

---

## ***Criminal Provisions on Plastic and Aesthetic Surgery: Towards Legal Certainty in Indonesia's Health Law***

---

*Aris Yudhariansyah, Anis Mashadurohatun, Bambang Tri Bawono,  
Ahmed Kheir Osman & Muhammad Dias Saktiawan\*.*

### ***Abstract***

Indonesia's rapidly expanding beauty industry has driven aesthetic plastic surgery from the therapeutic margins to mainstream consumer services. Although Law No. 17 of 2023 on Health formally permits reconstructive and aesthetic procedures, legality is conditioned on professional competence, conformity with "societal norms," and a prohibition on identity alteration, subject to criminal sanctions under Articles 433, 439, and 440. The indeterminate nature of these provisions undermines legal certainty and exposes both patients and practitioners to risk. This research seeks to assess whether the criminal provisions of Law No. 17 of 2023 ensure legal certainty consistent with Article 28D of the 1945 Constitution, and to propose normative reforms that reconcile patient rights, medical professionalism, and societal values. The study adopts a doctrinal legal method, employing statute, conceptual, and case approaches. Primary materials include the 1945 Constitution, the Indonesian Penal Code, the 2004 Medical Practice Act, and Law No. 17 of 2023 on Health among others. These are supplemented by secondary sources such as scholarly writings and judicial decisions.

The study revealed three principal challenges:

- (i) the indeterminate nature of terms such as "contravening societal norms" and "identity alteration," which lack clear legal definition;

---

\* Aris Yudhariansyah, Universitas Islam Sultan Agung- Indonesia,  
Anis Mashadurohatun, Universitas Islam Sultan Agung- Indonesia,  
Bambang Tri Bawono, Universitas Islam Sultan Agung- Indonesia,  
Ahmed Kheir Osman, Somali National University-Somalia,  
Muhammad Dias Saktiawan, Universitas Islam Sultan Agung- Indonesia.



- (ii) regulatory overlap between the licensing regimes of the Medical Practice Act and the Health Law, resulting in duplication and inconsistency; and
- (iii) deficient enforcement mechanisms, evidenced by the prevalence of unlicensed practitioners and poor adherence to informed consent requirements, professional standards (*lege artis*), and standard operating procedures.

The study concludes that the current regime fails to deliver legal certainty. It recommends issuing detailed Government Regulations under Article 137, harmonizing licensing systems, calibrating criminal sanctions by culpability, strengthening patient rights and communication safeguards, and prioritizing enforcement against unlicensed providers. These reforms would create a balanced framework that ensures patient safety and autonomy, professional integrity, and constitutional legal certainty.

***Keywords:*** *Aesthetic. Plastic, Surgery, Health, Law, Indonesia.*



## 1.1 INTRODUCTION

Indonesia, with a population of more than 270 million, stands as the largest nation in Southeast Asia and the fourth most populous country globally. The country's beauty industry has experienced rapid expansion, reflecting the growing consumer demand for beauty and aesthetic products.<sup>1</sup> In 2022, the Indonesian beauty market generated approximately USD 7.23 billion in revenue and is projected to continue growing at an annual rate of 5.81% between 2022 and 2027. Significantly, offline sales account for 84.2% of total industry revenue, underscoring the role of beauty trade fairs and exhibitions as key platforms for business interaction and market development.<sup>2</sup>

This rapid growth in the beauty sector is closely intertwined with the rising popularity of **aesthetic plastic surgery**, which has moved beyond its original therapeutic function and is now increasingly sought as a means to enhance outward appearance. contemporary advances in science and technology in aesthetic plastic surgery are no longer solely directed at treatment, but are increasingly utilized to alter a person's appearance for the purpose of enhancing outward looks. Most of the uncertainties surrounding the legality of aesthetic plastic surgery have been resolved by recognizing the objectives of such procedures and by authorizing operations intended to improve appearance. As a result, aesthetic plastic surgery is now generally regarded as lawful.<sup>3</sup>

Nevertheless, in many Islamic legal systems these procedures are still disapproved of; some jurisdictions expressly prohibit them (haram), while others permit them but only under specific conditions.<sup>4</sup> Under **Article 137 of Indonesia's Law No. 17 of 2023 on Health**, provides that:

1. *Reconstructive and aesthetic plastic surgery may only be performed by Medical Personnel possessing the requisite expertise and authority. Such procedures must not contravene prevailing societal norms and must not be undertaken for the purpose of changing identity.*

---

<sup>1</sup> PT Pamerindo Indonesia, 'Indonesia's Beauty Industry Growth to Globle Market' (2023) available at [https://www.cosmoprof.com/media/cosmoprof/2023/network/ASEAN/indonesia/Brochure\\_CBI\\_2023.pdf](https://www.cosmoprof.com/media/cosmoprof/2023/network/ASEAN/indonesia/Brochure_CBI_2023.pdf).

<sup>2</sup> *ibid*

<sup>3</sup> Endang Sri Sarastri et al. 'Comparison of Aesthetic Plastic Surgery Laws Applied in the United States and Indonesia' (2021) Universitas Diponegoro at <file:///C:/Users/previ/Downloads/41750-128543-1-SM.pdf>.

<sup>4</sup> *ibid*



2. *The specific requirements and procedures for reconstructive and aesthetic plastic surgery, as referred to in paragraphs (1) and (2), shall be further regulated by Government Regulation.*

This provision establishes that aesthetic surgery is legally permissible in Indonesia, subject to professional competence, social norms, and prohibitions against identity alteration. The implementing details are deferred to secondary legislation in the form of Government Regulations.<sup>5</sup>

Aesthetic plastic surgery has increasingly evolved into one of the most widely practiced beauty procedures worldwide. Once regarded as an exclusive medical intervention, it is now progressively seen as a common and socially accepted practice across many societies.<sup>6</sup> This trend is reflected in global statistics: According to the *International Society of Aesthetic Plastic Surgery* (ISAPS), more than 21 million cosmetic procedures were performed worldwide in 2015, with the United States, Brazil, South Korea, and Japan ranking among the highest.<sup>7</sup> Indonesia has also followed this global trend, with a rapidly expanding beauty industry and increasing demand for procedures such as blepharoplasty, liposuction, and breast augmentation. The normalization of aesthetic plastic surgery indicates broader cultural changes in which physical appearance, self-image, and lifestyle aspirations are prioritized, positioning such surgery as part of the global beauty industry rather than being confined to medical necessity.<sup>8</sup>

### 1.1.2 The Legal Nature of the Doctor–Patient Relationship in Indonesia

In Indonesia, the relationship between a doctor and a patient is regarded as a legal relationship between two subjects of law within the framework of medical law. This dual character makes it both a medical and legal relationship, formally governed by statutory provisions. Fundamentally, the doctor–patient relationship rests on the patient’s trust in the doctor’s professional ability to

---

<sup>5</sup> Assegaf Hamzah, ‘With Law No. 17 of 2023, Indonesia’s Healthcare Sector is Finally Getting the Attention that it Deserves’ (2023) at <https://www.ahp.id/with-law-no-17-of-2023-indonesias-healthcare-sector-is-finally-getting-the-attention-that-it-deserves>.

<sup>6</sup> International Society of Aesthetic Plastic Surgery, ‘ISAPS International Survey on Aesthetic/Cosmetics Procedures’ (2021) available at [https://www.isaps.org/media/vdpdanke/isaps-global-survey\\_2021.pdf](https://www.isaps.org/media/vdpdanke/isaps-global-survey_2021.pdf).

<sup>7</sup> International Society of Aesthetic Plastic Surgery (ISAPS). (2016). ISAPS International Survey on Aesthetic/Cosmetic Procedures Performed in 2015. Hanover: ISAPS. Retrieved from <https://www.isaps.org>.

<sup>8</sup> Sarastri, Endang Sri. 2021. “The Construction of Legal Protection for Aesthetic Patients.” *Indian Journal of Forensic Medicine & Toxicology* 15 (4): 2371–2377 at <https://medicopublication.com/index.php/ijfmt/article/view/16845/14940>.



make every possible effort to provide treatment. At the same time, because it is also a human-to-human relationship, it reflects equality of rights between individuals.<sup>9</sup>

Over time, two principal types of legal relations have developed between doctors and patients: (1) contractual relationships (therapeutic transactions) and (2) obligatory relationships arising from medical necessity. In contractual relations, both parties are considered to possess equal freedom and bargaining position, entering into an agreement that entails corresponding rights and obligations. Indonesian civil law recognizes two categories of agreements *inspanning verbinten*is (agreements to make the best effort) and *resultaat verbinten*is (agreements to achieve a specific result).<sup>10</sup> In line with Article 1320 of the Indonesian Civil Code, certain legal requirements must be satisfied. Since medical actions may cause pain or discomfort, such actions are lawful only if they: (a) have valid medical indications and concrete therapeutic objectives, (b) are carried out according to professional standards (*lege artis*), and (c) are performed with the patient's prior informed consent.<sup>11</sup>

Generally, the doctor–patient relationship is categorized as an *inspanning verbinten*is (maximum effort obligation). However, in certain cases such as aesthetic plastic surgery, the relationship may resemble a *resultaat verbinten*is, as such procedures are not always medically indicated but must still serve a concrete objective. Importantly, pursuant to Article 69 paragraph (2) of the relevant regulation, these procedures must not conflict with prevailing societal norms and must not aim to alter identity in ways that could facilitate criminal acts.<sup>12</sup>

## 1.2 Criminal Prosecutions of Medical Personnel in Indonesian Law

The *Medical Practice Act 2004*, criminalizes several forms of misconduct by medical practitioners, particularly relating to licensing and registration. Under Section 75, practicing medicine without a

---

<sup>9</sup> Rosnida Rosnida et al, 'Legal Analysis of the Relationship between Midwives and Patients in Therapeutic Agreements in Indonesia' (2024), Pakistan Journal of Life and Social Sciences' [https://www.researchgate.net/publication/382244862\\_Legal\\_Analysis\\_of\\_the\\_Relationship\\_between\\_Midwives\\_and\\_Patients\\_in\\_Therapeutic\\_Agreements\\_in\\_Indonesia](https://www.researchgate.net/publication/382244862_Legal_Analysis_of_the_Relationship_between_Midwives_and_Patients_in_Therapeutic_Agreements_in_Indonesia).

<sup>10</sup> Endang Kusuma Astuti, 'Legal Relationship between Doctors and Patients in Medical Service Efforts' (2017) 2(1) Diponegoro Law Review 91 at <https://scispace.com/pdf/legal-relationship-between-doctors-and-patients-in-medical-4yfv4hw9bx.pdf>.

<sup>11</sup> Indonesian Civil Code (promulgated by publication of 30 April 1847, Staatsblad No 23) available at <https://www.flevin.com/id/Igso/translations/Various/Civil%20Code.pdf>.

<sup>12</sup> Mihaela Hostiuc et al; 'Physician-Patient Relationship in Current Cosmetic Surgery Demands More than Mere Respect for Patient Autonomy Is It Time for the Anti-Paternalistic Model? (2022), National Library of Medicine; national Center for Biotechnology Information, available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC9505926>.



valid registration letter (*Surat Tanda Registrasi, STR*) carries a penalty of up to three years' imprisonment or a fine of one hundred million rupiahs, while Section 76 imposes the same sanction for practicing without a valid practice license (*Surat Izin Praktik, SIP*). These provisions underscore the legislature's intent to ensure that only qualified and duly authorized medical personnel engage in the practice of medicine in Indonesia.<sup>13</sup>

This regulatory logic directly extends to plastic and aesthetic surgery, which is specifically regulated under Article 137<sup>14</sup> which stipulates that reconstructive and aesthetic plastic surgery may only be performed by medical personnel with appropriate expertise and authority, while Articles 433, 439, and 440 impose criminal sanctions for violations. In other words, the criminal provisions in the MPA 2004 (Sections 75–76) and the Health Law (Article 137 and related criminal provisions) reflect a consistent policy orientation: to protect patients and public order by restricting high-risk medical procedures, such as aesthetic surgery, to licensed and competent professionals only.

However, while the MPA 2004 focuses on general licensing obligations (STR and SIP), the Health Law of 2023 goes further by addressing substantive limitations on aesthetic surgery namely, that such procedures must not contravene social norms or be carried out to change identity. The convergence of these two frameworks illustrates that criminal provisions in Indonesian health law are designed not merely to punish administrative breaches, but to enhance legal certainty in sensitive areas of practice like aesthetic plastic surgery, where both patient safety and societal values are at stake.<sup>15</sup>

The *elucidation of Article 137(2) of the Health Law* provides critical clarification of these prohibitions. It specifies that changing identity includes, among other things, altering the face, gender, or fingerprints in a manner that erases personal identity and facilitates the evasion of the law or the commission of crimes. It further explains that reconstructive and aesthetic plastic

---

<sup>13</sup> Muh Endriyo Susila, 'Criminal Prosecution of Doctors in Indonesia: Issues and Problems' (2015) 23(3) IIUM Law Journal 437. Available at [https://www.researchgate.net/publication/328284966\\_Criminal\\_Prosecution\\_of\\_Doctors\\_in\\_Indonesia\\_Issues\\_and\\_Problems](https://www.researchgate.net/publication/328284966_Criminal_Prosecution_of_Doctors_in_Indonesia_Issues_and_Problems).

<sup>14</sup> Law No. 17 of 2023 on Health

<sup>15</sup> Bryan Lim et al 'Regulatory Frameworks in Plastic and Cosmetic Surgery: a Comparative Scoping Review Across Australia, United Kingdom, and Italy' (2024), National Library of Medicine; national Center for Biotechnology Information, available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC11399018>.



surgery is not intended to change gender, but may only be undertaken to align the genitalia with a person's actual biological sex, and even then, solely with a court ruling in accordance with statutory provisions.<sup>16</sup>

To reinforce these restrictions, the Health Law introduces specific criminal provisions. Article 433 provides that anyone who performs reconstructive or aesthetic plastic surgery in violation of societal norms and with the intent to change identity shall be punished with up to ten years' imprisonment or a fine of two billion rupiah.<sup>17</sup> Similarly, Article 439 penalizes individuals who perform surgery without the requisite medical expertise or licence, carrying sanctions of up to five years' imprisonment or a fine of five hundred million rupiah. Furthermore, Article 440 criminalizes negligence in the performance of plastic surgery: where such negligence causes serious injury, the penalty is up to three years' imprisonment or a fine of two hundred and fifty million rupiah; if it results in death, the penalty rises to five years' imprisonment or a fine of five hundred million rupiah.<sup>18</sup>

Despite these detailed provisions, questions remain about the extent to which Article 137(2) truly achieves legal certainty. The prohibition is directed primarily at procedures intended to change gender, yet exceptions remain for surgeries that align genitalia with a person's biological sex subject to judicial approval.<sup>19</sup> If societal norms are to serve as the benchmark for prohibiting plastic and reconstructive aesthetic surgery, then the prohibition should arguably extend beyond gender-related procedures to include surgeries that significantly alter the face or outward appearance, as these may indirectly result in changes to identity based on gender expression. This ambiguity highlights the continuing challenge of reconciling patient autonomy, medical practice, and societal values within Indonesia's evolving legal framework on aesthetic plastic surgery.<sup>20</sup>

### 1.3 Problem Statement

Based on the background above, the main research problems can be formulated as follows:

---

<sup>16</sup> Made Wirya et al, 'Health Criminal Law as an Instrument to Protect Human Rights: A Comparative Study of Indonesia and Algeria' (2025) Jurnal Suara Hukum, Volume 7, Number 1 at [file:///C:/Users/previ/Downloads/3-Health+Criminal+Law+as+an+Instrument+to+Protect+Human+Rights+A+Comparative+Study%20\(2\).pdf](file:///C:/Users/previ/Downloads/3-Health+Criminal+Law+as+an+Instrument+to+Protect+Human+Rights+A+Comparative+Study%20(2).pdf).

<sup>17</sup> *ibid*

<sup>18</sup> *ibid*

<sup>19</sup> Coleman et al; 'Standards of Care for the Health of Transgender and Gender Diverse People' (2022) International Journal of Transgender Health, Version 8. 23(sup1), S1–S259. <https://doi.org/10.1080/26895269.2022.2100644>.

<sup>20</sup> *Supra*



1. ***The insufficiency of legal certainty in substantive provisions:*** Although Law No. 17 of 2023 on Health provides a legal framework for reconstructive and aesthetic plastic surgery, its reliance on broad concepts such as societal norms and exceptions for certain gender-related procedures creates uncertainty. Terms like ‘contravening social norms’ are open to varied interpretation, depending on local culture, religion, and judicial discretion, which undermines predictability in law enforcement. Consequently, medical practitioners and patients lack a clear standard for determining what practices are permissible or prohibited.<sup>21</sup>
2. ***Inadequacy of criminal provisions in practice:*** The criminal sanctions under Articles 433, 439, and 440 of Law No. 17 of 2023 are intended to safeguard patients and ensure professional accountability. However, in practice, they fail to deliver legal certainty due to overlapping regulation with the Medical Practice Act 2004, weak enforcement of licensing systems (*Surat Tanda Registrasi and Surat Izin Praktik*), and inconsistent judicial application. Moreover, the rapid growth of Indonesia’s beauty industry has fueled the proliferation of unlicensed clinics and informal practitioners, exposing patients to heightened risks while leaving gaps in effective criminal accountability.<sup>22</sup>
3. ***The need for legal reconstruction to balance rights and values:*** To resolve these issues, it is necessary to reconstruct the criminal provisions on plastic, reconstructive, and aesthetic surgery so that they align with Indonesia’s constitutional guarantee of legal certainty under Article 28D of the 1945 Constitution. Such reconstruction should balance three competing concerns: (i) patient rights to safety, autonomy, and informed consent; (ii) medical professionalism, including adherence to *lege artis* standards and licensing obligations; and (iii) societal, cultural, and religious values, which remain highly influential in shaping the boundaries of acceptable medical practice in Indonesia. Without this balanced reform, the legal framework will remain fragmented, ambiguous, and prone to conflicting interpretations.

---

<sup>21</sup> Ravindra S. Patil et al, ‘Legal Boundaries of Cosmetic and Elective Surgeries’ (2025) Journal of Neonatal Surgery, Vol. 14, Issue 2s ISSN(Online): 2226-0439, available at <file:///C:/Users/previ/Downloads/1660-Article%20Text-10904-1-10-20250210.pdf>.

<sup>22</sup> Abang Anton et al, ‘Criminal Liability Of Medical Personnel In Law Number 17 Of 2023 Concerning Health’ (2024) IJLCJ: International Journal of Law, Crime and Justice, Vol.1, No.2 e-ISSN: 3047-1362; p-ISSN: 3047-1370, Page 36-50 DOI: <https://doi.org/10.62951/ijlcj.v1i2.50>.



There is also lack of effective communication between plastic, reconstructive, and aesthetic surgeons and their patients, which often triggers disputes. Many surgeons perceive communication with patients as a difficult task, largely because patients generally lack sufficient knowledge about medical issues. This communication gap undermines the principle of informed consent, increases the risk of misunderstanding regarding treatment outcomes, and may ultimately lead to legal conflicts between doctors and patients.<sup>23</sup>

#### 1.4 Conceptual Framework

In legal discourse, **reconstruction** derives from the combination of ‘re-’ meaning renewal, and “construction,” meaning structure, system, or arrangement. While linguistically it refers to the arrangement and relationships of words or structures, in a legal context reconstruction is more accurately understood as the reordering, reorganization, or reformulation of existing provisions or norms to restore coherence and ensure their continued relevance.<sup>24</sup>

Scholars have provided various interpretations of the term. *The Great Dictionary of the Indonesian Language* defines reconstruction as a restoration to the original state,<sup>25</sup> while B.N. Marbun describes it as the process of returning something to its original position or reorganizing existing materials to reflect their initial order.

In essence, the concept of reconstruction is context-dependent and multi-dimensional. Applied to law, reconstruction does not necessarily introduce entirely new provisions but may take the form of: (i) reviving and renewing pre-existing norms, (ii) updating outdated provisions to suit contemporary conditions, or (iii) formulating innovative norms while maintaining the original spirit and characteristics. Yusuf Qardhawi identifies three principles of reconstruction: (a)

---

<sup>23</sup> Liliana et al, ‘Causes of Post-Surgery Disputes between Plastic Reconstructive and Aesthetic Surgeons with Patients’ *Indian Journal of Forensic Medicine & Toxicology*, January-March 2022, Vol. 16, No. 1, <https://pdfs.semanticscholar.org/3890/6b6bdcc3fc4f32f6fb0a9ccb177071d215ad.pdf>.

<sup>24</sup> Günter Radden et al, ‘The construction of meaning in language’ (2007) published by, University of Hamburg at [https://www.researchgate.net/publication/279290346\\_The\\_construction\\_of\\_meaning\\_in\\_language](https://www.researchgate.net/publication/279290346_The_construction_of_meaning_in_language).

<sup>25</sup> Great Dictionary of the Indonesian Language (5th edn, Language Development and Fostering Agency, Ministry of Education and Culture of the Republic of Indonesia 2016)



preserving the essence of the original structure, (b) repairing weakened or collapsed elements, and (c) introducing reforms without undermining the core identity of the structure.<sup>26</sup>

Legally, reconstruction is directed at reforming particular provisions that no longer align with the values, principles, and norms of society. In its prescriptive sense, law is not merely a set of commands but a reflection of social values that crystallise into legal principles and norms. A legal norm whose underlying values or principles cannot be identified lacks normative legitimacy. Consequently, legal construction must be based on sound theoretical foundations (*normative construction*) to ensure that the resulting law remains consistent with the spirit of society.<sup>27</sup>

In the context of this study, **reconstruction refers to the reformulation of provisions within Law No. 17 of 2023 on Health**, particularly those concerning the **implementation, criminal provisions, and sanctions governing the practice of reconstructive and aesthetic plastic surgery**. This process is necessary to ensure that the law not only maintains consistency with societal values but also provides clear legal certainty in regulating a sensitive and evolving area of medical practice.

### 1.5 Research Methodology

This study employs a doctrinal legal research methodology, focusing primarily on the examination of legal norms as contained in statutory provisions, legal doctrines, and judicial decisions. As a normative juridical study, the research is directed at analyzing the criminal provisions regulating reconstructive and aesthetic plastic surgery practices in Law No. 17 of 2023 on Health, the substance of which still presents ambiguity and legal uncertainty. The research does not rely on empirical data from the field, but instead on the interpretation of authoritative legal sources, including the Constitution, the Indonesian Penal Code, Law No. 17 of 2023, and related statutory instruments. These primary materials are complemented by secondary sources such as scholarly writings, textbooks, and journal articles, as well as tertiary references like legal dictionaries and encyclopedias, which serve to clarify and contextualize the doctrinal analysis.

---

<sup>26</sup> Yusuf al-Qaradawi, 'Islamic Awakening between rejection and extremism' <https://www.islamicstudies.info/literature/awakening.pdf>.

<sup>27</sup> Jordan Daci, 'Legal Principles, Legal Values and Legal Norms: are they the same or different?', *Academicus - International Scientific Journal*, (267–87) well Publishers Ltd 1997, 108 Cowley Road, Oxford OX4 1JF, UK and 350 Main Street, Malden, MA 02148, USA, pp 267 available at <https://academicus.edu.al/nr2/Academicus-MMX-2-109-115.pdf>.



The analytical approach adopted combines the statute approach, conceptual approach, and case approach. The statute approach is used to scrutinize the wording and normative structure of Law No. 17 of 2023, while the conceptual approach involves engaging with legal doctrines and principles as developed by scholars and recognized within Indonesian jurisprudence. The case approach, in turn, considers judicial interpretations by examining relevant court decisions that have acquired permanent legal force, thereby providing guidance on the application of criminal provisions to plastic surgery practices. Data are analyzed qualitatively through legal reasoning, interpretation, and systematic comparison, with the aim of constructing coherent arguments and normative prescriptions. The ultimate purpose of this doctrinal inquiry is to propose a reconstruction of the law that is consistent with legal certainty and with the values of Pancasila as the philosophical foundation of the Indonesian legal system.

## **2.1 Legal Dimensions of Physicians' Rights and Duties in Conducting Medical Procedures**

### **A. Doctors' Obligations**

Every individual holds rights and obligations, which in the medical context are reflected in the therapeutic contract: patients' rights constitute doctors' obligations, and conversely, doctors' rights correspond to patients' obligations. The doctor–patient relationship carries a special legal status, positioning health workers as providers and patients as recipients of care. Fundamentally contractual in nature, this relationship begins once a health professional demonstrates willingness to provide services such as through registration, medical record keeping, or other initial actions.<sup>28</sup>

The obligations of doctors are regulated not only by law but also by professional ethics, particularly the Indonesian Medical Code of Ethics (*Kodeki*). These obligations encompass duties to the public, to patients, to colleagues, and to oneself. For instance, doctors must uphold the Hippocratic Oath<sup>29</sup>, act with sincerity and integrity, maintain confidentiality even after a patient's death, and provide emergency assistance as a humanitarian duty. They must also refrain from exploiting patients for personal gain and are required to update their knowledge continuously to maintain the highest

---

<sup>28</sup> Abdul Kolib, 'The patient's right to the medical record of a therapeutic agreement in a human rights perspective' (2020), *Jurnal Profesi Medika Jurnal Kedokteran dan Kesehatan*, Vol 14 No 1 [https://www.researchgate.net/publication/342586982\\_The\\_patient%27s\\_right\\_to\\_the\\_medical\\_record\\_of\\_a\\_therapeutic\\_agreement\\_in\\_a\\_human\\_rights\\_perspective](https://www.researchgate.net/publication/342586982_The_patient%27s_right_to_the_medical_record_of_a_therapeutic_agreement_in_a_human_rights_perspective).

<sup>29</sup> Indonesian Medical Code of Ethics (KODEKI) of 2012, Particularly, Point 7, Stipulates that "I will always Prioritize the Health of the Patient, taking into Account the Interests of the Community."



standards of practice. At the same time, doctors enjoy legal protection, provided that their medical actions conform to professional standards and established procedures.<sup>30</sup>

Importantly, doctors' obligations are not limited to technical competence alone but extend to the cultivation of non-physical qualities such as empathy, compassion, and courtesy. These attributes are fundamental for fostering trust and maintaining the therapeutic relationship. The legal and ethical framework therefore positions doctors not merely as providers of medical treatment, but also as moral agents whose conduct both in technical expertise and interpersonal relations upholds the dignity of the medical profession and protects patients' fundamental rights.<sup>31</sup>

A physician should not feel disturbed if called upon to assist a person who is seriously ill or in an emergency situation, as such readiness forms part of their professional duty. Conversely, if a doctor neglects or refuses to provide immediate assistance, thereby causing the patient to suffer serious injury or death, such omission may amount to criminal liability. This aligns with Article 304 of the Indonesian Criminal Code (*KUHP*), which provides that “whoever intentionally places or leaves another person in a state of misery, while by law or by agreement he is obliged to provide life, care, and maintenance to that person, shall be subject to a maximum imprisonment of two years and eight months or a maximum fine of four thousand five hundred rupiah.”<sup>32</sup>

Maintaining confidentiality in the course of medical practice constitutes both a moral and professional obligation. This duty ensures that patients can freely approach a doctor and disclose their physical or psychological complaints openly, thereby enabling appropriate and effective treatment.<sup>33</sup> Confidentiality, therefore, serves as a cornerstone of public trust, order, and peace. This principle is expressly affirmed in *Article 16 of the Indonesian Medical Code of Ethics (Kodeki)*, which provides that “every doctor is obliged to maintain everything known about a patient, even after the patient has died.” Similarly, *Article 48 of Law No. 29 of 2014 on Medical*

---

<sup>30</sup> Jessica Sylvania, ‘Doctor’s Legal Obligation to Act as A Good Samaritan in Indonesia: Is It Ethically Justifiable?’ *Jurnal Mimbar Hukum* (2025), Vol. 37 No. 1 at <file:///C:/Users/previ/Downloads/14708-Article%20Text-101600-1-10-20250620.pdf>.

<sup>31</sup> Nadia Nabela et al, ‘Violation of Medical Oath as a Criminal Offense of Health Law’ (2022) *Budapest International Research and Critics Institute-Journal* (BIRCI-Journal), Volume 5, No 4, Page: 29802-29810, <file:///C:/Users/previ/Downloads/7135-19807-1-PB.pdf>.

<sup>32</sup> Indonesian Criminal Code (*KUHP*) Law No. 1 of 2023 (*Undang-Undang Nomor 1 Tahun 2023*). This new code replaces the previous Criminal Code, which had been in force since 1918.

<sup>33</sup> Mendelson et al, ‘Medical Confidentiality and Patient Privacy’ (2018). *Health Law in Australia*, 3rd Edition, Available at SSRN: <https://ssrn.com/abstract=3173601>.



*Practice* stipulates that every doctor or dentist is legally bound to preserve medical confidentiality when carrying out their practice.

Under *Article 322 paragraph (1) of the Indonesian Criminal Code (KUHP)* criminalizes the unlawful disclosure of confidential information, providing that “whoever intentionally discloses a secret, which by virtue of his position or occupation, whether current or former, he is obliged to keep, shall be punished by imprisonment for up to nine months or a fine.” Furthermore, paragraph (2) specifies that if such an offense concerns a particular individual, prosecution may only proceed upon the complaint of that individual. In this context, physicians are under a binding duty to maintain patient confidentiality. A doctor who reveals a patient’s secret not only breaches the medical oath and the Indonesian Medical Code of Ethics.<sup>34</sup>

## **B. Doctors’ Rights**

The rights of doctors in Indonesia are expressly recognized under *Law No. 29 of 2004 on Medical Practice and Law No. 36 of 2014 on Health Workers*. These provisions guarantee that doctors, in carrying out their professional duties, are entitled to legal protection so long as they act in accordance with professional standards and standard operating procedures (SOPs). Doctors also have the right to receive complete and accurate information from patients or their families, to provide medical services in line with established standards, to obtain fair remuneration, and to develop their professional competence.<sup>35</sup> Moreover, doctors are entitled to protection of their occupational health and safety, and to refuse demands from patients or third parties that contravene professional standards, ethical codes, SOPs, or statutory regulations.

Beyond statutory entitlements, doctors also possess specific rights related to the confidentiality of their practice. *Under Article 170 of the Criminal Procedure Code (KUHP)*, they may invoke the *Verschoningsrecht van de Arts* the right to refuse to testify about information entrusted to them by patients. Similarly, doctors may refuse to carry out medical actions outside their professional competence, or actions contrary to their conscience, such as illegal euthanasia

---

<sup>34</sup> *ibid*

<sup>35</sup> Hasudungan Sinaga et al, ‘Legal Protection for Doctors in Running a Practice’ (2024), *Journal of Law and Sustainable Development*, Vol.12, No. 1 Pages: 01-16 available at <file:///C:/Users/previ/Downloads/2071+Law.pdf>.



requests. However, exceptions apply in emergencies, where doctors are bound by law and ethics to provide life-saving care when no other professional assistance is available.<sup>36</sup>

These legal protections are complemented by the right of doctors to defend themselves against complaints or lawsuits concerning their medical actions, as affirmed in *Article 18 of Law No. 39 of 1999 on Human Rights*. At the same time, disputes arising between doctors and patients should ideally be resolved first through direct discussion or mediation before being escalated to professional organizations or judicial forums. Collectively, these rights demonstrate that the law seeks not only to safeguard patients but also to protect doctors, thereby maintaining balance, fairness, and legal certainty in the practice of medicine.<sup>37</sup>

---

<sup>36</sup> Putri Shafarina et al, 'Legal Review of Medical Crime: Patient Protection and Professional Responsibility in Medical Practice' (2024) Vol. 5, Issue 2, pp. 130-142 available at DOI: [10.22219/aclj.v5i2.33832](https://doi.org/10.22219/aclj.v5i2.33832). or [https://www.researchgate.net/publication/381205638\\_Legal\\_Review\\_of\\_Medical\\_Crime\\_Patient\\_Protection\\_and\\_Professional\\_Responsibility\\_in\\_Medical\\_Practice](https://www.researchgate.net/publication/381205638_Legal_Review_of_Medical_Crime_Patient_Protection_and_Professional_Responsibility_in_Medical_Practice).

<sup>37</sup> Murtini et al, 'Legal Protection of Doctors in Performing Medical Actions Based on Law Number 29 of 2004 Concerning Medical Practice' (2023) Law and Humanities Quarterly Reviews, Vol.2, No.1. Available at [https://www.asianinstituteofresearch.org/files/ugd/ed8b62\\_fba0cbe8d9af40879cb1d49f705656f3.pdf](https://www.asianinstituteofresearch.org/files/ugd/ed8b62_fba0cbe8d9af40879cb1d49f705656f3.pdf).



## CONCLUSION

Legal certainty under Law No. 17/2023 remains incomplete, as vague terms like “societal norms” and “identity alteration” create inconsistent interpretation and enforcement. Licensing requirements (STR/SIP under the Medical Practice Act and specialty rules under the Health Law) are fragmented, requiring harmonization to ensure only qualified specialists perform aesthetic procedures. Criminal provisions (Articles 433, 439, 440) correctly address unlawful aims, unqualified practice, and negligence but need clearer mens rea thresholds, graduated penalties, and coordinated disciplinary pathways to avoid over-criminalization. Government Regulations should precisely define identity alteration, clarify gender-related exceptions, and translate societal norms into objective, enforceable criteria.

Stronger patient safeguards are essential: enhanced informed consent, standardized documentation, cooling-off periods, and mediation mechanisms. Quality and safety should be reinforced through facility accreditation, surgeon CPD, and adverse-event reporting. Clear communication standards and tougher enforcement against unlicensed providers are also necessary.

In sum, precise regulations, harmonized licensing, calibrated sanctions, and stronger patient protections will enable Indonesia to regulate aesthetic plastic surgery with greater legal certainty, balancing patient rights, medical professionalism, and societal values.



## REFERENCES

- Abang Anton and others, 'Criminal Liability of Medical Personnel in Law Number 17 of 2023 Concerning Health' (2024) 1(2) *International Journal of Law, Crime and Justice* 36 <https://doi.org/10.62951/ijlcj.v1i2.50>
- Abdul Kolib, 'The Patient's Right to the Medical Record of a Therapeutic Agreement in a Human Rights Perspective' (2020) 14(1) *Jurnal Profesi Medika Jurnal Kedokteran dan Kesehatan* [https://www.researchgate.net/publication/342586982\\_The\\_patient%27s\\_right\\_to\\_the\\_medical\\_record\\_of\\_a\\_therapeutic\\_agreement\\_In\\_a\\_human\\_rights\\_perspective](https://www.researchgate.net/publication/342586982_The_patient%27s_right_to_the_medical_record_of_a_therapeutic_agreement_In_a_human_rights_perspective)
- Assegaf Hamzah, 'With Law No. 17 of 2023, Indonesia's Healthcare Sector is Finally Getting the Attention that it Deserves' (2023) <https://www.ahp.id/with-law-no-17-of-2023-indonesias-healthcare-sector-is-finally-getting-the-attention-that-it-deserves>
- Bryan Lim and others, 'Regulatory Frameworks in Plastic and Cosmetic Surgery: A Comparative Scoping Review Across Australia, United Kingdom, and Italy' (2024) *National Library of Medicine* <https://pmc.ncbi.nlm.nih.gov/articles/PMC11399018>
- Danuta Mendelson and others, *Health Law in Australia* (3rd edn, Federation Press 2018) <https://ssrn.com/abstract=3173601>
- Eli Coleman and others, 'Standards of Care for the Health of Transgender and Gender Diverse People' (2022) 23(sup1) *International Journal of Transgender Health* S1 <https://doi.org/10.1080/26895269.2022.2100644>
- Endang Kusuma Astuti, 'Legal Relationship between Doctors and Patients in Medical Service Efforts' (2017) 2(1) *Diponegoro Law Review* 91 <https://scispace.com/pdf/legal-relationship-between-doctors-and-patients-in-medical-4yfv4hw9bx.pdf>
- Endang Sri Sarastri and others, 'Comparison of Aesthetic Plastic Surgery Laws Applied in the United States and Indonesia' (2021) Universitas Diponegoro <file:///C:/Users/previ/Downloads/41750-128543-1-SM.pdf>



- Endang Sri Saraswati, 'The Construction of Legal Protection for Aesthetic Patients' (2021) 15(4) *Indian Journal of Forensic Medicine & Toxicology* 2371  
<https://medicopublication.com/index.php/ijfmt/article/view/16845/14940>
- Great Dictionary of the Indonesian Language* (5th edn, Language Development and Fostering Agency, Ministry of Education and Culture of the Republic of Indonesia 2016).
- Günter Radden and others, *The Construction of Meaning in Language* (University of Hamburg 2007)  
[https://www.researchgate.net/publication/279290346\\_The\\_construction\\_of\\_meaning\\_in\\_language](https://www.researchgate.net/publication/279290346_The_construction_of_meaning_in_language)
- Hasudungan Sinaga and others, 'Legal Protection for Doctors in Running a Practice' (2024) 12(1) *Journal of Law and Sustainable Development* 1  
<file:///C:/Users/previ/Downloads/2071+Law.pdf>
- Indonesian Civil Code* (promulgated by publication of 30 April 1847, Staatsblad No 23)  
<https://www.flevin.com/id/lgs/translations/Various/Civil%20Code.pdf>
- Indonesian Medical Code of Ethics (Kodeki) 2012*, Point 7.
- International Society of Aesthetic Plastic Surgery (ISAPS), *ISAPS International Survey on Aesthetic/Cosmetic Procedures Performed in 2015* (2016, Hanover) <https://www.isaps.org>
- International Society of Aesthetic Plastic Surgery, *ISAPS International Survey on Aesthetic/Cosmetic Procedures* (2021) [https://www.isaps.org/media/vdpdanke/isaps-global-survey\\_2021.pdf](https://www.isaps.org/media/vdpdanke/isaps-global-survey_2021.pdf)
- Jessica Sylvania, 'Doctor's Legal Obligation to Act as a Good Samaritan in Indonesia: Is It Ethically Justifiable?' (2025) 37(1) *Mimbar Hukum*  
<file:///C:/Users/previ/Downloads/14708-Article%20Text-101600-1-10-20250620.pdf>
- Jordan Daci, 'Legal Principles, Legal Values and Legal Norms: Are They the Same or Different?' (1997) *Academicus - International Scientific Journal* 267  
<https://academicus.edu.al/nr2/Academicus-MMX-2-109-115.pdf>



- Liliana and others, 'Causes of Post-Surgery Disputes between Plastic Reconstructive and Aesthetic Surgeons with Patients' (2022) 16(1) *Indian Journal of Forensic Medicine & Toxicology*  
<https://pdfs.semanticscholar.org/3890/6b6bdcc3fc4f32f6fb0a9ccb177071d215ad.pdf>
- Made Wirya and others, 'Health Criminal Law as an Instrument to Protect Human Rights: A Comparative Study of Indonesia and Algeria' (2025) 7(1) *Jurnal Suara Hukum*  
[file:///C:/Users/previ/Downloads/3-Health+Criminal+Law+as+an+Instrument+to+Protect+Human+Rights+A+Comparative+Study%20\(2\).pdf](file:///C:/Users/previ/Downloads/3-Health+Criminal+Law+as+an+Instrument+to+Protect+Human+Rights+A+Comparative+Study%20(2).pdf)
- Mihaela Hostiuc and others, 'Physician-Patient Relationship in Current Cosmetic Surgery: Demands More than Mere Respect for Patient Autonomy—Is It Time for the Anti-Paternalistic Model?' (2022) *National Library of Medicine*  
<https://pmc.ncbi.nlm.nih.gov/articles/PMC9505926>
- Muh Endriyo Susila, 'Criminal Prosecution of Doctors in Indonesia: Issues and Problems' (2015) 23(3) *IJUM Law Journal* 437  
[https://www.researchgate.net/publication/328284966\\_Criminal\\_Prosecution\\_of\\_Doctors\\_in\\_Indonesia\\_Issues\\_and\\_Problems](https://www.researchgate.net/publication/328284966_Criminal_Prosecution_of_Doctors_in_Indonesia_Issues_and_Problems)
- Murtini and others, 'Legal Protection of Doctors in Performing Medical Actions Based on Law Number 29 of 2004 Concerning Medical Practice' (2023) 2(1) *Law and Humanities Quarterly Reviews*  
[https://www.asianinstituteofresearch.org/\\_files/ugd/ed8b62\\_fba0cbe8d9af40879cb1d49f705656f3.pdf](https://www.asianinstituteofresearch.org/_files/ugd/ed8b62_fba0cbe8d9af40879cb1d49f705656f3.pdf)
- Nadia Nabela and others, 'Violation of Medical Oath as a Criminal Offence of Health Law' (2022) 5(4) *Budapest International Research and Critics Institute Journal* 29802  
<file:///C:/Users/previ/Downloads/7135-19807-1-PB.pdf>
- PT Pamerindo Indonesia, 'Indonesia's Beauty Industry Growth to Global Market' (2023)  
[https://www.cosmoprof.com/media/cosmoprof/2023/network/ASEAN/indonesia/Brochure\\_CBI\\_2023.pdf](https://www.cosmoprof.com/media/cosmoprof/2023/network/ASEAN/indonesia/Brochure_CBI_2023.pdf)



- Putri Shafarina and others, 'Legal Review of Medical Crime: Patient Protection and Professional Responsibility in Medical Practice' (2024) 5(2) *Asian Comparative Law Journal* 130  
[https://www.researchgate.net/publication/381205638\\_Legal\\_Review\\_of\\_Medical\\_Crime\\_Patient\\_Protection\\_and\\_Professional\\_Responsibility\\_in\\_Medical\\_Practice](https://www.researchgate.net/publication/381205638_Legal_Review_of_Medical_Crime_Patient_Protection_and_Professional_Responsibility_in_Medical_Practice)
- Ravindra S Patil and others, 'Legal Boundaries of Cosmetic and Elective Surgeries' (2025) 14(2s) *Journal of Neonatal Surgery* <file:///C:/Users/previ/Downloads/1660-Article%20Text-10904-1-10-20250210.pdf>
- Rosnida Rosnida and others, 'Legal Analysis of the Relationship between Midwives and Patients in Therapeutic Agreements in Indonesia' (2024) *Pakistan Journal of Life and Social Sciences*  
[https://www.researchgate.net/publication/382244862\\_Legal\\_Analysis\\_of\\_the\\_Relationship\\_between\\_Midwives\\_and\\_Patients\\_in\\_Therapeutic\\_Agreements\\_in\\_Indonesia](https://www.researchgate.net/publication/382244862_Legal_Analysis_of_the_Relationship_between_Midwives_and_Patients_in_Therapeutic_Agreements_in_Indonesia)
- Yusuf al-Qaradawi, *Islamic Awakening between Rejection and Extremism*  
<https://www.islamicstudies.info/literature/awakening.pdf>