



JLPH:
**Journal of Law, Politic
and Humanities**

E-ISSN: 2962-2816
P-ISSN: 2747-1985

🌐 <https://dinastires.org/JLPH> ✉ dinasti.info@gmail.com ☎ +62 811 7404 455

DOI: <https://doi.org/10.38035/jlph.v5i5>
<https://creativecommons.org/licenses/by/4.0/>

Transformation of Midwives' Independent Practice in The Era of Law No. 17 of 2023: Between Regulations, Challenges and Opportunities

Katmi¹, Katno², Yuyut Prayuti³

¹Master of Health Law, Universitas Islam Nusantara, Bandung, Indonesia, katmimuthi@gmail.com

²Master of Health Law, Universitas Islam Nusantara, Bandung, Indonesia, ano.syazeda@gmail.com

³Master of Health Law, Universitas Islam Nusantara, Bandung, Indonesia, prayutiyuyut@gmail.com

Corresponding Author: katmimuthi@gmail.com¹

Abstract: The enactment of Law no. 17 of 2023 concerning Health brings significant changes to the independent practice of midwives, especially in aspects of regulation, licensing and authority. This regulation aims to improve the quality of health services, but also presents challenges for midwives in carrying out their practice. This research aims to analyze the impact of implementing Law no. 17 of 2023 regarding the independent practice of midwives, as well as identifying challenges and opportunities that arise as a result of changes to these regulations. This research uses a qualitative approach with document analysis methods, which involves a study of Law no. 17 of 2023, as well as scientific journal articles, WHO reports and relevant previous research. The research results show that this policy causes changes in the risk-based licensing system, increasing the authority of midwives, but also creates challenges in terms of regulatory adaptation, licensing costs, and the need for additional training. On the other hand, this regulation provides opportunities to simplify licensing procedures for low-risk services, stronger legal protection, and integration of health technology. Implementation of Law no. 17 of 2023 requires a good adaptation strategy so that midwives can adapt their practices to new regulations, while also taking advantage of opportunities to improve the professionalism and quality of maternal and child health services in Indonesia.

Keywords: Midwifery Regulations, Midwife Independent Practice, Risk-Based Licensing, Midwife Authority, Law No. 17 Of 2023, Challenges And Opportunities.

INTRODUCTION

Health is an important part of human life and plays an important role in improving the quality of life and welfare of society. Everyone has the right to obtain health services in order to live in physical and mental prosperity, so that they are able to build a life of society, nation and state, as mandated in the 1945 Constitution of the Republic of Indonesia Article 28 H paragraph 1 which

states that "Everyone has the right to live in physical and mental prosperity, to have a place to live and a good and healthy environment, and has the right to obtain health services."

The World Health Organization (WHO) asserts that access to quality health services directly contributes to reducing maternal and infant mortality and increasing life expectancy (World Health Organization, 2022) . In the context of maternal and child health, health workers who have a strategic role are midwives (Ariyani et al., 2021) . According to the *World Health Organization* (WHO), midwives contribute significantly to reducing maternal mortality (MMR) and infant mortality (IMR) through quality midwifery services, including antenatal, delivery, and postpartum care (World Health Organization, 2022) . As health professionals, midwives have the responsibility to provide reproductive health services, pregnancy, childbirth, and postpartum care (Ariyani et al., 2021; Azizah, 2022) .

The existence of midwives is very important, especially in developing countries such as Indonesia, where access to health workers is still limited in some areas, especially in remote and rural areas (Paska, 2023) . According to the Indonesian Ministry of Health (2023), midwives contribute to more than 70% of deliveries in primary health facilities, making them the frontline in ensuring the safety of mothers and babies (Solichati et al., 2024) . In addition, midwives also play a role in health education, immunization, and prevention of pregnancy complications. Therefore, regulations and policies that support the professionalism and authority of midwives are very important so that they can provide optimal services in accordance with global health standards. Independent midwife practice is one form of health service that contributes to increasing access to maternal and infant health services, especially in areas with limited health facilities (Sari et al., 2023) .

To support professionalism and quality health services, the government has regulated midwifery practice through various regulations. Previously, midwifery regulations were regulated in Law No. 36 of 2009 concerning Health and Minister of Health Regulation No. 28 of 2017 concerning Licenses and Implementation of Midwife Practices, which provided guidelines related to service standards, licensing, and authority of midwives. However, with the enactment of Law No. 17 of 2023 on Health, there are changes in the licensing system, risk-based regulation, and integration of health services.

The implementation of Law No. 17 of 2023 has a significant impact on the independent practice of midwives, both in terms of regulation, authority, and licensing. Some of the changes stipulated in this law include risk-based licensing, the establishment of more independent professional organizations, and adjustments to midwifery service standards in accordance with technological developments Health (Post, 2023) . On the one hand, this policy is expected to improve the quality of midwifery services and legal protection for midwives. However, on the other hand, many independent midwives face challenges in adjusting to new regulations, especially in terms of administration and compliance with stricter standards (Indah Lugita Sari et al., 2024) . For example, research conducted by (Ningsih; Awaluddin; For example, research conducted by (Ningsih; Awaluddin; Ansar, 2024) shows that legal protection against midwives who take actions outside the authority carried out by midwives in Tinombo Subdistrict specifically in Dusunan Village, West Dusunan and West Lombok is one of the curative health efforts and legal protection against midwives who take actions outside the authority is preventive and repressive legal protection because preventive legal protection is legal protection provided by the government which aims to prevent before a violation occurs and repressive protection serves to resolve disputes and guarantee the rights given to midwives in carrying out their duties. In article 286 paragraph

(2) of Law Number 17 of 2023 concerning Health. On the one hand, this policy is expected to improve the quality of midwifery services and legal protection for midwives.

Likewise, research conducted by (Johan, 2023) shows that changes in regulations often have an impact on the sustainability of midwives' independent practices, especially for those operating in rural areas. Midwives who run independent practices in remote areas often experience problems in obtaining licenses and meeting regulatory standards imposed by the government. Likewise, research conducted by (Raja & Oktamianti, 2022) that the application for SIPB in DKI Jakarta Province is not fully in accordance with the Minister of Health Regulation Number 28 of 2017 concerning Licenses and Implementation of Midwife Practice. Likewise with research With the enactment of Law No. 17 of 2023, this challenge can be even more complex, so there needs to be a clear adaptation strategy for midwives to continue practicing without violating applicable regulations.

Based on this background, this study aims to determine the effect of the implementation of Law No. 17 of 2023 concerning Health on the regulation, licensing, and authority of midwives in carrying out independent practice as well as the challenges and opportunities faced by midwives in independent practice after the enactment of Law No. 17 of 2023 concerning Health.

METHOD

This research uses a qualitative approach with a document analysis method, which focuses on Law No. 17 of 2023 on Health, and is supported by scientific articles from indexed journals, WHO reports, and previous research related to midwifery regulation. This method was chosen because the research did not rely on primary data, such as interviews or observations, but only analyzed available documents and literature. Secondary data sources used include health policy documents, midwifery regulations, and previous studies that discuss the impact of regulations on midwives' independent practice. Data collection techniques were carried out through the selection of relevant documents, analysis of scientific journal articles, and reports of international health organizations.

For data analysis techniques, this study used content analysis by identifying the main themes in Law No. 17 Year 2023, comparing it with previous regulations, and examining its impact on midwifery practice based on findings from previous research. The data obtained were then categorized into several aspects, such as regulatory changes, challenges in policy implementation, and opportunities arising from health policy reform. To ensure data validity, this study used source triangulation, which compares information from various credible documents and publications to ensure consistency of analysis results. The limitation of this study is the absence of primary data, so it does not directly reflect the experience of midwives in independent practice after regulatory changes. However, this study still provides in-depth insight into the impact of new regulations on midwives' independent practice, and can serve as a reference for health policies and midwives' professional organizations in understanding and optimizing the implementation of Law No. 17 of 2023.

RESULTS AND DISCUSSION

1) The Effect of the Implementation of Law No. 17 of 2023 on the Regulation, Licensing, and Authority of Midwives in Independent Practice

The urgency of the issuance of Law No. 17 of 2023 on Health is based on the need to reform the Indonesian health system to be more adaptive, efficient, and risk-based (Satria Indra Kesuma, 2024) . Previous regulations were considered not optimal in facing global health challenges, such

as gaps in access to services, complex licensing bureaucracy, and the need to improve the quality of health workers. This law aims to simplify the licensing of health workers, expand the authority of medical personnel, and improve legal protection for health workers, including midwives. In addition, this policy strengthens the integration of digital health services and accelerates the transformation of the national health system to improve the quality of community services (Indina, 2024).

The enactment of Law No. 17 of 2023 on Health brought significant changes to the regulations governing the independent practice of midwives. Prior to the enactment of this law, the practice of midwives was regulated by Law No. 36 of 2009 concerning Health and various derivative regulations, such as Regulation of the Minister of Health (Permenkes) No. 28 of 2017 concerning Licenses and Implementation of Midwife Practices. Previous regulations regulate service standards, authority, and licensing mechanisms that must be met by midwives in order to legally run independent practices. However, with the enactment of Law No. 17 of 2023, there have been changes in the regulatory system that emphasize risk-based licensing, policy decentralization, and adjustments to the authority of midwives in the national health system.

According to research (Ayudiah et al., 2022), this regulatory change aims to improve the health care system by providing flexibility in licensing and expanding the authority of certain health workers, including midwives. However, this policy also poses challenges for midwives who have long been practicing independently, especially in terms of adjusting to new, more complex regulations.

One of the main aspects that changed due to the implementation of Law No. 17 of 2023 is risk-based licensing. Under this new policy, health workers, including midwives, must obtain more stringent practice licenses, which are tailored to the risk level of the services they provide. The government adopted a risk-based approach to categorize the licensing of health workers, which means that midwives with low-risk practices can obtain simpler licenses, while those who handle certain medical procedures must meet stricter standards.

According to research conducted by (Wulan Yulianik Mulyowati & Winarsih, 2024), midwives who carry out midwifery practice are entitled to legal protection as long as they carry out their duties in accordance with competence, authority, and code of ethics and standard operating procedures. Acting outside the authority or not acting according to the authority that results in losses can be included in the realm of law. Although the risk-based licensing system provides convenience for some midwives, there are concerns that this mechanism may complicate the administrative process for independent midwives, especially those practicing in remote areas with limited access to administrative support. Midwives who have previously obtained a license to practice under the old regulation must go through a process of adjustment and recertification to comply with the standards set out in the new policy.

Furthermore, the results of research (Raja & Oktamianti, 2022) revealed that out of a total of 505 independent midwives who practice, there are 145 independent midwives who practice without a license. The results showed that the application of SIPB in DKI Jakarta Province was not fully in accordance with the Minister of Health Regulation Number 28 of 2017 concerning Licensing and Implementation of Midwife Practice. The results show that the application for SIPB in DKI Jakarta Province is not fully in accordance with the Minister of Health Regulation Number 28 of 2017 concerning Licensing and Implementation of Midwife Practice. With increasingly complex requirements, it is possible that some midwives choose not to renew their independent practice license and switch to working in formal health facilities, such as puskesmas or hospitals.

This could affect community access to midwifery services, especially in areas that rely heavily on midwives' independent practice.

In addition to regulatory and licensing changes, Law No. 17 of 2023 also provides adjustments to the authority of midwives in independent practice. Previously, the authority of midwives in handling cases of pregnancy, childbirth, and neonatal care was limited by various rules, including the obligation to refer patients to higher health facilities if certain complications were found. However, in the latest regulation, there is an expansion of the authority of midwives in handling certain cases independently, while still following established service standards and competencies. According to a report by the Indonesian Ministry of Health (2023), this change in authority aims to improve the efficiency of primary health services, especially in areas with limited specialist health workers. Midwives who already have additional competencies, such as in handling maternal and neonatal emergencies, can now be given wider authority to treat patients without having to always refer to the hospital.

However, research by Rahman et al. (2023) highlighted that while this expansion of authority provides opportunities for midwives to play a greater role in maternal and child health services, there are challenges in implementing this policy, especially in terms of standardizing training and monitoring the quality of midwives' services. If there is no clear mechanism to ensure that midwives have sufficient skills to handle certain procedures, this policy risks increasing the number of malpractice cases or services that do not meet standards.

2) Challenges and opportunities faced by midwives in independent practice after the enactment of Law No. 17 of 2023 concerning Health.

The enactment of Law No. 17 of 2023 on Health brings various challenges for midwives who run independent practices, especially in the aspects of regulation, licensing, and adaptation to new policies. One of the main challenges is the risk-based licensing process that requires midwives to meet new standards in carrying out their practice. Under this regulation, midwives who handle higher-risk cases must have stricter licensing, so they need to go through recertification or additional training to continue practicing independently in accordance with applicable regulations.

According to research (Mawarni et al., 2021), this change in licensing system creates administrative obstacles for midwives, especially those in remote areas. Midwives in rural areas often face limited access to new policy information, resulting in a slower adaptation process. The cost of additional licensing and certification is also a challenge, especially for midwives who run independent practices without financial support from larger health institutions. Another challenge is the lack of socialization of new policies.

Pratiwi & Handayani's study (2023) revealed that many midwives felt confused by the implementation of this regulation due to the lack of guidance from the government and professional organizations. Some midwives still use the old licensing mechanism, so they face obstacles when they have to adjust their practice to the new system.

In addition, the expansion of midwives' authority granted by Law No. 17 of 2023 (Central Government, 2023) also presents challenges in terms of supervision and competency standards. With the increase in authority, midwives can now handle more cases that previously had to be referred to other health facilities. However, research (Widyawati, 2018) shows that not all midwives are competently prepared to handle this additional authority, especially if it is not accompanied by adequate training. If not properly supervised, this could risk patient safety and increase the potential for malpractice.

In addition to the challenges, Law No. 17 of 2023 also opens up new opportunities for midwives who run independent practices. One of the main opportunities is the simplification of licensing procedures for midwives who handle cases with low risk levels. With the risk classification in the risk-based licensing system, midwives who focus on low-risk maternal and child health services can more easily obtain a license to practice, without having to face too complicated bureaucracy.

In addition, this policy also expands the authority of midwives, allowing them to be more independent in providing maternal and neonatal health services. According to a study (Assegaf & Nambung, 2023), increasing the authority of midwives allows them to increase service coverage, especially in areas that experience limited specialist health workers. Thus, midwives have the opportunity to expand their practice and increase their contribution to the primary health care system. Limited medical personnel sometimes require a doctor to delegate authority to a midwife to carry out a specific medical action. The limitations of medical actions for the delegation of authority of doctors to midwives can be seen based on the rules of law governing their respective authorities. Legal liability for the process of delegation of authority of obstetricians to midwives includes three legal aspects, namely, civil liability, criminal liability and administrative liability.

Another opportunity arising from Law No. 17 of 2023 is the strengthening of technology integration in midwifery services. This regulation supports the use of telemedicine and digitization of the health system, so that midwives can more easily access patient information, consult with other medical personnel, and provide remote health services. Research (Devi et al., 2022) shows that midwives have 5 roles as agents of social change, namely: (1) Being an important intermediary in translating the use and socialization of the benefits of Tele-CTG to patients, (2) Midwives provide the latest information regarding the health of children in the womb through the introduction of Tele-CTG which is directly connected to doctors, (3) Analyzing the needs of patients related to possible disorders that will arise in babies in the womb. (4) Increasing the patient's courage to act appropriately for the child in the womb, and (5) Fostering a sense of trust in the patient's needs through the use of new technology, shows that the adoption of health technology can help midwives improve service efficiency, speed up the consultation process, and improve the quality of diagnosis and patient care.

In addition, this regulation also increases legal protection for midwives who run independent practices. With clearer regulations regarding the authority and limits of midwives' practice, these health workers now have a stronger legal foundation in carrying out their duties. This provides security for midwives from potential lawsuits that often arise due to unclear regulations in the past.

CONCLUSION

1) The implementation of Law No. 17 of 2023 on Health has significant impacts, including a) licensing regulations. In terms of regulation, changes to the risk-based licensing system require midwives to adjust their practice license according to the level of risk of the services provided, which in some cases can be difficult for midwives in remote areas due to limited access to information and resources b) midwives' authority in independent practice. The expansion of midwives' authority to handle more cases without having to refer to higher health facilities presents challenges in standardizing competence and monitoring service quality, especially for midwives who have not received additional training. 2) The implementation of Government Regulation No. 17 Year 2023 brings challenges and opportunities for Midwife Independent Practices (PMB). The main challenges include regulatory adjustments, improving competency standards, competition with other health facilities, and limited resources. However, this regulation also opens up great

opportunities for midwives, such as increased legal recognition, collaboration with other medical personnel, and the development of innovative technology-based services. Midwives can take advantage of digitalization and telemedicine to expand the range of services. With the right strategy, PMB can develop as an important pillar in improving maternal and child health, while strengthening the professionalism and competitiveness of midwives in the modern era.

Advice

In the implementation of Law No. 17 of 2023, an appropriate strategy is needed so that this regulation can be implemented effectively without hampering Midwife Independent Practice (PMB). The government should provide intensive socialization to midwives regarding new regulations, including competency standards and licensing procedures. In addition, financial support and incentive policies are needed for midwives who want to improve service facilities. Digitalization in midwifery should also be strengthened through training in telemedicine and electronic medical records. Collaboration with other health sectors needs to be expanded so that midwives have better access to referral systems and national health programs.

REFERENCE

- Ariyani, F., Lestari, W., Eza Fitria, N., & Putri Primasari, E. (2021). THE ROLE OF MIDWIVES IN ANTENATAL CARE DURING THE COVID 19 PANDEMIC. *LIGHTHOUSE HEALTH JOURNAL*, 4(1), 32-37. <https://doi.org/10.36984/jkm.v4i1.175>
- Assegaf, S. Z. G., & Nambung, I. (2023). Legal Liability for the Delegation of Authority of Obstetricians to Midwives. *INDONESIAN HEALTH LAW JOURNAL*, 3(01), 46-56. <https://doi.org/10.53337/jhki.v3i01.90>
- Ayudiah, F., Anissa, K., & Hermawan, D. (2022). LEGAL PROTECTION FOR PATIENTS AND MIDWIVES IN THE PROVISION OF PUBLIC SERVICES. *Journal of Medical and Health Sciences*, 9(2). <https://doi.org/10.33024/jikk.v9i2.5382>
- Azizah, N. (2022). Pregnant women's satisfaction with the role of midwives in antenatal care services during the pandemic. *Journal for Quality in Women's Health*, 5(1), 76-81. <https://doi.org/10.30994/jqwh.v5i1.148>
- Devi, S. P., Anshari, F., & Kaligis, R. A. W. (2022). THE ROLE OF MIDWIVES AS AGENTS OF CHANGE IN SOCIALIZING TELE-CTG FOR PREGNANT WOMEN'S HEALTH. *CoverAge: Journal of Strategic Communication*, 12(2), 108-121. <https://doi.org/10.35814/coverage.v12i2.3161>
- Indah Lugita Sari, Istiana Kusumastuti, & Fanni Hanifa. (2024). THE RELATIONSHIP BETWEEN MIDWIVES' ATTITUDES, COMPETENCE AND WORKLOAD WITH MIDWIVES' COMPLIANCE IN IMPLEMENTING THE REFERRAL SOP POND PUSKESMAS. *Journal of Midwifery Science and Health*, 15(2), 68-78. <https://doi.org/10.52299/jks.v15i2.218>
- Indina, F. (2024). Juridical Review of Informed Consent in the Perspective of Law No. 17 of 2023 Concerning Health. *Journal of Cahaya Mandalika ISSN 2721-4796 (Online)*, 3(1), 633-638. <https://doi.org/10.36312/jcm.v3i1.3499>
- Johan. (2023). FACTORS INHIBITING THE IMPLEMENTATION OF INDEPENDENT PRACTICE OF MIDWIVES IN TERARA VILLAGE BASED ON LAW NUMBER 4 OF 2019 CONCERNING MIDWIFERY. *JURIDICA: Journal of the Faculty of Law, Gunung Rinjani University*, 4(2), 15-21. <https://doi.org/10.46601/juridicaugr.v4i2.226>

- Mawarni, D., Sulistyani, R., & Adi, S. (2021). FACTORS INFLUENCING ANTENATAL CARE IN RURAL AREAS. *IKESMA*, 17(1), 6. <https://doi.org/10.19184/ikesma.v17i1.22444>
- Ningsih; Awaluddin; Ansar. (2024). LEGAL PROTECTION OF MIDWIVES IN THE IMPLEMENTATION OF HEALTH SERVICES IN TINOMBO SUB-DISTRICT. *JIHAK: Journal of Actuality Law Science*, 1(2), 56-69.
- Paska, H. D. (2023). THE INDONESIAN GOVERNMENT'S EFFORTS TO IMPROVE RURAL HEALTH SERVICES AND FACILITIES IN RELATION TO THE HEALTH LAW. *MAGISTRA Law Review*, 4(01), 11. <https://doi.org/10.56444/malrev.v4i01.3585>
- Central Government. (2023). Law Number 17 of 2023 Concerning Health. Legislation.
- Raja, E. L., & Oktamianti, P. (2022). Analysis of Licensing Policy for Independent Practicing Midwives in DKI Jakarta Province: A Narrative Review. *Syntax Literate ; Indonesian Scientific Journal*, 7(1), 183. <https://doi.org/10.36418/syntax-literate.v7i1.6042>
- Sari, Y. J., Arif, A., & Amalia, R. (2023). The Relationship between Maternal Employment, Husband Support and Early Breastfeeding Initiation (IMD) with Exclusive Breastfeeding at Nurachmi Palembang Independent Midwife Practice (PMB) in 2021. *IMJ (Indonesian Midwifery Journal)*, 6(1). <https://doi.org/10.31000/imj.v6i1.7530>
- Satria Indra Kesuma. (2024). Review of Law No.17 of 2023 concerning Health. *Journal of Nusantara Berbakti*, 2(1), 253-261. <https://doi.org/10.59024/jnb.v2i1.324>
- Solichati, S., Kartasurya, M. I., & Agushybana, F. (2024). A COMPARISON OF THE QUALITY OF DELIVERY SERVICES BETWEEN PUSKESMAS AND INDEPENDENT MIDWIFE PRACTICES IN KUDUS DISTRICT. *Journal of Nursing and Midwifery Science*, 15(1), 40-49. <https://doi.org/10.26751/jikk.v15i1.2156>
- Widyawati, W. (2018). Performance of Midwives in Providing Antenatal Care Services and Influencing Factors. *Journal of Public Health Sciences*, 7(01), 15-24. <https://doi.org/10.33221/jikm.v7i01.48>
- World Health Organization. (2022). State of the World's Midwifery 2022: Building a Healthier Future for Women and Newborns.
- Wulan Yulianik Mulyowati, C., & Winarsih, R. (2024). LEGAL PROTECTION FOR MIDWIVES IN CLINICS BASED ON LAW NUMBER 17 OF 2023 CONCERNING MIDWIFERY. *Justicia Journal*, 13(1), 28-38. <https://doi.org/10.32492/jj.v13i1.13104>