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Evaluating Healthcare Safety Under Article 462 of Law 17 of 2023 in the Digital Health Transformation Era

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Abstract

Law Number 17 of 2023 concerning Health marks a massive transformation in Indonesian health law by consolidating a previously fragmented legal system into a single omnibus scheme. This study aims to comprehensively analyze these regulatory modifications, identify new legal strengths, and evaluate structural flaws within medical professional protection. Utilizing a normative-doctrinal legal research method with a qualitative-descriptive approach, this study examines the vertical and horizontal synchronization of legal materials governing healthcare occupational safety. The findings demonstrate that although the new statute expands normative rights and prioritizes restorative justice alongside upstream professional disciplinary screening, this integration is severely flawed by critical ambiguities in Article 462 Paragraph (1). The failure to define operational boundaries for medical negligence (*culpa levis* and *culpa lata*), combined with loose frameworks for cross-border data transfers and organ transplantation, undermines the principle of legal certainty. In conclusion, this legal ambiguity fosters anxiety over premature criminalization and drives inefficient defensive medicine practices, making the meticulous drafting of derivative regulations that safeguard clinical autonomy imperative.

Keywords

Health Workers, Legal Certainty, Legal Strengths, Medical Negligence, Medical Professional Protection, Omnibus Law.

1. Introduction

Indonesia is a nation founded upon constitutional principles, as explicitly mandated in Article 1 Paragraph (3) of the 1945 Constitution, which declares, “The State of Indonesia is a state based on the rule of law” (Constitution of the Republic of Indonesia, 1945). Within this framework, a core aspect of the rule of law is the guaranteed protection of human rights, which inherently encompasses the right to health. Health plays a pivotal role in achieving public welfare. The government is highly obligated to provide effective healthcare services through relevant regulatory and legal instruments (Widjaja, 2020). To achieve the optimal level of public health, the fulfillment of rights and legal protection for healthcare professionals constitutes an absolute prerequisite that cannot be neglected by the state.

Healthcare professionals are individuals committed to the medical sector, backed by expertise and skills developed through formal educational institutions. Working in hospitals involves significant physical and mental risks for healthcare workers; hence, it is essential to establish stringent regulations to provide adequate legal protection for these practitioners (Widjaja, 2020). Pursuant to Article 86 Paragraph (1) of Law Number 13 of 2003 concerning Employment, every worker is entitled to protection regarding occupational safety and health, moral and ethical rights, and treatment respectful of human dignity. This aligns with Article 57 letter d of Law Number 36 of 2014 concerning Healthcare Professionals, which defines professional rights and obligations to offer quality and ethical medical services. Comprehensive regulation is required to oversee practices, ensure occupational safety, and provide legal certainty balanced with their crucial role in healthcare delivery.

The crucial phenomenon underlying this research is the massive transformation in Indonesia’s health regulatory landscape through the enactment of Law Number 17 of 2023 concerning Health. This statute repealed previous legislation, namely Law Number 36 of 2009 concerning Health and Law Number 36 of 2014 concerning Healthcare Professionals, consolidating them into a single omnibus law scheme. On one hand, the Ministry of Health in 2023 states that this law expands the rights of medical and healthcare personnel, including guarantees for appropriate salaries, performance incentives, health insurance, employment insurance, and self-development opportunities through managing 28 new mandated fields. On the other hand, digitalized phenomena such as telemedicine have emerged, expanding patient access but introducing severe legal hurdles where practitioners require guarantees for data security, remote diagnosis clarity, and cross-regional practice licensing to work without fearing negative legal consequences.

Nevertheless, the implementation of this omnibus law concept faces severe challenges and opposition from various health organizations, which argue that the drafting process lacked public participation and transparency (Widhiantoro, 2021). Herein lies the critical research gap. Although the omnibus method is deemed effective and efficient for resolving policy conflicts, synchronizing central-regional government actions, and ensuring legal clarity, fatal ambiguities persist within its statutory provisions (Saragih & Hadiyanto, 2021). Article 462 Paragraph (1), which regulates criminal sanctions for healthcare professional negligence, is considered to lack formulation clarity. While Law Number 17 of 2023 claims to promote a restorative justice approach and expand welfare rights, the presence of this ambiguous negligence clause actually creates new legal uncertainty, potentially undermining the legal shield intended for medical practitioners. This discrepancy between integrative protection promises and criminalization threats requires deep normative legal evaluation.

Based on this gap, this study aims to comprehensively analyze and evaluate the regulatory modifications introduced in Law Number 17 of 2023 concerning Health. This research intends to uncover the new legal strengths brought by this statute

while identifying crucial flaws and weaknesses regarding healthcare worker protection, particularly concerning the negligence clause and occupational safety risks in the digital era. Through a normative legal perspective, this analysis is directed at mapping the extent to which these regulatory updates can genuinely provide optimal legal certainty for healthcare professionals.

The contributions of this study are divided into two primary aspects. This research enriches health law literature in Indonesia regarding the application of the omnibus law method to mitigate professional hazards and uphold clinical ethics to maintain public trust (Syamsul, 2024). This critical analysis is expected to offer constructive recommendations and inputs for the government, legislators, and policymakers to undertake necessary modifications, improvements, or additional statutory synchronization on ambiguous articles. Consequently, the existing regulations can guarantee optimal legal protection, occupational safety, and physical and psychological welfare for all healthcare professionals in Indonesia as they perform their humanitarian duties safely and responsibly.

2. Methods

This study is designed as normative (doctrinal) legal research utilizing a qualitative-descriptive approach to evaluate the regulatory shifts following the enactment of the health omnibus law. The research design focuses on analyzing textual structures and legal norms (*ius constitutum*) that specifically govern occupational safety rights and legal protection for healthcare professionals in Indonesia. Through this normative approach, the vertical and horizontal synchronization between regulations is thoroughly examined to detect the presence of statutory ambiguities or legal vacuums that could potentially trigger legal uncertainty amidst the current era of health transformation.

The data collection technique was conducted through a comprehensive documentary study and literature review of secondary data. This secondary data is classified into primary legal materials and secondary legal materials. The primary legal materials encompass Law Number 17 of 2023 concerning Health as the main object of study, which is critically compared with previously repealed legislations such as Law Number 36 of 2014 concerning Healthcare Professionals and Law Number 13 of 2003 concerning employment. Meanwhile, the secondary legal materials were gathered by reviewing legal textbooks, academic journals, ministry press releases, and prior research findings relevant to the issue of medical occupational safety.

The data analysis technique applied is qualitative content analysis using a descriptive-analytical method and legal interpretation techniques, particularly grammatical and systematic interpretations. The analytical process involves identifying, categorizing, and critically contrasting crucial articles that regulate the normative rights of healthcare workers against clauses containing criminal negligence sanctions. Utilizing deductive reasoning through legal syllogism, all dissected legal materials are subsequently synthesized into a logical conclusion to assess the extent to which the new legislative framework can genuinely provide solid legal certainty and optimal protection for the occupational safety of healthcare professionals in Indonesia.

3. Results and Discussion

3.1. The Taxonomy, Role, and Inherent Risks of Health Workers

Healthcare professionals constitute the fundamental backbone and the most critical asset of any national healthcare system (Salmond & Macdonald, 2021). They are not merely employees in the traditional sense; rather, they are individuals deeply committed to the health sector, possessing highly specialized knowledge, rigorous

clinical training, and distinct skills acquired through highly regulated educational pathways (Anand & Bärnighausen, 2012). The definition and categorization of healthcare professionals in Indonesia have undergone significant refinement to reflect the multidisciplinary nature of modern medicine. Under the comprehensive framework of Law Number 17 of 2023 concerning Health, the legal classification of healthcare workers is remarkably broad. This taxonomy explicitly encompasses clinical psychologists, nurses, midwives, pharmacists, public health workers, environmental health specialists, nutritionists, physiotherapists, medical technicians, biomedical engineers, and even officially recognized traditional healthcare providers. This study aligns with the argument put forward by the World Health Organization (2024), which posits that expanding the professional taxonomy within the health omnibus law directly broadens the spectrum of legal subjects that the state is obligated to protect.

Each of these professions operates within a highly specific and legally defined scope of practice, yet they remain entirely interdependent. Their collective duties span a broad continuum of care encompassing preventative, curative, rehabilitative, and palliative spectrums (Prima et al., 2025). This includes direct medical and clinical services, complex pharmaceutical formulation and distribution, public health education, epidemiological disease control, and occupational health management. By executing these multifaceted roles, healthcare workers play an indispensable role in upholding the public's constitutional right to health, a fundamental human right that the state is mandated to fulfill, protect, and respect. This condition resonates with the conceptualization of Fuady (2014), who asserts that the state's fulfillment of optimal healthcare rights can only be achieved if its executing agents, namely healthcare professionals, are granted equivalent guarantees of professional protection.

However, fulfilling this vital constitutional mandate places healthcare workers in an environment characterized by extreme vulnerability and constant exposure to hazards. The delivery of healthcare inevitably involves confronting significant physical and mental risks on a daily basis (Rosyanti & Hadi, 2020). As highlighted by Mawardika et al. (2025), these occupational hazards are multidimensional and severe. Biological hazards remain a constant threat, encompassing exposure to infectious diseases, blood-borne pathogens, and Novel viruses, a reality starkly demonstrated during global health emergencies such as the COVID-19 pandemic. Chemical hazards are equally prevalent, involving the routine handling of toxic pharmacological agents (such as chemotherapy drugs), hazardous sterilizing chemicals, and radioactive materials utilized in advanced diagnostics. This finding strongly aligns with an epidemiological study by Anindita (2024), which proves that high exposure to physical and biological hazards in Indonesian hospital environments correlates directly with decreased occupational safety for medical personnel.

Furthermore, healthcare workers face chronic ergonomic hazards, including the physical strain of manually lifting and transferring patients, enduring excessively long shifts on their feet, and performing repetitive manual procedures that frequently lead to debilitating musculoskeletal disorders (Siregar & Ed, 2025). And perhaps most insidiously, there are the psychological hazards. Healthcare professionals operate under exceptionally high levels of occupational stress, frequently battling burnout, compassion fatigue, and moral injury (Fahrepi, 2025). The emotional toll of managing critical care, delivering terminal diagnoses, witnessing patient deaths, and navigating family grief exacts a profound psychological toll. The legal framework must recognize these workers as more than service providers, but as vulnerable state assets requiring robust, multi-layered protection. This analysis is congruent with the perspective of Sentoso (2025), who emphasizes that weak legal protection following the transition to the new regulation

risks exacerbating the psychological burden and burden among medical practitioners due to heightened anxiety over criminalization.

3.2. Legal Paradigms in the Protection of Healthcare Workers

The protection of healthcare professionals must be understood through the intersection of general labor laws and specific medical jurisprudence. At a fundamental level, general workplace protection in Indonesia is governed by Law Number 13 of 2003 concerning Employment. This overarching statute serves to uphold the principles embedded within Article 27 Paragraph (2) of the 1945 Constitution, which explicitly dictates that every Indonesian citizen has the right to work and to a standard of living appropriate for human dignity. For healthcare professionals, achieving an “appropriate standard of living” is intrinsically dependent upon a working environment that is safe, secure, and legally protected. This study aligns with the premise established by Armeilia (2021), which posits that the right to occupational safety for medical practitioners must not be decoupled from the universal Normative labor rights guaranteed by the constitution.

A non-negotiable and essential component of a functioning and resilient health system is the specific protection of its workforce. Fostering a secure environment that encompasses physical safety and professional autonomy is crucial for cultivating public trust. When healthcare workers feel legally and physically secure, the quality of care naturally rises, medical errors are minimized, and overall patient outcomes are significantly enhanced (Khatri et al., 2006). The specific rights, obligations, and protections of healthcare professionals were regulated under the fragmented framework of Law Number 36 of 2014 concerning Healthcare Professionals. While foundational at the time, this legacy legislation was increasingly viewed as inadequate to shield practitioners from contemporary legal, technological, and occupational hazards (Misranto & Taufik, 2018). This observation aligns with the findings of Musnimar (2019), who asserts that prior sectoral regulations failed to mitigate modern medical disputes because they lacked an integrated, end-to-end legal shield for practitioners.

Under the omnibus framework of Law Number 17 of 2023 concerning Health, the Normative rights of healthcare professionals have been explicitly redefined, consolidated, and expanded. Under this contemporary legal regime, healthcare workers are granted a fundamental right to absolute legal protection, contingent upon the condition that they execute their duties strictly in accordance with recognized professional standards, institutional Standard Operating Procedures (SOPs), and established professional codes of ethics (Sinaga & Zaluchu, 2017). This analysis concurs with the argument formulated by Rahman and Sapsudin (2025), stating that consolidating regulations through an omnibus scheme shifts the legal protection paradigm from a defensive-partial approach to a more integrated codification.

Furthermore, this statute expands several critical rights that directly impact the day-to-day realities of medical practice. First, healthcare workers are granted the right to receive accurate and honest patient information to prevent fatal misdiagnoses that trigger malpractice claims. Second, the law mandates fair remuneration and welfare through performance-based incentives (Faisal & Arief, 2024). Third, it guarantees comprehensive occupational safety protections, and finally, it codifies the profound right of refusal to safeguard the ethical autonomy of practitioners (Putri et al., 2025). This finding strongly aligns with the study by Ansyah and Nasution (2023) and Iskandar (2023), which emphasizes that adding Number entitlements, such as the right of refusal and the right to honest patient information, represents a significant statutory leap in balancing field vulnerabilities.

3.3. Structural Revisions of Health Worker Protection

The enactment of Law Number 17 of 2023 marks a monumental paradigm shift in Indonesian health law. Utilizing the legislative omnibus method, the government aimed to consolidate, align, and streamline regulations that had been overlapping and occasionally conflicting for several decades. In doing so, Law Number 17 of 2023 systematically repealed and integrated numerous standalone sectoral laws that previously governed the medical landscape, including specific statutes on Midwifery, Nursing, Hospitals, and Medical Practice. The primary legislative objective behind this massive consolidation was to eliminate bureaucratic redundancies, foster inter-professional collaboration, and establish a single, unified legal umbrella governing the entire healthcare ecosystem (Putra et al., 2025). This study aligns with the research by Rachmadi (2025), which asserts that the omnibus law method in the Health Law successfully integrates previously fragmented legal codifications to optimize bureaucratic efficiency.

A core focus of this comprehensive reform is the enhanced protection of medical personnel from workplace violence, verbal harassment, and unwarranted legal challenges, issues that have seen an alarming increase in recent years. The statute introduces a highly structured and tiered approach to dispute resolution to prevent the immediate and unjust criminalization of well-meaning healthcare workers. Under the new provisions, if a medical dispute or malpractice allegation arises, the mandatory initial step is to report the incident to the Professional Disciplinary Council. This council acts as a specialized, expert-led filter to determine whether the issue stems from an ethical breach, an administrative error, or a genuine deviation from medical standards. This mechanism resonates with the argument of Merry et al. (2025), who state that involving professional disciplinary bodies as an initial filter serves as a progressive step in mitigating premature criminalization against medical personnel.

Furthermore, in cases where criminal activity or gross negligence is alleged, the updated legal framework mandates that dispute resolution must prioritize a restorative justice approach. Restorative justice within the medical context represents a progressive shift away from punitive and retributive actions toward mediation, reconciliation, and mutual understanding between healthcare providers and patients or their families. This approach recognizes that the vast majority of adverse medical events are not malicious but are inherent complications of complex biological interventions. This finding strongly aligns with the perspective of Salsabila and Marsal (2025), which posits that prioritizing restorative justice pathways in settling medical disputes provides a more humanistic realm of justice while maintaining the overall stability of healthcare delivery.

Beyond dispute resolution, the updated law places a much stronger, codified emphasis on professional ethics. It introduces robust new provisions regarding the autonomy of medical practitioners, specifically the right to terminate or refuse to initiate healthcare services if the requested care explicitly violates ethical codes, professional standards, or broader humanistic values. This empowers healthcare workers to stand firm against unreasonable patient demands such as requests for medically unnecessary procedures or the over-prescription of controlled substances, thereby preserving the integrity of the medical profession and protecting practitioners from subsequent legal liability. This analysis is congruent with the conclusions of Salsabila and Marsal (2025), who emphasize that strengthening ethical autonomy and the right of refusal for practitioners is not merely an instrument of professional protection but a vital fortress defending clinical integrity from non-medical intervention.

3.4. Critical Issues, Ambiguities, and Controversies Surrounding

Despite its numerous intentions to streamline healthcare delivery and enhance workforce protection, Law Number 17 of 2023 is numbered without profound

controversies and significant legal flaws. Even prior to its formal enactment, the Health Bill faced intense and widespread opposition from various sectors, primarily due to an allegedly rushed legislative process marked by inadequate public consultation and a lack of meaningful participation from key stakeholders. Critics, including major medical associations, argued forcefully that the legislation centralizes overly hegemonic powers within the Ministry of Health. This centralization is perceived to severely undermine the independence, authority, and self-regulatory capacity of well-established professional organizations, such as the Indonesian Medical Association and the Indonesian Medical Council, which have historically governed medical standards and ethics. This study aligns with the findings of Faisal and Arief (2024), who highlight that diminishing the role of professional organizations in the new regulation potentially creates excessive bureaucratization that compromises the autonomy of the medical profession.

Although the Constitutional Court ultimately rejected the formal judicial review aimed at invalidating the law in its entirety, the substantive content of the statute continues to pose serious problems that threaten the very professionals it claims to protect. The most glaring and widely criticized provision is Article 462 Paragraph (1), which stipulates that healthcare professionals can face severe criminal penalties for acts of negligence that result in patient injury. A critical flaw within this article is the absolute lack of clear and definitive legal guidelines defining what actually constitutes “negligence” within the complex and unpredictable realm of clinical medicine. This observation aligns with the argument of Faisal and Arief (2024), who posit that without clear operational boundaries regarding medical errors, criminal provisions in the health sector are highly vulnerable to becoming tools for unjust criminalization.

In legal doctrine, particularly within medical jurisprudence, it is crucial to distinguish between *culpa levis* (ordinary negligence or an honest mistake) and *culpa lata* (gross negligence or a reckless disregard for patient safety). Article 462 completely fails to establish this differentiation. This conspicuous lack of clarity entirely fails to provide legal certainty. Instead of protecting healthcare workers, it fosters an environment of fear and paranoia, threatening their continued protection and inevitably leading to the practice of “defensive medicine,” wherein physicians order excessive, unnecessary, and costly tests solely to shield themselves from potential lawsuits rather than for the patient’s clinical benefit. This finding strongly aligns with the analysis by Iskandar (2023), which emphasizes that the failure to separate gradations of negligence in health regulations drives widespread defensive practices that ultimately burden patient financing.

Furthermore, the statute introduces modern provisions that, while forward-looking, are fraught with ethical and legal hazards. The issue regarding international patient data transfer (Article 349) has drawn severe criticism from privacy advocates and legal scholars. In an era where Genomic data and digital health records are highly valuable commodities, the loose regulatory framework surrounding cross-border data transfer raises severe alarms regarding data privacy breaches, violations of medical confidentiality, and the loss of national data sovereignty. Healthcare workers utilizing telemedicine platforms or international consultation networks are left in a precarious legal gray area regarding their liabilities in the event of a data breach. This analysis concurs with the perspective of Ansyah and Nasution (2023), who state that health digitalization without strict data sovereignty regulations places medical personnel in a vulnerable position as the party blamed when patient data leaks occur.

Equally alarming are the provisions concerning organ transplantation (Article 125). While the law attempts to modernize the regulatory framework for life-saving tissue and organ donation, critics argue that the language is insufficiently stringent to prevent exploitation. Human rights organizations and medical ethicists have

warned that without rigid, transparent, and strictly enforced safeguards, this provision carries severe risks of facilitating organ trafficking and the commercialization of human body parts, particularly exploiting economically vulnerable populations. Healthcare workers involved in transplant medicine require absolute, airtight legal parameters to ensure they participate in highly ethical, life-saving procedures without the risk of inadvertently becoming entangled in illicit networks. This condition resonates with the study by Putri et al. (2025), which urges the necessity of airtight derivative bioethical rules to shield transplant practitioners from the snares of international organ trafficking syndicates.

In conclusion, while Law Number 17 of 2023 undeniably introduces essential modernization and consolidates a fragmented health legal system, its current form contains critical ambiguities. The failure to clearly define medical negligence, coupled with controversial data and bioethical provisions, severely undermines the promised legal certainty. To ensure genuine occupational safety and legal protection for medical personnel in this era of health transformation, it is imperative for the government to meticulously draft derivative regulations to clarify these boundaries, protect professional autonomy, and secure the ethical practice of medicine in Indonesia. This matches the recommendation of Rachmadi (2025), who asserts that upstream legal certainty will never materialize without implementing regulations (government regulations) that favor clinical justice and professional protection.

4. Conclusion

This study demonstrates that Law Number 17 of 2023 significantly expands the normative rights of healthcare professionals through regulatory unification and the prioritization of a restorative justice framework. However, this statutory integration is severely hindered by critical ambiguities in Article 462 Paragraph (1), which fails to distinguish between gradations of medical negligence (*culpa levis* and *culpa lata*). The absence of clear operational parameters, coupled with loose regulatory provisions surrounding international data transfers and organ transplantation, inadvertently undermines the promised legal certainty. Consequently, this systemic ambiguity risks triggering heightened anxiety over premature criminalization and accelerating the widespread practice of defensive medicine, which inherently burdens patient financing. If left unresolved, these regulatory gaps may weaken healthcare professionals' trust in the legal system and reduce the effectiveness of the law in achieving its intended balance between patient protection and professional accountability. Therefore, further implementing regulations and clearer interpretative guidelines are essential to ensure consistent legal enforcement and greater certainty for all stakeholders in the healthcare sector.

The primary limitation of this research lies in its strictly normative-doctrinal approach, which cannot capture empirical law enforcement dynamics or the practical impacts of the statute on regional healthcare facilities. Therefore, future research should pursue empirical and socio-legal studies to evaluate the operational efficacy of the Professional Disciplinary Council. Furthermore, analytical focus must be directed toward the synchronization of derivative government regulations that adapt to genomic data protection and clinical autonomy, which is imperative to guarantee comprehensive occupational safety for medical practitioners in the digital health transformation era.

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Data Disclosure Statement

The data that support the findings of this study are available from the corresponding author upon reasonable request.



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