Informed Consent as a Form of Medical Legal Responsibility in the Perspective of Patients' Rights Fulfillment in Hospitals

Sari Herda Putri

Universitas Swadaya Gunung Jati

Corresponding Author: Sari Herda Putri, **E-mail**: putriherda@gmail.com

ABSTRACT

The right to health constitutes a fundamental constitutional right of every citizen, as guaranteed by the 1945 Constitution of the Republic of Indonesia. Within the framework of hospital-based healthcare services, this right is operationalized through the mechanism of informed consent, which functions simultaneously as a legal obligation of medical professionals and as a core instrument for safeguarding patients' rights. This study addresses two principal research questions: first, how informed consent is implemented as a manifestation of the legal responsibility of medical professionals in ensuring the optimal fulfillment of patients' rights in hospitals; and second, how the patient's right to health is positioned as a central instrument in the realization of health rights within hospital services.

This research adopts a normative juridical method, employing constitutional, statutory, and health regulatory approaches. The analysis is conducted through the perspectives of legal liability theory and human rights theory to assess the normative coherence and practical implications of informed consent in healthcare delivery. The findings demonstrate that informed consent extends beyond a mere administrative requirement, functioning as a legal and ethical mechanism that provides legal protection for medical professionals while ensuring patients' rights to adequate information, personal autonomy, and equitable treatment.

However, the study identifies a significant gap between well-established legal norms and their practical implementation. In practice, informed consent is frequently reduced to a procedural formality, accompanied by persistent paternalistic approaches and, in some cases, discriminatory healthcare practices. These conditions undermine the substantive realization of patients' right to health and weaken informed consent as a meaningful instrument of rights protection within hospital settings.

KEYWORDS

Patients Rights **,** *Informed Consent, Legal Liability, Hospital, Medical Legal*

I. INTRODUCTION

Health is the most valuable endowment and constitutes a fundamental right of every human being. Beyond the mere absence of disease, health represents a manifestation of respect for human dignity and inherent human worth. This understanding is reflected in various national and international legal instruments that explicitly recognize the right to health as an integral component of human rights. In Indonesia, this constitutional guarantee is firmly embedded in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which affirms that every person has the right to live in physical and mental well-being and to obtain health services.[1]In practice, the relationship between patients and medical professionals is characterized by a complex interaction of legal obligations, ethical principles, and mutual trust. One of the most concrete manifestations of this relationship is the mechanism of informed consent. Informed consent should not be narrowly understood as mere permission for a medical procedure, but rather as a legal and ethical instrument that ensures the fulfillment of patients' rights while simultaneously reflecting the legal responsibility of medical professionals.[2] Embedded within the concept of healthcare services are patients' expectations of safety, transparency, and respect when seeking treatment in hospitals.

Hospitals are not merely physical infrastructures that provide medical services; they are institutions where patients' hopes for recovery intersect with the professionalism and moral responsibility of healthcare workers. As frontline healthcare providers, hospitals bear a substantial obligation to respect and protect patients' rights. This obligation is

not only a legal mandate under Law No. 17 of 2023—particularly Article 51 concerning patients' rights in healthcare services and Articles 405–410 governing the responsibilities of medical professionals and healthcare institutions—but also a moral imperative rooted in the ethical foundations of medical practice.[3]Nevertheless, the reality of healthcare services frequently diverges from these normative ideals. Services that should provide reassurance often become sources of anxiety, particularly when patients' rights are inadequately respected. In many instances, violations of patients' rights arise not merely from negligence, but from insufficient understanding among medical professionals regarding health law principles. Medical professionals—physicians, nurses, and allied health workers—carry a significant mandate to uphold the fundamental principles of health law, including respect for patient autonomy, justice, beneficence, and non-maleficence.[4]Medical malpractice litigation in Indonesia demonstrates that many disputes between patients and hospitals originate from the absence of valid informed consent or its improper implementation.[5] This constitutes a serious legal issue, as informed consent serves as a prerequisite for lawful medical intervention. Although the obligation to obtain consent for medical procedures has long been recognized in Indonesian health law, its implementation remains problematic. Many patients report that they do not fully understand the medical procedures they undergo, including potential risks, side effects, or available alternatives. Conversely, some medical professionals argue that extensive administrative requirements may hinder swift medical action, particularly in emergency situations.These principles, however, are not merely theoretical constructs. They are living values that affirm each patient's right to self-determination and equitable treatment. Empirical evidence indicates that many medical professionals have not fully internalized these principles. Patients are often not provided with complete and honest information regarding their medical conditions, patient decisions may be disregarded when refusing certain procedures, and breaches of medical confidentiality are not uncommon.[6]One of the most critical weaknesses in healthcare practice remains the implementation of informed consent—defined as consent based on adequate and accurate information provided by medical professionals. Informed consent is not merely a signature on a form; it is a tangible expression of respect for patient autonomy. However, numerous reports indicate that this practice is frequently reduced to an administrative formality. A notable case occurred in 2020 at a government hospital in Central Java, where a patient underwent an emergency cesarean section without comprehensive prior explanation and without adequate communication with family members.[7] Although the intervention was performed under emergency conditions, the lack of post-procedure communication raised serious concerns regarding respect for patient and family rights.The legal responsibility of medical professionals is closely linked to the presence of valid informed consent. Medical interventions conducted without lawful consent may constitute unlawful acts or even criminal offenses under the Indonesian Criminal Code.[8] In such cases, hospitals as institutions may also bear civil and administrative liability. According to the doctrine of professional liability, medical professionals are required to ensure that patients receive sufficient information and fully understand the implications of proposed medical interventions. Failure to fulfill this obligation significantly increases the risk of legal claims.

This concern is reinforced by the 2021 report of the Indonesian Ombudsman, which revealed that more than 35 percent of public complaints concerning hospital services involved non-transparent medical information, including inadequate explanations during the informed consent process.[9] Similar findings have been reported by academic research. Studies conducted by Universitas Gadjah Mada (UGM) in surgical settings revealed that the completeness of informed consent documentation ranged between 51.7 percent and 91.3 percent, influenced by time constraints, physician workload, insufficient legal awareness, weak implementation of standard operating procedures, and the absence of reward–punishment mechanisms.[10]Further empirical studies indicate that informed consent documentation in Indonesian hospitals has yet to meet the 100 percent Minimum Service Standard (SPM). Kurnia et al. found that incomplete informed consent documentation was influenced by human resources, facilities, funding, and methodological factors.[11] At RS TKT III Dr. Reksodiwiryo Padang in 2021, only 17.4 percent of informed consent forms were completed properly, despite 80 percent of healthcare staff demonstrating high levels of knowledge.[12] Similar conditions were observed at RS Siaga Medika Banyumas, where standard operating procedures existed but were not optimally implemented.[13]From a normative juridical perspective, Rohman and Syafruddin propose a model of patient rights protection based on judicial assessment of express consent, including exceptions in emergency situations under the doctrine of *salus suprema lex*, which positions patient health as the supreme law.[14] At the international level, informed consent has long been emphasized by global health organizations such as the World Health Organization (WHO) and the World Medical Association (WMA). The Declaration of Helsinki explicitly requires voluntary and informed consent prior to medical treatment or health research, underscoring that informed consent constitutes a universal ethical and human rights standard.[15]Despite these international benchmarks, a significant gap persists between regulatory ideals and practical implementation in Indonesia. Many hospitals lack systematic mechanisms to ensure lawful informed consent procedures. Consent forms are frequently presented under urgent circumstances without adequate explanation or signed by family members in the absence of the attending physician. This reflects weak institutional oversight and insufficient legal protection for patients.From an academic standpoint, although several studies have examined informed consent from a legal perspective, relatively few have comprehensively linked its implementation to the legal responsibility of medical professionals within the

broader framework of patient rights protection. This gap highlights the importance of the present study, which integrates normative juridical analysis with empirical insights derived from secondary data, including statutory regulations, case documentation, and prior research findings.Ultimately, law must function as an instrument of protection rather than mere repression. Strengthening the legal framework governing informed consent is expected to enhance professional awareness among medical personnel and foster public trust in healthcare services. In the long term, this will contribute to improving the national healthcare system, both in terms of legal substance and professional ethics. Building a just and dignified healthcare system depends not only on advanced medical technology but also on respect for patients' fundamental rights.

II. METHODOLOGY

1. This study employs a **normative juridical research method**, which primarily emphasizes library-based research. This approach is grounded in the analysis of legal texts—both statutory laws and their implementing regulations—as the principal sources for addressing the legal issues under examination. Within this framework, law is not viewed merely as a rigid set of normative rules, but as a manifestation of legal values and justice, particularly in the context of the legal relationship between medical professionals and patients
2. Nature of the Research he nature of this research is descriptive and normative-analytical. The descriptive approach is employed to provide a systematic and factual overview of the legal responsibilities of medical professionals from the perspective of fulfilling patients' rights within hospital settings. This study constitutes normative legal research, also referred to as doctrinal or library-based legal research**,** which is conducted through the examination of legal materials and scholarly literature. The analysis focuses on legal norms, principles, and doctrines relevant to the legal responsibility of medical professionals and the protection of patients' rights in healthcare services.
3. Research Approaches, this study constitutes normative legal research, which primarily examines legal rules and norms within the framework of positive law.

a. Statutory Approach

The statutory approach is applied by examining all relevant laws and regulations governing patients' rights, the obligations of medical professionals, and the fundamental principles of health law that underpin humane, fair, and dignified medical practice. Particular attention is given to Law No. 17 of 2023 on Health, as the most recent regulation that introduces significant reforms to Indonesia's health law system. This statute serves as a primary reference for understanding current legal developments, updated principles, and more responsive mechanisms for the protection of patients' rights.

The analysis specifically focuses on :

(1) Article 51 paragraph (1) concerning the right of every person to healthcare services

(2) Article 51 paragraph (3)**,** which mandates that information referred to in paragraph (1), letters (e) and (g), must be provided by medical professionals and/or healthcare workers delivering healthcare services

(3) Article 104 paragraph (1) regarding informed consent, which requires medical professionals and healthcare workers to consider the patient's level of understanding and psychological condition when providing medical information

(4) Article 408, which regulates legal responsibility and sanctions for medical professionals and healthcare workers proven to have violated statutory provisions

(5) Articles 409 and 410, which classify violations and stipulate administrative, ethical, and/or criminal sanctions based on the nature and severity of the violation.

b. Conceptual Approach

The conceptual approach is employed to examine and clarify fundamental principles of health law, including respect for patient autonomy, justice, beneficence, and non-maleficence. These principles function as normative guidelines that connect legal doctrine with ethical standards in medical practice and serve as a basis for evaluating the conduct and legal responsibility of medical professionals in hospital settings.

Characteristics of the Research Approach

The characteristics of this research can be summarized as follows :

(1) Normative, as it examines applicable laws and regulations, particularly Law No. 17 of 2023 on Health

(2) Conceptual, as it explores the core principles of health law that guide the moral and ethical responsibilities of medical professionals

(3) Humanistic, as it views health law not merely as a regulatory framework but as a means to protect human dignity and restore patient trust in hospital services

(4) Relevant, as it integrates contemporary legal developments while maintaining coherence with existing legal foundations that remain applicable

III. RESULTS AND DISCUSSION

A. The Implementation of Informed Consent as a Form of Legal Responsibility of Medical Professionals in Fulfilling Patients' Rights in Hospitals

Informed consent constitutes a fundamental legal mechanism that reflects the legal responsibility of medical professionals in the provision of healthcare services. Within the framework of legal liability theory, informed consent functions as a prerequisite for the legality of medical interventions and as a safeguard for patients' rights. It affirms that patients are not merely objects of medical treatment but legal subjects entitled to information, autonomy, and decision-making authority regarding medical actions performed on their bodies.

From a normative perspective, Indonesian health law has explicitly regulated informed consent as an обязатель legal obligation of medical professionals. Law No. 17 of 2023 on Health reinforces this obligation by stipulating that patients have the right to receive comprehensive, accurate, and understandable medical information before consenting to any medical intervention. Medical professionals are required to ensure that such information is delivered in a manner that considers the patient's level of understanding and psychological condition. Consequently, informed consent is not limited to the act of signing a consent form, but encompasses a substantive process of communication and mutual understanding between medical professionals and patients.

Under legal liability theory, medical actions performed without valid informed consent may constitute unlawful conduct. Such actions expose medical professionals and healthcare institutions to administrative, civil, ethical, and criminal liability. The absence of informed consent negates the legal justification for medical intervention and may be interpreted as a violation of patients' rights, particularly the right to bodily integrity and self-determination. Therefore, informed consent serves as both a preventive legal mechanism and a basis for accountability in the event of disputes or claims of malpractice.

However, empirical findings from various hospitals indicate that the implementation of informed consent has not consistently met normative standards. In practice, informed consent is often reduced to an administrative formality, where patients sign consent forms without receiving adequate explanations regarding diagnosis, risks, alternatives, or potential consequences of medical procedures. This practice undermines the substantive purpose of informed consent and weakens its role as a legal instrument for protecting patients' rights.

B. Patients' Right to Health as a Central Instrument in Hospital Healthcare Services

The right to health, as a fundamental human right, serves as the normative foundation for the obligation of healthcare providers to deliver patient-centered services. In hospital settings, the realization of this right requires respect for patient autonomy, fairness in access to healthcare, and ethical medical practice. Informed consent plays a central role in operationalizing these principles by ensuring that patients actively participate in decisions affecting their health. Law No. 17 of 2023 on Health emphasizes the protection of patients' rights and strengthens the accountability of medical professionals and healthcare institutions. Articles regulating patients' rights, informed consent, and legal sanctions reflect the state's commitment to aligning national health law with international human rights standards. These provisions affirm that healthcare services must be delivered in a manner that respects human dignity and legal certainty.

Despite the clarity of legal norms, institutional weaknesses remain a significant challenge. Reports from oversight bodies and empirical studies reveal deficiencies in compliance with informed consent procedures, including incomplete documentation, lack of standardized communication protocols, and limited institutional supervision. These shortcomings indicate that legal norms have not been fully internalized into professional practice and organizational culture within hospitals.

The persistence of paternalistic approaches in medical decision-making further complicates the implementation of informed consent. In some cases, medical professionals prioritize clinical efficiency over patients' rights to information and participation. While emergency conditions may justify limited deviations from standard consent procedures, such exceptions must remain narrowly construed and legally accountable. Failure to distinguish between emergency and non-emergency situations risks normalizing violations of patients' rights.

C. Legal Implications and the Need for Strengthened Accountability

The findings of this study demonstrate that informed consent occupies a strategic position in ensuring legal protection for patients and medical professionals alike. Effective implementation of informed consent enhances legal

certainty, reduces the risk of disputes, and reinforces trust in healthcare institutions. Conversely, inadequate implementation exposes hospitals and medical professionals to legal liability and undermines public confidence in the healthcare system.

Therefore, strengthening the implementation of informed consent requires not only regulatory compliance but also institutional commitment. Hospitals must establish clear standard operating procedures, continuous legal and ethical training for medical professionals, and effective monitoring mechanisms. These measures are essential to ensure that informed consent functions as a substantive legal instrument rather than a procedural formality.

IV. CONCLUSION

This study concludes that informed consent constitutes a fundamental legal mechanism that embodies the legal responsibility of medical professionals in fulfilling patients' rights within hospital settings. Informed consent is not merely an administrative requirement, but a substantive legal and ethical process that guarantees patients' rights to information, autonomy, and self-determination. From the perspective of legal liability theory, informed consent serves as a prerequisite for the legality of medical actions and functions as a protective instrument for both patients and medical professionals. The analysis demonstrates that Indonesian positive health law, particularly Law No. 17 of 2023 on Health, has provided a clear normative framework regarding patients' rights, the obligation of medical professionals to provide adequate information, and the legal consequences arising from violations of these obligations. Articles governing patients' rights, informed consent, and the legal responsibility of medical professionals establish that medical interventions must be based on lawful consent that considers the patient's level of understanding and psychological condition. Failure to comply with these provisions may result in administrative, ethical, civil, or criminal liability. However, this study also finds a significant gap between normative regulation and practical implementation. In practice, informed consent is frequently reduced to a formal administrative procedure, without adequate communication or meaningful patient involvement. Such practices undermine the principles of patient autonomy, justice, beneficence, and non-maleficence, and weaken the function of informed consent as a mechanism for protecting patients' rights. Therefore, strengthening legal awareness, institutional supervision, and ethical compliance among medical professionals is essential to ensure that informed consent operates as a substantive instrument of legal responsibility and contributes to the realization of patient-centered, humane, and dignified healthcare services in hospitals.

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