

Protection for Dentists under Indonesia's Health Law: An Integrative Framework

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Abstract

Legal protection for dentists has become an increasingly important issue in Indonesia's healthcare system due to the growing number of medical disputes, increasing public legal awareness, and the enactment of Law Number 17 of 2023 concerning Health. Dental practice involves various invasive procedures that inherently carry medical risks, thereby creating challenges in distinguishing between unavoidable medical complications and professional negligence. This study aims to analyze the legal protection afforded to dentists under Law Number 17 of 2023 concerning Health and to examine the principal challenges affecting its implementation in practice. The research employs a normative legal method supported by a socio-legal approach, utilizing statute, conceptual, and case approaches. Data were collected through library research and document analysis of relevant legislation, legal doctrines, academic literature, and healthcare law developments. The findings indicate that although Law Number 17 of 2023 provides a stronger normative basis for legal protection by recognizing the rights of healthcare professionals and strengthening professional accountability mechanisms, significant challenges remain in its implementation. These challenges primarily arise from ambiguities in distinguishing medical risk from medical negligence, inconsistent interpretations among law enforcement institutions, and the fragmentation of professional and legal accountability mechanisms. The study argues that effective legal protection cannot rely solely on statutory guarantees but requires the integration of normative safeguards, professional disciplinary review, and procedural protections. Accordingly, this research proposes an Integrative Legal Protection Framework that combines legal norms, professional accountability, and procedural safeguards as a comprehensive model for strengthening legal certainty, professional independence, and patient safety in dental practice. This framework constitutes the principal contribution of the study to the development of healthcare law in Indonesia.

Keywords: Legal protection; dentists; medical negligence; medical risk; healthcare law.

A. Introduction

The right to health is recognized as a fundamental human right and constitutes an essential component of social welfare within a democratic state governed by the rule of law. In Indonesia, this right is constitutionally guaranteed under Article 28H paragraph (1) of the

1945 Constitution, which affirms that every individual has the right to obtain healthcare services.¹ The realization of this constitutional mandate depends significantly on the role of medical professionals, including dentists, who serve as frontline healthcare providers in maintaining and improving public health. As a health profession requiring specialized expertise, dentists perform various diagnostic, preventive, and therapeutic procedures that inherently involve medical risks and professional responsibilities.

The development of healthcare systems, advances in medical technology, and the increasing legal awareness of society have transformed the traditional relationship between healthcare professionals and patients. The paternalistic model that once characterized medical decision-making has gradually shifted toward a rights-based approach emphasizing patient autonomy, informed consent, transparency, and accountability. Consequently, healthcare professionals are increasingly required not only to provide quality medical services but also to justify their professional decisions within legal and ethical frameworks.² This transformation has contributed to the growing number of medical disputes, including disputes arising from dental practice, where adverse treatment outcomes are frequently perceived by patients as indicators of negligence or malpractice.

Dental practice possesses distinctive characteristics that differentiate it from many other healthcare professions. Most dental procedures involve direct invasive interventions within the oral cavity, often requiring surgical techniques, local anesthesia, and complex clinical judgments. Despite adherence to professional standards and standard operating procedures, certain complications remain unavoidable because they constitute recognized medical risks rather than professional misconduct.³ However, the distinction between medical risk (*medical risk*) and professional negligence (*medical negligence*) is not always clearly understood by patients, law enforcement authorities, or even healthcare institutions. As a result, unfavorable treatment outcomes may trigger allegations of malpractice, civil claims, professional disciplinary complaints, or criminal investigations against dentists.

One of the most significant legal challenges faced by healthcare professionals in contemporary healthcare systems is the tendency to equate every adverse medical outcome with malpractice. Medical malpractice requires proof of deviation from accepted professional standards, negligence, and a causal relationship between the healthcare provider's conduct and the harm suffered by the patient.⁴ Nevertheless, public misunderstanding of these legal elements frequently contributes to the criminalization of medical professionals and generates uncertainty regarding the legal consequences of professional practice. Such conditions may undermine professional independence and reduce healthcare providers' willingness to undertake complex or high-risk medical procedures.

¹ Constitution of the Republic of Indonesia 1945, art. 28 p. (1).

² World Health Organization and United Nations Children's Fund, *Operational Framework for Primary Health Care: Transforming Vision into Action* (Geneva: WHO, 2020).

³ G. Mustafa, "A Narrative Review of Medical and Dental Malpractice," *ARKESI* (2022).

⁴ Michael Ganda Wijaya and Hani Irhamdessetya, "Legal Liability for Medical Malpractice in the Indonesian Health Law System," *Virtual International Conference on Economics, Law and Humanities* 4, no. 1 (2025)

The growing fear of legal liability has also contributed to the emergence of *defensive medicine*, a phenomenon in which healthcare professionals prioritize legal protection over optimal patient care. Defensive medicine generally manifests in two forms: assurance behavior, involving excessive diagnostic testing or treatment, and avoidance behavior, characterized by the refusal to manage high-risk patients or perform complex procedures.⁵ Although intended to minimize legal exposure, defensive medicine may increase healthcare costs, reduce access to care, and ultimately compromise the quality of healthcare services delivered to patients.

Recognizing the need for comprehensive healthcare reform, Indonesia enacted Law Number 17 of 2023 concerning Health as part of a broader effort to modernize and integrate healthcare regulation. The enactment of this legislation introduced substantial changes to the legal framework governing healthcare services, including the repeal of Law Number 29 of 2004 concerning Medical Practice. One of the notable objectives of the new legislation is to strengthen legal protection for medical and health personnel while simultaneously safeguarding patients' rights. The law expressly recognizes the right of healthcare professionals to obtain legal protection when carrying out their professional duties in accordance with professional standards, professional service standards, standard operating procedures, and professional ethics.⁶

Furthermore, Law Number 17 of 2023 seeks to balance professional accountability and legal protection through the introduction of procedural safeguards in medical dispute resolution. The legislation emphasizes the role of professional disciplinary mechanisms and alternative dispute resolution before the initiation of criminal proceedings, thereby reducing the risk of premature criminalization of healthcare professionals.⁷ Such reforms represent a significant shift in Indonesian health law because they acknowledge the unique nature of healthcare services and the necessity of distinguishing professional errors from criminal conduct.

Despite these regulatory developments, the practical effectiveness of legal protection for dentists remains uncertain. Several scholars have observed that ambiguities continue to exist regarding the interpretation of professional negligence, malpractice, and medical error under the new legal framework.⁸ Moreover, the transition from the previous regulatory regime to the new Health Law has generated challenges concerning legal certainty, institutional implementation, and the relationship between disciplinary accountability and judicial enforcement.⁹ Consequently, questions remain regarding the extent to which the legal protections promised by Law Number 17 of 2023 can effectively protect dentists in professional practice.

⁵ Defensive Medicine," *Wikipedia*, accessed June 2026

⁶ Law Number 17 of 2023 concerning Health; see also AHP Law Firm, "With Law No. 17 of 2023, Indonesia's Healthcare Sector Is Finally Getting the Attention That It Deserves."

⁷ AHP Law Firm, "With Law No. 17 of 2023, Indonesia's Healthcare Sector Is Finally Getting the Attention That It Deserves."

⁸ Fauziah, Yessy Andriani, Husin Alhadad, and Dany Agis Susanti, "Dental Malpractice and Criminal Liability: A Review of Law No. 17 of 2023 on Health," *Jurnal Hukum Etika Kesehatan* 5, no. 1 (2025)

⁹ "Criminal Liability of Medical Personnel in Law Number 17 of 2023 Concerning Health," *International Journal of Law and Criminal Justice* 1, no. 2 (2024).

Previous studies have examined legal protection for healthcare professionals from various perspectives. Research conducted by Nugroho (2024) analyzed legal protection for physicians in independent medical practice and emphasized the importance of professional standards as a prerequisite for legal protection.¹⁰ Likewise, Fauziah, Alhadad, and Susanti (2025) examined criminal liability in dental malpractice cases following the enactment of Law Number 17 of 2023 and identified continuing ambiguities in distinguishing negligence from malpractice.¹¹ However, existing studies primarily focus on normative legal analysis and have not comprehensively explored the interaction between statutory protection, professional disciplinary mechanisms, and practical law enforcement in dental practice.

Accordingly, a significant research gap exists regarding the effectiveness of legal protection mechanisms for dentists under the post-reform healthcare legal regime. This study argues that legal protection for dentists cannot be understood solely through statutory guarantees but must also be examined through the interaction between legal norms, professional disciplinary institutions, and dispute resolution practices. The novelty of this research lies in the development of an **Integrative Legal Protection Framework** that connects normative legal protection, professional accountability mechanisms, and law enforcement practices in distinguishing medical risk from medical negligence within dental practice following the enactment of Law Number 17 of 2023 concerning Health.

Based on the foregoing discussion, this study aims to analyze the legal regulation of legal protection for dentists under Law Number 17 of 2023 concerning Health and to evaluate the principal obstacles affecting its implementation in practice. Through this analysis, the study seeks to contribute to the development of a more coherent legal protection system capable of ensuring legal certainty, professional independence, and patient safety within Indonesian dental services.

B. Research Method

This study employed a normative legal research method supported by a socio-legal approach. The normative legal approach was selected because the primary focus of the study concerns the legal regulation of protection mechanisms for dentists under Law Number 17 of 2023 concerning Health, including the analysis of statutory provisions, legal principles, legal doctrines, and conceptual frameworks related to professional accountability and healthcare law. Normative legal research conceptualizes law as a system of norms consisting of legislation, legal principles, and legal doctrines that govern social relations and professional conduct.¹²

To complement the normative analysis, this study incorporated a socio-legal approach in order to examine how legal protection mechanisms are implemented in practice and to identify obstacles affecting their effectiveness. Socio-legal research enables the examination of the interaction between legal norms (*das sollen*) and social realities (*das sein*), thereby providing a more comprehensive understanding of the effectiveness of legal regulation

¹⁰ Taufan Nugroho, "Legal Protection for Doctors in Independent Doctor Practice Clinic Provider of Public Services," Proceedings (2024)

¹¹ Fauziah, Alhadad, and Susanti, "Dental Malpractice and Criminal Liability."

¹² Peter Mahmud Marzuki, *Penelitian Hukum*, rev. ed. (Jakarta: Kencana, 2021), 55–60.

within healthcare services.¹³ Through this combination, the study not only evaluates the consistency of legal norms but also assesses their practical implications for dental professionals.

The research employed three principal approaches, namely the statute approach, conceptual approach, and case approach. The statute approach was used to examine relevant legal instruments, including the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2023 concerning Health, Law Number 1 of 2023 concerning the Criminal Code, and other regulations governing healthcare services and professional accountability.¹⁴ The conceptual approach was utilized to analyze theories and doctrines relevant to legal protection, professional responsibility, medical negligence, and healthcare governance. In particular, this study applied Philipus M. Hadjon's theory of legal protection as the grand theory, supplemented by doctrines concerning professional liability and medical accountability.¹⁵ The case approach was employed to examine legal disputes, judicial decisions, and practical issues relating to dental malpractice and professional liability in Indonesia.¹⁶

The research relied on both primary and secondary legal materials. Primary legal materials consisted of legislation and official legal instruments governing healthcare services and professional practice. Secondary legal materials included books, peer-reviewed journal articles, legal commentaries, research reports, and academic publications discussing health law, medical malpractice, legal protection, and professional accountability. Tertiary legal materials, such as legal dictionaries and encyclopedias, were used to clarify legal terminology and concepts relevant to the study.¹⁷

Data collection was conducted through library research and document analysis. Library research involved the systematic identification, collection, and examination of legal sources and academic literature obtained from legal databases, scientific journals, government publications, and institutional reports. Academic materials were primarily retrieved through Google Scholar, Scopus-indexed databases, and accredited national journals. Document analysis was further undertaken to examine regulatory developments and relevant legal cases concerning healthcare disputes and professional liability.¹⁸

The collected data were analyzed using a qualitative descriptive-analytical method. Legal materials were first classified according to their relevance to the research questions and subsequently examined through legal interpretation techniques, including grammatical interpretation, systematic interpretation, and teleological interpretation.¹⁹ The analysis was conducted deductively by deriving conclusions from general legal principles and statutory

¹³ Terry Hutchinson and Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (2012): 83–119.

¹⁴ Constitution of the Republic of Indonesia 1945; Law Number 17 of 2023 concerning Health; Law Number 1 of 2023 concerning the Criminal Code.

¹⁵ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat di Indonesia* (Surabaya: Bina Ilmu, 1987).

¹⁶ Mike McConville, *Research Methods for Law* (Edinburgh: Edinburgh University Press, 2017).

¹⁷ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2019), 300–305.

¹⁸ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: RajaGrafindo Persada, 2018), 12–15.

¹⁹ Edward L. Rubin, "Law and the Methodology of Law," *Wisconsin Law Review* (1997): 521–585.

provisions and applying them to specific issues concerning legal protection for dentists. Through this analytical framework, the study seeks to evaluate the adequacy of existing legal protection mechanisms and to develop an integrative legal protection framework capable of strengthening legal certainty, professional independence, and patient safety within dental practice.^{20 21,22,23,24}

C. Results and Discussion

1. Juridical Construction of Legal Protection for Dentists under Law Number 17 of 2023 concerning Health

The enactment of Law Number 17 of 2023 concerning Health represents a significant transformation in Indonesia's healthcare regulatory framework. Through the omnibus law approach, the legislation consolidates various sectoral healthcare regulations into a single legal instrument and introduces a more integrated system of healthcare governance. One of the most important reforms introduced by the Health Law is the explicit recognition of legal protection as a statutory right of medical and health personnel, including dentists, while carrying out their professional duties.²⁵

Legal protection for healthcare professionals is fundamentally rooted in the principle of legal certainty (*rechtszekerheid*) and the principle of protection of professional rights within a state governed by the rule of law. According to Philipus M. Hadjon, legal protection consists of preventive and repressive dimensions. Preventive legal protection aims to prevent disputes through clear legal norms and administrative safeguards, whereas repressive legal protection functions to provide remedies after legal disputes or violations have occurred. Within the healthcare sector, both dimensions are essential because healthcare professionals routinely perform actions involving medical risks that may generate legal consequences despite adherence to professional standards.

Under Law Number 17 of 2023 concerning Health, legal protection is granted to medical personnel who perform their professional duties in accordance with professional standards, professional service standards, standard operating procedures, and professional ethics. This provision reflects the legislative intention to ensure that healthcare professionals are not automatically subjected to legal sanctions solely because an adverse medical outcome occurs. Rather, liability must be assessed based on whether the healthcare professional deviated from the applicable standards governing professional practice.

²⁰ Vicki C. Jackson, "Law: Methodologies," in *The Oxford Handbook of Comparative Constitutional Law*, ed. Michel Rosenfeld and András Sajó (Oxford: Oxford University Press, 2012).

²¹ Mike McConville, *Research Methods for Law* (Edinburgh University Press, 2017).

²² Terry Hutchinson and Nigel Duncan, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (2012): 83-119.

²³ Edward L. Rubin, "Law and the Methodology of Law," *Wis. L. Rev.*, 1997, 521.

²⁴ Vicki C. Jackson, "Law: Methodologies," *The Oxford Handbook of Comparative Constitutional Law*, 2012, 54.

²⁵ Law Number 17 of 2023 concerning Health.

For dentists, legal protection assumes particular importance because dental practice inherently involves invasive procedures that carry the possibility of complications. Tooth extractions, endodontic treatment, oral surgery, dental implants, and the administration of local anesthesia all involve recognized medical risks that may occur even when the procedure is performed correctly. Consequently, the existence of an adverse outcome does not automatically establish negligence or malpractice. Instead, legal responsibility must be evaluated through a comprehensive assessment of professional conduct, compliance with applicable standards, and the existence of a causal relationship between the conduct and the alleged harm.²⁶

A significant development introduced by the Health Law concerns the relationship between professional accountability and legal enforcement. Under the previous regulatory regime, medical disputes frequently proceeded directly into civil or criminal proceedings, often without adequate consideration of professional disciplinary mechanisms. The current framework seeks to strengthen the role of professional discipline as an important mechanism for evaluating whether a healthcare professional has violated professional standards before legal liability is imposed. This approach recognizes that not every unfavorable medical outcome constitutes malpractice and that professional assessment remains essential in distinguishing professional error from unavoidable medical risk.²⁷

The legal protection framework established under Law Number 17 of 2023 also reflects broader international principles governing healthcare practice. The World Health Organization has consistently emphasized that healthcare systems should maintain a balance between patient protection and professional protection. Excessive exposure to legal sanctions may encourage defensive medicine, reduce professional independence, and ultimately undermine the quality and accessibility of healthcare services.²⁸ Therefore, effective legal protection should not be understood as immunity from accountability but rather as the provision of fair procedures and objective standards for assessing professional conduct.

Despite these normative guarantees, the implementation of legal protection remains dependent upon the effectiveness of regulatory institutions, professional organizations, and law enforcement authorities. Ambiguities concerning the distinction between medical risk and medical negligence continue to create uncertainty for healthcare professionals, including dentists. Consequently, legal protection cannot be evaluated solely from the perspective of statutory provisions but must also consider how such provisions operate within the broader healthcare

²⁶ George D. Pozgar, *Legal and Ethical Issues for Health Professionals*, 5th ed. (Burlington: Jones & Bartlett Learning, 2019), 215–223.

²⁷ Michael Ganda Wijaya and Hani Irhamdessetya, “Legal Liability for Medical Malpractice in the Indonesian Health Law System,” *Virtual International Conference on Economics, Law and Humanities* 4, no. 1 (2025).

²⁸ World Health Organization and United Nations Children's Fund, *Operational Framework for Primary Health Care: Transforming Vision into Action* (Geneva: WHO, 2020).

governance system.²⁹

Accordingly, the juridical construction of legal protection under Law Number 17 of 2023 demonstrates that legal protection for dentists is not merely a matter of statutory recognition. Rather, it constitutes a comprehensive framework that integrates professional standards, disciplinary accountability, procedural safeguards, and legal certainty. This framework serves as the foundation for evaluating whether the legal protection promised by the new Health Law can effectively address the challenges faced by dentists in professional practice.

2. Legal Challenges in the Implementation of Legal Protection for Dentists

The enactment of Law Number 17 of 2023 concerning Health introduced significant reforms intended to strengthen legal protection for medical and health professionals, including dentists. Nevertheless, the existence of statutory guarantees does not automatically ensure the effective realization of legal protection in practice. The implementation of legal protection remains influenced by institutional capacity, legal culture, professional governance, and the interpretation of healthcare disputes by law enforcement authorities. Consequently, a gap frequently emerges between the normative promises contained in legislation and the realities experienced by healthcare professionals in everyday practice.

One of the principal challenges concerns the continuing ambiguity in distinguishing professional negligence from adverse medical outcomes. In dental practice, complications may occur even when a procedure has been performed in accordance with professional standards and accepted clinical guidelines. Post-extraction bleeding, allergic reactions to anesthetic agents, nerve injuries, infection, and treatment failure are examples of recognized clinical risks that may arise despite the exercise of reasonable professional care. However, patients and their families often interpret such outcomes as evidence of malpractice, particularly when the treatment results differ from their expectations. This situation creates legal uncertainty because the existence of harm alone is frequently perceived as sufficient justification for legal action, regardless of whether professional standards have actually been violated.

Another challenge relates to the limited understanding of healthcare law among law enforcement institutions. Medical disputes possess characteristics that differ substantially from ordinary criminal or civil cases because they involve technical clinical judgments that require professional assessment. Nevertheless, allegations of malpractice are occasionally processed through conventional legal mechanisms before comprehensive professional evaluation has been conducted. Such practices may result in the premature criminalization of healthcare professionals and undermine the principle that professional accountability should first be assessed through disciplinary mechanisms specifically designed for healthcare services.

²⁹ Fauziah, Yessy Andriani, Husin Alhadad, and Dany Agis Susanti, "Dental Malpractice and Criminal Liability: A Review of Law No. 17 of 2023 on Health," *Jurnal Hukum Etika Kesehatan* 5, no. 1 (2025).

The transition from Law Number 29 of 2004 concerning Medical Practice to Law Number 17 of 2023 concerning Health has also generated uncertainty regarding the practical implementation of professional accountability mechanisms. Although the new legislation emphasizes legal protection and professional discipline, several implementing regulations remain under development, and institutional adaptation continues to evolve. Consequently, healthcare professionals, legal practitioners, and regulatory authorities may hold differing interpretations regarding the procedures applicable to medical disputes. Such transitional challenges reduce legal certainty and may weaken the effectiveness of the legal protection framework envisioned by the Health Law.

A further challenge arises from the increasing influence of digital media and public opinion in healthcare disputes. In recent years, allegations of malpractice have frequently been disseminated through social media platforms before any formal investigation or professional review has been completed. This phenomenon, often referred to as *trial by social media*, has the potential to damage professional reputations irrespective of the eventual legal outcome. For dentists, whose professional practice relies heavily upon public trust, reputational harm may have consequences extending far beyond formal legal sanctions. Consequently, legal protection in the contemporary healthcare environment must encompass not only procedural safeguards within the legal system but also mechanisms capable of protecting healthcare professionals from unjustified public accusations.

The growing fear of legal liability has further encouraged the practice of defensive medicine among healthcare professionals. Dentists who perceive a high risk of legal exposure may adopt overly cautious treatment strategies, perform unnecessary diagnostic procedures, or avoid treating patients presenting with complex clinical conditions. While such practices may reduce perceived legal risks, they may simultaneously increase healthcare costs and reduce access to necessary treatment. From a public policy perspective, excessive defensive practice may ultimately undermine the objectives of healthcare regulation by prioritizing legal risk management over patient welfare.

The implementation of legal protection is also influenced by the effectiveness of professional organizations and disciplinary institutions. Professional organizations play a crucial role in establishing standards of practice, providing professional guidance, and conducting disciplinary assessments when complaints arise. However, the effectiveness of these institutions depends upon their independence, credibility, and ability to coordinate with law enforcement authorities. Where disciplinary mechanisms are perceived as weak or ineffective, parties may be more likely to pursue litigation as the primary means of resolving healthcare disputes.³⁰

These challenges demonstrate that legal protection for dentists cannot be evaluated solely through the existence of statutory guarantees. Effective legal

³⁰ Taufan Nugroho, "Legal Protection for Doctors in Independent Doctor Practice Clinic Provider of Public Services," Proceedings (2024).

protection requires the integration of clear legal norms, competent professional institutions, effective dispute-resolution mechanisms, and consistent law enforcement practices. The persistence of ambiguity regarding medical risk, malpractice, and professional accountability indicates that the practical implementation of legal protection remains one of the most significant issues within Indonesia's post-reform healthcare legal system.

Accordingly, the findings suggest that the primary obstacle facing legal protection for dentists is not the absence of legal regulation but the complexity of translating normative guarantees into effective institutional and practical safeguards. This observation provides an important foundation for examining how medical risk should be distinguished from professional negligence and how legal accountability should be structured within contemporary dental practice.

3. Distinguishing Medical Risk from Medical Negligence in Dental Practice

One of the most fundamental issues in healthcare law is the distinction between medical risk and medical negligence. This distinction is particularly important in dental practice because many dental procedures inherently involve the possibility of complications despite compliance with professional standards and accepted clinical guidelines. The inability to clearly differentiate between these concepts frequently generates legal disputes and contributes to uncertainty regarding the legal protection available to dentists.³¹

Medical risk refers to adverse outcomes that may occur even when a healthcare professional has acted in accordance with professional standards, scientific knowledge, standard operating procedures, and ethical obligations. Such risks are considered an inherent component of healthcare services because medical science cannot guarantee absolute success in every clinical intervention. Consequently, the occurrence of an unfavorable outcome does not automatically indicate professional wrongdoing. In contrast, medical negligence arises when a healthcare professional fails to exercise the degree of care, competence, or diligence required by professional standards, thereby causing harm to a patient. Unlike medical risk, negligence involves a deviation from accepted professional conduct and therefore constitutes a basis for legal accountability.

Within dental practice, the distinction between these concepts is often difficult to establish because many clinical complications may result either from unavoidable biological responses or from professional error. For example, post-extraction bleeding, temporary paresthesia, allergic reactions to anesthetic agents, delayed wound healing, and treatment failure may occur despite proper diagnosis and treatment. Such complications generally fall within the category of medical risk when they are foreseeable, disclosed to the patient through informed consent, and managed according to professional standards. Conversely, if a complication results from inadequate diagnosis, improper treatment planning, failure to obtain informed

³¹ George D. Pozgar, *Legal and Ethical Issues for Health Professionals*, 5th ed. (Burlington: Jones & Bartlett Learning, 2019), 215–223.

consent, or deviation from accepted clinical procedures, the conduct may constitute negligence rather than mere medical risk.

The importance of informed consent in distinguishing medical risk from negligence cannot be overstated. Informed consent functions not only as a legal requirement but also as evidence that patients have been informed of the potential benefits, risks, alternatives, and limitations associated with a proposed treatment. Through informed consent, patients acknowledge that certain complications may arise despite the exercise of appropriate professional care. Consequently, the existence of informed consent strengthens legal certainty by demonstrating that an adverse outcome was recognized as a potential risk rather than concealed from the patient.

The distinction between medical risk and negligence also has significant implications for legal liability. Under general principles of tort and professional liability, negligence requires proof of several essential elements, including the existence of a professional duty, breach of that duty, causation, and resulting harm.⁶ Therefore, liability cannot be established solely on the basis that a patient experiences injury or dissatisfaction following treatment. Rather, the claimant must demonstrate that the dentist failed to comply with the applicable professional standards and that such failure directly caused the alleged harm. This principle is particularly important in healthcare services because many adverse outcomes may occur even in the absence of professional error.

The enactment of Law Number 17 of 2023 concerning Health reinforces the importance of professional standards in evaluating healthcare disputes. The legislation recognizes that healthcare professionals are entitled to legal protection when carrying out their duties in accordance with professional standards, professional service standards, standard operating procedures, and professional ethics. Accordingly, the determination of legal liability should focus on whether these standards were observed rather than merely on the outcome of treatment. This approach is consistent with international healthcare law principles that emphasize professional conduct rather than treatment results as the primary basis for assessing accountability.

Nevertheless, practical difficulties continue to arise because legal institutions and the public often evaluate healthcare disputes primarily from the perspective of outcomes rather than professional processes. Patients who experience harm may reasonably seek accountability; however, legal assessment must distinguish between unavoidable medical complications and negligent conduct. Failure to maintain this distinction risks transforming healthcare professionals into guarantors of treatment success, a standard that is incompatible with the scientific realities of healthcare practice. Such an approach may further encourage defensive medicine and reduce the willingness of healthcare professionals to perform complex procedures that involve elevated clinical risks.

From a legal protection perspective, the distinction between medical risk and

medical negligence constitutes the central criterion for determining whether a dentist should be shielded from legal liability. Where a complication results from recognized medical risk and the dentist has complied with all applicable professional requirements, legal protection should operate to prevent unjustified civil, administrative, or criminal sanctions. Conversely, where evidence demonstrates a deviation from professional standards, legal accountability remains necessary to ensure patient protection and maintain public confidence in healthcare services.¹⁰

Accordingly, this study argues that effective legal protection for dentists under Law Number 17 of 2023 concerning Health depends largely upon the development of objective criteria capable of distinguishing medical risk from medical negligence. Such criteria must integrate professional standards, informed consent procedures, clinical documentation, expert evaluation, and disciplinary review mechanisms. Only through a comprehensive assessment of these factors can legal certainty be achieved for both healthcare professionals and patients.

4. An Integrative Legal Protection Framework for Dentists under Law Number 17 of 2023 concerning Health

The foregoing discussion demonstrates that the principal challenge in legal protection for dentists does not stem from the absence of legal regulation but rather from the fragmentation of accountability mechanisms governing healthcare disputes. Although Law Number 17 of 2023 concerning Health recognizes the right of healthcare professionals to obtain legal protection, the practical implementation of such protection remains influenced by differing interpretations among professional institutions, healthcare facilities, patients, and law enforcement authorities. As a result, dentists continue to face legal uncertainty, particularly in cases involving adverse treatment outcomes that may be perceived either as medical risks or as professional negligence.³²

The findings of this study indicate that existing legal protection mechanisms tend to operate independently rather than as components of an integrated system. Professional standards are primarily enforced through professional organizations, disciplinary accountability is addressed through professional review mechanisms, while civil and criminal liability are assessed through judicial institutions. In practice, these mechanisms often function separately and sometimes produce inconsistent conclusions regarding the same clinical event. Such fragmentation creates uncertainty for healthcare professionals and complicates the resolution of healthcare disputes.³³

To address these limitations, this study proposes an **Integrative Legal Protection Framework** for dentists operating under the post-reform healthcare legal regime. The framework is based on the premise that legal protection should not be understood solely as statutory recognition of professional rights. Rather, effective

³² Law Number 17 of 2023 concerning Health.

³³ Michael Ganda Wijaya and Hani Irhamdessetya, "Legal Liability for Medical Malpractice in the Indonesian Health Law System," *Virtual International Conference on Economics, Law and Humanities* 4, no. 1 (2025).

protection requires the integration of three interrelated dimensions: normative protection, professional protection, and procedural protection. These dimensions collectively function as a comprehensive safeguard capable of balancing patient rights with professional independence and legal certainty.³⁴

The first dimension, normative protection, refers to the legal guarantees established through legislation, professional standards, standard operating procedures, and ethical obligations governing dental practice. Law Number 17 of 2023 concerning Health constitutes the primary normative foundation for such protection because it expressly recognizes the right of healthcare professionals to obtain legal protection when performing their duties in accordance with applicable standards. Within this dimension, legal certainty is achieved through clear rules defining professional obligations, professional rights, and the limits of professional accountability.⁴

The second dimension, professional protection, concerns the role of professional organizations and disciplinary institutions in assessing professional conduct. Because healthcare disputes frequently involve technical clinical issues that cannot be adequately understood without professional expertise, disciplinary review should function as the primary mechanism for evaluating whether a dentist has complied with accepted professional standards. Professional assessment serves an essential function in distinguishing unavoidable medical risks from negligent conduct and therefore acts as an important safeguard against unjustified allegations of malpractice.⁵

The third dimension, procedural protection, refers to the legal processes through which healthcare disputes are investigated and resolved. This dimension encompasses informed consent, clinical documentation, expert testimony, mediation, disciplinary proceedings, and judicial review. Effective procedural protection ensures that legal responsibility is determined through objective evaluation rather than assumptions based solely upon treatment outcomes. Moreover, procedural safeguards help ensure that healthcare professionals are afforded due process before administrative, civil, or criminal sanctions are imposed.

The proposed framework demonstrates that effective legal protection cannot depend exclusively upon legislation. Legal certainty is achieved only when statutory guarantees are supported by credible professional review mechanisms and fair procedural safeguards. Conversely, weaknesses in any one of these dimensions may undermine the overall effectiveness of legal protection. For example, strong legal guarantees may prove ineffective if disciplinary institutions lack credibility, while effective professional review may fail to provide protection if procedural safeguards are absent.⁷

The framework also contributes to resolving the persistent tension between patient protection and professional protection. Traditionally, legal debates

³⁴ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat di Indonesia* (Surabaya: Bina Ilmu, 1987), 20-25.

concerning healthcare disputes have often positioned these objectives as competing interests. However, the findings of this study suggest that patient protection and professional protection are mutually reinforcing rather than contradictory. Patients benefit from transparent procedures, professional accountability, and clear standards of care, while healthcare professionals benefit from predictable legal standards and objective dispute-resolution mechanisms. Consequently, the Integrative Legal Protection Framework promotes a balanced approach capable of protecting both patients and healthcare professionals within the healthcare system.

Furthermore, the framework addresses concerns regarding the criminalization of healthcare professionals. By requiring the integration of professional review, disciplinary assessment, and procedural safeguards before legal liability is imposed, the framework reduces the likelihood that adverse medical outcomes will be automatically interpreted as evidence of malpractice. Instead, legal accountability is assessed through a structured process that distinguishes unavoidable medical risks from genuine professional negligence. Such an approach is consistent with contemporary international principles of healthcare governance and patient safety.⁹

Accordingly, this study argues that the effectiveness of legal protection for dentists under Law Number 17 of 2023 concerning Health depends upon the institutionalization of an integrated protection model that combines normative guarantees, professional accountability mechanisms, and procedural safeguards. The proposed Integrative Legal Protection Framework constitutes the principal contribution of this research because it provides a conceptual model capable of strengthening legal certainty, preventing unjustified criminalization, preserving professional independence, and enhancing patient safety within dental practice in Indonesia.

D. Conclusion and Recommendations

This study concludes that Law Number 17 of 2023 concerning Health has established a stronger normative foundation for the legal protection of dentists by recognizing their right to obtain legal protection while performing professional duties in accordance with professional standards, service standards, standard operating procedures, and professional ethics. Nevertheless, the implementation of such protection continues to face significant challenges, particularly in distinguishing medical risk from medical negligence within dental practice. The findings demonstrate that legal uncertainty frequently arises due to differing interpretations among patients, professional institutions, and law enforcement authorities regarding adverse treatment outcomes. Accordingly, effective legal protection cannot rely solely on statutory guarantees but must also incorporate objective mechanisms capable of differentiating unavoidable medical risks from professional misconduct. In this regard, the study proposes an **Integrative Legal Protection Framework** that combines normative protection, professional protection, and procedural protection as an integrated system for strengthening legal certainty and professional independence in dental practice.

To enhance the effectiveness of legal protection for dentists, it is recommended that the government develop more comprehensive implementing regulations concerning the resolution of healthcare disputes under Law Number 17 of 2023, particularly regarding the role of professional disciplinary mechanisms and the assessment of medical negligence. Professional organizations should strengthen disciplinary review systems and provide clearer guidelines for evaluating professional conduct in dental practice. Furthermore, dentists should improve compliance with informed consent procedures, clinical documentation, and professional standards as essential instruments of legal protection. Through the integration of regulatory safeguards, professional accountability, and fair procedural mechanisms, a more balanced healthcare legal system can be achieved, ensuring both patient protection and legal certainty for dental professionals.

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