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Traditional Health Service Tariffs and Patient Protection in Indonesia: A Legal Perspective

Elijah Alexius Salim^{1*}, Yana Chaeru Taufik Ismail¹

¹ Department of Law, Faculty of Law, Universitas Islam Nusantara, Bandung, Indonesia

* Corresponding author: Elijah Alexius Salim (salim0426113753@gmail.com)

Abstract

Traditional health services in Indonesia have gained formal recognition through Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024. However, these regulations mainly focus on administrative and technical aspects, while tariff regulation remains unaddressed. This study aims to analyze the legal framework governing traditional health services in Indonesia, identify normative gaps related to tariff regulation, and examine their implications for patient protection. This research employs a normative juridical method using statute, conceptual, and analytical approaches. The study relies on primary legal materials, including laws and regulations, supported by legal doctrines and scientific literature related to health law and consumer protection. The findings reveal that the absence of tariff standards creates legal uncertainty and strengthens information asymmetry between practitioners and patients. As a result, patients are placed in a vulnerable position and may experience exploitative pricing practices. Furthermore, the lack of tariff transparency potentially violates Law Number 8 of 1999 concerning Consumer Protection and may fulfill the elements of unlawful acts under Article 1365 of the Indonesian Civil Code through the doctrine of abuse of circumstances. Therefore, comprehensive regulatory reform is necessary to establish transparent, fair, and accountable tariff standards in traditional health services to ensure legal protection and distributive justice for patients.

Keywords

Consumer Protection, Health Law, Tariff Regulation, Traditional Health Services, Unlawful Act.

1. Introduction

Traditional health services in Indonesia have evolved from informal practices into legally recognized components of the national health system. This shift reflects a transition from marginalization to an integrative legal approach that acknowledges diverse healing systems within society. Such recognition is affirmed in Law Number 17 of 2023 concerning Health, which incorporates traditional health services into the national health development framework aimed at improving public health. Its implementation is further regulated through Government Regulation Number 28 of 2024, which recognizes empirical, complementary, and integrative traditional health services, provided they meet safety and quality standards and comply with applicable laws. This framework demonstrates a pluralistic health law approach that accommodates both scientific medical practices and culturally rooted healing traditions (Kashuri et al., 2025).

However, behind this normative recognition lies a concerning social phenomenon in its implementation. Unlike conventional health services, which generally operate under standardized tariffs through the National Health Insurance (*Jaminan Kesehatan Nasional/JKN*) scheme and health facility tariff policies, traditional health services lack nationally established tariff standards or fairness limits. In practice, tariffs are often determined based on subjective factors, including practitioners' experience, perceived treatment effectiveness, methods used, and personal legitimacy claims. This situation is exacerbated by information asymmetry, as practitioners possess greater knowledge than patients, who are often in vulnerable physical, emotional, and psychological conditions, creating opportunities for highly variable and potentially exploitative pricing (Bahati et al., 2021).

The fundamental research gap in this study lies in the mismatch between existing legal provisions and the community's need for legal protection. Current regulations primarily focus on licensing, practitioner competence, service standards, and administrative supervision, while largely neglecting the economic aspects of traditional health services, particularly tariff setting. This regulatory gap creates legal uncertainty and allows uncontrolled pricing practices. As argued by Suwandi (2024) and Seliana and Anggriawan (2025), law should be responsive to social dynamics and evolving societal interests. Therefore, the absence of tariff regulation reflects a legal lag in addressing increasingly complex social practices. Furthermore, Friedman (1975) and Hart (2012) emphasize that legal effectiveness depends on the interaction of legal substance, structure, and culture. In this context, the lack of tariff regulation represents a systemic imbalance that may weaken patient protection.

This condition also undermines the principles of modern healthcare law and consumer protection. As stated by Hall (2013), tariffs in health services are not solely an economic issue, but are closely related to access to services, social justice, and the protection of patients as vulnerable parties. Under Law Number 8 of 1999 concerning consumer protection, business actors are obligated to provide true, clear, and honest information regarding the conditions and guarantees of the goods and/or services offered and are prohibited from engaging in practices that harm consumers. In this context, patients of traditional services are entitled to legal protection against non-transparent tariff-setting practices (Prabowo et al. 2024). Additionally, from the standpoint of civil law, the setting of unreasonable tariffs that harm patients can also potentially be qualified as an unlawful act as stipulated in Article 1365 of the Indonesian Civil Code. If a tariff is set by exploiting the patient's vulnerability or is accompanied by misleading information, the elements of an unlawful act, namely the act itself, fault, damage, and a causal relationship, can be fulfilled, which in modern legal doctrine is closely linked to the concept of abuse of circumstances (*misbruik van omstandigheden*). This phenomenon highlights a profound tension between the

principle of freedom of enterprise and the state's constitutional obligation to protect the public from harmful practices.

Based on these normative gaps and empirical phenomena, this study aims to comprehensively analyze the current legal framework governing traditional health services in Indonesia, specifically identify the normative gaps regarding tariff regulation, and examine its legal implications for patient protection as consumers of health services. Through this analysis, this research is expected to provide a significant theoretical contribution to enriching the discourse on health law and consumer protection law in Indonesia, particularly regarding the application of the doctrines of abuse of circumstances and unlawful acts within the non-conventional sector. The contribution of this research is directed toward providing constructive input, policy recommendations, and legal reforms for the government and stakeholders in formulating an ideal, transparent, and equitable tariff regulatory policy, thereby realizing legal balance and genuine legal protection for the broader public.

2. Methods

This study is designed using a normative juridical research design, an approach that positions law as a closed system of norms to be analyzed through legislation, doctrines, and legal principles developed within scientific literature. This design was selected because the primary focus of the research lies in identifying the normative gap (legal vacuum) in the tariff regulation of traditional health services, thereby requiring an in-depth analysis of the positive legal structure rather than empirical field observations (Ibrahim, 2006). This normative approach aims not only to describe applicable norms but also to evaluate their consistency and relevance in addressing emerging legal issues, as well as to formulate normative arguments for legal reform. The utilization of this design aligns with the perspective of Hadjon (1987), who emphasizes that normative legal research is oriented toward legal protection as the ultimate objective of law, particularly in balancing the relations between the state, business actors, and the public. Furthermore, this methodological framework is supported by the thought of Ridwan (2016), who states that administrative law plays a crucial role in regulating the relationship between the government and the community, including overseeing the provision of public services. To build a comprehensive analysis, this design integrates three complementary approaches: the statute approach to examine existing regulations, the conceptual approach to dissect doctrines of consumer protection and justice, and the analytical approach to critically assess the chasm between normative law (*das sollen*) and empirical practice (*das sein*).

In the tradition of normative legal research, the concept of a population does not refer to human subjects but is instead instantiated through a representative and authoritative population of legal materials. The population of legal materials in this study is categorized into three distinct tiers. Primary legal materials comprise legally binding statutory regulations, namely Law Number 17 of 2023 concerning Health, Government Regulation Number 28 of 2024, Law Number 8 of 1999 concerning Consumer Protection, and Article 1365 of the Indonesian Civil Code. Secondary legal materials consist of legal literature, textbooks, and multinational scientific articles concerning health law and consumer protection, which serve to strengthen the conceptual analysis. Meanwhile, tertiary legal materials encompass legal dictionaries and encyclopedias utilized to clarify terminological boundaries within this study.

The data collection technique, or the gathering of legal materials, is conducted through library research. This process is executed by systematically inventorying, selecting, and verifying the validity of various written legal sources relevant to the issue of traditional health service tariffs. Once all legal materials are gathered, the

data analysis technique is performed qualitatively through normative legal methods utilizing legal interpretive and argumentative approaches. This analytical process advances through stages of classifying legal materials, conducting doctrinal interpretation of norms, and drawing conclusions deductively, moving from generalized legal norms to specific conclusions regarding the implications of the absence of tariff regulations on the legal protection of patients.

3. Results and Discussion

3.1. Legal Framework Governing Traditional Health Services in Indonesia

Traditional health services in the Indonesian legal system have undergone a significant paradigm transformation, shifting from informal community practices into normatively recognized components of the national health system. This juridical recognition is explicitly articulated in Law Number 17 of 2023 concerning health, which positions traditional health services as an integral part of national health efforts that can be legally organized as long as they comply with safety standards and applicable statutory provisions. This integration indicates that the state has begun to adopt an accommodative, pluralistic approach, providing a legal space for non-conventional healing methods to contribute directly to improving overall public health (Suparna et al., 2025; Zakaria et al., 2026).

Furthermore, the direction of technical policies regarding the institutionalization of this practice is governed by Government Regulation Number 28 of 2024, which serves as the official implementing regulation. This regulation clearly demonstrates that the state adopts a regulatory approach that integrates traditional health practices into the formal legal framework by placing strict emphasis on meeting standards of safety, quality, and service (Hermawan & Jamaludin, 2025). From the perspective of modern health law, this normative standardization reflects a regulatory integration model, which is a structural effort by competent authorities to encompass and control non-conventional practices so that they operate within legal corridors to minimize malpractice risks without neglecting the principles of patient protection (Yanti & Mahadewi, 2023).

Nevertheless, a critical normative analysis of both major regulations reveals that the current legal framework remains partial and has not yet addressed the root of economic issues. The primary focus of government policy thus far has tended to target administrative and technical-operational aspects, such as licensing mechanisms, facility standardization, and personnel competence, while the economic aspects of the service, specifically concerning the formulation of tariff regulations, are completely unaddressed (Arlina, 2018; Prabowo et al., 2024). The absence of this financial regulation demonstrates that the regulatory framework established under Law Number 17 of 2023 and its implementing regulations is not yet sufficiently comprehensive to ensure holistic patient protection against the impacts of service cost uncertainties.

The relational imbalance between practitioners and patients serves as a crucial structural factor that reinforces the potential for exploitation within traditional health service delivery that lacks standardized tariffs (Romlah et al., 2024; Ricky & Negara, 2025). Practitioners generally hold dominant authority due to their experience, reputation, and expertise, whereas patients find themselves in a vulnerable state characterized by psychological dependence and extreme information asymmetry. In alignment with the legal philosophy of Mackaay and Rousseau (2015), the law must not remain passive but must function to balance various interests in society, including the individual interests of practitioners as service providers and the social interests of patients as the weaker party in need of protection. The absence of regulatory intervention over this relational imbalance

creates a significant potential for arbitrary commercialization and disproportionate tariff setting that harms the public (Indradewi & Sahid, 2022).

3.2. Normative Gaps in the Regulation of Tariffs

The absence of tariff regulation in traditional health services reflects a legal vacuum in the Indonesian health law system. In legal theory, this normative gap arises when a significant social phenomenon involving widespread public interest fails to receive adequate regulation under the prevailing positive legal system. The lack of statutory parameters determining the upper or lower limits of treatment costs leads to profound legal uncertainty and leaves an expansive discretionary window for highly diverse interpretations among field practitioners. This condition indicates a structural imperfection within the healthcare legal system in comprehensively responding to and mitigating the financial risks faced by the community (Prastyo et al., 2025).

This lagging regulatory condition further confirms the failure of the law's adaptive function in guiding social dynamics. In this regard, Kusumaatmadja (2006) asserts that the law must function as a tool of development and social engineering, meaning that the law is obligated to possess adaptive capabilities in responding to social progress and progressively fulfilling the real needs of society. When statutory instruments fail to regulate a highly crucial aspect, such as the standardization of traditional healthcare service tariffs, the developmental function of the law becomes suboptimal. The law ultimately remains static, lagging far behind the expansion of non-conventional medical practices that are increasingly utilized by the general public.

This imbalance becomes increasingly apparent when compared with the governance of the highly established modern medical sector. In contrast to conventional health services, which maintain highly standardized tariffs through public financing mechanisms such as the JKN and strict healthcare facility policies, traditional health services possess no basic tariff references or national fairness thresholds. This lack of a juridical compass ultimately generates an unmonitored and extensive discretionary space for traditional practitioners to determine service fees unilaterally (Ardiansah et al., 2025). Without state intervention, this uninhibited pricing mechanism completely disregards the principle of good faith mandated under Consumer Protection Law Number 8 of 1999.

From a law and economics perspective, this unchecked discretionary space is a direct consequence of regulatory failure in addressing the asymmetric information between the two parties. Patients, who generally lack adequate traditional medical knowledge and find themselves in a weakened physical state, occupy a subordinate bargaining position and are unable to assess the fairness of the tariffs imposed on them. In accordance with the insights of Budiarsih and Amir (2026), tariffs in healthcare services are fundamentally instruments of distributive justice that dictate accessibility and protection for vulnerable parties. Consequently, the Indonesian health law system necessitates comprehensive regulatory reform to formulate systematic tariff structures that integrate the principles of transparency, fairness, and effective oversight mechanisms to uphold genuine legal protection for patients.

3.3. Legal Implications for Patient Protection in Traditional Health Services

Within the legal relationship between traditional health practitioners and patients, the patient's position can be legally qualified as a service consumer, thereby strictly subjecting the relationship to the consumer protection regime. The logical consequence of this status is firmly rooted in Law Number 8 of 1999 concerning consumer protection, which emphasizes that business actors bear an imperative obligation to provide true, clear, and honest information regarding the conditions and guarantees of the services offered, and are strictly prohibited from engaging in manipulative practices that harm consumers. The analysis in this study aligns with

the statutory mandates of Law Number 8 of 1999, which posits that the total absence of standardized tariff regulations in traditional health services essentially constitutes a systemic disregard for the right to financial transparency, thereby exposing patients to economic exploitation due to the severe lack of cost information prior to receiving care (Marzuki, 2017).

The lack of cost transparency constitutes a violation of patient rights. In modern healthcare ecosystems, the fulfillment of patient autonomy has transformed from standard informed consent regarding medical procedures into informed financial consent, the constitutional right of patients to be fully aware of the financial consequences of healthcare services before any action is taken. The argument presented in this study aligns with international health law discourse, which demonstrates that a lack of cost transparency in healthcare systems that do not possess clear tariff regulations exponentially accelerates patient vulnerability to financial exploitation (Hall, 2013). Consequently, the uncertainty of traditional treatment costs must be classified as a direct breach of the principle of good faith inherent in consumer protection.

From a private law perspective, the imposition of unreasonable and exploitative tariffs in traditional health services heavily satisfies the criteria of an unlawful act as stipulated in Article 1365 of the Indonesian Civil Code. In civil law doctrine, an action can incur liability if it satisfies the cumulative elements of an act, fault, damage, and a causal relationship. The perspective of this study aligns with the doctrine of Fuady (2013), who explains that the criteria for an unlawful act are no longer narrowly confined to violations of written statutory laws, but have broadly expanded to encompass breaches of propriety, due care, morality, and the living values of justice within society. Therefore, setting irrational tariffs in traditional healing solely to reap unilateral profits qualifies as an unlawful act because it violates the public sense of fairness and institutional propriety.

This injustice is aggravated by unequal bargaining power and the abuse of the circumstances doctrine. The relational dynamic between practitioner and patient, which is heavily fraught with information asymmetry and psychological dependence, creates an environment highly susceptible to exploitation. The analytical framework of this study aligns with the legal doctrine of Hernoko (2010) and Hutchinson (2013), who state that an abuse of circumstances occurs when a dominant party improperly exploits the weakened condition or psychological-economic vulnerability of the counterparty to extract unfair contractual advantages. Through the integration of these legal theories, the imposition of exorbitant tariffs within an imbalanced relational structure legally violates the principle of fairness in contractual relations (undue influence) and generates a civil liability for the practitioner to compensate for the damages suffered by the patient (Firma et al., 2025).

4. Conclusion

This study identifies a legal vacuum in the regulation of traditional health service tariffs in Indonesia. Law Number 17 of 2023 and Government Regulation Number 28 of 2024 regulate only the administrative and technical aspects of traditional health services, while tariff regulation remains entirely absent. The absence of tariff standards strengthens information asymmetry between practitioners and patients, allowing practitioners to set tariffs unilaterally in a manner that violates Law Number 8 of 1999 concerning Consumer Protection and satisfies the criteria of an unlawful act under Article 1365 of the Indonesian Civil Code through the doctrine of abuse of circumstances (*misbruik van omstandigheden*). Consequently, the implication is that immediate policy reform is required to formulate transparent and equitable tariff regulations that secure legal protection and distributive justice for patients as vulnerable consumers.

Nevertheless, this study is subject to limitations as its normative juridical method restricts the scope to textual analyses of positive legal substances, doctrines, and scientific literature without incorporating empirical, quantitative data regarding field tariff variations. Accordingly, future research agendas should pivot toward empirical socio-legal studies that involve real-world tariff surveys and in-depth interviews with practitioner associations and patients. Such an approach is crucial to generating tariff-cap policy formulations that are not only normatively ideal but also highly applicable, responsive, and adaptive to the socio-economic dynamics of non-conventional healthcare practices in Indonesia.

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Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

Data Disclosure Statement

The data that support the findings of this study are available from the corresponding author upon reasonable request.



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