

## Legal Liability of Hospitals for Refusal of BPJS Patients in Indonesia: A Normative Analysis of Healthcare Law

Marta Ayuni Lestari Suhandi<sup>1</sup>, Wahyudi<sup>2</sup>

<sup>1</sup>Universitas Komputer Indonesia, Bandung, Indonesia

<sup>2</sup>Universitas Komputer Indonesia, Bandung, Indonesia

*Corresponding Author:* [marta.31622001@mabasiswa.unikom.ac.id](mailto:marta.31622001@mabasiswa.unikom.ac.id)

**Submission:** 02 March 2026

**Revision:** 04 March 2026

**Accepted:** 06 March 2026

### Abstract

The refusal of healthcare services to BPJS Kesehatan participants remains a concern within Indonesia's National Health Insurance (JKN) system, despite the constitutional guarantee of the right to health under Article 28H paragraph (1) of the 1945 Constitution. Hospital obligations to provide safe and non-discriminatory services are stipulated in Articles 32 and 46 of Law Number 44 of 2009 on Hospitals, as well as Articles 53 and 54 of Law Number 36 of 2009 on Health. This study aims to analyze the legal responsibility of hospitals for refusing services to BPJS participants and to examine implementation challenges. The research applies a normative juridical method using statutory and conceptual approaches. The findings indicate that service refusal may result in administrative sanctions, civil liability under Article 1365 of the Civil Code, and criminal liability under Article 359 of the Criminal Code when death occurs. The primary challenge lies in weak enforcement and inconsistent implementation of existing legal norms in healthcare practice.

**Keywords:** BPJS Kesehatan; Hospital Liability; Legal Protection; National Health Insurance; Service Refusal

### Abstrak

Penolakan pelayanan terhadap peserta BPJS Kesehatan masih menjadi persoalan dalam penyelenggaraan Jaminan Kesehatan Nasional (JKN), meskipun hak atas pelayanan kesehatan telah dijamin dalam Pasal 28H ayat (1) UUD 1945. Kewajiban rumah sakit untuk memberikan pelayanan yang aman dan nondiskriminatif diatur dalam Pasal 32 dan Pasal 46 Undang-Undang Nomor 44 Tahun 2009 tentang Rumah Sakit, serta Pasal 53 dan Pasal 54 Undang-Undang Nomor 36 Tahun 2009 tentang Kesehatan. Penelitian ini bertujuan untuk menganalisis tanggung jawab hukum rumah sakit atas penolakan pelayanan terhadap peserta BPJS Kesehatan serta problematika implementasinya. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan dan konseptual. Hasil penelitian menunjukkan bahwa penolakan pelayanan dapat menimbulkan tanggung jawab administratif, gugatan perdata berdasarkan Pasal 1365 KUHPerdata, serta pertanggungjawaban pidana berdasarkan Pasal 359 KUHP apabila mengakibatkan kematian. Permasalahan utama terletak pada lemahnya pengawasan dan implementasi norma hukum dalam praktik pelayanan kesehatan.

**Kata Kunci:** BPJS Kesehatan; Tanggung Jawab Rumah Sakit; Perlindungan Hukum; Jaminan Kesehatan Nasional; Penolakan Pelayanan

## INTRODUCTION

Healthcare is a constitutional right guaranteed under Article 28H of the 1945 Constitution of the Republic of Indonesia. Through the National Health Insurance (Jaminan Kesehatan Nasional/JKN) program, the state established BPJS Kesehatan to ensure equal and affordable access to healthcare services for all citizens. Normatively, hospitals are legally obligated to provide safe, high-quality, and non-discriminatory medical services. Redi and Marlina emphasize that hospitals bear full responsibility for fulfilling patients' rights, including the right to medical information, informed consent, and safety during treatment.<sup>1</sup> Likewise, Heriani, Gunarto, and Masdhurohatun argue that although patient rights are clearly regulated under the Hospital Law, their practical implementation remains inconsistent.<sup>2</sup>

In practice, however, cases of refusal or delay in providing treatment to BPJS participants continue to occur, including in emergencies. Nuraeni identifies instances in which hospitals refused BPJS patients for administrative or technical reasons, despite clear legal obligations prohibiting such conduct.<sup>3</sup> Similarly, Ariyanto, Huda, and Asmuni highlight legal concerns arising from service limitations within the JKN system, particularly regarding restrictions on medication that may affect patients' access to optimal therapy.<sup>4</sup> These findings demonstrate a gap between normative legal guarantees and their implementation in hospital practice, raising serious concerns about accountability and legal protection for insured patients.

From a legal standpoint, refusal of medical services may constitute negligence or a breach of statutory duty. Amalia explains that under Law Number 44 of 2009 on Hospitals, hospitals are legally responsible for losses resulting from the negligence of their healthcare personnel.<sup>5</sup> Furthermore, Firmansyah and Utomo affirm that, even under conditions of resource constraints, hospitals remain obligated to safeguard patient safety and uphold patient rights as part of their legal responsibilities.<sup>6</sup> Administrative constraints, financial disputes, or delays in claims cannot justify conduct that jeopardizes patients' fundamental right to health. Therefore, hospital refusal of services raises fundamental legal questions concerning civil liability, administrative sanctions, and potential criminal accountability.

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- 1 Ahmad Redi and Lia Marlina, "Hospital Responsibilities Toward Patients In The Implementation Of Health Services," *International Journal of Engineering Business and Social Science* 2, no. 03 (January 20, 2024): 997–1008, <https://doi.org/10.58451/ijebss.v2i03.117>.
  - 2 Istiana Heriani, Gunarto Gunarto, and Anis Masdhurohatun, "Legal Protection of Patient Rights in Indonesia," *Srimijaya Law Review*, January 31, 2019, 75–85, <https://doi.org/10.28946/slrev.Vol3.Iss1.134.pp75-85>.
  - 3 Yeni Nuraeni, "Legal Protection Of Health Bpjs Accountability Regarding Hospital Refuse For BPJS Program Participants," *Jurnal Sosial Sains Dan Komunikasi* 1, no. 02 (June 29, 2023): 85–92, <https://doi.org/10.58471/ju-sosak.v1i02.223>.
  - 4 Suwondo Ariyanto, Mokhamad Khoiril Huda, and Asmuni, "Legal Protection for Patients Participating in Health Insurance Administering Agencies with Heart Disease with Medication Restrictions in Outpatient Services in Hospitals," *JILPR Journal Indonesia Law and Policy Review* 5, no. 1 (October 20, 2023): 108–17, <https://doi.org/10.56371/jirpl.v5i1.162>.
  - 5 Cindy Ratna Amalia, "Legal Responsibility for Patient Rights for Negligence in Health Services According to Law Number 44 of 2009," *Proceedings Series on Social Sciences & Humanities* 14 (November 16, 2023): 39–43, <https://doi.org/10.30595/pssh.v14i.914>.
  - 6 Yohanes Firmansyah and St. Laksanto Utomo, "A Hospital's Legal Responsibility For Patient Rights During The Covid-19 Pandemic - A Review From The Health Sector's Law Regulations," *Jurnal Indonesia Sosial Sains* 2, no. 8 (August 21, 2021): 1392–1406, <https://doi.org/10.36418/jiss.v2i8.392>.

Previous studies have addressed patient protection and hospital liability from various perspectives. Heriani et al. examined the effectiveness of legal protection under the Hospital Law, while Nuraeni focused on BPJS-related hospital refusals and accountability mechanisms.<sup>7</sup> Ariyanto et al. explored legal protection in the context of therapeutic restrictions under the JKN system, and Amalia analyzed hospital liability for medical negligence.<sup>8</sup> However, a comprehensive normative juridical analysis that systematically constructs hospital liability specifically for refusal of services toward BPJS participants within an integrated legal framework remains underdeveloped.

This study, therefore, aims to examine the legal responsibility of hospitals for refusing medical services to BPJS participants and to analyze the forms of legal protection available under the National Health Insurance system. The urgency of this research lies in the continuing occurrence of service refusals and treatment delays that potentially violate constitutional health rights. By employing a normative juridical approach, this research seeks to clarify the boundaries of hospital liability, strengthen the legal position of BPJS participants as rights-bearing subjects, and contribute to the development of more effective legal enforcement and policy reform in Indonesia's healthcare system.

### Method

This study employs a normative juridical research method, focusing on the analysis of legal norms governing hospital liability and patient protection within Indonesia's National Health Insurance system.<sup>9</sup> The research applies a statutory approach and a conceptual approach to examine relevant legal provisions, including Article 28H of the 1945 Constitution concerning the right to health; Article 32 and Article 46 of Law Number 44 of 2009 on Hospitals regarding patient rights and hospital liability; Articles 53 and 54 of Law Number 36 of 2009 on Health concerning the implementation of accountable and non-discriminatory health services; Law Number 40 of 2004 on the National Social Security System; Law Number 24 of 2011 on BPJS; Article 1365 of the Civil Code concerning unlawful acts; Article 359 of the Criminal Code regarding negligence causing death; and Article 19 paragraph (1) of Law Number 8 of 1999 on Consumer Protection concerning service provider liability. The legal materials used consist of primary legal materials (statutes and regulations), secondary legal materials (journal articles, scholarly books, and prior research), and tertiary legal materials (legal dictionaries and supporting references).

Data collection was conducted through library research (document study) by systematically identifying, reviewing, and classifying relevant legal instruments and academic literature related to hospital responsibility and BPJS patient protection.<sup>10</sup> The collected legal materials were then analyzed using qualitative normative analysis, emphasizing legal interpretation, synchronization of legal norms, and systematic construction of legal arguments. The analysis is prescriptive in nature, aiming to formulate legal reasoning regarding the scope of hospital liability—administrative, civil, and criminal—as well as to assess the adequacy of existing legal protection mechanisms for BPJS participants within the framework of Indonesian health law.

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7 Heriani, Gunarto, and Masdhurohatun, "Legal Protection of Patient Rights in Indonesia"; Nuraeni, "Legal Protection Of Health Bpjs Accountability Regarding Hospital Refuse For Bpjs Program Participants."

8 Ariyanto, Huda, and Asmuni, "Legal Protection for Patients Participating in Health Insurance Administering Agencies with Heart Disease with Medication Restrictions in Outpatient Services in Hospitals"; Amalia, "Legal Responsibility for Patient Rights for Negligence in Health Services According to Law Number 44 of 2009."

9 Zainuddin Ali, *Metode Penelitian Hukum* (Sinar Grafika, 2021).

10 Mestika Zed, *Metode Penelitian Kepustakaan* (Yayasan Pustaka Obor Indonesia, 2008).

## RESULT AND DISCUSSION

### Normative Foundations of Healthcare Services for BPJS Kesehatan Participants

Healthcare services for BPJS Kesehatan participants are grounded in constitutional guarantees, particularly Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which affirms the right of every person to access healthcare services. This right is further operationalized through Law Number 40 of 2004 on the National Social Security System and Law Number 24 of 2011 on BPJS, both of which position the state as the primary guarantor of the implementation of national health insurance. Redi and Marlina emphasize that hospitals, as integral components of the national healthcare system, have a legal obligation to ensure the fulfillment of patients' rights, including the right to safety and to equal access to treatment without discrimination.<sup>11</sup> Therefore, providing services to BPJS participants is not merely an administrative duty but a constitutionally mandated obligation.

More specifically, hospital obligations are regulated under Article 32 of Law Number 44 of 2009 on Hospitals, which outlines patients' rights, including the right to receive humane, fair, and non-discriminatory services. Article 46 of the same law further stipulates that hospitals are legally responsible for losses arising from the negligence of healthcare professionals within their institutions. Amalia explains that this provision clearly positions hospitals as legal subjects that cannot evade responsibility for the conduct of their medical personnel.<sup>12</sup> These norms demonstrate that the legal relationship between BPJS patients and hospitals extends beyond service provision; it constitutes a relationship of legal accountability with potential civil, administrative, and even criminal consequences.

Furthermore, Law Number 36 of 2009 on Health, particularly Articles 53 and 54, mandates that healthcare services must be delivered responsibly, safely, with quality standards, and without discrimination. Heriani, Gunarto, and Masdhurohatun explain that while Indonesia's legal framework for patient protection is comprehensive, its effectiveness largely depends on institutional compliance and enforcement.<sup>13</sup> The principle of non-discrimination is particularly crucial for BPJS participants, as any refusal of service based on insurance status may violate statutory obligations as well as the broader principle of social justice embedded in public healthcare delivery.

To clarify these normative foundations, the following table summarizes the principal legal instruments forming the basis of hospital obligations toward BPJS participants:

**Table 1.** Normative Foundations of Healthcare Services for BPJS Kesehatan Participants

Regulation	Key Article	Substance of Regulation
1945 Constitution <sup>14</sup>	Article 28H(1)	Constitutional right to healthcare

11 Redi and Marlina, "Hospital Responsibilities Toward Patients In The Implementation Of Health Services."

12 Amalia, "Legal Responsibility for Patient Rights for Negligence in Health Services According to Law Number 44 of 2009."

13 Heriani, Gunarto, and Masdhurohatun, "Legal Protection of Patient Rights in Indonesia."

14 "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945." (n.d.).

Law No. 40 of 2004 (SJSN) <sup>15</sup>	Article 19	National health insurance program
Law No. 24 of 2011 (BPJS) <sup>16</sup>	Article 15	Obligation to administer health insurance
Law No. 44 of 2009 (Hospitals) <sup>17</sup>	Articles 32 & 46	Patient rights and hospital liability
Law No. 36 of 2009 (Health) <sup>18</sup>	Articles 53 & 54	Safe and non-discriminatory service standards
Law No. 8 of 1999 (Consumer Protection) <sup>19</sup>	Article 19(1)	Liability of service providers for damages

*Source: by Author*

As shown in Table 1, the legal framework governing healthcare services for BPJS participants is multilayered, spanning constitutional provisions and sector-specific statutes. Nuraeni asserts that hospitals partnering with BPJS are prohibited from refusing patients or requiring advance payments in certain circumstances, as such actions contravene statutory provisions and cooperation agreements with BPJS.<sup>20</sup> Given this robust normative structure, there is no legal justification for refusing services to BPJS participants. The core issue, therefore, lies not in the absence of regulation but in the consistency of implementation and enforcement across healthcare institutions.

### **Juridical Analysis of Hospital Liability for Refusal of Services to BPJS Participants**

The refusal of medical services to BPJS participants must be examined through the framework of legal responsibility embedded in Indonesian health law. Under Article 46 of Law Number 44 of 2009 on Hospitals, institutions are legally responsible for losses caused by negligence within their facilities.<sup>21</sup> Beyond negligence, deliberate refusal of treatment may also constitute a breach of statutory duty and public service obligations. Ariyanto, Huda, and Asmuni explain that hospitals participating in the National Health Insurance system are bound to provide treatment in accordance with medical standards and program regulations, and limitations in service

15 “Undang-Undang Republik Indonesia Nomor 40 Tahun 2004 Tentang Sistem Jaminan Sosial Nasional (Lembaran Negara Republik Indonesia Tahun 2004 Nomor 150, Tambahan Lembaran Negara Republik Indonesia Nomor 4456).”

16 “Undang-Undang Republik Indonesia Nomor 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial (Lembaran Negara Republik Indonesia Tahun 2011 Nomor 116, Tambahan Lembaran Negara Republik Indonesia Nomor 5256).”

17 “Undang-Undang Republik Indonesia Nomor 44 Tahun 2009 Tentang Rumah Sakit (Lembaran Negara Republik Indonesia Tahun 2009 Nomor 153, Tambahan Lembaran Negara Republik Indonesia Nomor 5072).”

18 “Undang-Undang Republik Indonesia Nomor 36 Tahun 2009 Tentang Kesehatan (Lembaran Negara Republik Indonesia Tahun 2009 Nomor 144, Tambahan Lembaran Negara Republik Indonesia Nomor 5063).”

19 “Undang-Undang Republik Indonesia Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen (Lembaran Negara Republik Indonesia Tahun 1999 Nomor 42, Tambahan Lembaran Negara Republik Indonesia Nomor 3821).”

20 Nuraeni, “Legal Protection Of Health Bpjs Accountability Regarding Hospital Refuse For BPJS Program Participants.”

21 Undang-Undang Republik Indonesia Nomor 44 Tahun 2009 tentang Rumah Sakit (Lembaran Negara Republik Indonesia Tahun 2009 Nomor 153, Tambahan Lembaran Negara Republik Indonesia Nomor 5072).

cannot eliminate institutional responsibility.<sup>22</sup> Therefore, refusal of BPJS services must be analyzed not only as an administrative issue, but as a potential violation of legal obligations grounded in statutory norms.

From a civil law perspective, hospital refusal may fulfill the elements of an unlawful act under Article 1365 of the Indonesian Civil Code. These elements include an act, unlawfulness, fault, damage, and causal relationship. Kusuma and Suparno emphasize that patients are entitled to health services that meet established standards and may pursue legal remedies when those standards are violated.<sup>23</sup> If refusal results in delayed treatment, worsening conditions, or death, the hospital may be required to compensate for material and immaterial damages. In this sense, liability does not depend solely on individual medical personnel; institutional responsibility arises when systemic failures or administrative decisions directly harm patients.

Administrative responsibility also plays a central role in assessing hospital conduct. Hospitals operating under BPJS agreements are subject to regulatory supervision and may face sanctions ranging from warnings to revocation of operational licenses. Firmansyah and Utomo underline that even during crises or resource limitations, hospitals remain obligated to uphold patient safety and rights, and regulatory mechanisms must ensure compliance.<sup>24</sup> Administrative sanctions serve as preventive and corrective tools, reinforcing the principle that participation in the BPJS system entails binding legal commitments rather than discretionary service arrangements.

In certain circumstances, refusal of services may also trigger criminal liability. If the refusal results in serious injury or death, Article 359 of the Criminal Code concerning negligence causing death may apply. Prasetyo, Waluyo, and Subakdi argue that hospitals as corporate entities can bear criminal responsibility under strict liability principles when systemic malpractice occurs within institutional structures.<sup>25</sup> This perspective reinforces the idea that hospitals are not merely passive facilities but active legal actors accountable for organizational policies and decisions. Criminal liability thus becomes relevant when refusal reflects gross negligence or institutional disregard for patient safety.

To clarify the multidimensional nature of liability, the following table outlines the primary forms of legal responsibility applicable to hospital refusal of BPJS services:

**Table 2.** Forms of Legal Responsibility for Refusal of BPJS Services

Type of Liability	Legal Basis	Legal Consequence
Civil Liability	Article 1365 Civil Code	Compensation for damages
Administrative Liability	Law No. 44/2009; BPJS Regulations	Warning, suspension, license revocation

22 Ariyanto, Huda, and Asmuni, “Legal Protection for Patients Participating in Health Insurance Administering Agencies with Heart Disease with Medication Restrictions in Outpatient Services in Hospitals.”  
 23 Andri Kusuma and Suparno Suparno, “Legal Protection of Patients in Getting Health Services in Government Hospitals,” in *Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2021, March 6th 2021, Jakarta, Indonesia* (EAI, 2021), <https://doi.org/10.4108/eai.6-3-2021.2306401>.  
 24 Firmansyah and Utomo, “A Hospital’s Legal Responsibility For Patient Rights During The Covid-19 Pandemic - A Review From The Health Sector’s Law Regulations.”  
 25 Handoyo Prasetyo et al., “Reconstruction of Criminal Design Based on Strict Liability Theory for Hospitals in Cases of Medical Malpractice Against Patients,” *Jurnal Suara Hukum* 6, no. 2 (March 28, 2025): 331–55, <https://doi.org/10.26740/jsh.v6n2.p331-355>.

Criminal Liability	Article 359 Criminal Code	Imprisonment or fines
Corporate Liability	Strict liability doctrine	Institutional accountability

*Source: by Author*

As shown in Table 2, hospital liability for refusal of BPJS services operates on multiple legal levels simultaneously. Alhasan highlights that modern healthcare systems increasingly recognize institutional accountability, particularly when service failures stem from structural or managerial decisions rather than isolated individual errors.<sup>26</sup> This layered framework demonstrates that refusal of service is not a minor procedural issue but a legally significant act capable of triggering civil compensation, administrative sanctions, and criminal prosecution. Consequently, hospitals must ensure that administrative policies, financial arrangements, and operational constraints never override their fundamental legal duty to protect patients' right to health.

### **Legal and Institutional Challenges in Implementing Hospital Responsibility for BPJS Service Refusal**

Although the statutory framework governing hospital liability appears comprehensive, practical implementation frequently encounters systemic constraints. One significant issue relates to financial sustainability and institutional risk management. Sitepu explains that disputes between patients and medical institutions often arise from allegations of malpractice or service failures, necessitating professional liability mechanisms within healthcare systems.<sup>27</sup> In contexts where hospitals face financial pressure, including reimbursement challenges, risk-averse administrative policies may indirectly influence service decisions. This environment can create tension between legal obligations to provide nondiscriminatory care and institutional efforts to mitigate financial or legal exposure. Consequently, the challenge lies not merely in the existence of legal norms but in aligning operational policies with binding statutory duties.

Another implementation challenge concerns institutional capacity and crisis management. Chan highlights that during periods of heightened systemic pressure, such as public health emergencies, hospitals often struggle to balance resource limitations with legal obligations toward patients.<sup>28</sup> While resource scarcity may explain operational strain, it does not eliminate legal responsibility. In the BPJS context, similar structural limitations—such as bed shortages or administrative bottlenecks—may affect service delivery. However, the principle of accountability requires that hospitals adopt proportionate and legally compliant responses. Failure to manage systemic constraints effectively may result in delayed treatment or refusal of services, thereby exposing institutions to civil, administrative, or criminal liability.

A further concern relates to the evolving perception of patients as rights-bearing consumers within healthcare systems. Rowe and Moodley argue that modern health law increasingly conceptualizes patients as consumers entitled to legal protection and institutional

26 Tariq K. Alhasan, "Independent Contractors in Hospitals: Liability, Consent, and Patient Safety," *Journal of Healthcare Risk Management* 45, no. 2 (October 29, 2025): 15–23, <https://doi.org/10.1002/jhrm.70016>.

27 Febrina Lorence Sitepu, "Legal Review Doctor's Professional Liability Insurance To Patients," *Journal of Law Science* 2, no. 1 (January 30, 2020): 34–42, <https://doi.org/10.35335/jls.v2i1.1613>.

28 Lai-Ha Chan, "Strategic Hedging: A 'Third Way' for Australian Foreign Policy in the Indo-Pacific," *Asia Policy* 15, no. 3 (July 2020): 87–112, <https://doi.org/10.1353/asp.2020.0045>.

accountability.<sup>29</sup> This shift strengthens the expectation that hospitals must maintain transparency, fairness, and equal treatment standards. In the BPJS framework, refusal of service not only implicates public service law but also potentially engages consumer protection principles. The growing recognition of patient autonomy and institutional accountability intensifies scrutiny of hospital practices, making implementation gaps more visible and legally consequential.

Institutional accountability is also closely linked to mechanisms of state oversight and compensation systems. López Oliva and Peña emphasize that when wrongful harm occurs in public healthcare provision, the state must ensure effective compensation and safeguard fundamental rights.<sup>30</sup> This perspective underscores the interconnected responsibility of healthcare institutions and government regulators in guaranteeing patient protection. In the BPJS system, inadequate supervision or inconsistent enforcement may weaken deterrence and reduce compliance incentives. Without coordinated oversight and clear accountability channels, the normative framework risks losing practical effectiveness.

To illustrate these implementation challenges, the following table outlines the principal structural obstacles affecting hospital responsibility:

**Table 3.** Key Implementation Challenges in Hospital Liability for BPJS Service Refusal

Implementation Issue	Institutional Impact	Legal Risk
Financial and reimbursement constraints	Restrictive admission policies	Civil and administrative claims
Resource limitations	Delayed or inadequate treatment	Negligence liability
Weak supervisory enforcement	Inconsistent sanction application	Reduced deterrence
Consumer-rights expectations	Increased scrutiny and litigation	Institutional accountability exposure

*Source: by Author*

As shown in Table 3, implementation challenges are multidimensional and interrelated. Financial pressures, limited capacity, evolving consumer expectations, and supervisory weaknesses collectively shape the operational environment in which hospitals function. These structural conditions do not negate legal responsibility; instead, they highlight the necessity of stronger regulatory alignment, institutional governance, and enforcement consistency. Ultimately, the problem of BPJS service refusal is less about normative deficiency and more about ensuring that legal standards are translated into consistent institutional practice.

29 Kirsten Rowe and Keymanthri Moodley, “Patients as Consumers of Health Care in South Africa: The Ethical and Legal Implications,” *BMC Medical Ethics* 14, no. 1 (December 21, 2013): 15, <https://doi.org/10.1186/1472-6939-14-15>.

30 Jose Lopez Oliva and Andrea Alarcón Peña, “State Liability Insurance Derived from an Antijudicial Damage Caused in the Provision of Health Services. Analysis of the Guarantee of the Rights of the Pregnant Woman, the Unborn Child, the Newborn Baby and the Protection of the State’s Assets,” *Via Inveniendi Et Iudicandi* 19, no. 1 (August 14, 2024): 161–80, <https://doi.org/10.15332/19090528.10101>.

## CONCLUSION

This study shows that the legal framework regulating hospital duties toward BPJS Kesehatan participants is firmly rooted in both the constitution and laws. The right to healthcare, as protected by Article 28H of the 1945 Constitution, is supported by Law Number 44 of 2009 on Hospitals, Law Number 36 of 2009 on Health, Law Number 40 of 2004 on the National Social Security System, and Law Number 24 of 2011 on BPJS. Legally, refusing medical services to BPJS participants can lead to administrative, civil, and even criminal penalties, especially if such refusal causes harm or death. The analysis shows that the main problem is not a lack of rules, but rather inconsistent enforcement, inadequate oversight, financial stress, and governance issues within healthcare facilities.

Based on these findings, this study recommends strengthening regulatory enforcement and supervisory mechanisms to ensure compliance with statutory obligations. Hospitals should adopt transparent admission policies, improve internal governance, and prioritize nondiscriminatory service standards regardless of patients' insurance status. The government and BPJS institutions must also enhance monitoring systems, ensure timely reimbursement processes, and impose strict sanctions when violations occur. Increasing legal awareness among patients and healthcare providers is also crucial to promote accountability. Through coordinated institutional reform and consistent law enforcement, the constitutional right to health for BPJS participants can be more effectively protected in practice.

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