



LEGAL RESPONSIBILITY OF THE PHARMACIST *IN ABSENTIA* IN PHARMACEUTICAL SERVICES

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| ABSTRACT

Quality pharmaceutical services must be led by a Pharmacist. However, the practice of a pharmacist *in absentia* (the physical absence of the supervising pharmacist during service provision) is still prevalent, particularly in certain pharmaceutical facilities. This study aims to analyze and identify the legal consequences and responsibilities of the supervising pharmacist for pharmaceutical services rendered while they are not physically present. The method employed is a normative legal research through a literature study of relevant laws and regulations. The results indicate that, despite their absence, the pharmacist retains delegated responsibility and strict liability, especially concerning the fulfillment of quality standards and patient safety. Provisions within Law Number 17 of 2023 concerning Health and its implementing regulations stipulate that pharmaceutical services are a healthcare effort that must be performed in accordance with professional standards. Violations arising during a pharmacist's *in absentia* can result in administrative, civil, and criminal sanctions for the supervising pharmacist and/or the assisting Pharmaceutical Technical Staff (PTS) on duty.

| KEYWORDS

Pharmacist *In Absentia*, Legal Responsibility, Pharmaceutical Services, Law 17/2023 on Health.

I. INTRODUCTION

Pharmaceutical services represent a strategic component within the modern healthcare system, oriented towards patient safety and therapeutic effectiveness. In the global landscape, the concept of pharmaceutical care has shifted the paradigm of pharmaceutical services from mere drug distribution to professional services that place the patient at the center (*patient-centered care*). Pharmacists are no longer positioned solely as technical executors but as healthcare professionals who hold ethical, professional, and legal responsibilities for the safe, quality, and rational use of medicine.

In Indonesia, the normative strengthening of the pharmacist's role is reflected in Law Number 17 of 2023 concerning Health. This Law explicitly categorizes pharmaceutical services as a healthcare effort that must be conducted according to professional and service standards. Such provisions emphasize that pharmaceutical services are not merely administrative activities but professional actions with legal consequences if conducted contrary to applicable regulations.

Despite this, practical reality demonstrates a gap between legal norms and field implementation. One persistent phenomenon is the practice of pharmacists *in absentia*—a condition where the supervising pharmacist is physically absent from the facility during operational hours while services continue to be provided by Pharmaceutical Technical Staff (PTS). This practice is often regarded as an operational habit, particularly in pharmacies with

limited human resources. Legal issues arise when services provided during the pharmacist's absence lead to errors in medication or serious harm to patients. In this context, a fundamental legal question emerges regarding who bears legal liability for such losses: the PTS as the direct executor, or the supervising pharmacist despite their physical absence. This issue is increasingly relevant within a health law framework that emphasizes due care, professional accountability, and patient protection.

II. METHODOLOGY

This research employs a normative legal research method with a statutory and conceptual approach. Normative legal research is chosen because the study focuses on analyzing legal norms, doctrines, and principles governing the responsibility of pharmacists in pharmaceutical services, particularly in situations where the supervising pharmacist is physically absent (*pharmacist in absentia*).

The primary legal materials consist of laws and regulations, including Law Number 17 of 2023 concerning Health, its implementing regulations, professional standards governing pharmaceutical services, and ethical codes applicable to pharmacists and Pharmaceutical Technical Staff (PTS). Secondary legal materials include scholarly books, peer-reviewed journal articles, and official policy documents related to health law, pharmaceutical regulation, and professional liability.

Data collection was conducted through a systematic literature review, focusing on authoritative and up-to-date sources relevant to health law and pharmaceutical services. The collected legal materials were analyzed qualitatively using prescriptive and analytical techniques, by interpreting legal norms and assessing their implications for legal responsibility in cases of pharmacist in absentia. The analysis emphasizes the relationship between legal obligations, professional standards, and liability frameworks within the Indonesian health law system.

III. RESULTS AND DISCUSSION

a. Legal Position of Hospitals under Law Number 17 of 2023

The enactment of Law Number 17 of 2023 concerning Health constitutes a fundamental transformation in the legal positioning of hospitals within Indonesia's health law system. The results of this study demonstrate that the law has shifted hospital regulation from a sector-specific and institution-centered framework into a unified and system-oriented health law regime. Under the previous regulatory structure, hospitals were governed primarily through a dedicated statute that emphasized institutional autonomy and administrative compliance. In contrast, the current framework integrates hospitals into a comprehensive health system that prioritizes systemic accountability, coordination, and public responsibility.

From a normative standpoint, hospitals are now expressly positioned as legal entities that carry institutional responsibility for ensuring the quality, safety, and continuity of healthcare services.

Their legal identity is no longer confined to operational or managerial functions but is intrinsically linked to their role as key actors in fulfilling the constitutional right to health. This repositioning reflects a legislative intent to align hospital governance with broader public health objectives and to reinforce the state's obligation to regulate healthcare delivery in a uniform and coherent manner.

This transformation also signifies a recalibration of the relationship between hospitals and the state. Hospitals are no longer viewed merely as service providers operating within a limited regulatory perimeter but as institutional extensions of the state's health governance function. As a result, the boundary between public responsibility and private hospital management becomes increasingly permeable. Hospitals are expected to internalize public law values—such as accountability, transparency, and equity—within their organizational structures and service delivery models.

Moreover, the strengthened legal position of hospitals entails heightened legal scrutiny. By embedding hospital regulation within a unified health law framework, Law Number 17 of 2023 subjects hospitals to more rigorous

oversight mechanisms. Compliance with service standards, patient safety obligations, and ethical norms becomes a continuous legal requirement rather than a formalistic administrative obligation. Consequently, hospitals are exposed to increased regulatory evaluation, particularly in relation to their institutional capacity to prevent systemic failures and safeguard patient rights.

In this sense, the legal position of hospitals under the new law may be characterized as both elevated and constrained. It is elevated because hospitals are recognized as central pillars of the national health system; yet it is constrained because this recognition is accompanied by broader legal duties and intensified state supervision. This dual character forms the normative foundation for assessing hospital responsibility and accountability within the restructured health law regime.

b. Regulatory Reconstruction through Government Regulation Number 28 of 2024

The results further indicate that Government Regulation Number 28 of 2024 plays a decisive role in reconstructing hospital regulation under Law Number 17 of 2023. As the primary implementing regulation, PP Number 28 of 2024 translates the general norms of the Health Law into operational standards applicable to hospital governance. Its enactment replaces the previous regulatory framework and signals a shift toward a more integrated, risk-based, and performance-oriented approach to hospital regulation.

This regulation introduces a structured framework governing hospital licensing, service standards, supervision, and institutional accountability. Unlike the previous model, which focused largely on formal licensing compliance, PP Number 28 of 2024 emphasizes substantive performance outcomes. Hospitals are required not only to obtain operational permits but also to demonstrate continuous adherence to quality assurance mechanisms and patient safety systems. This approach reflects an understanding that healthcare risks are inherent and must be managed proactively through institutional governance.

The findings show that PP Number 28 of 2024 reinforces the concept of continuous regulatory obligation. Hospital compliance is no longer episodic or event-driven but constitutes an ongoing legal duty embedded within daily operational processes. This regulatory design strengthens legal certainty by clarifying expectations and aligning regulatory oversight with healthcare realities. At the same time, it increases institutional responsibility by linking regulatory compliance directly to service quality and patient outcomes.

Furthermore, the regulation enhances the supervisory role of the state by providing clearer authority for monitoring, evaluation, and enforcement. Regulatory agencies are empowered to assess hospital performance not only through documentation but also through substantive indicators of service delivery. This shift supports a more responsive and adaptive regulatory environment, capable of addressing emerging risks within the healthcare system.

However, the results also reveal that the effectiveness of this regulatory reconstruction depends heavily on institutional readiness. Hospitals must possess adequate administrative capacity, governance structures, and compliance mechanisms to meet the demands imposed by PP Number 28 of 2024. Without such capacity, the normative aspirations of the regulation may face implementation challenges, potentially undermining legal certainty and regulatory effectiveness.

c. Institutional Responsibility and Corporate Liability of Hospitals

One of the most significant findings of this study concerns the strengthening of institutional responsibility and corporate liability in hospital governance. Under the current legal framework, hospitals are no longer viewed merely as venues for healthcare delivery but as corporate entities responsible for the systems and processes that underpin medical services. This shift reflects a broader evolution in health law that recognizes patient harm as frequently resulting from systemic organizational failures rather than isolated individual misconduct.

The analysis confirms that Law Number 17 of 2023 and its implementing regulations endorse a model of hospital liability grounded in institutional accountability. Hospitals are expected to establish and maintain effective governance structures, internal controls, and risk management systems capable of preventing service failures. Where

such systems are inadequate or improperly implemented, hospitals may be held legally accountable for resulting harm, regardless of whether individual healthcare professionals acted negligently.

This institutional approach to liability aligns with contemporary doctrines of corporate responsibility in healthcare law. Liability is assessed not solely on the basis of individual fault but on the adequacy of organizational systems and supervisory mechanisms.

Consequently, hospitals bear responsibility for ensuring that delegated medical and administrative functions are performed in accordance with legal and professional standards.

The results further demonstrate that institutional liability under the new legal regime may manifest across multiple dimensions. Administrative liability may arise from regulatory non-compliance, civil liability from patient harm caused by systemic deficiencies, and reputational consequences from failures in governance. This layered liability structure reinforces the principle that hospitals must proactively manage legal risk as an integral component of healthcare delivery.

Importantly, this framework also strengthens patient protection. By holding hospitals accountable for systemic failures, the law creates incentives for institutional improvement and risk prevention. Patients benefit from a legal environment that prioritizes organizational responsibility and emphasizes preventive governance rather than reactive sanctioning.

d. Implications for Patient Protection and Legal Certainty

The final set of findings concerns the broader implications of the restructured hospital regulation for patient protection and legal certainty. The integration of hospital regulation into a unified health law framework enhances normative safeguards for patients by clarifying institutional obligations and reinforcing accountability mechanisms. Patients are positioned not merely as service recipients but as rights holders entitled to safe, high-quality healthcare services.

The results indicate that Law Number 17 of 2023 strengthens patient protection by embedding hospital obligations within a system-oriented regulatory structure. Hospitals are legally required to prioritize patient safety, transparency, and service quality as core institutional duties. This approach aligns with international trends in health law that emphasize patient-centered regulation and rights-based healthcare governance.

Nevertheless, the study also identifies transitional challenges that may affect legal certainty. Differences in interpretation, uneven enforcement, and variations in institutional capacity may create temporary inconsistencies in regulatory application. These challenges underscore the importance of coherent implementation strategies and continuous regulatory guidance to ensure that legal norms are translated effectively into practice.

Ultimately, the findings suggest that the success of the new hospital regulatory framework depends on a delicate balance between regulatory control and institutional autonomy. Effective patient protection and legal certainty require not only robust legal norms but also consistent enforcement, institutional readiness, and professional compliance. The restructured legal framework provides a strong normative foundation, but its long-term effectiveness will be determined by the quality of implementation and governance across the healthcare system.

IV. CONCLUSION

This study concludes that under Law Number 17 of 2023 concerning Health, pharmacists retain legal responsibility for pharmaceutical services provided under their authority, even in situations of physical absence. The practice of pharmacist in absentia does not absolve the supervising pharmacist from legal accountability, as responsibility is attached to professional authority and delegation of duties.

The legal framework establishes that violations occurring during pharmacist in absentia may result in administrative, civil, and criminal liability. While Pharmaceutical Technical Staff may bear responsibility for direct actions, the supervising pharmacist remains legally accountable for systemic supervision and compliance with

professional standards.

The research highlights the importance of aligning normative regulations with practical implementation to ensure patient safety and legal certainty. Future studies may explore empirical data on enforcement practices and comparative approaches to pharmacist supervision in other jurisdictions.

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