

Legal Protection of the Right to Patient Safety in Obstetric and Gynecological Medical Services

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Abstract: This article analyzes the concept of authority and the right to patient safety in obgyn medical services for legal protection for health human resources, patients, and the community. The purpose of the study is to analyze the legal protection of the concept of clinical authority and the right to patient safety in obgyn medical services in Indonesia, using normative juridical research with a legislative approach, conceptual approach, and comparison of secondary data in the form of regulations, Constitutional Court Decisions, books, legal magazines, articles and journals. The results and discussion state that the concept of health service authority is implemented through the determination of clinical authority by the head of the health facility, and Obgyn Doctors are authorized in medical services based on health service standards, medical service standards, and standard operating procedures. Protection of the right to patient safety in obgyn medical services is related to its function as a legal principle and basic norms of health services in accordance with the rights and obligations of medical personnel and patients in a safer patient service system, including risk assessment, risk identification and management, reporting, incident analysis, learning from incidents and follow-up, and solutions to minimize risks and prevent injuries.

Keywords: Patient Safety; Health Service Authority; Obstetrics and Gynecology; Medical Services

1. Introduction

Indonesia as a state of law seeks to provide protection of citizens' human rights in the constitution and system of laws and regulations. Health as one of the important aspects of people's lives needs social control in order to provide protection and agents of transformation,¹ through the regulation of the right to health services to implement the commitment of Article 28H of the 1945 Constitution of the Republic of Indonesia in conjunction with Article 34 paragraph (3) in conjunction with Article 26 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This state commitment is realized in the form of the government's responsibility to provide proper health care facilities through the administration of government affairs. Law Number 17 of 2023 on Health (hereinafter referred to as Health Law 2023) consists of nomostatic aspects and nomodynamic aspects,² formed to implement the staatsgrondgezet's commitment of the 1945 Constitution and the staatsfundamenteelnorm Pancasila,³ regarding the right to health services in Indonesia.

Health care is one type of public service, the nomostatic aspect regulates the mutual obligations and rights between providers and recipients of health services in the bond of

¹ Ahmad Ramli and Tasya Safiranita Ramli, *Hukum Sebagai Infrastruktur Transformasi Indonesia* (Bandung: PT. Refika Aditama, 2022), 23

² Jimly Asshiddiqie and Ali Safa'at, *Teori Hans Kelsen tentang Hukum* (Jakarta: Sekretariat Jenderal & Kepaniteraan Mahkamah Konstitusi Republik Indonesia, 2006), 25

³ Maria Farida Indrati S, *Ilmu Perundang-undangan: Jenis, Fungsi, dan Materi Muatan* (Yogyakarta: PT. Kanisius, 2020), 59

therapeutic contracts concerning the clinical authority of Patient Care Providers and patient rights with protection of patient safety. Authority in health services and the right to patient safety are in two different poles, mutually influencing, bound, and related to one another but must be implemented in a balanced manner in order to realize the goal of proper health services for the community.

Patient safety is a framework that generates a culture, processes, procedures, behaviors, technology, and environment within the health care setting to consistently reduce risk, reduce the occurrence of hazards and errors that can lead to events or situations of potential injury to patients that should not occur, including Nyaris Cedera (KNC), Kejadian Tidak Diharapkan (KTD), Kejadian Tidak Cedera (KTC), dan Kejadian Potensial Cedera (KPC). Patient safety is a critical issue in health care that requires appropriate attention and follow-up.

Patient safety acts as an important aspect of health care that requires legal protection. Patient safety is a principle of health law that not only serves as a framework for health services in identifying, managing risks, analyzing, reporting, and solving problems to prevent and treat adverse patient events, patient safety is the highest law (*aegroti salus lex suprema*),⁴ that must animate health services. Patient safety implemented in accordance with standardized service operational procedures, input standards, processes, outputs, and integrated in health services can improve the quality of health services and good clinical governance systematically, effectively and efficiently.⁵ This patient safety framework aims to avoid or minimize Insiden Keselamatan Pasien (IKP).

Every Patient Safety Incident must be reported to the immediate supervisor through the incident report form within a maximum period of 2X24 hours to be examined, determined the level of risk, handling efforts, and minimization of similar events. All hospital staff, not limited to Nurses or Medical Personnel who first discover an incident or are involved in an incident are required to report incidents so that they can be handled immediately to reduce unexpected impacts. WHO noted that in 2021 in low and middle income countries there will be 134 million undesirable events experienced by patients in hospitals, and based on the Patient Safety Incident Data Report in hospitals in Indonesia throughout 2021 there were 2272 incidents with 301 of them being manrisk caused by clinical procedures and 94 incidents due to patient behavior.⁶

Clinical procedure incidents refer to untoward events or situations in the service of medical/clinical procedures, including errors in medical interventions, incorrect or delayed diagnoses, medical actions on inappropriate body parts, or other matters due to non-compliance with established procedures. Incidents related to patient behavior include a wide range of patient actions that may interfere with or jeopardize the care process, including physical or verbal aggression towards the Patient PPA, damage to healthcare facilities, and uncooperative or resistant behavior. These problematic patient behaviors not only jeopardize the physical and mental safety of patient caregivers but can also disrupt the care environment, reduce the quality of care, and can extend the duration of care.

⁴ Makmur Jaya Yahya, *Pelimpahan Wewenang & Perlindungan Hukum Tindakan Kedokteran kepada Tenaga Kesehatan dalam Konteks Hukum Administrasi Negara* (Bandung: PT. Refika Aditama, 2020), 22

⁵ Wiku Adisasmito, *Kebijakan Standar Pelayanan Medik dan Diagnosis Related Group (DRG), Kelayakan Penerapannya di Indonesia* (Jakarta: Fakultas Kesehatan Masyarakat Universitas Indonesia, 2008), 14

⁶ Inge Damanti, Sigit Adi Saputra, Antonius Yansen Suryadrama, and Teofus Immanuel, *Report: Insiden Keselamatan Pasien di Indonesia Tahun 2021*, (Jakarta: Center of Excellence fo Patient Safety dan Quality, 2021), 10-12

We often encounter patient safety incidents caused by clinical procedures, such as incidents of cutting off the baby's little finger during IV insertion, scissors left in the patient's stomach after surgery, and medical errors on inappropriate body parts. These incidents are fatal, can cause permanent disability, as well as physical, material, and spiritual losses for patients and/or their families, but the lack of public understanding of health service standards and procedures often leads to misconceptions in interpreting IKP as just a common occurrence, understandable, which in turn leads to repetition of incidents. Repeated and protracted IKP can have a negative impact on the quality of health services, decreased public confidence in health services, and constitutionally not in accordance with the 1945 Constitution's commitment to provide protection of the right to proper health service facilitation to the community.

Previously there was a similar article discussing patient safety in health services written by Liza Salawati.⁷ This article explores the implementation of patient safety in hospitals according to the types, standards, objectives, implementation, and reporting of patients using the source of legal material of the Regulation of the Minister of Health of the Republic of Indonesia Number 11 of 2017 concerning Patient Safety. At first glance, Liza Salawati's article has a similar theme with this research, but when examined further, there are significant and real differences with this research in terms of the research focus and legal sources used. First difference, the focus of Liza Salawati's research seeks to discuss the implementation of the patient safety system in the form of standards, measures, targets, implementation, and reporting of patient safety incidents, while the focus of this research is on patient safety as seen from the nomostatic aspect in the legal relationship between providers and recipients of health services in the form of the authority of professionals providing patient care and the right to patient safety, especially in obstetric and gynecological health services in Indonesia. The second difference is that the legal sources used to analyze the problems in Liza Salawati's research use the legal source of the Regulation of the Minister of Health of the Republic of Indonesia Number 11 of 2017 while this study uses several references to reference legal sources, such as the 1945 Constitution of the Republic of Indonesia, the Decision of the Constitutional Court of the Republic of Indonesia Number 82/PUU-XII/2015, the latest health law: Law Number 17 of 2023 concerning Health, Regulation of the Minister of Health of the Republic of Indonesia Number 11 of 2017, as well as several other Regulations and Decrees of the Minister of Health that have relevance to the issues in the study.

Here it is clear that Liza Salawati's research focuses on the implementation of patient safety in hospitals according to the types, standards, objectives, implementation, and reporting of incidents using the source of legal material of the Regulation of the Minister of Health of the Republic of Indonesia Number 11 of 2017. Liza Salawati's research provides ansich discussion on patient safety norms, but not in the frame of the reciprocal legal relationship between the authority of patient care providers and the right to safety, so that it has not been able to provide an understanding of the concept of authority / rights in order to protect the legal right to patient safety in realizing health service goals. Moreover, Liza Salawati's research currently does not fulfill the element of novelty because with the enactment of Law No. 17 of 2023 which is sourced from the Decision of the Constitutional Court of the Republic of Indonesia Number 82 / PUU-XII / 2015 concerning Material Test of Law No. 36 of 2014 against the 1945 Constitution of the Republic of Indonesia, the legal concept of the authority of Medical Personnel is medical services and Health Personnel is health services is different from the legal concept of the previous health law. The research

⁷ Liza Salawati. (2020). "Penerapan Keselamatan Pasien Rumah Sakit". *Jurnal Averrous* 6, no. 1: 98-107. <https://doi.org/10.29103/averrous.v6i1>

gap between Liza Salawati's research and this research is the basis why research on "Legal Protection of the Right to Patient Safety in Obstetric and Gynecological Medical Services" needs to be carried out.

A series of activities in health services at health care facilities are carried out in accordance with the needs of patients directly proportional to the availability of medical personnel, health workers, supporting infrastructure, and the level of health care facilities. The selection of research themes on obstetrics and gynecology specialty health services is related to health service trends and the carrying capacity of these services for sustainable national development (Sustainable Development Goals / SDGs) towards golden Indonesia 2045.⁸ Obstetrics and gynecology (obgyn) services in Indonesia are included in the group of basic hospital specialty health services,⁹ related to obstetric aspects of pre-pregnancy, pregnancy, childbirth, postpartum period, contraceptive services,¹⁰ and gynecological services.¹¹

The purpose of this research is to find out about The Legal Concept of Authority in Health Services and Legal Protection of Patient Safety in Obstetrics and Gynecology Medical Services in Indonesia. Understanding the legal concept of authority in health services is carried out through the determination of clinical authority by the leadership of health facilities based on health service standards, medical service standards, and standard operating procedures. Protection of the right to patient safety in obgyn medical services is related to its function as a legal principle and basic norms of health services according to the rights and obligations of medical personnel and patients in a safer patient service system, including risk assessment, risk identification and management, reporting, incident analysis, learning from incidents and follow-up, and solutions to minimize risk and prevent injury.

2. Method

This article uses a conceptual approach and a statutory approach to formulate the legal concept of authority in health services and analyze the right to patient safety in obstetric and gynecological specialty medical services in accordance with the constitutional commitment to the right to health services and the facilitation of proper health services for the community in the legal system of Law Number 17 of 2023 and reference to the Decision of the Constitutional Court of the Republic of Indonesia Number 82/PUU-XII/2015. The data sources that support the arguments in this article were collected from various reliable sources, including the Universal Health Coverage 2024 Analysis Report, the Report of the Ministry of Health of the Republic of Indonesia in the Indonesian Health Profile in 2024, and the Performance Report of the Center for Health Efforts Policy. Comparative law was also used in the research to obtain an overview of the concept of authority in health services in the

⁸ Badan Perencanaan Pembangunan Nasional. (2023). *SDGC adalah Pokok Penting Acuan Mencapai Indonesia Emas 2045*. Available from: <https://sdgs.bappenas.go.id/sdgs-adalah-pokok-penting-acuan-mencapai-indonesia-emas-2045/>. [Accessed May 20, 2025]

⁹ Pasal 8 ayat (4) Peraturan Menteri Kesehatan Republik Indonesia Nomor 3 Tahun 2020 tentang Klasifikasi dan Perizinan Rumah Sakit. BN.2020/No.21

¹⁰ Peraturan Menteri Kesehatan Republik Indonesia Nomor 21 Tahun 2021 Tentang Penyelenggaraan Pelayanan Kesehatan Masa Sebelum Hamil, Masa Hamil, Persalinan, dan Masa sesudah Melahirkan, Pelayanan Kontrasepsi, dan Pelayanan Kesehatan Seksual

¹¹ Nani Wardani. (2024). *Mengenal Poli Obgyn dan Bedanya dengan Obstetri&Ginekologi*. Available from: <https://www.haibunda.com/kehamilan/20240806104713-49-344231/mengenal-poli-obgyn-dan-bedanya-dengan-obstetri-ginekologi>. [Accessed May 18, 2025]

Netherlands and Japan, which represent developed countries with the best health care systems.

3. Results and Discussion

3.1 The Legal Concept of Authority in Obstetrics and Gynecology Health Services in Indonesia

Legal Concept of Health Services in Indonesia

Discussing health from a legal perspective cannot be separated from the function and purpose of law to provide protection to the community. Law and health, although actually two different disciplines in terms of both theory and practice, are related to each other. Health as a social phenomenon requires social control to create order and order. The purpose of law in this case is as social engineering to realize the purpose of law (idea of law/rechtsidee) in maintaining social order and social order (legal order) in society,¹² contains norms, orders, prohibitions, and sanctions established by the power (state) in regulating the traffic of health services in Indonesia. Health law is an epic collaboration of law and health science, forming a variant of legal science with special characteristics that are different from the pure disciplines of law and health science itself. Health law has its own type of character,¹³ is sui generis,¹⁴ and unique,¹⁵ where the rules / norms it regulates are not only in one realm of legislation but are scattered in other legal institutions, but still must be able to provide public protection by emphasizing the value of "should" (das sollen) and regulated in a legal provision.¹⁶

Health in general is a human right that is protected by law, and in Indonesia health is also one of the constitutional rights of citizens that receive constitutional protection.¹⁷ Article 28H of the 1945 Constitution provides protection of the right to health services to the community, and in Article 34 paragraph (3) of the 1945 Constitution regulates the responsibility of the state to provide adequate health care facilities for the community. Facilitation of the state's responsibility for the adequacy of health services in accordance with Article 26 paragraph (3) of the 1945 Constitution of the Republic of Indonesia is implemented through the government's authority to form laws and regulations to regulate rights and obligations, about what things must, may, or are prohibited.¹⁸ The nature of law is an order,¹⁹ which must be separated from other values, including the value of justice,²⁰

¹² I Nyoman Nurjaya. (2019). "Memahami Kapasitas Hukum Adat Dalam Politik Pembangunan Hukum Nasional". Makalah dipresentasikan dalam Kuliah Tamu Program Magister Ilmu Hukum Fakultas Hukum Universitas Mulawarman Samarinda tanggal 6 Desember 2019

¹³ Wulandari *et al.* (2023). "Sui Generis System: GI Protection for the Herbal Product in Indonesia as Communal Property Right". *Cogent Social Sciences Journal* 9, no. 2176989. <https://doi.org/10.1080/23311886.2023.2176989>

¹⁴ Takdir, *Pengantar Hukum Kesehatan* (Palopo: Lembaga Penerbit Kampus IAIN Palopo, 2018), 4

¹⁵ Mohammad Jamin. (2018). "Hukum adalah Disiplin Ilmu Sui Generis: Kajian Perspektif Filsafat Ilmu". *Journal of Law, Society, and Islam Civilization* 5, no. 2: 1-16. <https://doi.org/10.20961/jolsic.v5i2.50561>

¹⁶ Abdul Hajar Anwar. (2023). "Pendidikan The Pure Theory of Law: Hans Kelsen Dalam Bidang Ilmu Hukum". *Jurnal Ensiklopediaku* 5, no. 1: 144-145. <http://jurnal.ensiklopediaku.org/>

¹⁷ A. Ahsin Thohari, *Hak Konstitusional dalam Hukum Tata Negara Indonesia* (Jakarta: Erlangga, 2016), 14-15

¹⁸ Jimly Asshiddiqie and Ali Safa'at, *Teori Hans Kelsen Tentang Hukum*, (Jakarta: Sekretariat Jenderal & Kepaniteraan Mahkamah Konstitusi RI, 2006), 118

¹⁹ Munir Fuady, *Teori-Teori Besar (Grand Theory) dalam Hukum* (Jakarta: Kencana, 2023), 68

²⁰ Atip Latipulhayat. (2016). "Khazanah: John Austin. *Journal of law* 3, no. 2: 436-447. <https://jurnal.unpad.ac.id/pjih/article/view/11566>

and the power to form laws must be in accordance with the principles of the formation of proper laws and regulations,²¹ so that they have practicability (*geltung*) and validity.²²

The establishment of health law in order to implement the constitutional commitment of Article 28H of the 1945 Constitution of the Republic of Indonesia and the responsibility of the state as stated in Article 34 paragraph (3) of the 1945 Constitution of the Republic of Indonesia to facilitate proper health services for the community,²³ is currently implemented through the legal system of Law Number 17 of 2023. The background of the formation of Law Number 17 of 2023, as in the academic paper,²⁴ is for legal transformation through laws and regulations that are formulated clearly, firmly, synchronously, and consistently so that they are easy to understand, implement, and can adapt to the needs of the community.²⁵ The concept of transformation in the legal system of this health law can be seen from the technique of forming laws using the omnibus method which has abolished several previous health laws at once and reorganized them in one comprehensive system of laws,²⁶ which then becomes one source of law in the administration of health in Indonesia.

Health is complete physical, mental, and social well-being, not just the absence of disease or weakness,²⁷ and to achieve public health, health efforts are made to maintain and improve the degree of public health in a promotive, preventive, curative, rehabilitative, and/or palliative manner through health services. The commitment of health services is feasibility, namely the facilitation of quality health services, which in the sense of Universal Health Coverage relates to easy access to health services for all groups including vulnerable groups according to community needs. Health services are carried out continuously and sustainably from time to time to realize national development goals. A healthy generation is the basic capital for the development and resilience of the nation. For this reason, health services need to be managed and utilized as well as possible using optimal health resources.

Health Legal System: Learning from Other Countries Experiences

Healthcare systems vary from country to country, and are generally implemented according to government policies and programs. The direction of the health system in developing countries is generally still focused on handling obstacles and challenges to improve the quality of health services, while the health system in developed countries is more likely to pay attention to aspects of modification and innovation in health services. The benchmark for the quality of global health services in the universal health coverage system is the ease of access to public health services that can be enjoyed by all levels of society, especially the vulnerable groups according to health needs, not on the ability to pay.

²¹ Maria Farida Indrati S, *Ilmu Perundang-Undangan 2: Proses dan Teknik Penyusunan*, (Yogyakarta: PT. Kanisius, 2020), 322

²² Maria Farida Indrati S, *Ilmu Perundang-Undangan 1: Jenis, Fungsi, Dan Materi Muatan* (Yogyakarta: PT. Kanisius, (2020), 40

²³ Cristy Edotry Torry Karwur, *et al.* (2024). "Pemenuhan Hak Memperoleh Kesehatan Ditinjau Dari Pasal 28H ayat (1) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945". *Jurnal Lex Privatum* 13, no. 2: 1-12. <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/54002>

²⁴ Rizal Irfan Amin, Riska Ulfasari Dewi, and Tegar Satrio W. (2020). "Omnibus Law antara Desiderata dan Realita: Sebuah Kajian Legislative Intent". *Jurnal Hukum Samudra Keadilan* 15, no. 2: 190-209. <https://doi.org/10.33059/jhsk.v15i2.2729>

²⁵ Dewan Legislasi DPR RI, *Naskah Akademik Rancangan Undang-Undang Tentang Kesehatan* (Jakarta: Badan Legislasi Dewan Perwakilan Rakyat Republik Indonesia, 2023), p. 24

²⁶ Bayu Dwi Anggara. (2020). "Omnibus Law sebagai Teknik Pembentukan Undang-Undang: Peluang Adopsi dan Tantangannya dalam Sistem Perundang-Undangan Indonesia". *Jurnal Rechtsvinding Pembinaan Hukum Nasional* 9, no. 1: 17-35. <http://dx.doi.org/10.33331/rechtsvinding.v9i1.389>

²⁷ World Health Organization. International Conference of Human Right. (1948)

The government's responsibility in health services is organized in a health system formed by the health law system. In the practice of health services in Indonesia, health efforts often encounter various obstacles and challenges that require certain efforts and strategic steps to overcome them. Strategies for handling obstacles and challenges in health services are generally tailored to the conditions of the country and the characteristics of the problems faced, or may be able to see and learn from the experiences of constitutions, health systems, and health service practices in other countries.

Healthcare systems vary from country to country, and are generally implemented according to government policies and programs. The Netherlands represents the European continent with excellence in conservative primary care systems and Japan represents the Asian continent with high life expectancy levels, perhaps the right representatives to describe the work of the best health care systems in the world, hopefully with these insights we can learn to improve the quality of health services, especially in Indonesia. At the constitutional level, the Netherlands and Japan also provide constitutional protection of people's rights to health services by placing responsibility on the government to organize proper health services. According to the research records of the Euro Health Consumer Index in 2014 alone, the Netherlands has been ranked as "the best healthcare system in Europe" which indicates that there are almost no gaps in health services, patient rights, providing information to patients / families, accessibility to health services, waiting time for services, disease prevention, recovery rates, types of services provided, and access to drugs can be implemented properly,²⁸ because in the Netherlands every citizen is required to have a family doctor (*huisarts*) and health insurance.²⁹ Family doctors are general practitioners who have completed six years of general medical training and three years of specialized training, can function as primary health care providers who will provide referrals to specialists or advanced health care facilities according to patient needs. One of the advantages of health care in the Netherlands is the strengthening of the quality of primary care with a conservative approach to minimize the use of antibiotics and increase promotive and preventive services through a healthy lifestyle. In connection with universal health coverage, every citizen is required to have a citizen service number (BSN) to enroll in basic package insurance (*Basis Verzekering*) with a *restitutie* claim form or in-kind policy on benefits: visits to general practitioners, obstetricians and midwives, hospital care, certain drugs and medical aids, dental care up to the age of 18, nutritional/dietary care, mental health services, and other healthcare packages. Every citizen living in the Netherlands for at least 6 months must be enrolled in the basic insurance package, otherwise they risk retroactive fines.³⁰

Japan's health administration system consists of three levels: the central government, 47 prefectures, and 1,718 municipalities, and the Ministry of Health, Labor and Welfare (MHLW) plays an important role in establishing basic health principles and laws. The central government sets the national health policy, and local governments implement the central government's policies on basic health and welfare services such as maternal, child, and

²⁸ Kompasiana. *Negara Mana yang Mempunyai Sistem Kesehatan Terbaik di Eropa?*. (2015). Available from: <https://www.kompasiana.com/tesa.sitorini/562477cad47a61840506ad81/negara-mana-yang-mempunyai-sistem-kesehatan-terbaik-di-eropa>. [Accessed May 22, 2025]

²⁹ I Amsterdam. *Understanding the Dutch Healthcare System*. (2023). Available from: <https://www.iamsterdam.com/en/live-work-study/living/healthcare-insurance/understanding-the-dutch-healthcare-system>. [Accessed May 23, 2025]

³⁰ I Amsterdam. *Health Insurance in the Netherlands*. (2024). Available from: <https://www.iamsterdam.com/en/live-work-study/living/healthcare-insurance/health-insurance-in-the-netherlands>. [Accessed May 25, 2025]

elderly health services, while prefectures coordinate activities among municipalities.³¹ Japan's healthcare system is financed by taxes and individual contributions, and healthcare financing rates are set by a political committee with healthcare specialists. Two important characteristics of the Japanese healthcare system are the universal health insurance system and free access to healthcare.³² The Japanese government gives people the freedom to choose where to go for health care services at doctors, clinics, or first-level health care facilities, or directly to hospitals and tertiary health care services without a referral letter, at a relatively high additional cost.³³ This model of access to health services is no longer oriented towards disease and insurance status, but rather on the protection of the right to access health services. This freedom of access to health care does not seem to provide a clear boundary between primary, secondary, and tertiary health care, causing the performance of primary health care to not be accurately measured. Regarding health insurance, all Japanese citizens must join a health insurance scheme according to employment status, residence, and age. Although there are thousands of independent insurance companies, all are integrated within a uniform framework mandated by the government. Japan's healthcare system is based on reimbursement for healthcare services covering hospital care, specialists, mental health, and prescription drugs at uniform national rates under the Employees Health Insurance schemes/EHI for employees and their dependents, the National Health Insurance schemes/NHI for the self-employed, farmers, retirees and their dependents, and the Long Term-Care Insurance/LTCI scheme for end-stage medical care for the elderly.³⁴ LTCI aims to shift the burden of family care to social solidarity, cost-sharing with insurance premiums, and integration of long-term medical care and welfare services, categorized into 2 categories: category 1 for those aged 65 years or older and category 2 for those aged 40-64 years.³⁵

Learning from the experiences of the Netherlands and Japan above, there are three main points that may need to be considered and corrected in the health system, especially in Indonesia: first, the division of the roles of the central and local governments, second, the strengthening of the role of primary health care, and third, the health insurance system. Learning from the Japanese government on the division of participation of the central government and local governments in the health system: the responsibility for national health system policy is assigned to the central government and the implementation of health services and basic welfare policies to local governments is similar to Indonesia, but the difference is about the role of local governments in the management of regional health insurance and the implementation of health system management. The Japanese government really puts the certainty of the authority of national health policy and insurance on the central government, and regarding the management of health affairs in addition to the ministry of health there is also still a need for a special state institution that functions to coordinate national health policy with local governments up to the municipal / district level.

³¹ Shinya Matsuda. (2019). "Health Policy in Japan—Current Situation and Future Challenges". *Japan Medical Association Journal* 2, no. 1: 1–10. <https://doi.org/10.31662/jmaj.2018-0016>

³² Dasuke Kato, et al. (2019). "Building Primare Care in Japan: Literature Review". *Jurnal of General and Family Medicine* 20, no. 5: 170-179. <http://dx.doi.org/> <https://doi.org/10.1002/jgf2.252>

³³ Danny Habibi. (2020). "Rekonstruksi Sistem Hukum Kesehatan di Indonesia dengan Pendekatan Perbandingan Sistem Kesehatan di Negara Maju". *Jurnal Medika Hutama* 1, no. 03: 156-162. <http://jurnalmedikahutama.com/index.php/jmh/article/view/34>

³⁴ International health.com. (2025). *Healthcare System in Japan: Everything You Need to Know*. Available from: <https://internationalhealth.com/en/Health-System-and-Medical-Insurance/Japan#how-does-the-japanese-healthcare-system-work-0>. [Accessed May 20, 2025]

³⁵ Minoru Yamada and Hidenori Arai, "Long-Term Care System in Japan", *Annals of Geriatric Medicine and Research Journal* 24, no. 3: 174-180. <https://doi.org/10.4235/agmr.20.0037>

This may be considered to improve and ensure constitutional commitments on government responsibility, systematization, and equitable access to health services for all citizens.

Obstetrics and Gynecology health services: Legal Concepts of Authority

The vision of Indonesia Emas 2045 is to realize a sovereign, developed, and sustainable Republic of Indonesia. Four supporting components of sustainable development goals (SDGs) in the health sector are Reproductive, Maternal, Newborn, and Child Health (RMNCH) services. It can be obtained from the World Health Organizations (WHO) Universal Health Coverage (UHC) in 2023,³⁶ that 80% of health services in Indonesia are dominated by reproductive, maternal, and child health services, and data from the Indonesian Central Bureau of Statistics,³⁷ 41.37% of maternal health services use health services in hospitals and 41.40% of them are handled by obstetricians. This fact shows the important role of reproductive, maternal, and child health services in hospitals. Commitment to quality reproductive, maternal and child health services is one of the positive efforts to support public health development and sustainable national development (Sustainable Development Goals/SDGs) towards golden Indonesia 2045.

Authority is the basis for the implementation of all types of health services. Authority in health services is commonly referred to as clinical authority or practice authority, and is currently regulated in Article 285 of Law Number 17 of 2023 in conjunction with Article 742 of Government Regulation of the Republic of Indonesia Number 28 of 2024. Clinical authority is a right/authority granted, as legal power, a right to command or to act, the right and power of public officers to require obedience to their orders lawfully issued in the scope of their public duties,³⁸ authority gives legal subjects the right to something or to perform certain legal actions. Authority can be sourced from the authority of attribution,³⁹ delegation, and mandate,⁴⁰ and the authority of practice is always supported by science and skill-based capabilities in the form of the capabilities of Medical and Health Workers in service.

Viewing authority as a legal right certainly involves norms that need to understand the concept of law.⁴¹ The legal concept of each legislation can be different, and the concept of regulations formed by the omnibus method generally establishes new legal norms.⁴² One of the legal norms established by the 2023 health law includes the authority of Medical Personnel in health services that are independent in the treatment and surgery of the human body, which refers to the Decision of the Constitutional Court of the Republic of Indonesia Number 82/PUU-XII/2015. This norm of health service authority provides the governing body with at least two concepts of authority in health services. First, about the special characteristics of the attribution authority of Medical Personnel in the form of medical services, namely treatment services and curing patients, while the authority of Health

³⁶ World Health Organization and The World Bank. (2023). *Tracking Universal Health Coverage Global Monitoring Report*. Geneva: World Health Organization and International Bank for Reconstruction and Development. Licence: CC BY-NC-SA 3.0 IGO

³⁷ Badan Pusat Statistik Indonesia, *Profil Kesehatan Ibu dan Anak 2024*. (Jakarta: Badan Pusat Statistik Indonesia, 2024), 211

³⁸ Henry Campbell Black, *Black's Law Dictionary*, 1990), 133

³⁹ Pujo Sriwanto. (2020). "Hubungan Hukum Antara Dokter Dan Perawat Dalam Pelimpahan Kewenangan Tindakan Medis". *Badamai Law Journal* 5, no. 2: 259-273. <https://doi.org/10.32801/damai.v5i2.10975>

⁴⁰ Makmur Jaya Yahya, *Pelimpahan Wewenang&Perlindungan Hukum Tindakan Kedokteran Kepada Tenaga Kesehatan Dalam Konteks Hukum Administrasi Negara* (Bandung: PT. Refika Aditama, 2020), 49

⁴¹ Hudali Mukti, *Perizinan Pertambangan Batubara Terintegrasi Dalam Mewujudkan Pembangunan Daerah Berkelanjutan* (Sleman: CV. Budi Utama, 2022), 145

⁴² J. M. Monteiro. (2023). "Penyusunan Undang-Undang melalui Metode Omnibus Law dan Consolidation Law". *Jurnal Strata Law Review* 1, no. 1: 24-42. <https://journals.stratapersada.com/index.php/slr/article/view/v1no24-42>

Workers is nursing services (caring). Second, the norms on the source of delegated and mandated authority in health services are also laid out, emphasizing the important role of the leadership of health care facilities to determine the types of health services that can be delegated in health services.

The concretization of norms of protection and legal certainty in health services through the determination of the leadership of health service facilities regarding the authority to practice health human resources and the types of health services that can be delegated authority is a manifestation of the objectives of health law formation that is useful for Medical and Health Workers, Patients, and the Community. The stipulation of the head of the health facility, in addition to being the basis for Health Human Resources in carrying out health service practices, is also useful to avoid overlapping authority, provide certainty and legal protection in the accountability of service actions, improve the quality and safety of Patients, and can foster public confidence in health services.

Referring to the Decree of the Minister of Health of the Republic of Indonesia Number HK.01.07 / MENKES / 112/2020 concerning Hospital Accreditation Standards, one of the accreditation standards that must be met by hospitals in Indonesia is the integration of patient care with patient care professionals in the form of an Integrated Patient Progress Record (CPPT) document. CPPT is a hospital document, containing a track record of patient health services that can provide information about the type of health service and the role of each Medical and Health Worker involved in patient care. Clinical authority determines the capacity to fill out CPPT documentation.

In relation to the research issue of the concept of authority in obstetric and gynecological health services, the concept of clinical authority provides a clear boundary between medical services and nursing services according to the clinical assignments set by the leadership of health care facilities. Obgyn doctors carry out medical services in accordance with the objectives of medical science,⁴³ National Standards of Medical Services, and Standard Operating Procedures,⁴⁴ and Nurses and Midwives as intense partners of obgyn doctors carry out the practice of nursing services according to standard operating procedures, science, and nursing tips for individuals, families, groups / communities,⁴⁵ for newborns (neonates), mothers in the pre-pregnancy period, pregnancy period, childbirth period, post miscarriage period, postpartum period, intermediate period, family planning services, climacterium period, and reproductive health and women's sexuality,⁴⁶ by prioritizing quality and patient safety.

3.2 Legal Protection of Patient Safety in Obstetrics and Gynecology Medical Services in Indonesia

Principles of Health Law: Right to Safety in Healthcare

As the Constitution's commitment to the human right to health, the right to obtain health services is a constitutional right of citizens that must be protected by the state. Hospitals as one of the health care facilities have an obligation to respect and protect the

⁴³ Danny Wiradharma *et al*, *Tindakan Medis: Aspek Etis dan Yuridis*, (Jakarta: Universitas Trisakti, 2023), 48-51

⁴⁴ Peraturan Menteri Kesehatan Republik Indonesia Nomor 1438/MENKES/PER/IX/2010 tentang Standar Pelayanan Kedokteran

⁴⁵ Peraturan Menteri Kesehatan Republik Indonesia Nomor 26 Tahun 2019 tentang Peraturan Pelaksanaan Undang-Undang Nomor 38 Tahun 2014 tentang Keperawatan

⁴⁶ Keputusan Menteri Kesehatan Republik Indonesia Nomor HK.01.07/MENKES/320/2020 tentang Standar Profesi Bidan

rights of patients as users of health care services. The laws and regulations provide protection of rights for patients, such as obtaining health services in accordance with medical needs, professional standards in the form of quality services, the right to personal health information, the right to receive an explanation of the health services received, the right to health social security, and other rights regulated in laws and regulations.

The patient's right to quality health care can be created through a health care delivery system that prioritizes patient safety. Patient safety is a safer patient care system, including risk assessment, identification and management of patient risks, incident reporting and analysis, learning from incidents and follow-up, and implementation of solutions to minimize risk and prevent injury. Patient safety can be achieved through safe health services accompanied by a good understanding of the relationship between quality health service facility performance and patient safety,⁴⁷ carried out through systematic efforts to raise awareness of the hospital community about the importance of patient safety.

Health law that is *sui generis* has been seen since the legal principles, such as the principle of patient safety as the highest law (*aegroti salus lex suprema*). Legal principles are meta rules of behavior and the highest principles in the application of law,⁴⁸ are general in nature as the basis for legal norms to form a legal system,⁴⁹ so it can be understood that legal principles are basic guidelines that form a legal system through legal construction. Like legal principles, patient safety must be able to animate all aspects of health services.

Understanding the principle of patient safety can be seen in the context of public law and private law. Patients in the context of public law are the community (the people) who get constitutional protection of the right to health through good health services in a fair and equitable manner. The community in the order of constitutional law is "the people", the highest power holder in the state who is entitled to prioritize the protection of rights in the constitution, *salus populi suprema lex* or *salus populi suprema lex esto* or *salus populi suprema est*,⁵⁰ where safety should also be placed in the highest position as well. The principle of *salus populi suprema lex* when equated with the principle of *salus populi suprema lex*, both place the public and patients in the highest position that has the priority of rights protection by law.

The principle of patient safety in the context of private law relates to the legal relationship between patient care providers and patients, which then gives rights and obligations to both parties. The legal relationship in modern health care is equal, namely equal obligations and reciprocal rights between patients and health care providers. Patients and medical personnel in health services are bound in a health service contract, commonly called a therapeutic contract that emphasizes the earnest efforts (*inspanning verbintenis*) of

⁴⁷ Najihah. (2018). "Budaya Keselamatan Pasien dan Insiden Keselamatan Pasien di Rumah Sakit: Literature Review". *Journal of Islamic Nursing* 3, no. 1: 1-8. <https://doi.org/10.24252/join.v3i1.5469>

⁴⁸ J.J Bruggink (ed), *Refleksi Tentang Hukum: Pengertian-Pengertian Dasar Dalam Teori Hukum* (Bandung: PT. Citra Aditya Bakti, 2015),

⁴⁹ Peter Mahmud Marzuki, *Teori Hukum: The House of Law is The House of Mankind* (Jakarta: Kencana, 2022), 41

⁵⁰ Pan Mohamad Faiz, *Memaknai Salus Populi Suprema Lex*. (Mahkamah Konstitusi Republik Indonesia: Majalah Konstitusi No. 159 - Mei 2020 - ISSN: 1829 7692, 2020), 68

medical personnel to provide treatment and cure patients.⁵¹ Treatment in this case aims to enable the patient to enable themselves (zelfhulp) to take care of themselves after undergoing treatment. Patients are entitled to clear information about the type and direction of health services they receive, placing an obligation on Patient Care Professionals to provide information about the purpose of health services in the form of Informed Consent signed by both parties and attached to the Medical Record document.

Measuring the direction and form of the norm of the right to patient safety in health services in the 2023 health law can be seen in Article 176 in conjunction with Article 276 in conjunction with the Explanation of Article 219 paragraph (2) letter a, that patient safety is an organized health service framework for identifying, managing risks, analyzing, reporting, and solving problems to prevent and treat events that harm patients, patients are also entitled to health services in accordance with medical needs, professional standards, and quality services.

Quality health services are carried out in accordance with health service standards, professional standards, and ethical standards. Legislation requires every health care provider facility to protect patient safety through standards, goals and steps towards patient safety. Patient safety as a health facility framework requires the unified efforts of the entire health care facility community in the integration of a well-recorded series of health services.

Characteristics of Health Services: Patient Safety in Obstetric and Gynecologic Specialty Medical Services

The performance characteristics of quality health services emphasize the protection of patient safety in continuous health services, equality of rights to obtain services, and suitability of service needs. Service continuity is implemented through coordination between personnel and between service units so that health services can be realized according to a comprehensive and coordinated health service plan. The standard criteria for patient rights in this case relate to the presence of a doctor in charge of services whose job is to provide clear and correct information and explanations to patients and their families about the service plan. The suitability of service needs in relation to patient safety goals is related to the suitability of identifying diagnoses to determine patient safety measures.

The severity of diseases and emergencies that can lead to patient safety incidents, the risk of disability, and/or that can be life-threatening are matters that receive special attention in patient safety. Patients with emergencies, whether due to medical causes or trauma that disrupts body function, is life-threatening, has the potential to cause sudden and unexpected disability (morbidity) or death (mortality) that threatens patient safety, requires appropriate treatment to prevent patient safety incidents.

Regarding the right to patient safety in obstetric and gynecological medical services in Indonesia, the medical service framework is implemented in an organized manner to

⁵¹ Mahkamah Agung Republik Indonesia, *Bunga Rampai Tentang Medical Practice: Uraian Teoritis Tentang Medical Practice Disertai Peraturan Perundang-Undangan* (Jakarta: Mahkamah Agung Republik Indonesia, 1992), 2

identify, manage risks, analyze, report, and solve problems to prevent and treat events that harm patients, through information from obgyn specialists as doctors.

The need for emergency services in obgyn medical services that require special attention to avoid patient safety incidents consists of obstetric emergencies and gynecological emergencies. Obstetric emergencies can occur during pregnancy, childbirth, and after pregnancy. Obstetric emergencies consist of bleeding, infection, sepsis, hypertension, preeclampsia, and eclampsia,⁵² which require comprehensive and integrated care.⁵³ Gynecologic emergencies are emergencies in the management of diseases of the reproductive organs that may jeopardize the safety of the patient.

The handling of obstetric and gynecological emergencies is carried out by taking into account patient safety norms, requiring appropriate treatment procedures according to medical indications, prioritizing continuity of care, and considering the availability of Obgyn Specialists, Nurses, and Midwives in a balanced manner. In obstetric emergencies, the government is committed to facilitating patient safety in the management of pregnant women who will deliver with emergency status in hospitals in the form of comprehensive emergency obstetric neonatal services (PONEK),⁵⁴ and basic emergency obstetric neonatal services (PONED) at puskesmas. PONEK hospitals are required to have certain supporting examination facilities, such as blood services, intensive care, imaging services such as radiology, ultrasound of mothers and babies, and laboratories, while for PONED services, puskesmas must meet the criteria for labor facilities and inpatient beds for emergency cases/obstetric and neonatal complications in a trained team, and be equipped with an ambulance as a means of supporting patient referral that is ready at any time. For the handling of gynecological emergency services, it is generally carried out in hospitals as advanced health care facilities carried out according to medical indications in the patient safety system.

4. Conclusion

Based on an in-depth study of this research, it can be concluded that obgyn health services are one of the essential crucial services that are beneficial in Indonesia's sustainable national development towards a golden Indonesia 2045. The establishment of Law No. 17 of 2023 concerning health to implement the commitment of Article 28H in conjunction with Article 34 paragraph (3) jo Article 26 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which nomostatically regulates the concept of authority in health services and patient rights must be able to support patient safety. The concept of authority in health services is regulated in Article 285 of Law Number 17 of 2023, implemented through the determination of clinical authority of health facility leaders in accordance with health service standards, medical service standards, and standard operating procedures. Protection of the right to patient safety is regulated in Article 176 in conjunction with Article 276 in conjunction with the Explanation of Article 219 paragraph (2) letter a of Law

⁵² John J.E. Wantania. (2015). "Kedaruratan Obstetrik (Clinical Emergencies In Obstetrics)". Makalah disajikan pada Simposium *Clinical Emergencies* dalam rangka Dies Natalis Fakultas Kedokteran Universitas Samratulangi

⁵³ Jovita Irawati. (2019). "Inkonsistensi Regulasi di Bidang Kesehatan dan Implikasi Hukumnya terhadap Penyelesaian Perkara Medik di Indonesia". *Jurnal Law Review* 19, no. 1: 54-76. <https://doi.org/10.19166/lr.v19i1.1551>

⁵⁴ Y. Priyo Wahyudi and Siti Nur Faidah. (2014). "Pengelolaan Rujukan Kedaruratan Maternal di Rumah Sakit dengan Pelayanan PONEK". *Jurnal Kedokteran Brawijaya* 28, no. 1: 1-5. <https://doi.org/10.21776/ub.jkb.2014.028.01.29>

Number 17 of 2023, and the protection of the right to patient safety in obgyn medical services must be able to place the function of patient safety as a legal principle and basic norms of health services according to the rights and obligations of medical personnel and patients in a safer patient service system, including risk assessment, risk identification and management, reporting, incident analysis, learning from incidents and follow-up, and solutions to minimize risk and prevent injury. Authority and patient safety are fundamental norms of health services that require good communication and cooperation between the government, hospital leaders, health human resources, and the community. The suggestions that the author wants to convey in this article are for the Government, Leaders of health care facilities, Health Human Resources, and the Community. The government as the regulator of the right to facilitate proper health services needs to improve the supervisory function on the implementation of clinical authority systematically and periodically to minimize norm violations. Hospital leaders with the authority to determine clinical authority and its delegation, need to improve patient safety culture through effective communication, and increase internal supervision of the implementation of clinical authority so as to improve service quality and patient safety. Medical and health workers need to improve effective communication, integrated recording of patient service history for efforts to improve service quality and patient safety. The public as service users and holders of constitutional rights to health services need to know the development of health legislation so that they can participate in supervising the facilitation of proper health services.

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