



## **Strengthening Regional Regulations in Health Provision(Empirical Normative Study Following the Enactment of Law Number 17 of 2023 concerning Health)**

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### **Abstract:**

Health governance constitutes a constitutional right of citizens and a mandatory governmental function related to basic public services, thereby requiring active state involvement within the framework of a welfare state. The enactment of Law Number 17 of 2023 on Health marks a fundamental shift in Indonesia's national health system by emphasizing promotive and preventive approaches as well as integrated health services, which directly affects the authority and responsibilities of local governments. This study aims to analyze the urgency of strengthening local regulations on health governance following the enactment of Law Number 17 of 2023 and to examine the conformity between legal norms and their empirical implementation at the regional level. This research employs a normative-empirical legal research method, combining a normative approach through the analysis of constitutional provisions, health laws, and local government regulations, with an empirical approach based on Focus Group Discussions and public consultations involving relevant stakeholders. The findings indicate that local health governance continues to face structural challenges, including unequal access to health services, limitations in health human resources, and suboptimal inter-sectoral coordination and accountability. Therefore, the study underscores the need for comprehensive and responsive local regulations on health governance that are aligned with Law Number 17 of 2023, in order to clarify institutional authority, strengthen promotive and preventive health strategies, ensure legal protection for both the community and health workers, and realize equitable, accessible, and sustainable health services at the local level.

**Keywords:** health governance, local regulation, welfare state, regional autonomy, Health Law 2023

## **1. Introduction**

Health is a human right that is constitutionally guaranteed in the 1945 Constitution of the Republic of Indonesia. Article 28H paragraph (1) of the 1945 Constitution states that everyone has the right to obtain health services, while Article 34 paragraph (3) states that the state is responsible for providing adequate health care facilities and public service facilities. This provision emphasizes that health is not only seen as an individual need, but as the state's responsibility in realizing general welfare and social justice.

From the perspective of a modern state based on the rule of law, the fulfillment of the right to health is an integral part of the concept of a welfare state, in which the state plays an active role in

ensuring the fulfillment of citizens' basic needs (Bagir Manan, 2003). The state does not merely function as a guardian of order, but also as a manager and organizer of public services, including quality, fair, and affordable health services. Therefore, health has a strategic position in human resource development and improving the quality of life of the community (Satjipto Rahardjo, 2014).

As an implementation of this constitutional mandate, the government has enacted various health regulations, the most recent of which is Law Number 17 of 2023 concerning Health. This law introduces a new paradigm in health care delivery, emphasizing a promotive and preventive approach, health system integration, and legal protection for the public and health workers. Health is defined not simply as the absence of disease, but as a physical, mental, and social state that enables a person to live a socially and economically productive life (World Health Organization, 2006).

Within the framework of decentralization, health affairs are mandatory government affairs related to basic services and fall under the authority of regional governments. This is emphasized in Article 12 paragraph (1) of Law Number 23 of 2014 concerning Regional Government. Thus, regional governments have the legal responsibility to regulate, organize, foster, and supervise health services in their regions through regional policy instruments and regulations.

However, in the practice of health care delivery in the regions, including in Bogor City, various problems are still encountered, including unequal access to health services, limited human health resources, uneven distribution of health facilities, and challenges in health governance and financing (Bogor City Government, 2025). This condition is exacerbated by the dynamics of social change, urban population growth, and changing disease patterns that demand an adaptive and sustainable health care system.

With the enactment of Law Number 17 of 2023 concerning Health, regional governments are required to adjust their policies to align with the direction of national health development. Therefore, the establishment of Regional Regulations on Health Provision is a strategic legal instrument to provide legal certainty, clarify the division of authority, and guarantee the protection of the public's right to health services (Johan Bahder Nasution, 2005).

## 2. Literature Review

Health governance has long been recognized in legal scholarship as an essential manifestation of constitutional responsibility and a core element of the welfare state. In the Indonesian constitutional framework, health is explicitly guaranteed as a fundamental right, obligating the state to ensure access to adequate and equitable health services for all citizens (Jimly Asshiddiqie, 2005). This constitutional guarantee positions health not merely as a sectoral policy concern but as a legal obligation that must be operationalized through coherent regulatory instruments at both national and local levels. Within the welfare state paradigm, the state is expected to actively intervene in social sectors, including health, to achieve substantive equality and social justice (Bagir Manan, 2016).

The concept of the welfare state emphasizes that public health services are a form of social protection and redistribution aimed at reducing structural inequalities in society (Satjipto Rahardjo, 2014). Legal scholars argue that access to health services reflects the degree to which the state fulfills its social contract with citizens, particularly vulnerable and marginalized groups (Johan Bahder Nasution, 2005). Consequently, regulatory frameworks governing health services must not only ensure efficiency and effectiveness but also uphold principles of justice, accessibility, and legal certainty. In this regard, law functions as an instrument to translate constitutional values into operational norms that guide policy implementation.

Decentralization has significantly reshaped the governance of health services in Indonesia. Under Law Number 23 of 2014 on Local Government, health is classified as a mandatory governmental function related to basic services, thereby granting local governments substantial authority and responsibility in health governance. Decentralization theory suggests that local governments are better positioned to address community-specific health needs due to their proximity to citizens and contextual understanding (Bagir Manan, 2003). However, empirical studies on

decentralized governance indicate that the transfer of authority does not automatically lead to improved service delivery, particularly when local regulatory capacity and institutional coordination remain weak.

Legal literature highlights that the effectiveness of decentralized health governance depends largely on the clarity and coherence of legal norms governing the distribution of authority between levels of government (Mertokusumo, 2009). Ambiguous or fragmented regulations may result in overlapping responsibilities, weak accountability, and inconsistent service standards across regions. Therefore, local regulations serve a critical role in operationalizing decentralization by defining institutional roles, coordination mechanisms, and service obligations in a manner consistent with national legal frameworks.

The enactment of Law Number 17 of 2023 on Health marks a significant transformation in Indonesia's health legal regime. The law introduces a paradigm shift by prioritizing promotive and preventive approaches and emphasizing integrated health services over a predominantly curative orientation. This shift aligns with global health governance principles promoted by the World Health Organization, which advocate health promotion, disease prevention, and system integration as key strategies for sustainable health systems (WHO, 2010). From a legal perspective, this paradigm shift requires not only policy adjustments but also regulatory realignment at the local level to ensure effective implementation.

Scholarly discussions on health law reform emphasize that national-level legal changes must be followed by adaptive local regulations to prevent normative dissonance between central policies and local practices (Marzuki, 2017). Without responsive local regulatory frameworks, the promotive-preventive orientation introduced by the 2023 Health Law risks remaining declarative rather than transformative. Local governments are therefore expected to reformulate their regulations to strengthen primary health care, promote community participation, and facilitate cross-sectoral collaboration in health governance.

Methodologically, legal studies on health governance increasingly employ a normative-empirical approach to assess both the design and the implementation of legal norms. Normative legal analysis focuses on the consistency, hierarchy, and coherence of legal rules, while empirical analysis examines how these rules operate in practice (Soekanto & Mamudji, 2014). This combined approach is particularly relevant in the health sector, where legal effectiveness is closely tied to institutional capacity, resource availability, and social conditions.

Previous empirical legal studies demonstrate that gaps between legal norms (das sollen) and implementation (das sein) are common in decentralized public service sectors, including health (Soekanto, 2014). These gaps often arise from limited resources, weak inter-sectoral coordination, and insufficient regulatory detail at the local level. As a result, empirical findings are essential for informing regulatory reform and ensuring that legal frameworks are responsive to actual governance challenges faced by local governments.

Despite extensive literature on health as a constitutional right, welfare state theory, and decentralization, limited scholarly attention has been paid to the implications of Law Number 17 of 2023 on local regulatory frameworks. Existing studies tend to focus either on national health policy reform or on decentralization in general, without specifically addressing how local regulations should be strengthened to operationalize the new promotive preventive and integrated health paradigm. This study addresses this gap by analyzing local health governance through a normative empirical lens, offering a legal perspective that integrates constitutional principles, welfare state theory, and empirical governance realities in the post-2023 Health Law context.

### **3. Case and Methodology**

Research is the primary means of developing science and technology because it enables the truth to be revealed systematically, methodologically, and consistently. Legal research, as part of scientific research, has its own characteristics that are based on the study of legal norms and their

implementation in the practice of organizing social and state life (Soerjono Soekanto, 1986). Therefore, selecting the right research method is an important factor in ensuring the validity and depth of research analysis. The type of research used in this study is empirical normative legal research, namely legal research that examines written legal norms by linking them to empirical facts that develop in society (Peter Mahmud Marzuki, 2017). Normative legal research is conducted by relying on primary, secondary, and tertiary legal materials analyzed through the method of interpretation and systematization of laws and regulations, especially those related to health care.

A normative approach is used to examine laws and policies relevant to health care delivery, including the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2023 concerning Health, Law Number 23 of 2014 concerning Regional Government, and regional regulations and technical policies governing health care services in the regions. This approach aims to analyze the suitability, synchronization, and consistency of legal norms in regulating the authority, responsibility, and mechanisms of health care delivery by regional governments (Sudikno Mertokusumo, 2009). This normative legal research is supported by an empirical approach to obtain primary data that describes the factual conditions of health care delivery in the regions. The empirical approach is carried out to understand how legal norms are implemented in practice and to identify problems that arise in the provision of health care (Soerjono Soekanto & Sri Mamudji, 2014). Empirical data collection is carried out through Focus Group Discussions (FGDs) and public consultations (public hearings) involving relevant regional officials, health workers, academics, and other stakeholders.

#### **4. Results & Analysis**

##### **a. The Urgency of Health Provision as a Mandatory Regional Basic Service Affair**

Healthcare delivery is a concrete manifestation of the state and regional governments' obligations to fulfill human rights in the health sector. From a constitutional law perspective, the right to health is part of citizens' constitutional rights, which demands the active presence of the state, whether through policies, regulations, or the provision of public services (Jimly Asshiddiqie, 2005). Therefore, health cannot be positioned as a purely administrative matter, but rather as a strategic matter directly related to the quality of human resources and sustainable development.

Law No. 23 of 2014 concerning Regional Government affirms that health is a mandatory government affair related to basic services. The legal consequence of this provision is the obligation for regional governments to provide health services in a planned, measurable, and sustainable manner. Regional governments not only act as implementers of central policies but also as policymakers responsive to the needs and characteristics of their local communities.

The urgency of regional healthcare delivery has grown stronger with the enactment of Law Number 17 of 2023 concerning Health, which brings about a fundamental shift in the paradigm of the national healthcare system. This law no longer places healthcare services solely on curative and rehabilitative aspects, but instead prioritizes promotive and preventive approaches as the primary strategy for improving public health. This approach emphasizes the importance of disease prevention, increasing awareness of healthy living, and early control of health risk factors through the active involvement of the government, community, and other stakeholders.

Law Number 17 of 2023 concerning Health also emphasizes the importance of integrating health services into a unified and sustainable system. This integration encompasses the alignment of individual and public health services, primary and referral health facilities, and central and regional policies. With an integrated service system, it is hoped that there will be no policy fragmentation or overlapping authority that could hamper the effectiveness of regional health service delivery.

The implications of this paradigm shift require regulatory adjustments at the regional level to align with national health policies. Regional governments are required to adjust their regulations, technical policies, and healthcare delivery mechanisms to ensure they do not conflict with the norms and principles stipulated in the new health law. Adjusting regional regulations is crucial to ensure that

regional autonomy remains within the national health system and addresses the needs and characteristics of local communities.

Adjustments to regional regulations are not only formal and administrative in nature, but also substantive, encompassing strengthening the role of local governments in promotive and preventive efforts, equitable health financing arrangements, improving the quality and equity of health services, and ensuring legal protection for the public and health workers. Thus, local health policies and implementation are expected to not only align with national policy directions but also contribute significantly to strengthening the national health system as a whole and sustainably.

### **b. Health Provision from a Welfare State Perspective**

In welfare state theory, the state is seen as having primary responsibility for ensuring the social and economic well-being of its citizens, including the fulfillment of the right to health services (Bagir Manan, 2016). The state no longer functions as a night watchman, but rather as an active manager of public welfare through public policy intervention.

Healthcare delivery by local governments is a concrete manifestation of the principles of the welfare state at the local level. Local governments are required to ensure the availability of healthcare facilities, equitable distribution of healthcare workers, access to healthcare financing, and legal protection for patients and healthcare workers (Johan Bahder Nasution, 2005). Thus, healthcare delivery is not solely oriented toward medical services but also encompasses social, economic, and legal dimensions.

In this context, regional regulations on health care provision serve a strategic role as legal instruments for operationalizing the principles of a welfare state. They serve as a tool to ensure that the right to health is fairly and equitably accessible to all levels of society, including vulnerable and disadvantaged groups (Satjipto Rahardjo, 2009). Within the context of a welfare state, regional regulations on health care provision serve a strategic role as legal instruments for operationalizing the principles of a welfare state at the local level. Through regional regulations, the state's responsibility to ensure public welfare is translated into operational, binding legal norms that can be implemented by local governments and all their agencies. Regional regulations serve not only as the legal basis for health care provision but also as public policy instruments that guide the planning, budgeting, and implementation of regional health programs in a just and sustainable manner.

Regional regulations are an important tool to ensure that the right to health is accessible fairly and equitably to all levels of society. The principles of justice and equity are realized through regulations regarding the availability and affordability of health care facilities, the equitable distribution of health workers, and financing mechanisms that take into account the economic capabilities of the community. In this regard, regional regulations serve as a corrective instrument to address potential disparities in access to health services that can arise from differences in social, economic, and geographic conditions in the regions. Furthermore, regional regulations on health care delivery play a significant role in providing special protection for vulnerable groups and the underprivileged. Regulations regarding service priorities, policy affirmations, and integration with social health insurance programs are concrete manifestations of the state's support for groups that structurally have limited access to health services. Thus, regional regulations not only ensure the formal fulfillment of the right to health but also guarantee the fulfillment of this right substantively, thereby enabling the principles of a welfare state to be concretely realized in regional health care delivery.

### **c. Analysis of Regional Government Authority in Health Provision**

Legally, regional government authority in health care delivery stems from attribution and delegation in legislation. Law Number 23 of 2014 grants regions the authority to regulate and manage health affairs as part of regional autonomy. This authority encompasses planning, budgeting, implementation, development, and supervision of health services.

In practice, the implementation of this authority often faces various obstacles, such as budget constraints, unequal distribution of health workers, and suboptimal cross-sectoral coordination. This situation indicates a gap between legal norms ( das sollen ) and empirical reality (das sein) (Soerjono Soekanto, 2014). Therefore, more comprehensive and adaptive regulations are needed through regional regulations so that the authority held by regional governments can be exercised effectively.

Regional regulations on health care delivery serve a strategic role as legal instruments to clarify the division of authority among regional agencies involved in the health sector. This clarity of authority is crucial given that health care delivery involves various regional agencies with interrelated functions and duties, such as those responsible for health, development planning, regional finance, and social affairs. Without clear regulations, the implementation of tasks and functions between regional agencies has the potential to experience overlapping or conflicting authority, which can hamper the effectiveness of health services. In addition to clarifying the division of authority, regional regulations also play a role in strengthening cross-sectoral and cross-regional coordination mechanisms. Effective coordination is necessary to ensure the integration of planning, budgeting, implementation, and supervision of health care delivery. Through systematic arrangements in regional regulations, coordination mechanisms can be implemented in a structured and sustainable manner, so that each regional agency has a clear and complementary role in achieving regional health development goals.

Regional regulations on healthcare delivery serve to ensure accountability in the delivery of healthcare services. This accountability includes clarity about local government responsibilities in fulfilling the public's right to healthcare, transparency in the management of healthcare resources, and the establishment of publicly accessible monitoring and evaluation mechanisms. With clear and measurable regulations, it is hoped that there will be no gaps in responsibility or overlapping authority between regional agencies, so that healthcare delivery in the regions can be carried out effectively, efficiently, and oriented towards the public interest.

#### **d. Implementation of Promotive and Preventive Approaches in Regional Health Provision**

Law Number 17 of 2023 concerning Health places a promotive and preventive approach as the main pillar of healthcare delivery. This approach emphasizes efforts to increase public awareness, willingness, and ability to live a healthy lifestyle to prevent disease and reduce the burden of healthcare costs.

In the regional context, implementing a promotive and preventive approach requires strong regulatory support. Local governments need to clearly define the roles of communities, businesses, and other stakeholders in promotive and preventive efforts, including through community empowerment and strengthening primary health care (World Health Organization, 2010). This approach also requires integration between individual and public health services. Without adequate regional regulatory support, promotive and preventive approaches have the potential to fail and remain trapped in a costly, curative paradigm.

Regional regulations need to provide a legal basis for implementing community empowerment and strengthening primary health care services as the frontline of the health care system. Community empowerment is aimed at increasing community awareness, capacity, and independence in maintaining and improving their health, while strengthening primary health care aims to ensure the availability of easily accessible, high-quality health care services oriented toward promotive and preventive efforts. With adequate regulatory support, primary health care services will function not only as a place for basic medical services but also as a center for community health education and empowerment.

A promotive and preventive approach demands close integration between individual health services and public health services. This integration is necessary so that preventive and health promotion efforts can run parallel with curative and rehabilitative services, thus creating a holistic and sustainable health care system. Without regional regulations that clearly define the mechanisms for this integration, promotive and preventive approaches have the potential to fail, and regional health

care delivery may remain trapped in a curative paradigm that is costly and ineffective in improving long-term public health.

#### e. The Relevance of the Empirical Normative Approach in Analyzing Health Provision

The use of an empirical normative approach in this study allows for a comprehensive analysis of healthcare delivery, both from a regulatory and implementation perspective. The normative approach is used to assess the compliance of laws and regulations, while the empirical approach provides a realistic picture of healthcare delivery practices in the field (Peter Mahmud Marzuki, 2017).

The results of the focus group discussions (FGDs) and public consultations indicate a continued need to strengthen regional regulations that address factual issues, such as service equity, service quality, and legal protection for the public. These empirical findings provide an important basis for formulating recommendations for more responsive and community-oriented regulations. Therefore, this discussion confirms that regional healthcare delivery requires a holistic regulatory approach, based on human rights, and aligned with the principles of the welfare state and regional autonomy.

This research was conducted in Albany, New York, a city of roughly 100,000 residents in a metropolitan region approaching one million. About 10,500 students attend the City School District of Albany. Like other cities in the Northeast, Albany has suffered from both population decline and white flight since the 1950s, although these trends have reversed and slowed, respectively, during the last decade. The public-school population does not reflect the overall city population, with African American students constituting by far the largest group in the public schools, whereas the city is still majority white. The public schools in Albany, however, have never reflected the city's broader population. This was mainly due to the sizable Roman Catholic parochial school presence in Albany, which always attracted large segments of children from Irish, Italian, and Polish American families (Rabrenovic, 1996).

### 5. Conclusion

The provision of healthcare in the regions is an integral part of fulfilling human rights and embodying the state's responsibility within the framework of a welfare state. Health is not merely understood as a technical matter of medical services, but rather as a mandatory governmental matter related to basic services and directly related to the community's quality of life. Therefore, regional governments have a constitutional and legal obligation to ensure the provision of fair, equitable, and sustainable healthcare services for all levels of society.

The enactment of Law Number 17 of 2023 concerning Health marks a paradigm shift in the national health system, emphasizing a promotive and preventive approach and the integration of health services. This paradigm shift requires regulatory adjustments at the regional level to ensure that local health policies and implementation align with national policy directions. Without adequate regulatory adjustments, there is a risk of policy asymmetry, potentially hampering the effectiveness of the national health system as a whole. In this context, regional regulations on health care delivery play a strategic role as legal instruments for operationalizing welfare state principles at the local level. Regional regulations serve to clarify the division of authority among regional agencies, strengthen cross-sectoral coordination mechanisms, and ensure accountability in health care delivery. Through clear and comprehensive regulations, regional regulations also serve as a tool to ensure fair and equitable access to health services, including for vulnerable groups and the underprivileged.

In light of these conclusions, it is recommended that regional governments immediately draft or adjust regional regulations on healthcare delivery in line with Law Number 17 of 2023 concerning Health. Regulatory adjustments should be directed at strengthening promotive and preventive approaches, strengthening primary healthcare services, and integrating individual and public healthcare services. Furthermore, regional regulations should explicitly stipulate the division of authority and coordination mechanisms between regional agencies, while strengthening the monitoring and evaluation system for healthcare delivery. By strengthening comprehensive and responsive

regional regulations, it is hoped that healthcare delivery in the regions can be effective, equitable, and sustainable, and can make a real contribution to strengthening the national healthcare system and achieving the highest possible level of public health.

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