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## **Legality of Euthanasia at Patient Family's Request**

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### **ABSTRACT**

*The discussion of euthanasia cannot be separated from the relationship between doctors and patients. From the dimension of civil law, the relationship between doctors and patients is a contract of medical services; the doctor is obliged to provide the best treatment and will not demand the treatment results since it involves actions against living tissue, which humans cannot fully control. However, the therapeutic contract can be implemented for medical actions that do not treat the living tissues of the human body. This research aims to identify which article of the Criminal Code (KUHP) that provides law and regulation regarding the practice of euthanasia in Indonesia. The approach used in this research is a normative juridical approach. The normative juridical approach uses laws and regulations and examines all laws and regulations related to legal issues and conceptual approaches from the perspective and doctrines of law. The research findings identified that there are no articles that regulate and mention explicitly, clearly and concretely regarding euthanasia. Articles 340, 344, 345 and Article 304 jo 306 Paragraph 2 of the Criminal Code are considered the closest to euthanasia, even though the articles do not explicitly and concretely explain euthanasia.*

**Keywords:** *Euthanasia, Legality, Patient*

## INTRODUCTION

Euthanasia is still a topic of discussion in Indonesia as well as other countries' legal and medical communities. Several other countries were examining the circumstances experienced by related parties before legalizing the act of euthanasia. Depending on how it happens, death is classified into three types: Orthothanasia, which is a death that occurs due to a natural process; Dysthanasia, which is a death that occurs unnaturally; and euthanasia, which is a death that occurs with or without the help of a doctor.<sup>1</sup> Moreover, euthanasia are divided into four types, such as:

- a. Voluntary euthanasia  
The patient seeks, gives permission, or gives their consent to stop or cease life-prolonging treatment.
- b. Involuntary euthanasia  
Discontinuing or refusing to provide life-prolonging therapy for a patient without their consent.
- c. Voluntary Mercy Killing  
The patient was informed of and permitted to take actions that would cause their death.
- d. Involuntary Mercy Killing  
The action taken to cause the death of a patient without their consent.<sup>2</sup>

Euthanasia derives from the Greek word *eu*, which means good, and *thanatos*, which means dead or corpse. Therefore, euthanasia means not causing the death but alleviating the suffering of people facing it. In its meaning, euthanasia is not contrary to how people defend themselves and does not become an issue regarding morality. From a moral perspective, the action of euthanasia is allowed based on the patient's agreement that is related to the self-determination of the patient.

The discussion of euthanasia cannot be separated from the relationship between doctors and patients contained in medical services. The medical service is the doctor's obligation to provide the best treatment for the patient. It will not demand its results because it involves actions against living tissue, which humans cannot fully control. However, the therapeutic contract can be implemented against the action that does not involve the living tissue of the human body. In other words, the agreements from therapeutic transactions are categorized in the *inspanningverbintenis* class that aims to cure the patient's disease. Thus, when the patient does not recover after obtaining medical services in therapy or particular treatment, the doctor cannot compensate the patient.<sup>3</sup>

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<sup>1</sup> Zaeni Asyhadie, *Aspek-Aspek Hukum Kesehatan Di Indonesia* (Jakarta: Rajawali Pers, 2017).

<sup>2</sup> Felipe E Vizcarrondo, "Editorial Euthanasia and Assisted Suicide: The Physician's Role," *The Linacre Quarterly* 80, no. 2 (May 2013): 99–102, <https://doi.org/10.1179/0024363912Z.0000000002>.

<sup>3</sup> Pingkan K. Paulus, "Kajian Euthanasia Menurut HAM (Studi Banding Hukum Nasional Belanda)," *Jurnal Hukum UNSRAT* 21, no. 3 (2013).

The presence of euthanasia as a human right in the form of the right to die is considered a logical consequence of the right to life. The right to life has indeed been recognized by the world, with the inclusion and recognition of the Universal Declaration of Human Rights by the United Nations on December 10, 1948. As it is not explicitly included in a world declaration, the "right to die" is still a matter of debate and discussion among experts in various fields, as demonstrated in the Moot Court in the context of the World Law Conference in Manila.

In terms of determining the death of a person in medical science, a correct, precise, and scientifically accountable diagnosis is needed. Death can be legalized into something definite, and the date of its occurrence can be ascertained; euthanasia allows this to happen.<sup>4</sup> The development of science, especially in medical science, then gave rise to a breakthrough discovery in medical science, which aims to help patients already suffering from pain or disease. This discovery is then known as euthanasia.

Since euthanasia results from a research and development process, there is logically no problem with it in scientific development. In the same way, euthanasia would appear to be an act that should be considered from a humanitarian standpoint, such as helping fellow human beings end their suffering.<sup>5</sup> In Indonesian criminal law, Article 344 of the Criminal Code (KUHP) explains that committing euthanasia is considered a criminal act.<sup>6</sup>

Since euthanasia is not substantially different from murder, which is morally repugnant, euthanasia should be prohibited. Even if the patient requests it, the doctor should not do it because of the ethics and morals in their code of ethics. However, people who stand in favour of euthanasia are against the fact that a doctor would be willing to provide treatment to their patient with such immense pain. They argue that killing is morally forbidden. However, this is not the case with euthanasia. Euthanasia is essentially a form of murder. However, this act is morally justifiable since making someone terminally ill and hastening their death is better than allowing them to experience the same pain. They believe that euthanasia and murder are entirely different. They argue that euthanasia is a more acceptable option, where the philosophical opinion on the pros and cons of euthanasia comes in. Moreover, they argue that the Hippocratic Oath is outdated and archaic, making that specific rules on euthanasia are no longer necessary to adopt.

Advances in medical science and technology have expanded several fundamental concepts surrounding death. Previously, death was defined as the cessation of heartbeat and breathing. With the invention of respirators and pacemakers, a patient who experiences sudden respiratory arrest or cardiac arrest

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<sup>4</sup> Paulus.

<sup>5</sup> Dian Andriani Ratna Dewi, Waty Suwarty Haryono, and Evita Isretno Israhadi, "Regulations For Implementing Passive Euthanasia In The Terminal Stage Patients (End Of Life) Which Is In Accordance With Justice And Legal Certainty In Indonesia," *Eduvest: Journal of Universal Studies* 3, no. 1 (2023).

<sup>6</sup> Arifin Rada, "Euthanasia Dalam Perspektif Hukum Islam," *Perspektif* 18, no. 2 (2013): 110.

could still be saved using these devices, which implies that the patient has not been declared dead. The issue then arises as to the extent of how long the patient will be able to survive with these supporting devices. This situation lasts for days, months, and even years, without knowing when it will end. It is clear that their life depends on the devices, and if the devices were removed, it is likely that the patient will die soon. In such a situation, it is not uncommon for the patient's family to become desperate as well, in addition to their economic factors, which can no longer afford the cost of hospitalization. Several factors force the patient's family to ask the doctor to immediately carry out euthanasia to end their suffering by removing all the patient's assistive devices and letting them die instantly. Based on the aforementioned research background, this research aims to identify which article of the Criminal Code that provide law and regulation regarding the practice of euthanasia in Indonesia.

## RESEARCH METHODOLOGY

The legal research method is a way of working with scientists, one of which is characterized by methods. The method is defined as a path that must be taken for an investigation or research that takes place according to a particular plan.<sup>7</sup> The legal research method is a systematic way of conducting research.<sup>8</sup> Soekanto further explained that legal research is a scientific activity, which is based on certain methods, systematics and thoughts, which aims to study one or several certain legal symptoms, by analyzing them.<sup>9</sup> To answer the problems that have been formulated in this writing, normative legal research methods are used. Normative legal research methods are research methods that refer to legal norms to interpret the application of legal norms to the presented facts, which, in this case, aims to change the situation and offer potential solutions to solve any concrete societal problems.<sup>10</sup> In this research, the approach to the problem is the statute approach, conducted by reviewing all laws and regulations related to the issues being addressed. There are two types of data used in this research, which are primary data and secondary data. The primary data consist of several articles of the Criminal Code, while the secondary data consist of several theses, articles, and books related to the research topic.

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<sup>7</sup> Johnny Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia Publishing, 2015).

<sup>8</sup> Fairus Nur Fitriana and Herma Setiasih, "The Enforcement of Wanprestasi on Debt Recognition in Debt Agreements: A Case Study of District Court Decision No. 9/Pdt.G.S/2021/Pn.Srl," *YURIS (Journal of Court and Justice)* 1, no. 4 (2022), <https://doi.org/https://doi.org/10.56943/jcj.v1i4.206>.

<sup>9</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 2015).

<sup>10</sup> Ibrahim, *Teori Dan Metodologi Penelitian Hukum Normatif*.

## RESULT AND DISCUSSION

In the issue of euthanasia, many aspects underlie the problem. Euthanasia can be studied and viewed from various perspectives, such as religious, moral, medical, and legal perspectives, that have not yet come to an agreement in dealing with the patient's wish to die in order to stop their suffering. This situation poses a dilemma for doctors: whether they have the legal right to end a patient's life at the patient's own request. The dilemma can also arise for the family under the pretext of ending prolonged suffering without the doctors themselves facing legal consequences. Indeed, in this case, the doctor faces an inner conflict.

Based on the decision maker, euthanasia is classified into two types. The first is voluntary euthanasia if the person who makes the decision to perform euthanasia is a sick person. The second is involuntary euthanasia if the person who decides to euthanize is someone else, such as the family or doctor because the patient is in a medical coma.

Until now, Indonesia has not explicitly regulated euthanasia or mercy killing. Euthanasia, or taking one's life at one's own request, is considered a criminal act of taking one's life. The concept of euthanasia is still being debated by legal experts, with some agreeing to euthanasia and others against it. Those who agree with euthanasia argue that every human being has the right to life and the right to end their life immediately for humanitarian reasons. If a person is no longer able to recover or even live, they may choose to end their life immediately. Meanwhile, some people who do not tolerate euthanasia argue that every human being does not have the right to end their life, as the issue of life and death is an absolute power of God that humans cannot contest. These two views make the debate concerning whether euthanasia is permissible in the Indonesian legal system even longer.

In Indonesia, the practice of euthanasia will be equated with the criminal act of murder, as stated in the Criminal Code (KUHP). In Indonesia, the issue of euthanasia is still not juridically recognized. As of now, there is still no possibility that euthanasia will gain a legally recognized place in the development of Indonesian positive law.

For active and passive euthanasia without request, several related articles can explain the legal basis for euthanasia for people or families who have requested euthanasia. In Article 340 of the Criminal Code, it is explained that: "Any person who with deliberate intent and with premeditation takes the life of another person, shall, being guilty of murder with premeditation, be punished by capital punishment or life imprisonment or a maximum imprisonment of twenty years." Article 359 states, "Any person through whose fault another person dies shall be punished by a maximum imprisonment of five years or a maximum light imprisonment of one year." Meanwhile, Article 345 states, "Any person who deliberately encourages another person to commit suicide, aids him in this act or provides him with the

means to do so, shall be punished by a maximum imprisonment of four years if the other person commits suicide.”

The legal view on the act of euthanasia can be interpreted by the articles of the Criminal Code above. Doctors and families who permit to perform this act can be charged with Article 345 of the Criminal Code, which reads that anyone who deliberately encourages another person to commit suicide or provides the means for him to do so shall be punished with imprisonment for a maximum of four years. Without clear regulations in Indonesia, it is inevitable that lethal injection (euthanasia) still does not have a clear legal basis to be performed legally.

It should be noted that juridically, positive criminal law in Indonesia only recognizes two forms of euthanasia: euthanasia carried out at the patient's request or victim himself and euthanasia carried out by deliberately neglecting the patient. Article 344 of the Criminal Code states: “Any person who takes the life of another person at the request of the person himself, which is clearly expressed with sincerity, shall be punished by a maximum imprisonment of twelve years.” Meanwhile, Article 304 of the Criminal Code states that: “Any person who with deliberate intent places or leaves someone in a miserable condition, whereas according to the law applicable to him or by agreement he is obliged to provide life, care or consent he is obliged to provide life, care or maintenance to such person, shall be punished by a maximum imprisonment of two years eight months or a maximum fine of three hundred rupiahs.”

Starting from the provisions of Articles 344 and 304 of the Criminal Code, it can be concluded that murder by deliberately allowing misery and at the victim's request is still punishable for the perpetrator. Thus, in the context of positive law in Indonesia, euthanasia is still considered a prohibited act. In the context of positive law in Indonesia, it is impossible to “end one's life” even at the person's request. The act is still qualified as a criminal offence, an act that is punishable by punishment for those who violate the prohibition.

### **Refusal of Informed Consent**

In addition to giving consent, patients have the right to refuse specific medical treatments as competent, informed, and free individuals. The critical question of refusal is, “What are the implications and limits of the principle of autonomy?” The Patient's Bill of Rights states: “The patient has the right to refuse treatment to the extent permitted by law and to be informed of the medical consequences of his actions”. The refusal is made based on the right to self-determination. Problems will arise if the patient refuses specific medical measures to maintain their life. For example, refusal of blood transfusion, amputation, or continuing kidney dialysis.

Similarly, problems arise concerning the refusal of a second party (family, for instance) in the case of children and incompetent patients. The court, for example, cannot enforce the consent of a competent patient who refuses to be given a blood transfusion based on his religious beliefs (Jehovah's Witness). However, the court



cannot accept a Jehovah's Witness parent's refusal of a blood transfusion on behalf of their incompetent newborn child.<sup>11</sup>

Refusal of treatment in situations of life extension by artificial means cannot be considered a "suicide" attempt. Refusal of medical treatment that is not beneficial cannot be compared to suicide. It is more appropriate to view the refusal as an acceptance of the limited human condition or a desire to avoid the use of cutting-edge medical technology that is disproportionate to the positive outcome to be achieved or the patient's desire not to place a heavy burden on the family or community.

If a person suffers from a terminal illness and allows death to happen to them, it cannot be said to be suicide. However, if a patient with a terminal illness actively ends their life, for example, by firing a gun at themselves, it is generally referred to as "suicide". Many people end their lives by premeditated suicide, yet not all such acts are autonomous. In general, a death is considered a "suicide" when it results from an act of self-destruction and not when the actions of another person cause it. The act of "suicide" can only be used when a person ends their own life prematurely.

### **Refusal of Informed Consent by Competent Patient**

Based on the Minister of Health Regulation of the Republic of Indonesia No. 290/MENKES/PER/III/2008 Article 1 Paragraph 7, a competent patient is an adult patient or not a child according to statutory regulations or has been/is married, has no impaired physical awareness, is able to communicate appropriately, does not experience developmental retardation (mental retardation) and does not experience mental illness to be able to make decisions freely.

Based on its competence, the law gives the patient the right to express the will of medical decisions even though it is carried out in a state of sickness. The will of the patient's medical decision, which contains unwise, foolish, and partial aspects, is not an obstacle for the patient to express the will of the medical decision. This is because the will to make medical decisions has become the patient's prerogative as a person with the competence to make medical decisions.<sup>12</sup>

In Law No. 29/2004 on Medical Practice, the definition of professional standards is mentioned in the explanation of Article 50 as follows: What is meant by professional standards are the minimum ability limits (knowledge, skills and professional attitude) that an individual must master to be able to carry out his professional activities in the community independently made by professional organizations. The elucidation of Article 50 explains Article 50 sub a, which states that doctors who practice medicine following professional standards and standard

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<sup>11</sup> Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics* (New York: Oxford University Press, 2019).

<sup>12</sup> Eko Pujiyono, *Keadilan Dalam Perawatan Medis (Penerapan Prinsip Otonomi Pasien: Teori Hukum & Praktik Di Pengadilan)* (Bandung: Citra Aditya Bakti, 2017).

operating procedures are entitled to legal protection. Article 50 sub b further states that providing medical services according to professional standards and standard operating procedures is also a doctor's right. From Article 50 sub a and b and its explanation, it can be seen that the law requires that doctors have the right to practice under professional standards in the implementation of medical practice. They are entitled to legal protection if they have practised according to applicable professional standards. In the standard operating procedure (SOP) of medical action, the examining doctor must provide complete information unless the doctor considers that the information may harm the patient's health interests. However, suppose the patient refuses to take medical action against him after being given sufficient explanation in the standard operating procedure. In that case, the patient must sign a letter of refusal of medical action based on patient rights that must be respected. The patient's refusal of medical treatment is the patient's human right as a legal subject.<sup>13</sup>

In essence, the patient's right to refuse medical treatment is the implementation of the fundamental right to health care, the right to health care and the right of self-determination, both of which are patients' rights to health that must be recognized and respected. However, there is a risk of liability for the refusal of medical decisions of competent adult patients. Liability must have a basis, which is the thing that leads to a legal right for one person to sue another, as well as the thing that creates a legal obligation for the other person to give liability.<sup>14</sup>

Legal relationships always lead to reciprocal rights and obligations, where the doctor's rights become the patient's obligations, and the patient's rights become the doctor's. This situation places the status of the doctor-patient in the same and equal position. The relationship between doctors and patients is a relationship in providing health services. Therapeutic Agreements have special properties and characteristics, which are not the same as general agreements, as the object of the agreement in therapeutic transactions is not the patient's recovery but rather the search for appropriate efforts for the patient's recovery. The doctor's agreement with the patient is included in the agreement on efforts (*inspanings verbintenis*). When it is judged from the perspective of civil law, informed consent is a condition of the occurrence of a therapeutic agreement. In this case, the agreement is required to be based on free will, meaning that there is no element of coercion or deception.

Furthermore, Article 1321 of the Civil Code states that consent has no value if given due to misunderstanding, forced, or obtained through deception. In therapeutic transactions, there is an engagement between two legal subjects, the doctor and the patient, in which the engagement imposes rights and obligations on each party. In therapeutic transactions, there is an engagement between doctors and

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<sup>13</sup> J. Guwandi, *Informed Consent & Informed Refusal* (Jakarta: Badan Fakultas Kedokteran Universitas Indonesia, 2006).

<sup>14</sup> Titik Triwulan Tutik and Shita Febriana, *Perlindungan Hukum Bagi Pasien* (Jakarta: Prestasi Pustaka, 2010).



patients in an effort to cure the disease. Health professionals should provide clear information to patients regarding the disease, alternative medical measures, prognosis, and so on. Competent adult patients have the right to make medical decisions after obtaining medical information from doctors or health workers. The decision to refuse medical treatment by a competent adult patient is legal in a therapeutic transaction. A competent adult patient's refusal of medical treatment must be stated in writing as evidence of the refusal. The existence of a statement of refusal of medical treatment can be interpreted that the therapeutic transaction has been completed. With the completion of the therapeutic transaction, there is no longer a responsibility imposed on the doctor for the competent adult patient with the disease. Thus, the refusal of medical treatment by a competent adult patient is a legal decision resulting in the therapeutic transaction's termination.

Hartiningsih cites Solis' three forms of relationship patterns between doctors or dentists and patients:

1. Activity-passivity relation is the relationship pattern that occurs in an emergency when the patient's consciousness has disappeared, and the patient or family entirely depends on the doctor.
2. Guidance-corporation relation, which is likened to the relationship between parents and their children. Parents give advice and guidance, while children obey their parents' advice and guidance.
3. Mutual participation relation, which can be compared to a relationship between adults where both parties have equal and balanced positions.<sup>15</sup>

With the enactment of Law No. 29/2004 on Medical Practice, the criminal penalties for errors or omissions committed by doctors that result in patients suffering from injuries no longer solely refer to the provisions of Articles 359, 360 and 361 of the Criminal Code. The rejection of the patient's medical decision is viewed from the aspect of criminal law that doctors/health workers, if they have fulfilled Law No. 29/2004 concerning Medical Practice Article 79 point c, then the doctor cannot be blamed in criminal law. Doctors or health workers can be criminally prosecuted if they have been proven to have violated the standard operating procedure.

### **Refusal of Informed Consent by Parents to Children**

Article 16 Paragraph 1 of Minister of Health Regulation No. 290/2008 states that the patient and/or their next of kin can refuse any medical treatment that will be performed after the patient and/or their next of kin have received an explanation of the medical treatment. Then, in Article 16 Paragraph 2 of Minister of Health Regulation No. 290/2008, it is stated that the refusal of medical treatment must be

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<sup>15</sup> Retno Harjanti Hartiningsih, "Pola Hubungan Hukum Antara Dokter Dan Pasien," *MAKSIGAMA: Jurnal Ilmiah Hukum Universitas Wisnuwardhana Malang* 14, no. 1 (2020), <https://doi.org/https://doi.org/10.37303/maksigama.v14i1.88>.

made in writing. However, in Article 16 Paragraph 3 of Minister of Health Regulation No. 290/2008, it is reminded that the consequences of refusing medical treatment, namely any consequences that occur, will be the responsibility of the patient or the responsibility of the patient's family for incompetent patients.

Refusal of medical treatment is not a prohibited action. Still, the responsibility for any consequences will be the responsibility of the patient or the responsibility of the patient's closest family (patient's parents) if the patient is not competent. Referring to Minister of Health Regulation No. 290/2008, there is no provision of criminal sanctions for parents who refuse medical treatment for their children as patients. Although refusal of medical treatment is not a prohibited act, it should be remembered that parents have a responsibility for their child's health. There are no specific provisions regulating criminal sanctions for parents who refuse medical treatment for their children.

### **Request for Euthanasia in Terminal Patients**

A terminal condition is a situation where a person experiences a disease that has no hope of recovery and, therefore, is very close to the process of death. The response of patients with terminal conditions is very individualized depending on the physical, psychological, and social conditions experienced, resulting in different impacts on each individual. This affects the level of basic needs shown by terminal patients. Nurses must understand what patients with terminal conditions are experiencing to be able to prepare support and assistance for patients, making the last moments of their lives more meaningful, and ultimately, they may pass away calmly and peacefully.

Termination of life support is considered passive euthanasia. Meanwhile, involuntary euthanasia is defined as euthanasia performed when the patient is incompetent and has not made a will. The decision is made by a third party, namely the patient's family, friends or relatives. The representation made by the patient's family for all medical treatment decisions on the patient is a form of therapeutic contract with the doctor.

Any decision of the patient's guardian is valid, including the decision to perform passive euthanasia on the patient. A therapeutic contract is needed to determine the patient's and treating doctor's medical treatment agreement. Although the primary purpose of medical treatment is the hope of recovery from the disease and can extend the patient's life, there are now many opinions that ending life can also be part of medical treatment, such as to free the patient from the suffering of the disease he is experiencing.

Termination of life support therapy/passive euthanasia in patients in the Minister of Health Regulation No. 37/2014 concerning Determination of Death and Utilization of Donor Organs is stated in Article 14. The conditions that must be met include:

- a. A patient who is in an incurable condition due to the disease they are suffering from (terminal state);
- b. Medical treatment is already futile;
- c. The patient is competent, is able to accept the information provided and is able to make decisions for themselves.
- d. The patient's family may request if the patient is incompetent but has willed euthanasia;
- e. The patient is incompetent and has not made a will, yet the patient's family believes that had the patient been competent, they would have made such a decision based on their beliefs and values.

Based on the Minister of Health Regulation, patients in a terminal state can request to stop life support therapy, which may result in the immediate death of the patient. The request can be directly from the patient or the guardianship of the family. This is different from countries that have legalized euthanasia, such as the Netherlands and the United States, which require direct requests from patients that are carried out continuously and provide an understanding that terminal conditions are conditions with an estimated prediction of the patient's death of 1-2 weeks. In the Netherlands, the practice of euthanasia has been legalized since April 10, 2001. The euthanasia that can be performed is voluntary euthanasia. Otherwise, it is considered unlawful.

Voluntary euthanasia is described as the termination of life by a doctor with the wishes of the patient with a carefully considered request, and also that the patient's condition has become unbearable with no possibility of improvement. In the Netherlands, passive euthanasia is known as palliative sedation, which is the administration of sedatives or painkillers, stopping nutrition to the effect of causing the patient to die.

The requirements for the implementation of sedation palliative care are set by the *Koninklijke Nederlandse Maatschappij voor Geneeskunde*, or the Royal Dutch Medical Association, as follows:

- a. The patient has received information on prognosis and possible curative and palliative treatment;
- b. Allows patients to communicate with spiritual advisors regarding religious and ethical issues but cannot play a role in alleviating suffering;
- c. The time of death is estimated to be around 1-2 weeks; this can be seen in the characteristics of the patient who looks tired and weak, bedridden, and the symptoms of the disease are getting worse over time, without any hope;
- d. Decision-making is based on family discussion or doctor's initiative and must be recorded in the patient's file, including the file of consultation

results with other doctors.<sup>16</sup> The requirements for passive euthanasia are not much different from those in Indonesia, except that it is more specific in determining the state of the terminal patient, which is with a prediction of the patient's death for about 1-2 weeks. In Indonesia, it only determines that the patient's condition is terminal.

Some states in the United States have also legalized euthanasia. For example, in 2009, euthanasia was legalized in Washington. For the termination of life support or passive euthanasia in Washington, natural death regulations are practised by stopping or disconnecting life support to the patient. The provisions in natural death are as follows:

- a. A person who has reached the age of puberty (18 years old);
- b. Competent, capable of making decisions;
- c. Has made a written request with two witnesses who are not the patient's family and are not the person who will be the patient's heir;
- d. The patient is in terminal illness (estimated death of 6 months), permanently unconscious, medical judgment that life-sustaining treatment only prolongs the process of death;
- e. A statement from the patient that is willing to be revoked or withdrawn life support can be withdrawn at any time by the patient;
- f. The patient is in a coma and has revoked the statement of termination of life support. Before then, it will be waited until the patient's condition is competent again.

The Netherlands and Indonesia do not provide any age restrictions for passive euthanasia. This provision is in contrast to the provisions of the United States, which limit passive euthanasia to patients 18 years old, as well as requests from patients either directly or in the form of a will, while patients who have cancelled their wills cannot be euthanized.

There is a specific difference in granting passive euthanasia requests in Indonesia with countries that have legalized both passive and active euthanasia. In countries that legalize euthanasia, the consideration of euthanasia is only based on the patient's rights. Every individual has the right to live free from suffering and to determine their own way of life. The judgment of ending life should not come from other parties unless the person concerned has made a will beforehand. The will must be carefully examined to determine whether the situation in question is following the will. If not, the act of ending one's life is considered a deprivation of the patient's right to life.

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<sup>16</sup> Lauren Gurschick, Deborah K Mayer, and Laura C Hanson, "Palliative Sedation: An Analysis of International Guidelines and Position Statements," *American Journal of Hospice and Palliative Medicine* 32, no. 6 (May 7, 2014): 660–71, <https://doi.org/10.1177/1049909114533002>.

## CONCLUSION

The regulation of euthanasia in existing laws and regulations in Indonesia is still unclear, and there is no specific and concrete regulation on euthanasia, which causes a legal vacuum regarding euthanasia. Even in the Health Law, there are no articles that regulate and mention explicitly, clearly and concretely regarding euthanasia. Articles 340, 344, 345 and Article 304 *jo* 306 Paragraph 2 of the Criminal Code are considered the closest to euthanasia, even though the articles do not explicitly and concretely explain euthanasia.

Before accepting medical treatment (informed consent), the patient will be given adequate information and explanations needed in advance. The right of competent patients to accept or refuse informed consent with all the risks. In terminal patients with no hope of life anymore, the termination of life support / passive euthanasia is regulated in the Minister of Health Regulation No. 37/2014 concerning Determination of Death and Utilization of Donor Organs in Article 14. For patients who are not competent (such as children/toddlers) are represented by their parents or guardians where the refusal of informed consent to the patient if something happens (such as death), parents or guardians can be charged with Article 80 Paragraph 1 and 4 of Law No. 35/2014 with a sanction of imprisonment of up to three years and six months and/or a fine of up to IDR 72,000,000 and Article 80 Paragraph 1 and 4 of Law No. 35/2014 with a sanction of imprisonment for a maximum of three years and six months and/or a maximum fine of IDR 72,000,000 and Article 9 Paragraph 1 of the Law on the Elimination of Domestic Violence with a criminal sanction of imprisonment for a maximum of three years or a maximum fine of IDR 15,000,000 where this needs to be proven again through a legal process.

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