex legal and administrative ecosystem. It connects the individual obligation of healthcare professionals to document properly, the institutional obligation of healthcare facilities to supervise and report, and the overall obligation of the health system to learn and improve itself. Through these mechanisms comprising detailed medical record documentation, retrospective communication, internal and external reporting, professional accountability, legal readiness, institutional audits, and the learning cycle the legitimate application of the *implied consent* doctrine can be maintained, protected, and continuously refined within the framework of Indonesia's new law. The cohesion of these elements becomes the primary support for the legitimacy of emergency actions in medical practice.

CONCLUSION

Based on the normative juridical analysis conducted, it can be concluded that the validity of the *implied consent* doctrine in emergency situations under Law Number 17 of 2023 concerning Health is built through an implicit yet robust legal construction. While the law does not textually formulate this

doctrine, through a systematic interpretation of the principles of the right to healthcare, the obligations of healthcare professionals, the prohibition against refusing aid, and professional standards, the *implied consent* doctrine gains legitimacy as a valid exception to the principle of explicit consent. Its validity is limited to strict parameters, namely: the existence of an objective medical emergency that threatens life or limb, the patient's inability to provide meaningful consent, and the fact that the actions taken must be direct, proportional, and aimed solely at life-saving. The post-action accountability mechanism which includes comprehensive medical record documentation, the provision of retrospective explanations, and internal reporting becomes an absolute requirement that transforms an emergency justification into a defensible legal accountability.

The findings of this research have significant implications for various stakeholders. For healthcare professionals, this construction provides clear legal protection to act quickly in critical situations based on professional clinical judgment, while simultaneously burdening them with a very high obligation for documentation and accountability. For healthcare facilities, these findings affirm the obligation to draft detailed standard operating protocols regarding emergency handling and the application of *implied consent*, as well as to conduct periodic clinical audits to ensure compliance and quality. For patients and the public, this legal construction guarantees that their right to receive immediate aid is prioritized during the most critical moments, without disregarding the right to information and autonomy, which are restored once the situation is stable. For law enforcement and the judiciary, this research offers an analytical framework to assess the legality of emergency medical actions performed without consent, guided by objective parameters and documentary evidence rather than mere subjective assessment.

Based on these findings and implications, several strategic recommendations are proposed. First, the Ministry of Health and medical professional organizations are advised to promptly issue technical guidelines or ministerial regulations that operationally detail the parameters, limitations, and specific documentation procedures for the application of *implied consent*. These guidelines would refine the 2023 Health Law and provide uniform certainty across all healthcare facilities. Second, all hospitals and healthcare educational institutions are advised to incorporate intensive training on the legal and ethical aspects of *implied consent* into continuing education curricula and emergency simulations, with an emphasis on defensive yet accurate medico-legal

documentation techniques. Third, future health law researchers are advised to conduct empirical research on the application of *implied consent* in various emergency departments to identify gaps between the ideal legal construction and practice in the field, as well as to evaluate the effectiveness of existing documentation mechanisms.

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