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# Commercialization of Medical Services as a Business Practice: A Legal Analysis of Conflicts of Interest and Patient Protection in Indonesia

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**Abstract**

*There is a growing gap between the normative regulation of medical services, which is oriented toward patient safety, and the reality of commercialized practice driven by economic interests. This condition creates conflicts of interest and weakens legal protection for patients. This study aims to analyze the legal framework governing the commercialization of medical services and examine its implications for patient protection in order to realize a healthcare system that is fair, professional, and patient-oriented. The research method used is a normative legal approach that analyzes legal norms, principles, and rules. The analysis is conducted qualitatively to produce theoretical understanding and comprehensive legal argumentation regarding the relationship between business practices in medical services and the legal responsibilities of medical personnel. The findings show that Indonesia's legal framework for the commercialization of medical services recognizes the economic aspects of medical professionals and healthcare facilities, but it is still constrained by ethical principles, professionalism, and patient protection, resulting in a normative dualism between economic orientation and humanitarian values. In practice, this dualism has not been harmoniously implemented due to the persistent gap between norms and implementation. This condition weakens patient protection, increases the risk of over-treatment, creates information asymmetry, and shifts the doctor–patient relationship into a transactional one that may trigger medical disputes and service injustice. Therefore, stronger regulatory enforcement, clearer separation between medical and business functions, service transparency, strengthened ethical supervision, and reform of medical legal culture are required to achieve a balanced healthcare system that fairly integrates economic interests with patient protection and prioritizes patient safety.*



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## 1. INTRODUCTION

The development of the health sector in Indonesia reflects a significant transformation from medical services as a humanitarian profession toward an entity increasingly oriented to economic considerations. Hospitals are no longer perceived solely as social institutions but also as corporate entities operating under principles of efficiency and profitability (Thabrany, 2014; Saltman et al., 2011). This shift has stimulated the emergence of the commercialization of medical services, whereby clinical decisions are not exclusively grounded in patients' medical needs but are also influenced by financial considerations. Such transformation generates ethical and legal dilemmas, particularly concerning the

potential for conflicts of interest between physicians' professional obligations and the economic interests of healthcare institutions (Relman, 2007).

Normatively, medical practice in Indonesia is regulated through various legal instruments that emphasize that healthcare services must prioritize patient safety and welfare. Law Number 17 of 2023 on Health, alongside the Indonesian Code of Medical Ethics, requires physicians to act professionally, independently, and free from undue external influence (IDI, 2012). However, in practice, physicians often face structural and institutional pressures that may compromise their independence, including service targets, incentive-based payment systems, and relationships with the pharmaceutical industry (Rodwin, 2011; Lo & Field, 2009). This condition highlights a discrepancy between the normative legal framework (*das sollen*) and the empirical realities (*das sein*) in medical practice.

The phenomenon of commercialization in medical services is increasingly evident through various cases reported in Indonesia. Several accounts indicate patient complaints regarding inflated medical costs, lack of transparency in procedures, and indications of profit-driven over-treatment (Kompas, 2010; Tempo, 2024). Furthermore, the relationship between healthcare professionals and the pharmaceutical industry has raised concerns due to its potential to create conflicts of interest, such as financial incentives for prescribing certain medications (Kesselheim et al., 2012). These developments have contributed to declining public trust in the medical profession and an increase in medical disputes between patients and healthcare providers.

At the systemic level, the implementation of the National Health Insurance (JKN) program has further complicated the dynamics of healthcare delivery in Indonesia. Financing mechanisms such as capitation and INA-CBGs impose efficiency demands on healthcare facilities, which, in certain circumstances, may affect the quality of medical services provided to patients (Thabrany, 2014). Limitations in resources and financial pressures within this system may encourage service rationalization practices that potentially conflict with the principle of optimal patient care (Saltman et al., 2011). Thus, the commercialization of medical services is not solely driven by individual physicians but is also shaped by the broader design of the healthcare system.

Despite the growing body of literature on the commercialization of medical services, several research gaps remain. Rodwin (2011) primarily examines conflicts of interest in the medical profession from a global perspective but does not specifically address their legal implications within the Indonesian context. Similarly, Kesselheim et al. (2012) focus on physician–pharmaceutical industry relationships without comprehensively linking them to patient protection. Meanwhile, local studies on patient protection tend to emphasize normative legal analysis without integrating systemic issues of conflict of interest and commercialization (Hendrojono, 2007). These gaps indicate the need for a more integrative and context-sensitive approach.

The urgency of this research is further underscored by the increasing number of medical disputes and growing patient dissatisfaction with healthcare services. Weak patient protection in the face of commercially driven medical practices may exacerbate the imbalance in the doctor–patient relationship, placing patients in a vulnerable position (Lo & Field, 2009). If left unaddressed, this condition may undermine the legitimacy of the medical profession and erode public trust in the national healthcare system (Relman, 2007). Therefore, a comprehensive legal approach is required to address the challenges posed by the commercialization of medical services (Kurniawan, 2026).

This study offers an integrative approach by combining legal, ethical, and health system analyses to examine the commercialization of medical services. Unlike previous studies, this research does not merely view conflicts of interest as ethical issues but also frames them

as legal concerns with direct implications for patient protection. Additionally, it analyzes the role of healthcare system structures in shaping commercialization practices, thereby providing a more holistic and contextualized understanding within the framework of Indonesian health law.

Accordingly, this study aims to critically examine the legal framework governing the commercialization of medical services in Indonesia and to analyze its legal implications for patient protection. Furthermore, it seeks to identify the forms of conflict of interest arising from business-oriented medical practices and to assess the extent to which existing regulations are capable of ensuring adequate legal protection for patients within the national healthcare system.

## 2. METHOD

This study employs a normative legal research method that focuses on the analysis of legal norms, principles, and rules governing the commercialization of medical services in Indonesia. The approach adopted is the *conceptual approach*, which relies on the examination of legal concepts developed within doctrines and scholarly literature, including concepts of conflict of interest, medical professionalism, and patient protection within the framework of health law (Marzuki, 2017; Ibrahim, 2006). Through this approach, the study not only analyzes applicable statutory regulations but also constructs a theoretical understanding of the relationship between business-oriented medical practices and the legal responsibilities of medical professionals. The analysis is conducted qualitatively, with the expectation of producing comprehensive legal arguments and offering a relevant conceptual framework to address the challenges posed by the commercialization of medical services in Indonesia.

## 3. RESULTS AND DISCUSSION

### a. Legal Regulation of the Commercialization of Medical Services in Indonesia

The legal regulation of the commercialization of medical services in Indonesia fundamentally reflects a recognition of the economic dimension within healthcare practice, while simultaneously being constrained by ethical principles and patient protection.

1) **Law No. 8 of 1999 on Consumer Protection**
   Article 6(a) stipulates that business actors have the right to receive payment in accordance with the agreement concerning the conditions and exchange value of goods and/or services traded. Normatively, this provision provides legitimacy for commercialization practices within legal relationships between service providers (including medical professionals and healthcare facilities) and consumers (patients). However, in the context of medical services, this relationship cannot be fully equated with ordinary commercial transactions, as it encompasses ethical dimensions, fiduciary relationships, and asymmetries of information between doctors and patients. Therefore, the right to remuneration must remain subject to principles of fairness, transparency, and good faith as established within the consumer protection regime.
2) **Law No. 17 of 2023 on Health**
   Article 273(1)(b) provides that medical personnel and healthcare workers are entitled to receive salaries/wages, service fees, and performance-based incentives in accordance with prevailing laws and regulations. Normatively, this provision affirms that the medical profession also entails a welfare dimension that must be guaranteed by the state. Such recognition is essential to maintaining professionalism and the quality of healthcare services. Nevertheless, the right to remuneration must not be

interpreted as a justification for excessive or exploitative commercialization practices. From a health law perspective, service fees must be proportional to the services rendered and must not compromise patient safety and interests. In other words, this norm contains an implicit limitation: economic orientation must not displace the primary orientation of healthcare as a humanitarian public service.

3) **Minister of Health Regulation No. 9 of 2014 on Clinics**
   Article 36(a) states that every clinic has the right to receive service fees in accordance with statutory regulations. Normatively, this provision reinforces the legitimacy of healthcare facilities, as legal entities or business actors, to perform economic functions. However, such regulation must be interpreted systematically alongside the obligation of clinics to provide safe, high-quality, and non-discriminatory services. Accordingly, commercialization in the form of charging service fees is permissible insofar as it does not violate medical service standards, does not lead to over-treatment, and continues to uphold patients' rights. In this context, law functions as a regulatory instrument to ensure that business practices within the healthcare sector do not deviate from their fundamental objectives.
4) **Indonesian Code of Medical Ethics**
   Article 3 stipulates that, in performing medical duties, a physician must not be influenced by any factors that may compromise professional independence and autonomy. Furthermore, the explanatory section explicitly prohibits physicians from abusing professional relationships with patients and/or their families for personal gain. It also forbids involvement in collusion, fee-splitting, commissions, discounts, multi-level marketing schemes, and pre-paid package-based service arrangements. Physicians are likewise prohibited from engaging in unfair business competition in violation of the law. Additionally, physicians are expected not to charge unreasonable honoraria that contradict humanitarian values and must communicate fees transparently to patients to avoid disputes, particularly where such fees exceed the financial capacity of patients or their families. These provisions emphasize the necessity for physicians to maintain professional independence and avoid conflicts of interest. Normatively, they reflect an effort to preserve the integrity of the medical profession so that it is not reduced to mere commercial activity. Moreover, the prohibition against excessive fees and the obligation of transparency underscore that the economic aspects of medical practice must remain governed by principles of humanity and justice.

Separating the "dualism" between economic orientation and ethical obligations in medical services cannot be approached dichotomously by eliminating one of the elements; rather, it must be situated within the framework of *good law*, which requires a balance between legal certainty, justice, and utility, as articulated in the thought of Gustav Radbruch (Anisyaniawati & Chandra, 2024). From this perspective, good law not only legitimizes the economic rights of medical professionals but must also ensure substantive justice for patients as a vulnerable party. Furthermore, within the framework of the legal system theory of Lawrence M. Friedman (Razak Askari, 2023), the effectiveness of law is determined by three main elements: structure, substance, and legal culture. The dualism observed in medical practice essentially reflects a disharmony among these elements, where legal substance recognizes economic aspects but is not adequately supported by robust supervisory structures and a consistent professional culture. Therefore, solutions to this dualism must be formulated comprehensively through normative, institutional, and cultural reforms, in order to create an integrative and just legal system.

Within this framework, several solutions may be proposed to address the dualism between economic orientation and ethical obligations in medical services:

1) **Normative Reinforcement through Fiduciary Duty**
   The first solution is strengthening regulations based on the principle of fiduciary duty, affirming that every medical action must be grounded in the *best interest of the patient* rather than financial incentives. This can be operationalized through more technical implementing regulations, such as requiring clinical justification for every medical procedure, whereby physicians must demonstrate that their actions are purely based on medical indications rather than economic motives.
2) **Structural Separation between Medical and Business Functions**
   A structural separation between medical and business functions within healthcare institutions is essential. Practically, physicians should not be involved in tariff-setting policies, revenue targets, or incentive schemes based on the volume of services (*fee-for-service* models that are excessive). This approach can be replaced with remuneration systems based on professional performance and quality of care (*quality-based payment*), rather than quantity of interventions. Such a model preserves clinical independence and minimizes potential conflicts of interest.
3) **Enhanced Transparency and Expanded Informed Consent**
   Another crucial solution is the expansion of transparency and informed consent. It is insufficient to merely explain medical procedures; transparency must also encompass costs, alternative therapies, and potential conflicts of interest. From a legal perspective, this constitutes a form of patient protection as well as a mechanism of social control over commercialization practices. Such transparency reduces information asymmetry, which has long been the root of inequality in the doctor–patient relationship.
4) **Strengthening Ethical Oversight and Enforcement**
   There is a need to reinforce oversight and enforcement of professional ethics. Professional bodies, such as the Medical Disciplinary Board, should be granted more effective and independent authority to address ethical violations, including deviant commercialization practices such as over-treatment, fee-splitting, and collusion with industry actors. Law enforcement in this context should not only be repressive but also preventive, through periodic ethical and clinical audits.
5) **Reformation of Legal Culture within the Medical Profession**
   An equally important solution is the reform of legal culture within the medical profession. Physicians must be reoriented toward the foundational values of medicine as a *noble profession*, rather than merely service providers. This can be achieved through medical education that emphasizes integrity, ethics, and social responsibility, as well as continuous professional development programs that incorporate issues of conflict of interest and business ethics in healthcare.
6) **Regulatory Harmonization by the State**
   The state also plays a strategic role through the harmonization of regulations across health law, consumer protection law, and business law. Currently, dualism arises from the recognition of economic rights without sufficiently detailed operational limitations. Therefore, explicit regulations are required to define the boundaries of commercialization, such as prohibiting incentive schemes based on specific medical procedures, mandating reasonable tariff standards, and imposing strict sanctions on practices that harm patients.

In conclusion, resolving this dualism does not require the elimination of economic aspects in medical services, but rather their subordination to ethical and legal control. If this principle is consistently implemented through regulatory, structural, and cultural

reforms, medical professionals can retain their economic rights without compromising professional ethics, while ensuring that patient protection as the primary objective of health law is optimally upheld.

**b. Legal Implications of Commercialization on Patient Protection**

The legal implications of the commercialization of medical services on patient protection indicate a tendency toward the weakening of the patient's legal position as a subject who ought to be protected. Uncontrolled commercialization practices have the potential to generate various forms of violations, such as over-treatment, disproportionate medical interventions, and a lack of transparency in cost and procedural information. Juridically, this condition results in an increased likelihood of medical disputes across civil, criminal, and professional disciplinary domains. Moreover, commercialization exacerbates the relational imbalance between doctors and patients due to information asymmetry, wherein patients occupy a weaker position in understanding and assessing their own medical needs. From the perspective of legal protection, this suggests that existing norms have not been fully effective in guaranteeing the fulfillment of patient rights, particularly the right to information, the right to safe and high-quality care, and the right to fair and humane treatment.

Philosophically, the phenomenon of commercialization in medical services reflects a shift in values within medical practice from an ethical-humanistic orientation toward a utilitarian-economic one. Within this framework, medical actions are no longer solely grounded in the principles of beneficence and non-maleficence, but are increasingly influenced by considerations of efficiency and profit (Indriani et al., 2025). This shift raises fundamental concerns in theories of justice, particularly regarding distributive and corrective justice. Patients, as recipients of healthcare services, should receive fair treatment based on medical necessity rather than economic capacity or the profit potential for service providers. When economic considerations dominate, distortions in the distribution of healthcare services emerge, whereby some patients experience over-servicing while others suffer from under-servicing. This condition illustrates a misalignment between justice as a fundamental objective of law and the evolving practices of healthcare delivery.

From the perspective of legal system theory, the implications of commercialization for patient protection cannot be separated from the interaction among legal substance, legal structure, and legal culture, as articulated by Lawrence M. Friedman. In terms of legal substance, although various regulations govern medical practice and patient protection, these norms remain general in nature and do not explicitly regulate the operational boundaries of commercialization. Consequently, a normative gap arises, allowing business practices to infiltrate the professional domain without adequate control. From a structural standpoint, supervisory and ethical enforcement institutions have not yet fully developed the capacity and independence required to effectively address violations. Meanwhile, from the perspective of legal culture, there is a growing tendency toward the normalization of commercialization practices in healthcare, both among medical professionals and within society at large, which ultimately weakens the binding force of legal and ethical norms.

Furthermore, the implications of commercialization extend to the legal relationship between doctors and patients, which is conceptually grounded in a fiduciary relationship. Within this relationship, physicians bear both moral and legal obligations to act in the best interests of the patient. However, when economic interests begin to dominate, this relationship risks degradation into a purely transactional one. Such a transformation not only diminishes the meaning of medical professionalism but also increases the risk of

violations of the principle of informed consent, where patient consent is no longer based on comprehensive understanding but rather on limited or biased information. In this context, patient protection becomes increasingly complex, as it involves not only formal legal aspects but also ethical considerations and professional integrity.

Therefore, patient protection in the context of commercialized medical services must be understood as a systemic construct that integrates normative, institutional, and cultural dimensions. A legal approach that relies solely on repressive measures through sanctions is insufficient; it must also incorporate preventive and corrective strategies through regulatory strengthening, enhanced supervision, and the cultivation of a professional culture oriented toward humanitarian values. Within this framework, law functions not only as a mechanism of social control but also as an instrument of social engineering, aimed at restoring the balance between economic interests and patient welfare. Ultimately, the primary objective of health law namely, the protection of patient rights and safety can be optimally realized amidst the inevitable dynamics of commercialization.

## 4. CONCLUSION

Based on the results and discussion, it can be concluded that the legal regulation of the commercialization of medical services in Indonesia normatively recognizes the economic rights of medical professionals and healthcare institutions to receive remuneration as part of their professional and institutional activities. This recognition is reflected in various regulatory frameworks, including consumer protection law, health law, ministerial regulations, and the Indonesian Code of Medical Ethics. However, such recognition is not absolute; it is inherently limited by ethical principles, professional standards, and patient protection norms that prioritize patient safety and welfare. Consequently, the existing legal framework reveals a form of normative dualism: on the one hand, it legitimizes the economic dimension of medical services, while on the other hand, it imposes restrictions to prevent conflicts of interest and ethical violations. This dualism represents an effort to balance the fundamental legal values of legal certainty, justice, and utility. Nevertheless, in practice, this balance remains imperfect, particularly in terms of implementation and regulatory oversight.

Furthermore, the legal implications of commercialization on patient protection indicate a tendency toward the weakening of patients' legal position as rights-bearing subjects. Uncontrolled commercialization may lead to various forms of deviation, including over-treatment, medically unjustified interventions, and a lack of transparency in medical costs and procedures. These conditions contribute to an increase in medical disputes across civil, criminal, and professional disciplinary domains, while also exacerbating information asymmetry between doctors and patients. As a result, the fiduciary nature of the doctor–patient relationship risks being reduced to a purely transactional interaction. From a philosophical perspective, this reflects a shift from an ethical-humanistic orientation toward a utilitarian-economic one, thereby undermining the principles of distributive and corrective justice in healthcare delivery. Moreover, from the standpoint of legal system theory, these issues stem from the lack of synergy among legal substance, institutional structure, and legal culture, particularly due to weak oversight mechanisms and a permissive attitude toward commercialization practices. Therefore, despite the existence of a regulatory framework, the effectiveness of patient protection remains suboptimal due to the gap between normative provisions and practical realities.

In light of these conclusions, comprehensive and integrative strategic measures are required to address this dualism and strengthen patient protection. The state should

undertake regulatory harmonization that explicitly defines the limits of commercialization in medical services, alongside reinforcing the principle of fiduciary duty in every medical decision. Additionally, a clear structural separation between medical and business functions within healthcare institutions is necessary, coupled with the implementation of quality-based remuneration systems to avoid excessive reliance on volume-driven incentives. Strengthening transparency through comprehensive informed consent, enhancing oversight and enforcement of professional ethics, and reforming the legal culture within the medical profession are also essential steps to ensure that humanitarian values remain the foundation of medical practice. Ultimately, by placing economic interests under the control of ethical and legal principles, a fair balance between financial considerations and patient protection can be achieved, thereby fulfilling the fundamental objectives of health law in safeguarding patient safety, justice, and well-being.

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