



## Informed Consent in Dental Services: A Perspective on Medical Law in Indonesia

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**Abstract:** Informed consent is a crucial component of dental services, designed to protect patient rights and minimize legal risks for dentists. In Indonesia, despite regulations being established through various laws, the implementation of informed consent faces several challenges, including low patient literacy, inconsistent information practices, and gaps in regulation and supervision. This study employs a normative approach, analyzing relevant regulations, examining case studies of legal disputes, and reviewing pertinent literature. It also explores the practices of informed consent in developed countries such as the United States and Australia to identify strategies that can be adapted to the Indonesian context. Additionally, the research investigates cultural, technological, and literacy-related barriers that impact the implementation of informed consent. The study's findings reveal that, although regulations regarding informed consent are in place, their practical application remains inadequate. Major obstacles include the absence of specific guidelines for dentistry, limited legal awareness among dentists, and a paternalistic cultural mindset. Furthermore, inadequate documentation of informed consent often creates loopholes that can lead to legal disputes. Based on these findings, the study recommends strengthening existing regulations, developing national guidelines tailored to the dental profession, providing legal training for dentists, and enhancing public health education. It also proposes the use of technology, such as digital applications, to support more effective documentation and information dissemination. These improvements aim to ensure that the practice of informed consent in Indonesian dentistry meets legal, ethical, and patient-centered standards comprehensively.

**Keywords:** Informed Consent; Dental Service; Medical Law Perspective

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## 1. Introduction

Informed consent is a fundamental aspect of contemporary healthcare, including dentistry, designed to safeguard patients' rights and uphold ethical standards. In this context, the physician endeavors to optimize treatment by executing procedures meticulously and conscientiously, adhering to service standards, and leveraging their knowledge and experience in managing medical conditions. Although the concept of informed consent has been globally acknowledged for an extended period, its implementation in Indonesia still encounters numerous challenges, both legally and operationally.<sup>1</sup> This article seeks to examine the role of informed consent in dental services from the perspective of medical law, addressing the existing challenges and identifying opportunities for improvement. Informed consent is defined as the authorization granted by a patient after receiving clear and comprehensive information about the proposed medical procedure. Advances in public consciousness have heightened awareness of human rights, accompanied by significant developments in science and technology, particularly in the medical field. This principle is rooted in the concept of patient autonomy, which requires health workers, including dentists, to respect the patient's right to make decisions over their bodies and various laws and regulations have regulated the application of informed consent in performing medical procedures.<sup>2</sup>

The relationship between a dentist and a patient is fiduciary, with trust serving as its foundational element. Informed consent enhances this relationship by ensuring transparency in every medical procedure. Failure to adhere to these procedures can undermine the relationship and potentially result in legal disputes. Informed consent has been a legal obligation in Indonesia since the enactment of Permenkes Number 585/Men.Kes/Per/IX/1989. Furthermore, it is stipulated in Article 45 of Law No. 29 of 2004 concerning Medical Practice. According to this regulation, any medical action that a doctor or dentist intends to perform on a patient must be preceded by the patient's consent after providing a comprehensive explanation.

The advancement of quality healthcare initiatives begins with the effective execution of medical practices, which address the provision of health services to the community. To establish a legal relationship founded on collaboration, honesty, and mutual trust between patients and physicians, it is essential to obtain informed consent from the patient or their family members who are receiving care or treatment.<sup>3</sup>

Health is a state of well-being encompassing physical, mental, and spiritual aspects, enabling individuals to live productively, socially, and economically. A critical factor in the successful implementation of health initiatives is the availability of adequate and high-quality healthcare facilities. Ensuring the presence of such facilities is both

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<sup>1</sup> YA Triana Ohoiwutun et al., "Euthanasia In Indonesia: Laws, Human Rights, And Medical Perspectives," *LAW REFORM* 20, no. 2 (n.d.): 408-30.

<sup>2</sup> Drg Sulaeman, "Tanggung Jawab Hukum Dokter Terhadap Tindakan Pencabutan Gigi Sulung Pada Program Ukgs," *Aktualita (Jurnal Hukum)*, November 16, 2020, 185-206, <https://doi.org/10.29313/aktualita.v0i0.5288>.

<sup>3</sup> Ibid.

the duty and responsibility of the state. According to Article 34, Paragraph 3 of the 1945 Constitution, the state is obligated to provide appropriate healthcare facilities and public services. Additionally, Article 1, Paragraph (7) of Law Number 36 of 2009 defines a health service facility as a tool and/or location used to deliver health services, including promotive, preventive, curative, and rehabilitative efforts, carried out by the government, local governments, and/or the community.<sup>4</sup>

Violations of informed consent procedures can result in serious legal repercussions, ranging from civil lawsuits to criminal penalties. In the realm of dentistry, instances of malpractice are often associated with insufficient information provided to patients. The Minister of Health Regulation No. 585/Men.Kes/Per/IX/1989 concerning Consent for Medical Actions defines informed consent as "consent given by the patient or their family based on an explanation of the medical action to be performed on the patient." This regulation serves as the legal foundation requiring doctors and dentists to obtain patient approval for medical procedures even before the enactment of Law No. 29 of 2004 concerning Medical Practice. Specifically, Article 45, paragraphs (1) and (2) of this law state that "Every medical or dental action performed by doctors and dentists on patients must obtain approval. Consent is given after the patient receives a full explanation."

The concept of informed consent pertains to the process by which a patient formally agrees to undergo a medical procedure conducted in a professional manner. Often, consent is misunderstood and mistakenly equated solely with the patient's signature on a form. While a signature does serve as evidence that the patient has given consent, it does not necessarily validate the consent itself. If a patient is presented with a consent form hurriedly and provided with inadequate information, the consent becomes invalid, even if the form bears the patient's signature.<sup>5</sup>

Medical procedures not encompassed by existing regulations may be carried out with oral consent. Consent is obtained through a formal statement provided in a designated form. Approval can be conveyed verbally or through a nod, which is interpretable as affirmative consent. If the validity of oral consent is uncertain, written consent may be requested. In emergency situations where it is necessary to save a patient's life or prevent disability, obtaining approval for medical actions is not required. The decision to perform medical procedures is made by the doctor or dentist and duly recorded in the patient's medical records. Following a medical intervention, the doctor or dentist is obligated to provide an explanation to the patient as soon as they regain consciousness or to the patient's next of kin.

Several key challenges impede the implementation of informed consent in Indonesia, including low levels of patient health literacy, inadequate legal training for dentists,

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<sup>4</sup> Kusnadi Kusnadi, "Persetujuan Tindakan Kedokteran ( Informed Consent) Dalam Prespektif Hukum," *JOURNAL IURIS SCIENTIA* 1, no. 1 (January 19, 2023): 36-44, <https://doi.org/10.62263/jis.v1i1.10>.

<sup>5</sup> Mahdi Surya Aprilyansyah, "Kajian Yuridis Persetujuan Tindakan Medik (Informed Consent) Dalam Perspektif Undang-Undang Nomor 29 Tahun 2004 Tentang Praktik Kedokteran," *Jurnal Ilmu Hukum Tambun Bungai* 5, no. 2 (September 1, 2020): 755-74, <https://doi.org/10.61394/jihtb.v5i2.144>.

and deficiencies in regulatory enforcement. These factors complicate efforts to ensure that every medical procedure is conducted in compliance with legal and ethical standards.

Patients possess several fundamental rights, including the right to receive comprehensive information about their condition and the proposed medical actions, the right to self-determination, the right to approve or refuse treatment or procedures, and the right to access quality healthcare services that adhere to established standards. Among these, the most fundamental rights are the right to self-determination and the right to receive adequate information.<sup>6</sup>

Informed consent documentation has a very important legal value as a tool of proof in dispute cases. This document should include a complete explanation of the procedure, risks, benefits, and alternatives, which have been communicated to the patient prior to the procedure. Even before any medical action, the patient has the option of agreeing or rejecting this recommendation. They also have the option of seeking a second opinion from another dentist.

The practice of informed consent in developed countries, such as the United States and Australia, offers important lessons for Indonesia. Their system emphasizes on the legal obligation to provide transparent and detailed information, so that patients truly understand the consequences of medical actions taken. Informed consent can be expressed orally and in writing.

In addition to the legal aspect, informed consent is also closely related to medical ethics. The principles of beneficence and respect for autonomy are the basis that dentists must apply to protect the interests of patients as a whole. And based on rights, every patient has the right to know what treatment procedures he will experience, including the risks he must bear as a result of certain treatment methods.<sup>7</sup>

Several dispute cases in Indonesia underscore the importance of informed consent. For example, a lawsuit against a dentist for complications of an act without sufficient information indicates the weakness of the implementation of this procedure in practice. The importance of health for all Indonesian people so that every law and regulation is aimed at protecting the people, both physically and psychologically. This is the right of Indonesian citizens that must be fulfilled to the maximum by the government. Technological advancements, such as telemedicine, create new challenges in the implementation of informed consent. The validity of electronically granted consents requires additional regulations to ensure their validity.

Improving patients' understanding of their rights can be done through comprehensive health education. The program should involve health care providers, governments,

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<sup>6</sup> Yaumul Chaeria, Dachran Busthami, and Hardianto Djanggih, "Implikasi Kedudukan Tenaga Medis (Informed Consen) Terhadap Pertanggungjawaban Rumah Sakit," *PETITUM* 8, no. 1 April (April 12, 2020): 1–19, <https://doi.org/10.36090/jh.v8i1>.

<sup>7</sup> Khonsa Nabilah, "Tingkat Pengetahuan Mengenai Persetujuan Tindakan Medis (Informed Consent) Pada Mahasiswa Tingkat Profesi Fakultas Kedokteran Gigi Universitas Yarsi" (diploma, Universitas YARSI, 2023), <https://doi.org/10/11.BAB%20III.pdf>.

and professional organizations to create a more law-aware society. Existing regulations need to be strengthened with stricter supervision of the implementation of informed consent in health facilities. This involves the role of governments and professional associations to ensure dentists' compliance with applicable standards.

The implementation of informed consent to improve the quality of the seal, dentists need to receive continuous training on legal and ethical aspects. In addition, the development of assistive devices, such as digital applications to document patient consent, can be an innovative solution. Efforts to establish occupational diagnosis and provide therapy usually require various medical actions, both simple and complicated actions. The communication pattern between doctors and patients has been formed since the beginning of the patient meeting with the doctor and runs more intensely when the doctor is going to perform a medical action on the patient.<sup>8</sup>

These medical procedures are generally painful or unpleasant, causing discomfort and frightening to the patient. The relationship between the doctor and the patient which is a relationship of trust has existed for a long time, the medical action to be carried out by the doctor must be preceded by the consent of the patient and/or the patient's family to the medical action to be taken, after the patient and/or his family receive a thorough explanation from the doctor.

However, in its implementation, it sometimes causes problems that lead to medical disputes. Usually the disputes are: Violations of medical ethics; violation of medical discipline; violation of the rights of others/patients or slow to the interests of the community so that doctors and dentists are held accountable in terms of medical ethics, medical discipline and legal accountability both civil, criminal and state administration. Public trust in doctors and dentists is decreasing, even lawsuits filed by the public today are rampant. This often happens because it is identified with the failure of healing efforts made by doctors and dentists.

From a legal point of view, patients are subjects of independent law who are considered to be able to make decisions for their own interests. It is a mistake to think that patients are always unable to make decisions because of illness. Informed consent is an essential element in dental services involving legal and ethical aspects. Good implementation requires awareness and commitment from all stakeholders. With a holistic approach, the implementation of informed consent in accordance with the law can increase patient trust and protect health workers from legal risks.

## **2. Method**

The type of research used is normative research, Normative legal research is research conducted by researching literature materials. Normative research is by studying/analyzing secondary data in the form of legal materials, especially primary

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<sup>8</sup> Muh Amin Dali, Warsito Kasim, and Rabia Ajunu, "Aspek Hukum Informed Consent Dan Perjanjian Terapeutik," *Akademika* 8, no. 2 (November 26, 2019): 95–106, <https://doi.org/10.31314/akademika.v8i2.403>.

legal materials and secondary legal materials by understanding the law as a set of regulations or positive norms in the laws and regulations that regulate human life.<sup>9</sup>

### 3. Regulation and Reality of Informed Consent Implementation in Dentistry in Indonesia

Informed consent is a pivotal component of medical practice, aimed at safeguarding patients' autonomy and ensuring that healthcare professionals fulfill their ethical obligations. All medical interventions performed by healthcare providers must align with their authority and competence, and must be intended solely for the benefit of the patient. In dentistry, which frequently involves invasive procedures such as tooth extractions or implant placements, informed consent plays a crucial role in managing patient expectations and mitigating legal risks.<sup>10</sup>

Legally, informed consent in Indonesia is governed by Law Number 29 of 2004 concerning Medical Practice, the Minister of Health Regulation Number 290 of 2008, and the Indonesian Code of Medical Ethics. These regulations mandate that doctors provide comprehensive information to patients prior to conducting medical procedures. However, in practice, the implementation of these regulations often falls short, particularly within dental services.

Dentists hold a strategic responsibility in ensuring the proper implementation of informed consent. This includes providing detailed information about procedures, associated risks, benefits, and possible alternatives. Nevertheless, research indicates that many dentists perceive informed consent merely as an administrative form signed by the patient, lacking a thorough understanding of its significance.<sup>11</sup>

A significant gap in the implementation of informed consent in Indonesia is the absence of specific guidelines tailored to the dental profession.<sup>12</sup> As medical professionals who are essential to public health, doctors bear the responsibility of delivering professional health services in accordance with established standards. However, existing regulations are generally broad and do not offer specific instructions regarding the unique procedures and risks associated with dental practice. Consequently, the application of informed consent remains inconsistent in the field.

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<sup>9</sup> Ika Atikah, "Metode Penelitian Hukum," 2022, <http://repository.uinbanten.ac.id/9155/1/P%20Metode%20Penelitian%20Hukum.pdf>.

<sup>10</sup> Kyagus Badius Sani, "Tinjauan Hukum Pendidikan Profesi Kedokteran Gigi Dalam Pelaksanaan Pelayanan Kesehatan," *Jurnal Hukum dan Etika Kesehatan*, March 10, 2022, 15-31, <https://doi.org/10.30649/jhek.v2i1.42>.

<sup>11</sup> Muhammad Afiful Jauhani, Yoga Wahyu Pratiwi, and Supianto Supianto, "Perlindungan Hukum Tenaga Medis Dan Pasien Pada Tindakan Gawat Darurat," *JURNAL RECHTENS* 11, no. 2 (December 9, 2022): 257-78, <https://doi.org/10.56013/rechtens.v11i2.1790>.

<sup>12</sup> Dian Ekawaty Ismail et al., "Collocation of Restorative Justice with Human Rights in Indonesia," *Legality: Jurnal Ilmiah Hukum* 32, no. 2 (September 20, 2024): 394-417, <https://doi.org/10.22219/ljih.v32i2.35374>.

Documentation is a critical aspect of informed consent, serving as legal evidence in the event of disputes. However, the study reveals that dentists in Indonesia often fail to include necessary details in their documentation, creating legal vulnerabilities that can disadvantage both doctors and patients.<sup>13</sup>

Patients in Indonesia typically exhibit low health literacy, which hinders their understanding of their rights to comprehensive information before consenting to medical treatment.<sup>14</sup> Healthcare workers play a vital role in enhancing the quality of health services, thereby increasing community awareness, willingness, and ability to lead healthy lives and achieve optimal health outcomes. As a result, many patients feel they lack full control over medical decisions, diminishing the effectiveness of informed consent as a legal protection mechanism.

The paternalistic culture, where patients place complete trust in doctors without questioning their decisions, remains prevalent in Indonesia. This often reduces the informed consent process to a mere formality, devoid of meaningful dialogue between dentists and patients. Tooth extraction is a routine procedure performed by many dentists in their daily practice. However, numerous dentists in Indonesia have not received adequate training on the legal and ethical aspects of implementing informed consent. This knowledge gap prevents dentists from fully understanding their legal responsibilities, thereby increasing the risk of ethical and legal violations.<sup>15</sup>

Enforcement of informed consent regulations in Indonesia remains weak. Supervision of informed consent practices, especially in small clinics, is nearly nonexistent, allowing many violations to occur without significant legal repercussions. To address these deficiencies, there is a need to develop specific national guidelines for dentistry. These guidelines should incorporate standardized documentation formats, effective communication protocols, and legal risk mitigation strategies relevant to dental practice.

Developed countries, such as the United States and the United Kingdom, have successfully integrated technology and systematic approaches to ensure the effective execution of the informed consent process. Indonesia can adopt similar practices, including the use of visual aids and digital applications to enhance patient understanding.<sup>16</sup>

Urgent improvements in the implementation of informed consent in Indonesia are necessary to bolster legal protections for both patients and dentists. By strengthening regulations, increasing training, and promoting public education, it is hoped that the

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<sup>13</sup> Jauhani, Pratiwi, and Supianto, "Perlindungan Hukum Tenaga Medis Dan Pasien Pada Tindakan Gawat Darurat."

<sup>14</sup> Maya Lasena et al., "Cockfighting Gambling Criminal Acts Commitment," *Estudiante Law Journal* 4, no. 2 (June 1, 2022): 77-90, <https://doi.org/10.33756/eslaj.v4i2.16039>.

<sup>15</sup> "Perspektif Hukum Persetujuan Tindakan Kedokteran Atas Perluasan Tindakan Operasi | Amanna Gappa," accessed January 14, 2025, <http://journal.unhas.ac.id/index.php/agjl/article/view/25388>.

<sup>16</sup> Mela Karina Maya Riza and Ninis Nugraheni, "Tanggung Jawab Hukum Dokter Gigi Atas Terjadinya Risiko Terhadap Pemasangan Implan Gigi Pada Pasien," *Jurnal Ners* 7, no. 2 (July 25, 2023): 1040-54, <https://doi.org/10.31004/jn.v7i2.16371>.

gap between regulation and practice can be bridged. This will enable dental services in Indonesia to meet legal, ethical, and patient-centered standards comprehensively.

#### **4. Cultural and Technological Challenges in Improving the Quality of Informed Consent**

The paternalistic culture that is still dominant in doctor-patient relations in Indonesia is one of the main obstacles to the implementation of informed consent. Patients often give their full trust to the doctor without asking questions or asking for further explanations about the procedure to be performed. This pattern of relationships creates high dependence and ignores the patient's right to autonomy in medical decision-making.

Patients' awareness of their right to a clear and comprehensive explanation is still low. Many patients in Indonesia do not realize that they have the right to refuse or seek a second opinion before agreeing to a medical procedure. In the context of health law in Indonesia, the recognition and protection of patients' rights is a fundamental principle. These rights, which include access to information, privacy, and safe and quality health care, are enshrined in various regulations and laws. This shows the need for continuous public health education.<sup>17</sup>

Low health literacy is another challenge in the implementation of informed consent. Patients often do not understand the medical terms used by dentists, making it difficult for them to make decisions that are truly based on understanding. This literacy also has an impact on the patient's ability to understand the risks or benefits of the procedure to be carried out.

Dentists in Indonesia often use a one-way communication approach, where information is conveyed verbally in a limited amount of time. This approach makes patients feel hesitant to ask questions or ask for clarification. In fact, two-way communication is essential to ensure that patients truly understand the information provided.<sup>18</sup>

Visual aids, such as diagrams, videos, or anatomical models, can help patients understand medical procedures better.<sup>19</sup> However, this study found that the use of visual aids in dental clinics in Indonesia is still very limited. Many dentists rely on verbal explanations that are less effective in conveying complex information.

Technology has great potential to improve the quality of informed consent, especially through digital applications that provide information interactively. However, in rural Indonesia, limited infrastructure such as internet access and technological devices hinder the adoption of these technology-based solutions. Most dentists in Indonesia have not received adequate training on the use of technology to support the informed

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<sup>17</sup> Ibid.

<sup>18</sup> Niru Anita Sinaga, "Penyelesaian Sengketa Medis Di Indonesia," *JURNAL ILMIAH HUKUM DIRGANTARA* 11, no. 2 (March 1, 2021), <https://doi.org/10.35968/jihd.v11i2.765>.

<sup>19</sup> Dian Ekawaty Ismail et al., "Cyber Harassment of Public Figures: Causes and Importance of Legal Education," *E3S Web of Conferences* 594 (2024): 03005, <https://doi.org/10.1051/e3sconf/202459403005>.



consent process. This training is important to ensure that dentists are able to utilize technology effectively in their daily practice.<sup>20</sup>

Cost is another obstacle in the application of technology for informed consent. Many dental clinics, especially small-scale ones, do not have enough financial resources to adopt advanced technology. This creates a gap between clinics with limited resources and larger healthcare facilities. This strategy aims to improve the medical record administration system in health care facilities which has not been effective so far.<sup>21</sup>

Resistance to change, both from dentists and patients, is a challenge in adopting technology and changing patterns of paternalistic relationships.<sup>22</sup> Many dentists are comfortable with traditional methods, while patients tend to be passive and reluctant to engage in discussions about medical procedures. The use of technology for informed consent also presents challenges in terms of data security. Digital documents containing patients' personal information must be managed properly to prevent data leaks that can violate patient privacy.

Developed countries have successfully integrated technologies and more equitable communication cultures in the informed consent process, including how digital health services can improve access to necessary medical services and improve public health. Indonesia can learn from this practice, including the use of digital applications designed to improve patient understanding and actively engage them in decision-making.<sup>23</sup>

To improve the quality of informed consent, Indonesia needs a paradigm shift that includes increasing health literacy, strengthening training for dentists, and gradually adopting technology. By addressing these cultural and technological challenges, the implementation of informed consent in Indonesia can meet legal, ethical, and patient needs holistically.

## 5. Conclusion

Informed consent is a fundamental component of dental services, essential for protecting patient rights, upholding medical ethics, and minimizing legal risks for dentists. In Indonesia, while it is legally established through Law Number 29 of 2004 concerning Medical Practice and its subsequent regulations, its practical implementation encounters significant challenges. These include low patient health literacy, a paternalistic cultural mindset, and the absence of specific guidelines

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<sup>20</sup> Rachmad Abduh, "Kajian Hukum Rekam Medis Sebagai Alat Bukti Malapraktik Medis," *DE LEGA LATA: Jurnal Ilmu Hukum* 6, no. 1 (January 7, 2021): 221–34, <https://doi.org/10.30596/dll.v6i1.4661>.

<sup>21</sup> Helena Primadiani Sulistyaningrum, "Informed Consent: Persetujuan Tindakan Kedokteran dalam Pelayanan Kesehatan bagi Pasien Covid-19," *Simbur Cahaya* 28, no. 1 (June 30, 2021): 166–86, <https://doi.org/10.28946/sc.v28i2.1192>.

<sup>22</sup> Rifky Pulubolo, Mutia Cherawaty Thalib, and Ahmad Ahmad, "Legal Process for Banking Negligence in Violations of Customers' Privacy Rights and Personal Data," *Estudiante Law Journal* 1, no. 1 (January 25, 2024): 1–13, <https://doi.org/10.33756/eslaj.v1i1.24195>.

<sup>23</sup> Jovita Irawati, "Inkonsistensi Regulasi Di Bidang Kesehatan Dan Implikasi Hukumnya Terhadap Penyelesaian Perkara Medik Di Indonesia," *Law Review*, July 31, 2019, 54–76, <https://doi.org/10.19166/lr.v19i1.1551>.

tailored to dentistry that aid dentists in meeting legal and ethical standards. This study highlights a notable gap between regulations and actual practices, particularly in documentation and the communication of information to patients. Informed consent forms often lack the necessary detail to serve as robust legal evidence, and patients frequently report insufficient explanations before undergoing treatment. Additionally, the lack of legal training for dentists and weak regulatory oversight exacerbate these issues. Indonesia can learn from developed countries that have integrated technology, visual aids, and systematic approaches to enhance the quality of informed consent.

To address these challenges, it is recommended to develop more specific regulations for dentistry, provide ongoing legal and ethical training for dentists, and implement public education initiatives to improve health literacy. Incorporating technology, such as digital applications for documentation and information dissemination, can also offer innovative solutions. These measures aim to ensure that informed consent practices in Indonesia meet legal, ethical, and patient-centered standards, thereby fostering greater public trust in healthcare services.

Informed consent in dental services in Indonesia plays a strategic role in safeguarding patient rights and reducing legal liabilities for dentists. However, bridging the gap between existing regulations and their practical application requires concerted efforts from all stakeholders. By strengthening regulatory frameworks, expanding educational programs, and promoting ongoing research, Indonesia can achieve more effective implementation of informed consent. This will support the provision of equitable and trustworthy health services, ultimately enhancing the quality and reliability of dental care in the country.

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