



Legal Certainty In The Cessation Of Futile Medical Treatment For Terminally Ill Patients In Indonesian Intensive Care Units

Shinta Vera Renata Hutajulu¹

¹ University Swadaya Gunung Jati, Indonesia

Corresponding Author: Shinta Vera Renata Hutajulu, **E-mail:** shintavera12@gmail.com

ABSTRACT

This research analyzes legal certainty surrounding the cessation of futile medical treatment for terminally ill patients in Intensive Care Units (ICUs) in Indonesia, focusing on the interaction between medical futility, ethical obligations, and the governing legal framework. Using a normative legal research design, the study applies statutory, conceptual, and comparative approaches to evaluate Law Number 17 of 2023 on Health, related regulations, professional ethics, and selected international frameworks on end-of-life decision-making. The study finds that Indonesian law recognizes patient autonomy and professional standards but remains procedurally under-specified regarding the withdrawal of non-beneficial treatment in ICU settings. This gap produces legal uncertainty for clinicians and institutions, encourages defensive medicine, and risks conflating lawful withdrawal of futile treatment with prohibited euthanasia. The paper proposes normative recommendations to clarify definitions, introduce procedural safeguards (multidisciplinary review, informed consent pathways, documentation, and ethics committee oversight), and strengthen legal protection for healthcare providers acting in good faith while safeguarding patient dignity.

KEYWORDS

Medical Futility; Withdrawal of Treatment; Legal Certainty; Euthanasia; ICU

I. INTRODUCTION

Intensive Care Units (ICUs) occupy a unique space in contemporary healthcare: they are designed to deliver advanced life-support and continuous monitoring for critically ill patients, yet they are also the setting where the limits of medicine become most visible. When a patient's condition is terminal and irreversible, continued escalation of treatment may no longer produce meaningful clinical benefit. In these circumstances, medical intervention may constitute medical futility – treatment that sustains physiological function without a reasonable prospect of recovery or an acceptable quality of life.

In Indonesia, the cessation of futile medical treatment is frequently approached with caution. Clinicians may face uncertainty about the legality of withdrawing life-sustaining interventions, especially when the patient lacks capacity and family members disagree or request continued intervention. The enactment of Law Number 17 of 2023 on Health provides an updated legal foundation for patient rights and professional obligations; however, the law does not set out a clear procedure for withdrawing non-beneficial treatment in ICU contexts. The resulting normative gap creates a heightened risk of misunderstanding ethically justified withdrawal as unlawful conduct.

This article offers three contributions. First, it frames medical futility and end-of-life decision-making within Indonesian health law after Law No. 17/2023. Second, it clarifies the doctrinal distinction between euthanasia and the withdrawal of futile treatment based on intent and causation. Third, it proposes a prescriptive regulatory model aimed at increasing legal certainty for healthcare providers while protecting patient autonomy and dignity. The study is guided by two research questions: (1) how is the regulation of treatment cessation structured for terminally ill patients receiving non-beneficial treatment in ICUs, and (2) what legal guarantees can be developed

to ensure lawful, ethical, and accountable cessation of futile treatment.

II. METHODOLOGY

Research design. This study uses a normative (doctrinal) legal research design with qualitative, descriptive-analytical reasoning. The unit of analysis is not individuals or clinical outcomes, but legal norms, ethical standards, and institutional decision-making principles governing end-of-life care.

Sampling/selection of materials. Because this is normative research, the 'sampling' process refers to purposive selection of authoritative legal and policy materials. Primary materials include: (i) Law Number 17 of 2023 on Health; (ii) Law Number 44 of 2009 on Hospitals; (iii) Law Number 36 of 2009 on Health (for continuity of norms); and (iv) Minister of Health Regulation No. 290/MENKES/PER/III/2008 on Medical Consent. Secondary materials were selected using inclusion criteria: (a) peer-reviewed international journals on ICU end-of-life decisions and medical futility; (b) accredited national journals on Indonesian health law and ICU decision-making; and (c) authoritative bioethics texts. For comparative analysis, selected jurisdictions (e.g., the United Kingdom and the Netherlands) were chosen based on the availability of explicit end-of-life legal frameworks and jurisprudence distinguishing withdrawal of treatment from euthanasia.

Operationalization of key concepts. The study operationalizes: (1) 'medical futility' as treatment that lacks a reasonable probability of achieving patient-centered therapeutic goals; (2) 'withdrawal of treatment' as discontinuation of ongoing life-sustaining interventions because they are non-beneficial; (3) 'euthanasia' as an intentional act aimed at causing death to relieve suffering; and (4) 'legal certainty' as clarity and predictability of legal rules and the availability of legal protection for actors who comply with professional standards and due process.

Data analysis. Legal materials are analyzed through interpretive methods (grammatical, systematic, and teleological interpretation), doctrinal construction, and normative evaluation. Comparative materials are used to identify best-practice safeguards (multidisciplinary review, consent pathways, documentation, and ethics oversight). The outcome of analysis is prescriptive: proposed legal norms and institutional procedures to reduce liability risk while safeguarding patient rights.

III. RESULTS AND DISCUSSION

The results of normative analysis indicate four central findings.

First, Law No. 17/2023 strengthens the normative recognition of patient rights—particularly the right to receive adequate information and to accept or refuse medical treatment—supporting a legal basis for limiting or discontinuing treatment that is not aligned with patient interests. However, the statute does not provide explicit procedural guidance for withdrawing life-sustaining treatment in ICU settings where patients frequently lack capacity.

Second, procedural silence generates liability anxiety. Uncertainty regarding authority of decision-makers (patient vs surrogate), documentation standards, and dispute-resolution pathways exposes clinicians and institutions to potential criminal, civil, or administrative allegations. This environment incentivizes defensive medicine and continuation of futile therapy.

Third, the legal-ethical distinction between euthanasia and withdrawal of treatment must be maintained. Euthanasia involves intentional life-ending conduct; withdrawal of futile treatment discontinues non-beneficial intervention and allows the underlying disease to proceed naturally. The decisive difference is intent and causation. Conflating the two risks criminalizing ethically required medical judgment and undermines patient autonomy.

Fourth, comparative practice indicates that legal certainty is strengthened by procedural safeguards. These include multidisciplinary determination of futility, structured communication and consent pathways, standardized documentation, ethics committee oversight for contested cases, and a legal safe-harbor for clinicians acting in good faith and in accordance with professional

IV. CONCLUSION

This study concludes that Indonesian health law, including Law No. 17/2023, provides a normative basis for respecting patient autonomy and professional standards but remains procedurally underdeveloped for ICU withdrawal of futile treatment. The resulting legal uncertainty promotes defensive medicine and risks conflating lawful withdrawal with prohibited euthanasia. To align medical practice with ethical standards and patient

dignity, Indonesia requires clearer definitions of medical futility, explicit procedures for treatment withdrawal, standardized documentation, ethics oversight for contested cases, and legal protection for healthcare providers acting in good faith.

Limitations. This article is normative and does not include empirical fieldwork. Future studies may incorporate policy mapping, stakeholder interviews, and analysis of dispute patterns to complement the doctrinal recommendations.

REFERENCES

- [1] T. L. Beauchamp and J. F. Childress, *Principles of Biomedical Ethics*, 8th ed. New York, NY, USA: Oxford Univ. Press, 2019.
- [2] J. Rawls, *A Theory of Justice*. Cambridge, MA, USA: Harvard Univ. Press, 1971.
- [3] H. L. A. Hart, *The Concept of Law*, 2nd ed. Oxford, U.K.: Clarendon Press, 1994.
- [4] J. Finnis, *Natural Law and Natural Rights*, 2nd ed. Oxford, U.K.: Oxford Univ. Press, 2011.
- [5] P. M. Marzuki, *Penelitian Hukum: Edisi Revisi*. Jakarta, Indonesia: Kencana, 2016.
- [6] S. Soekanto and S. Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta, Indonesia: Rajawali Pers, 2015.
- [7] M. Zed, *Metode Penelitian Kepustakaan*. Jakarta, Indonesia: Yayasan Obor Indonesia, 2014.
- [8] Y.-Y. Chen, S.-Y. Hung, J.-J. Huang, L.-F. Chou, and T.-J. Chen, "Trends in the use of do-not-resuscitate orders and outcomes of patients in intensive care units," *J. Formos. Med. Assoc.*, vol. 116, no. 1, pp. 72–78, 2017.
- [9] N. A. Halpern and S. M. Pastores, "Critical care medicine in the United States: Bed numbers, occupancy rates, and costs," *Crit. Care Med.*, vol. 38, no. 1, pp. 65–71, 2010.
- [10] G. Miccinesi et al., "Continuous deep sedation: Physicians' experiences in six European countries," *J. Pain Symptom Manage.*, vol. 31, no. 2, pp. 122–129, 2006.
- [11] B. H. Nathanson et al., "A revised method to assess intensive care unit clinical performance and resource utilization," *Crit. Care Med.*, vol. 35, no. 8, pp. 1853–1862, 2007.
- [12] D. Schulman-Green, "Physician reluctance to hospitalize at the end of life," *J. Palliat. Med.*, vol. 6, no. 3, pp. 363–369, 2003.
- [13] C. L. Sprung et al., "End-of-life decisions in the intensive care unit," *Crit. Care Med.*, vol. 47, no. 2, pp. 229–235, 2019.
- [14] D. P. Sulmasy, J. R. Sood, W. A. Ury, and G. McAgee, "The influence of prior healthcare experience and personal values on resuscitation choices," *J. Clin. Ethics*, vol. 14, nos. 1–2, pp. 47–54, 2003.
- [15] Republic of Indonesia, Law No. 17 of 2023 on Health, 2023.
- [16] Republic of Indonesia, Law No. 44 of 2009 on Hospitals, 2009.
- [17] Republic of Indonesia, Law No. 36 of 2009 on Health, 2009.
- [18] Ministry of Health of the Republic of Indonesia, Regulation No. 290/MENKES/PER/III/2008 on Medical Consent, 2008.
- [19] Indonesian Medical Council, *Indonesian Medical Code of Ethics*, 2012.
- [20] Ministry of Health of the Republic of Indonesia, *Indonesia Health Profile 2022*. Jakarta, Indonesia: MoH RI, 2022.