

**LEGAL PROTECTION FOR HEALTHCARE WORKERS
IN CRIMINAL MALPRACTICE CASES FROM THE PERSPECTIVE
OF LAW NUMBER 17 OF 2023 ON HEALTH**

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ABSTRACT

Providing quality healthcare is a state responsibility as mandated by Article 34(3) and Article 28H of the 1945 Constitution of Indonesia. However, malpractice issues in the healthcare sector remain a critical concern. This study aims to analyze the legal protection for medical and healthcare professionals accused of malpractice under Law Number 17 of 2023 on Health. It also examines the role of professional organizations in assisting their members in facing malpractice allegations in accordance with Article 440 of the law. Case studies on three legal matters highlight the importance of adherence to Standard Operating Procedures (SOPs) to protect patients from medical negligence. The findings reveal that although the law provides legal protection, its practical implementation often falls short. Therefore, public education, enhanced oversight, and regulatory improvements are necessary. Legal protection is not only intended to safeguard healthcare professionals but also to ensure justice and legal certainty for all parties involved.

Keywords: *Legal protection, healthcare professionals, Medical malpractice, Health Law 2023*

INTRODUCTION

Efforts to improve healthcare services in Indonesia are based on Article 34, paragraph (3) of the 1945 Constitution, which states that the state is responsible for providing adequate healthcare facilities.¹ The right to a healthy life is also regulated in Article 28A and Article 28H, paragraph (1) of the 1945 Constitution. Additionally, Law Number 36 of 2014 on Health Workers emphasizes the crucial role of health workers in improving public health as an investment in human resource development. Health workers are required to have high competency, pursue continuous education, obtain certification, and adhere to ethical and moral standards.² According to Article 1 of Law Number 17 of 2023 on Health, medical and health professionals have the authority to carry out health efforts in accordance with their educational level, including through national competency certification. However, in practice, issues of malpractice frequently arise. Malpractice is defined as negligence or deviation in professional services that cause harm to patients. Although the term is not explicitly regulated

¹ Undang-Undang Dasar Tahun 1945 Pasal 34 ayat 3

² Undang-Undang Nomor 36 Tahun 2014 Tentang Tenaga Kesehatan