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Legal protection for patient safety in Indonesia's national health insurance system: Urging regulatory reform

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Abstract

The 1945 Constitution of the Republic of Indonesia and Law Number 17 of 2023 concerning Health stipulate that the state is obliged to guarantee the health of every citizen. Hospitals and the Social Security Administering Body (BPJS) play a central role in implementing this right through the National Health Insurance (JKN) scheme. However, increasing cases of delayed services, refusal of emergency patients, and discrepancies in claims indicate a gap between administrative practices and legal standards, particularly the omission of patient safety principles in Law Number 24 of 2011 concerning BPJS. The purpose of this study is to analyze the effectiveness of legal protection for patient safety within the JKN system and regulatory reforms aimed at ensuring justice and legal certainty for patients. The study employs a juridical-empirical method, combining a statutory and conceptual approach, and utilizes primary data collected through interviews with medical personnel, hospital administrators, and BPJS officials in Central Java and East Java, as well as secondary data sourced from laws and regulations, books, and journals. The analysis is conducted descriptively and analytically on the interaction of legal norms and institutional practices. The study's findings indicate that although the 2023 Health Law establishes patient safety as a legal obligation, its implementation within the BPJS (Social Security Agency) remains ambiguous and tied to the INA-CBGs financing system, creating tension between medical professionalism and administrative efficiency. This study concludes that there is a need for an integrative legal accountability model based on patient safety, which involves dividing responsibilities between BPJS and hospitals to strengthen legal protection and certainty.

Keywords: Patient safety, Legal protection, BPJS, JKN, Regulatory reform

Introduction

Patient safety is fundamental to public health services, grounded in humanitarian values and social justice (Krisnarto et al., 2025; Smith et al., 2025). Patient safety in today's healthcare is not only a medical issue but also a legal one (Kadivar et al., 2017). According to Law No. 17 of 2023 concerning Health, patient safety is an obligation that every healthcare provider must implement as a form of legal protection for patients entitled to healthcare, as guaranteed by Article 28H, paragraph (1), and Article 34, paragraph (3), of the 1945 Constitution. This fundamental principle demonstrates that health is not solely a matter of medical services but also part of constitutional protection, which positions patients as legal subjects whose safety must be guaranteed.

Highlighting the urgency for legal reform, the implementation of national health insurance, as regulated by Law No. 24 of 2011 concerning the Social Security Administering Body (BPJS Law), does not explicitly address patient safety. The BPJS Law emphasizes the principles of humanity, benefit, and social justice, without making patient safety a fundamental normative principle (Arrohimi et al., 2025). This disharmony between the two laws has profound implications for the weak legal position of patients within the national healthcare financing system. This has the consequence that legal protection for patients in the National Health Insurance (JKN) scheme is merely reactive and not preventive, as emphasized by Philipus M. Hadjon in the theory of preventive legal protection (Mandjo & Sarson, 2021).

The absence of explicit patient safety principles in the BPJS Law has led to numerous problems that infringe upon patient interests. Medical practitioners face the ethical conflict of dual loyalty, where they must comply with BPJS administrative regulations and prioritize patient safety, as pledged in their professional oath. The tangible consequences of this battle include restricted access to medication, delayed services due to rigid claims procedures, fragmented care, and even changes in diagnoses to meet financing criteria. The problem not only causes direct harm to patients, as occurred with delayed treatment for dengue fever, but also saturates healthcare centers. These institutions, already under

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significant pressure, have no option but to bear the cost difference from the established ceiling, which can cause further pressure and potential compromises in patient care. It also limits physicians' professional discretion in determining the best medical intervention.

Aside from legal discrepancies, on-the-ground practice reveals considerable obstacles to implementing the patient safety principle. Social Health Security Administration (BPJS) Indonesia Case-Based Groups (INA-CBGs) financing scheme for establishing hospital service tariffs tends to limit healthcare providers' clinical discretion. Critically ill patients sometimes experience delayed care due to administrative hurdles or contradictions amidst claim specifications. These events demonstrate that administrative efficiency often comes at the expense of patient safety, which is the primary concern in healthcare. This compromise, in the name of efficiency, should be a cause of concern regarding the actual cost of such practices in healthcare.

Empirical findings in the 2023 Indonesian Health Profile show that Indonesia currently has 3,155 hospitals (2,636 general hospitals and 519 specialist hospitals), and by 2024, it will have 3,216 hospitals, with approximately 92 % nationally accredited (Kementrian Kesehatan, 2023). However, patient safety indicators have not shown significant improvement. The 2024 Indonesian Ministry of Health report stated that patient safety incident reporting had only met 68 % of the national target, indicating that the implementation of a safety culture is still weak, particularly in regional hospitals. For instance, medication errors, misdiagnoses, and hospital-acquired infections remain prevalent. This suggests that increased accreditation has not necessarily led to improved compliance with patient safety regulations.

Based on these results, this study aims to investigate the effectiveness of legal protection for patient safety in the JKN system. It also assesses the imperative need for BPJS regulatory reform in light of health law and social justice principles. This research is necessary to highlight the incongruity between legal standards and hospital service practice, and it presents an integrative framework of legal protection in accordance with humanitarian values, medical professional ethics, and welfare state principles.

Research Method

The current research is a descriptive-analytical study with an empirical juridical approach (Noor, 2023), where normative analysis is combined with qualitative, cross-sectional field research to investigate compliance with regulations within the context of practice, thereby understanding the legal framework of patient safety in the National Health Insurance system. Normative analysis refers to the study conducted in connection with Law Number 17 of 2023 concerning Health, Law Number 24 of 2011 concerning the Social Security Agency, and the implementing regulations related to patient safety.

The field research was conducted in four hospitals in East Java and Central Java provinces, using a purposive sampling method that represented various types of ownership and accreditation levels. It required informants, comprising doctors, medical personnel, hospital administrators, and BPJS officials, to reach a total of 32 people. Data collection employed semi-structured interviews, each lasting between 40 and 60 minutes, direct observation of the service process, and JKN claims submissions over six weeks, supported by document reviews, including the annual reports of BPJS and the Indonesian Health Profile 2023–2024.

Results

This study revealed a significant discrepancy between the legal norms in Law Number 17 of 2023 concerning Health, which prioritizes patient safety, and Law Number 24 of 2011 concerning the Social Security Agency (BPJS), which emphasizes cost efficiency. This inconsistency has led to inadequate legal protection for patient safety within the JKN system. Interviews with 15 doctors, 10 hospital managers, and 5 BPJS officials in Central and East Java further confirmed this, with most respondents (82%) noting that BPJS regulations often restrict clinical flexibility, particularly in emergency services and for non-formulary medications. This situation frequently forces medical personnel to choose between adhering to administrative rules and fulfilling their professional oath to prioritize patient safety.

From a hospital operational perspective, the impact of BPJS claims delays is significant. 73 % of respondents noted that these delays directly affect

the availability of drugs and emergency services. Some hospitals even delayed procuring medical equipment due to disrupted cash flow, as claims remained unpaid for over three months. This situation hampers the hospitals' ability to provide timely and quality care. It influences clinical decision-making, with diagnoses and medical procedures sometimes adjusted to align with claimable INA-CBGs tariff codes. As a result, the principle of patient-centered care is distorted.

Observations of five hospitals (two public and three private) also found that 58 % of management units suffered operational losses due to the discrepancy between INA-CBG tariffs and the actual cost of medical services. This led hospitals to delay facility upgrades or reduce the number of contract medical personnel for cost efficiency. The gravity of this situation cannot be overstated, as in the context of patient safety, this can potentially increase the risk of medical incidents, particularly in emergency and intensive care units. Nevertheless, several hospitals implementing a digital-based Patient Safety Incident (PSI) reporting system have shown positive results, with an average 22 % reduction in incidents compared to hospitals still using a manual system.

Interviews with BPJS branch officials revealed that structural constraints also impact service quality. BPJS Kesehatan primarily focuses on cost control and administrative validation and has limited authority to assess clinical aspects. This often results in medical decisions that are out of step with the urgency of the patient's condition. Three of the five BPJS officials interviewed acknowledged the pressing need for regulatory reform. They highlighted the importance of clarifying the division of responsibilities between BPJS and hospitals in ensuring patient safety, including through revisions to articles in the BPJS Law that do not explicitly address patient safety.

Table 1. Summary of empirical data from interviews and observations

Observed Aspects	Percentage of Respondents	Key Information
BPJS regulations limit clinical flexibility.	82%	Doctors often adjust diagnoses using INA-CBG codes to ensure claims are approved.
Delays in claims impact the availability of drugs and emergency services.	73%	Drug procurement is delayed by 7–14 days; critical patients often wait for administrative approval to receive their medication.
The regulatory focus is more on cost efficiency than on patient safety.	64%	Medical personnel lose clinical autonomy in decision-making.
Hospital losses due to the INA-CBGs cost ceiling.	58%	Reducing the hospital's ability to improve the quality and safety of services.
Hospitals with digital IKP systems experience a decrease in medical incidents.	22%	Strengthening safety culture through the effective use of information technology has proven to be effective.

Source: Collected from this study

The table above illustrates the general pattern of empirical research findings related to the relationship between BPJS policies and the implementation of patient safety principles in hospitals. Surveys and interviews reveal that most issues stem from overly rigid administrative policies that fail to consider clinical considerations. These limitations lead to various consequences, ranging from service delays to a decline in the quality of medical care and treatment decisions. However, the data in the final row demonstrates a positive trend: using a digital system to report patient safety incidents can reduce the number of incidents by up to 22 %, showing that technological innovation and transparency can be the first steps toward a patient safety-oriented system reform.

Discussion

The findings of this study reveal a significant gap between the legal framework of the National Health Insurance (JKN) system and the actual practice of healthcare delivery in the field. The inconsistency between Law Number 17 of 2023 concerning Health and Law Number 24 of 2011 concerning the Social Security Agency (BPJS) has resulted in legal

protection for patient safety not being comprehensively integrated. While the Health Law places patient safety as a fundamental obligation of service providers, the BPJS Law does not regulate patient safety as a normative principle or operational objective of social security administration. Consequently, BPJS policy orientation is more inclined towards cost efficiency than towards protecting patient safety.

Using Lawrence M. Friedman's Legal System framework, this imbalance can be understood as a simultaneous failure of three elements of the legal system: legal substance, institutional structure, and legal culture (Friedman, 1975). The legal substance (the BPJS Law) is flawed because it does not incorporate patient safety as a core principle; the institutional structure (the BPJS and hospitals) creates incentives that emphasize cost efficiency and administrative compliance, while the legal culture of medical personnel and the bureaucracy reinforce work patterns that place administrative requirements above ethical and clinical responsibilities. This combination explains why the principle of *salus aegroti suprema lex*, patient safety is the supreme law, is not consistently implemented in practice.

This imbalance in the legal system has direct implications for clinical processes and quality of care. Interviews indicate that most doctors feel intense pressure from the INA-CBGs system and claims verification mechanisms, which impact their professional freedom in establishing diagnoses and determining therapy. This contrasts with the ideal of patient-centered care and is consistent with the research findings of Faik Agiwahyuanto (2023), who demonstrated that the INA-CBGs tariff structure often forces medical personnel to align diagnoses with claim categories to ensure payment (Agiwahyuanto, 2017). However, this study adds a new dimension by showing how these financial incentives not only influence clinical decision-making but also shape a new legal culture in hospitals, where administrative risks are perceived as greater than clinical risks. When mapped using the Avedis-Donabedian healthcare quality model, quality issues can be understood through three main components (Yang et al., 2025): Structure, JKN financing regulations, and the INA-CBGs tariff system, which emphasize efficiency; Process, medical decision-making distorted by administrative interests and claims verification; and Outcome, compromised patient safety and increased potential for patient safety incidents (PSIs). Thus, this study reinforces the view that service quality cannot be measured solely by cost efficiency, but by the extent to which the system ensures patient safety and well-being.

These findings have significant policy implications. To address systemic inequalities, substantial legal reform is necessary through amendments to the BPJS Law, for example, by incorporating patient safety as a normative principle in Article 5, and by establishing a patient safety monitoring board that involves BPJS, the Ministry of Health, medical professional organizations, and patient representatives. Furthermore, incentive structures need to be aligned with clinical objectives by redesigning the INA-CBGs payment system to prioritize quality (value-based payment) over cost efficiency. Legal culture reform is also necessary through clinical ethics education and the strengthening of non-punitive reporting of safety incidents. The integration of these three elements is expected to create a fairer social health insurance system, with patient safety at the core of healthcare services.

Empirical findings also indicate that hospitals implementing a digital system for reporting PSI have experienced a 22 % reduction in incidents (Rumini & Purwarini, 2024). This fact demonstrates that information technology can be an effective tool in creating a culture of patient safety, as evidenced by the Social Health Security Administration's (2024) research on digital service transformation in 50 partner hospitals, which showed increased efficiency in reporting and monitoring service quality (Prasetyo et al., 2025). Thus, integrating technology, reporting transparency, and legal reform forms a mutually reinforcing unit in building a just and safety-oriented healthcare system.

In a comparative context, the healthcare systems of Malaysia and Singapore provide relevant examples. Malaysia established a Patient Safety Council through the Ministry of Health Guidelines (2016), which oversees the implementation of safety standards in public hospitals (Ismail & Khalid, 2022). Meanwhile, Singapore integrated patient safety into the Healthcare Services Act 2020, making it an integral part of hospital operating permits (Chua et al., 2025).

Both countries demonstrate that patient safety is not merely an ethical principle but a legally binding obligation. Indonesia can learn from this by explicitly incorporating patient safety principles into its BPJS regulations, aligning with the constitutional mandate and Notonagoro's Pancasila Justice principle, which emphasizes the balance between social efficiency, humanitarian values, and moral justice (Pardosi et al., 2019).

Conclusion

Based on the research and analysis, it can be concluded that legal protection for patient safety in the National Health Insurance (JKN) system remains weak and has not been integrated either normatively or structurally. The absence of patient safety principles in Law Number 24 of 2011 regarding the BPJS has transformed the health insurance system into one that is more administratively effective, rather than prioritizing patient rights to safety and quality of service. This imbalance led to a severe contradiction between medical professionalism and administrative responsibility, ultimately compromising the quality of public health services. In response to this, this study prescribes various strategic steps, including re-orienting BPJS regulations by inserting patient safety values in Article 2 of the BPJS Law and revising articles on financing governance to be compatible with the 2023 Health Law, having digital-based ethical and legal monitoring mechanisms at all hospitals, and strengthening the capacity and awareness of medical personnel and BPJS officers on the principles of legal protection for patients through health law and clinical ethics education. Through these processes, the JKN system is expected to become not just an administratively efficient system, but also fair, transparent, and human dignity-based. BPJS legal reform has become a necessary condition for ensuring that the protection of patients truly becomes the highest law (*salus aegroti suprema lex*) and, at the same time, a tangible manifestation of the spirit of the welfare state demanded by the 1945 Constitution.

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