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Legal Liability of Patients for Concealing Infectious Diseases as a Form of Legal Protection for Dentists

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ABSTRACT

The concealment of information regarding infectious diseases by patients in dental care settings poses serious risks to dentists regarding health and legal implications. A patient's lack of transparency may hinder the provision of appropriate medical measures and potentially lead to legal disputes. This study examines the legal liability of patients who conceal information about infectious diseases to ensure legal protection for dentists. The research adopts a normative juridical approach through a literature study of statutory regulations, legal literature, and relevant court decisions. The analysis is conducted qualitatively using systematic and grammatical interpretation methods. The findings indicate that Law Number 17 of 2023 on Health establishes a legal basis for patients' obligation to provide honest and accurate health information. Concealing an infectious disease may be classified as an unlawful act that causes both material and immaterial harm to dentists. In practice, dentists are entitled to legal protection if they suffer losses as a result of a patient's dishonesty. The discussion reveals that strengthening patients' rights and obligations through precise legal instruments and public education on the importance of health information disclosure are essential measures to prevent disputes and safeguard dentists in performing their professional duties. Legal protection for dentists should be passive through patient liability and supported by consistent and enforceable policy and professional ethics.

Keywords: *Legal Protection, Dentists, Patient Liability, Infectious Diseases, Health Information.*

Introduction

The dental profession entails a high degree of occupational risk, particularly due to the nature of dental and oral health services, which require direct contact with the patient's oral cavity. This environment may harbour numerous pathogenic microorganisms. Dentists are frequently exposed to blood, saliva, and soft tissue in procedures such as tooth extractions, root canal treatments, and scaling(Alya Fauziah et al., 2023; Eni & Asridiana, 2020; Zuhriza et al., 2021). These conditions render dentistry one of the professions most susceptible to the transmission of viral infectious diseases, such as Human Immunodeficiency Virus (HIV), Hepatitis B, and Hepatitis C(Al Bakri et al., 2021; Dewi et al., 2021). Transmission may occur not only through direct exposure to open wounds or contaminated needles but also via microscopic droplets that cannot always be entirely prevented with standard personal protective equipment.

Dentists are obligated to provide safe, professional, and competency-based services. Conversely, patients must be honest in disclosing their medical history to dentists as part of the therapeutic legal relationship founded on trust.(Riyanto & Panggabean, 2021) When patients fail to disclose their infectious disease status especially in cases involving serious and long-term conditions—they may harm not only the individual dentist but also the broader healthcare system.

Patient dishonesty in providing relevant health information remains a critical issue that has not received sufficient attention in Indonesia's legal system. In practice, there are numerous instances in which patients conceal vital information regarding their HIV or

hepatitis status, often out of fear of stigma or under the mistaken belief that disclosure is unnecessary. This situation presents an ethical and legal dilemma, as the right to patient privacy must be upheld. At the same time, the legal protection of dentists' safety must be ensured. Such legal ambiguity poses a risk of dispute when a dentist contracts an infectious disease due to treating an untruthful patient.

To date, there is no national regulation in Indonesia that explicitly governs the criminal liability of patients who deliberately conceal infectious disease status that directly endangers dentists' safety. Articles in the Indonesian Penal Code (KUHP), such as Article 359 concerning negligence causing injury or death, remain insufficient to hold patients accountable for intentionally withholding such information. Although Law Number 17 of 2023 on Health outlines patients' rights and obligations, it lacks specific provisions on criminal sanctions for violations of the obligation to provide accurate and truthful information. This regulatory gap creates an imbalance between dentists' substantial legal responsibilities in medical negligence and the absence of proportional legal consequences for patients who create danger through the concealment of critical health information.

The principle of equality before the law in criminal justice demands establishing clear accountability for any individual who knowingly endangers others(Korompot et al., 2021), regardless of their status as a patient or otherwise. Two critical elements warrant legal examination in cases involving the concealment of infectious diseases. First, there is a clear act that poses a tangible risk to the safety of medical personnel. Second, there is intent or deliberate omission by the patient in failing to disclose information that could have prevented harm(Tahir & Santoso, 2022). Theoretically, such conduct can be constructed as an unlawful act that fulfils the elements of a criminal offence, particularly if it results in physical harm or suffering to the dentist. Several foreign legal systems such as those of Germany and Canada have explicitly categorized the concealment of certain infectious diseases as criminal offences punishable by imprisonment.(Ridic et al., 2012)

In Indonesia's legal system, there is a noticeable lack of discourse regarding the potential for patients' concealment of health information to fall within the scope of civil or criminal liability. Most legal studies remain concentrated on safeguarding patients from possible malpractice or errors medical professionals commit(Naili et al., 2022). However, the reality in clinical practice shows that dentists, as medical professionals exposed to direct occupational risks, urgently need a legal foundation that can offer protection against the adverse consequences of patient dishonesty. This imbalance raises serious questions about the urgency of developing new legal norms to address this legal vacuum.

The core premise of this study is the recognition that patients are not merely legal subjects entitled to protection but may also be held civilly and criminally accountable when their actions threaten the safety of healthcare providers. This notion is grounded in the fundamental principle of legal protection that places human safety as a central objective. Based on this reasoning, a patient who knowingly conceals their infectious disease status is considered to have acted negligently and to have placed others at risk. Therefore, such conduct may, in theory, meet the threshold for criminal liability. This concept deserves further scrutiny to enable the Indonesian legal system to offer a more balanced framework that respects patients' rights and dental professionals' safety.

The regulation of civil and criminal liability for patients who conceal information about communicable diseases must be formulated with due regard to the principles of proportionality and human rights. Not every instance of dishonesty should be subject to criminal sanctions. However, when there is clear evidence that a patient has knowingly withheld critical information that endangers a dentist and causes demonstrable harm, a legal mechanism should be available to address such conduct fairly. Such a regulatory framework

would provide legal protection for dentists and reinforce a healthcare system founded on trust and transparency.

Preventive efforts through patient education on the importance of honesty in disclosing health information must remain the primary approach. However, to provide a more comprehensive legal safeguard, criminal law must regulate the actions of patients who knowingly endanger medical professionals. The conceptualization of a new criminal offence, informed by established doctrines of criminal law and comparative practices from other jurisdictions, represents a significant academic contribution to the reform of Indonesia's health law framework.

Within the Indonesian legal system(Sulaksono, 2023), protection for dentists at risk of contracting infectious diseases such as HIV or Hepatitis remains markedly limited. While various regulations already impose obligations on medical personnel to deliver safe healthcare services and guarantee patients' rights to the confidentiality of medical data, there are currently no explicit provisions addressing how patients who intentionally conceal their infectious disease status can be subjected to legal sanctions. A patient who fails to disclose a history of contagious illness may place a dentist in a highly vulnerable position since clinical procedures involving such patients could lead to direct or indirect transmission of the disease.

This situation raises a pressing legal question regarding the scope of protection available to healthcare providers, especially dentists when confronted with patients who fail to provide truthful and complete information about their health conditions. What forms of legal accountability can be imposed on patients who knowingly conceal information about their infectious diseases during dental treatment? To what extent can such accountability serve as a legitimate basis for providing dentists fair and proportionate legal protection? These issues remain largely unexplored in Indonesian legal literature. It is, therefore, essential to examine whether existing legal instruments sufficiently protect dentists from the dangers posed by patient dishonesty and whether new legal provisions are necessary to address this legal gap.

Methods Research

This study employs a qualitative method grounded in normative legal research(Negara, 2023), utilizing a doctrinal approach to legal interpretation. It aims to examine the legal accountability of patients who knowingly conceal infectious diseases when receiving dental healthcare services and assess the extent to which such accountability can support legal protection for dentists. Primary data sources include statutory regulations such as Law Number 17 of 2023 on Health, the Indonesian Penal Code (KUHP), the Indonesian Civil Code (KUHPerdata), and ministerial regulations governing medical ethics and the legal relationship between patients and medical professionals. Secondary data are drawn from legal literature, scholarly articles, expert opinions, and relevant jurisprudence in health law and professional liability. The analysis is conducted using a descriptive-analytical method, with an emphasis on normative legal reasoning and systematic interpretation(Tan, 2021). The study applies three principal approaches: a statutory approach to interpreting existing legal norms, a case approach to analysing court decisions concerning patient dishonesty, and a conceptual approach to exploring the theoretical foundations of patient responsibility and legal protection for medical personnel. Through this methodology, the research seeks to construct a systematic legal framework that clarifies patient obligations and guarantees the professional rights of dentists within the healthcare system.

Results and Discussion

The legal liability of patients who deliberately conceal information about infectious diseases during dental treatment presents a unique challenge within Indonesia's legal system. Dentists, as medical professionals, are responsible for protecting patients and the broader community from the risk of disease transmission. However, this responsibility becomes unbalanced when patients fail to provide honest, accurate health information. Concealing infectious diseases such as hepatitis B, tuberculosis, or HIV not only endangers healthcare workers but also violates the principle of fairness in the provision of healthcare services.

Law Number 17 of 2023 on Health does not explicitly impose sanctions on patients who lie or withhold information about infectious diseases. Nonetheless, general legal principles and provisions within civil and criminal law may be employed as a legal foundation to hold such patients accountable. Article 277, paragraph (1) of Law 17/2023 stipulates that every individual receiving healthcare must provide truthful and accurate information to medical personnel. This article serves as a normative basis for recognizing the patient's duty to disclose information as a component of a reciprocal healthcare relationship that must be carried out in good faith.

Intentionally concealing an infectious disease may be unlawful under Article 1365 of the Indonesian Civil Code (KUHPerdata), which states that any illegal act causing harm to another obligates the perpetrator to compensate for the resulting damages. In dental care settings, the harm may manifest as the transmission of infection to dentists, other medical staff, or even other patients. Consequently, patients may be held civilly liable for damages caused by their unlawful conduct. In some instances, if intentionality and harmful consequences can be substantiated, criminal liability may also arise—though this would require a more explicit legal basis.

Recognizing that mutual trust in the doctor-patient relationship forms the foundation of successful healthcare delivery is essential. When patients conceal infectious diseases, this trust is eroded, potentially leading to a failure to protect vulnerable individuals, including healthcare providers. From the perspective of legal liability theory, three forms of liability are relevant: criminal, civil, and administrative. In this context, civil liability is more appropriately applied through a damages claim, as its evidentiary burden is less stringent than that required to prove criminal intent.

Nonetheless, a significant normative gap persists in explicitly regulating sanctions against patients who withhold critical health information. Indonesian criminal law has yet to regulate patients' duty to disclose, whereas in countries such as the United States, the concept of a patient's duty to disclose has been formally recognized and is enforceable through sanctions. The patient's duty to provide accurate anamnesis in Germany has been affirmed through court rulings that acknowledge the medical professional's right to access relevant health information before administering care. These practices strengthen the legal position of healthcare providers and ensure maximum protection for their professional roles.

This development could serve as a basis for advocating new legal norms concerning patient accountability within Indonesia's legal system. National health legislation should reformulate the patient's obligations as part of a balanced service contract. Provisions within the Indonesian Civil Code (KUHPerdata), particularly Articles 1320 and 1338 regarding the validity of contracts and the principle of freedom to contract, may serve as legal references. When patients agree to receive healthcare services, they are implicitly bound by an agreement to disclose their medical condition honestly. If this obligation is breached and harm results, a civil lawsuit becomes a viable avenue for the physician to claim damages.

In addition, ethical and professional frameworks also play a critical role in shaping patient accountability. The Indonesian Dental Code of Ethics (KODEKI) emphasizes the importance of honesty in the doctor-patient relationship as a core standard of professional ethics(Pelafu, 2021). A patient's dishonesty constitutes a legal violation and breaches ethical norms, endangering the therapeutic relationship and compromising service safety. Consequently, establishing institutional ethical mechanisms within hospitals that regulate patient rights and obligations in greater detail would be an essential preventive and remedial tool in such cases.

Legal protection for dentists against patients who conceal infectious diseases should not be purely reactive—relying solely on lawsuits or criminal prosecution—but must also include preventive measures. Dentists and healthcare institutions should adopt standard operating procedures (SOPs) requiring patients to sign a declaration of truthful disclosure of health data as part of the informed consent process. This document serves as legal evidence that strengthens the dentist's position in the event of a dispute. This procedural innovation also aligns with the precautionary principle in medical practice and offers tangible legal protection.

From the standpoint of distributive justice, legal protections for patients and medical professionals must be balanced. To date, healthcare law in Indonesia has tended to prioritize patient protection. However, when patients pose risks to healthcare workers, the principle of fairness demands equal legal safeguards for doctors. Developing new norms through government regulations or ministerial decrees that specifically address patients' disclosure obligations would be a progressive step worth pursuing.

Policy recommendations should also include enhancing patient legal literacy through healthcare service channels. Educational efforts focused on the importance of medical honesty, potential legal consequences for non-disclosure, and the broader social impacts of such behaviour could foster a new legal awareness among the public. Over time, this educational approach would complement repressive normative measures, contributing to a more balanced legal protection system.

Considering both the national legal structure and international practice, it is clear that legal accountability for patients who conceal infectious diseases is a pressing normative need. Patient dishonesty is an ethical violation and a potential legal infraction that can lead to tangible harm. The formation of new legal norms, the strengthening of civil contractual obligations, and the introduction of procedural innovations in clinical settings offer a practical middle ground for ensuring that dentists are supported by a robust legal foundation in performing their professional duties safely and equitably.

The current provisions on informed consent, which have traditionally formed the legal basis for medical procedures, do not yet extend adequate protection to doctors in situations involving patient dishonesty. Informed consent is still narrowly defined as the physician's obligation to explain medical procedures without recognizing a reciprocal duty on the part of the patient to provide accurate information(Windyaningrum & Arin, 2019). As a result, the therapeutic contract between doctor and patient remains unilaterally constructed. This represents a significant weakness in the legal protection framework for dentists, as incomplete patient disclosure generates no tangible legal consequences for the patient yet exposes the dentist to physical and legal risks.

In everyday practice, dentists do not have legal access to verify the accuracy of the information provided by patients, as the principles of medical confidentiality and patient autonomy are highly upheld. However, in cases involving infectious diseases that pose a risk to the safety of medical personnel, such independence must be proportionally limited. Dentists should be granted the legal right to refuse to provide treatment if a patient

knowingly withholds critical information regarding an infectious condition. Such refusal must be protected by law as a legitimate action based on the principle of primum non nocere, namely the obligation not to harm others, including healthcare providers.

Fair legal protection also necessitates the existence of an integrated medical reporting and recording system that allows dentists to access essential information regarding a patient's history of infectious diseases within a legally restricted and strictly supervised framework(M, 2023). This system must be designed to maintain patient confidentiality while simultaneously creating space for the legal protection of dentists based on their right to obtain accurate and relevant information before performing medical procedures. Many dentists lack adequate support systems for screening infectious diseases, exposing them to structural and systemic risks.

The legal liability of patients who conceal infectious diseases during dental care must be analyzed as a foundation for fair and proportional legal protection for dentists. When a patient conceals a contagious condition, the professional risks borne by the dentist increase significantly. Such concealment not only endangers the physical safety of the dentist but also gives rise to potential legal disputes that may harm the dentist's reputation and their ethical and administrative standing. In clinical practice, the relationship between doctor and patient should not be viewed merely as a social interaction but as a legal relationship that entails reciprocal obligations. Hence, it is essential to understand how patients can be held legally accountable to ensure equal legal protection for dentists.

The obligation of patients to provide complete and honest information regarding their health conditions is explicitly regulated in Article 277 point (a) of Law Number 17 of 2023 on Health. This provision normatively affirms that patients are not merely recipients of medical services but also bear legal responsibilities in the healthcare process. This norm is a foundation for establishing a balanced legal relationship between dentist and patient. However, this provision is not accompanied by specific sanctions against patients or their families if they fail to fulfill this obligation. The absence of administrative, civil, or criminal sanctions renders this provision declarative. Dentists, as providers of healthcare services, are at risk of bearing legal consequences for medical actions based on information that ultimately proves to be inaccurate, even when such inaccuracy results from the patient's negligence or deliberate concealment of an infectious disease. This imbalance raises serious concerns about the proportionality of legal protection between the parties.

This situation indicates that the Indonesian legal system has not yet provided a balanced framework of legal accountability between patients and healthcare providers in clinical interactions. When harm arises due to concealed information by the patient, the burden of proof and legal defense almost entirely falls upon the doctor. Meanwhile, the patient, who is the source of the problem, is not subjected to any form of accountability mechanism. Such a situation undermines the principle of legal equality (equality before the law) in both civil and administrative dimensions of healthcare services. Therefore, an argumentative legal foundation is required to fill this normative gap and to develop a just regime of patient accountability.

One relevant conceptual approach to addressing this imbalance is the culpa principle in contrahendo. This principle originates from Continental European legal traditions and asserts that a party who behaves dishonestly during the pre-contractual phase may be held accountable for any resulting damages. While this principle is not explicitly regulated in Indonesian civil law, its existence has been acknowledged in doctrine and some jurisprudence. Applying this principle in dental care is a foundation for holding patients accountable who conceal essential information regarding infectious diseases.

The initial relationship stage between a patient and a dentist can be considered a pre-contractual phase that forms the basis for medical services. When a patient visits a healthcare facility and expresses complaints, an implicit binding agreement is formed between the two parties. The patient expects professional services, while the dentist relies on the honesty of the patient's information as a basis for medical decision-making. If the patient fails to disclose an infectious condition, a violation of trust, which is the foundation of this agreement, occurs. In constructing culpa in contrahendo, the patient's actions meet the criteria of fault because they happened during the formation of the legal relationship and caused real harm to the dentist.

The principle of proportionality in law teaches that the protection given to dentists should be commensurate with the risks they bear. When a dentist is unaware of the patient's infectious disease status due to concealed information, there should be a legal mechanism that provides defense for actions taken based on ignorance, not due to negligence but rather the unavailability of information. The state must provide legal instruments that classify the concealment of infectious diseases as a breach of contract or legal violation with legal consequences for the patient. This provides fairness to the dentist and encourages the formation of a more open and responsible medical relationship.

In health administrative law, regulations can be developed within hospitals or clinics that provide protective clauses for dentists in the form of enhanced authority to request clarification or preliminary examinations of patients suspected of concealing infectious diseases(Thomson, 2024). These policies must be formulated based on the principles of caution and protecting healthcare workers' rights and must receive legitimacy from national legal provisions. Without firm administrative regulations, dentists will continue to be in a vulnerable institutional position, which may decrease the quality of healthcare services due to fear of facing unknown risks.

Conceptually, holding patients accountable for concealing infectious diseases represents a critical point for reforms in health law toward a more just and equitable system. Dentists, as professionals who carry out their duties based on ethical principles and scientific knowledge, should not bear full responsibility when harm or damage arises from inaccurate information provided by the patient. Proportional legal protection for dentists can only be built if there is an explicit recognition of the patient's responsibility to provide honest and open medical information and the imposition of sanctions or legal consequences when this obligation is violated.

Conclusion

Patients' concealment of infectious disease information in dental care constitutes a legal violation with profound implications for dentists' safety and legal standing. Article 277(a) of Law Number 17 of 2023 on Health provides a normative basis stipulating that patients must provide accurate and honest information. However, the absence of clear sanctions for non-compliance with this obligation leaves a significant legal gap. Without explicit penal norms, civil law principles—particularly Article 1365 of the Indonesian Civil Code—may serve as a basis for holding patients legally accountable for unlawful acts. This approach aligns with the reciprocal nature of healthcare agreements, which demand good faith from both parties. The imbalance in legal protection between doctors and patients underscores the urgency of establishing new regulations within Indonesia's legal system or amending Law Number 17 of 2023 to include additional provisions. The need for

legal instruments that provide proportional protection for medical professionals is increasingly pressing, considering the vulnerability of doctors to both physical and legal harm. Preventive measures, such as procedural innovations like honesty declarations in informed consent forms and educational approaches to raise patients' legal awareness, can be practically implemented in clinical settings. In addition, legal recognition of the dentist's right to refuse treatment when critical information is withheld should be regulated as part of professional safeguards.

The most appropriate liability model in such cases lies within civil law through claims for damages while still allowing for the possibility of criminal liability in circumstances involving intentional misconduct. Affirming patients' legal obligations, strengthening doctors' legal position, and establishing a lawful and controlled medical reporting system are essential elements in building a balanced and fair legal protection framework. Accordingly, harmonizing ethical standards, legal norms, and adequate operational mechanisms can ensure a high-quality and safe healthcare system for all parties.

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