IJCSS 7 (1) (2026) Pages:. 277-286

Journal homepage: http://pcijournal.org/index.php/ijcss

International Journal of Cultural and Social Science

Published: Pena Cendekia Insani

PREPARATION OF A WILL BY A NOTARY REGARDING MEDICAL DECISIONS REGARDING THE HEALTH OF A PATIENT WITH A TERMINAL ILLNESS

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Article Info

Keywords:

Health Wills,
Medical Decisions,
Notaries,
Patient Health,
Terminal Illness

ABSTRACT

Notarial practice in the health sector shows a new development when terminally ill patients document their medical wishes in a will before a notary. This phenomenon raises questions regarding the limits of a notary's authority and the validity of the patient's will in conditions of physical and psychological decline. This study uses a normative legal method with a statutory and conceptual approach. The results indicate that a terminally ill patient's will is most appropriately drafted in the form of a general will in accordance with Articles 875 and 938–940 of the Civil Code and Article 15 of the Notary Law. The testator's legal capacity is based on Articles 895, 1320, and 1330 of the Civil Code, while medical capacity is determined through the principle of informed consent as stipulated in the Medical Practice Law and the Health Law. If formal and material requirements are not met, the will has the potential to be invalidated or lose its authenticity, and it also creates professional responsibilities for the notary. These findings emphasize the need for specific guidelines to ensure legal certainty and protect the will of terminally ill patients.

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1. INTRODUCTION

In recent decades, patient awareness of the right to personal autonomy in making medical decisions and managing assets has increased significantly, particularly among terminally ill patients. Patients in these conditions are not only seeking to regulate the distribution of assets through wills, but are also beginning to document specific medical decisions, such as refusing resuscitation, discontinuing life-sustaining therapy, or limiting certain medical interventions, as part of their final wishes. This phenomenon demonstrates a shift in the meaning of wills from being merely an instrument of inheritance law to a broader means of expressing personal will, including in the healthcare sector [1].

However, the practice of drafting wills containing medical decisions raises complex legal issues. On the one hand, healthcare law recognizes the patient's right to consent to or refuse medical treatment while the patient is conscious and without duress, as stipulated in Law Number 17 of 2023 concerning Health [2] and Law Number 29 of 2004 concerning Medical Practice [3]. On the other hand, civil law defines a will as a statement of will, which in principle only comes into effect after the testator's death, as defined in Article 875 of the Civil Code [4]. This difference in temporal character between medical wills valid during life and post-mortem wills creates normative ambiguity when both aspects are expressed in a single notarial deed.

Similar issues are also a concern in ethical discourse and international health law, particularly regarding the decision-making capacity of terminally ill patients. Jefferson [5], in his study of refusal of care and decision-making capacity in the context of terminal illness, asserts that physical decline does not necessarily diminish a person's capacity to understand the medical and legal consequences of their decisions. However, Jefferson also emphasizes that the assessment of capacity cannot be separated from the complexity of psychological conditions, emotional distress, and the dynamics of the relationship between the patient and medical personnel. These findings suggest that documenting medical wills for terminally ill patients, including in legal instruments, requires extra care to ensure that the expressed will truly reflects a conscious, free, and normatively accountable decision.

In notarial practice, notaries find themselves in a difficult position. As public officials, notaries are authorized to draw up authentic deeds and are obligated to ensure that the will of the parties is expressed freely, consciously, and competently according to law, as stipulated in Law Number 2 of 2014 concerning the Position of Notary [6]. However, when a terminally ill patient requests that their medical decisions be included in a will, the notary must assess not only the testator's legal capacity but also any medical and psychological conditions that may affect the quality of the will. Failure to assess these conditions can potentially lead to future disputes, both regarding the validity of the will and the notary's liability.

The absence of explicit regulations governing medical wills for terminally ill patients widens the legal uncertainty. The Civil Code does not recognize the concept of a medical will, the Notary Law does not provide specific guidelines for assessing the testator's medical capacity, and the Health Law only regulates consent to medical procedures without linking it to notarial instruments. Even Minister of Law and Human Rights Regulation No. 16 of 2025 concerning Reporting Wills and Requests for Issuance of Will Certificates [7], does not provide a specific mechanism for recording or reporting wills containing the medical wishes of terminally ill patients. This regulatory gap demonstrates a gap between the development of social practices and the existing positive legal framework.

This situation has the potential to give rise to various legal issues, such as disputes over the validity of wills due to questions about the testator's capacity, conflicts between heirs and medical personnel, and the risk of administrative and civil liability for notaries. The case reported by MalangTerkini concerning the alleged transfer of inheritance assets while the testator was in critical condition demonstrates that weak verification of the testator's state of consciousness and capacity can lead to serious and prolonged legal conflicts [8].

Based on this description, this study is crucial for normatively analyzing the form and structure of wills containing medical decisions, the health criteria for terminally ill patients that still permit the creation of a will, and the legal consequences if the will does not meet statutory provisions. This research is expected to provide conceptual and practical contributions to the development of notarial practice, while also providing a basis for developing clearer legal guidelines regarding wills related to medical decisions of terminally ill patients in Indonesia.

2. RESEARCH METHODS

The type of research used in this study is normative legal research with a statutory and conceptual approach. Normative legal research is used to examine positive legal norms governing the existence, form, and validity of wills, the authority and obligations of notaries, and the protection of the rights of terminally ill patients in the process of making wills [9]. This method was chosen based on the nature of the research problem, which lies entirely within the normative and conceptual realm. Therefore, the analysis focuses on exploring, interpreting, and reviewing relevant laws and regulations, particularly the Civil Code, notarial law, and medical practice law, as well as related doctrines and jurisprudence [9].

The statutory approach is used to systematically and comprehensively understand the legal basis governing a notary's authority in making wills, particularly when the will contains medical decisions for terminally ill patients. Through this approach, each statutory provision is analyzed to identify the appropriateness, interrelationships, and potential gaps or ambiguities in the norms governing the relationship between civil law, notarial law, and health law. Meanwhile, a conceptual approach is used to explore and analyze relevant legal concepts, such as the authority of public officials, legal capacity, free will, patient autonomy, the principle of legal certainty, justice, and protection of heirs' rights [10]. This conceptual approach serves to provide a theoretical foundation for assessing the extent to which a terminally ill patient's medical will can be positioned as a valid legal will within the framework of a will drafted by a notary.

The legal material for this study was collected through a combination of literature review and document analysis techniques, ensuring that the legal material analyzed comes from academically credible sources [9]. The literature review was conducted by reviewing legal textbooks, scientific journals, scholarly articles, and digital databases discussing notarial law, the Civil Code, inheritance law, and legal protection for terminally ill patients. Literature selection was based on criteria of relevance to the research focus and source credibility, ensuring that

each reference used is directly related to the analysis of will drafting and the legal regulations governing it. Document techniques were used to examine public legal documents, such as laws and regulations, legal research papers, and summaries of court decisions related to the practice of will drafting by notaries [9].

The analysis was conducted qualitatively through a process of inventory, identification, classification, and systematization of legal materials, with an emphasis on deepening the meaning of norms, mapping key legal issues, and synthesizing legal theory, doctrine, and practice [9]. Each norm and legal document was systematically analyzed and interpreted in depth by comparing written provisions, expert opinions, and legal considerations in court decisions to identify similarities, differences, and potential legal gaps. If a norm is found to be ambiguous or open to multiple interpretations, this study employed legal hermeneutics techniques to interpret the purpose and substantive meaning of the norm, ensuring that the analysis results are not only textual but also contextual and relevant to legal practice. The entire analysis and validation process is carried out by linking arguments to the primary and secondary legal sources used, so that the research conclusions can be academically justified and are in line with the national legal system.

3. RESULT AND ANALYSIS

This section describes the results of research and legal discussions regarding the making of a will by a terminally ill patient before a notary. The description is organized into three interrelated parts: the first part examines the form and structure of the will and the capacity of the will maker in relation to the health condition of the terminally ill patient; the second part discusses the health criteria for terminally ill patients who, medically and legally, still permit the making of a will; while the third part analyzes the legal consequences that arise if the will is not made in accordance with statutory provisions. Through this structure, the discussion is intended to systematically describe the relationship between the form and structure of the will, the determination of the capacity of the terminally ill patient, and the legal consequences for the validity of the will if these requirements are not met.

Form and Composition of a Will Regarding the Health of Patients with Terminal Illnesses

In Indonesian civil law, a will does not merely serve as an instrument for the distribution of assets, but also as a means of expressing a person's final wishes regarding fundamental aspects of their life. In the context of terminally ill patients, a will has the potential to contain wishes that extend beyond the management of assets, including statements regarding medical decisions related to the end of life. Article 875 of the Civil Code stipulates that a will is a statement of a person's wishes regarding their wishes after death and only acquires legal consequences after the testator's death [4]. Conversely, Article 56 paragraph (1) of Law Number 17 of 2023 concerning Health grants patients the right to refuse some or all medical treatment while the patient is still alive [2]. The differences in the temporal framework and legal consequences of these two regimes raise a normative issue when a terminal patient's medical wishes are outlined in a notarial deed: can such wishes still be understood as a will in the classical sense of civil law, or are they more appropriately positioned as a statement of medical will subject to health law.

This issue is not only conceptual but also directly related to the limits of the authority of public officials. Although the Notary Law grants notaries broad authority to draft authentic deeds, any public official's authority must be based on clear legal attribution [11]. When a notary drafts a deed that substantially contains the medical wishes of a terminally ill patient, the notary stands on the border between civil law and health law. In the practice of notarial practice, this situation encourages some notaries to express the patient's medical wishes in the form of a statement attached to the will. Ethically, this approach is understood as a form of respect for the patient's autonomy, but legally, it has not received explicit recognition in the Civil Code, the Notary Law, or the Health Law, making its legal status potentially debatable [12].

Normatively, a will containing aspects of the health of a terminally ill patient must still be placed within the framework of a notarial will. Article 895 of the Civil Code requires the testator's legal capacity as a prerequisite for the validity of a will. This capacity is not merely formal but is a substantive requirement that determines the validity of a statement of will [4]. Adjie [13] emphasized that notaries bear a professional responsibility to ensure that the testator is fully competent and understands the legal consequences of the deed they create. In the context of terminally ill patients, the issue of capacity becomes crucial because medical conditions can affect the testator's consciousness, cognitive function, and psychological stability [1]. Ria [14] also emphasized that without adequate capacity, a will risks losing legal legitimacy.

The notary's position as the gatekeeper of the validity of a will is affirmed in Article 16 paragraph (1) letter m of the Notary Law, which requires notaries to document the will of the testator in the form of an authentic deed, and Article 39 paragraph (1) letter c of the Law on State Legal Entities (UUJN), which requires notaries to refuse to draw up a deed if the party appearing before them is incompetent to perform legal acts [6]. These two provisions position the notary not merely as a recorder of wills, but as the party obligated to verify the testator's

capacity. Thus, a will relating to the health of a terminally ill patient must functionally reflect the conscious will of a competent legal subject.

Ideally, a will for a terminally ill patient should not only contain the testator's identity and the disposition of assets, but also confirm the testator's awareness and capacity at the time the deed was made, as well as the scope of the stated medical wishes [12]. Article 45 paragraph (1) of Law Number 29 of 2004 concerning Medical Practice requires patient consent after receiving a complete explanation [3]. This norm provides an objective standard for capacity, namely the patient's ability to understand information and provide meaningful consent. Law Number 17 of 2023 concerning Health also recognizes that terminally ill patients have the potential to experience cognitive decline, making the testator's medical condition a relevant factor in assessing legal capacity [2].

Table 1. Comparison of Regulations Related to Wills, Capacity, and Terminal Patients

Number	Aspects	Positive Legal Provisions	Normative Relevance
1	Definition of a Will	Article 875 of the Civil Code	Affirming that the elements of conscious will and post-mortem nature are the core of a terminal patient's will
2	Acting Skills	Article 895 of the Civil Code	It is the basis for assessing the legal capacity of terminal patients when signing a will.
3	Authority and Rejection of Deed	Article 16 paragraph (1) letter m and Article 39 paragraph (1) letter c of the Civil Code	Placing a notary as a gatekeeper to the validity of a terminal patient's will
4	Medical Capacity & Consent	Article 45 paragraph (1) of Law 29/2004 and the definition of terminal patient in Law 17/2023	Provides clinical standards for assessing the ability to understand information and express intentions

Based on the normative construction in Table 1 above, it can be seen that the validity of a will depends on the fulfillment of the testator's competence and free will. This is reflected in Supreme Court Decision Number 3124 K/Pdt/2013, which annulled a will because the testator was deemed no longer medically competent at the time the deed was made. The judge's considerations emphasized that the testator's mental and physical condition are determining factors in assessing the validity of a will, and that a notary should not make a deed when the testator's capacity is questionable.

Susilawati [15] research provides an overview of notarial practices in making wills for objects not specifically regulated by law. The study confirms that Indonesian positive law does not provide specific provisions regarding wills related to the human body. Therefore, in practice, notaries continue to use the general will mechanism as stipulated in the Civil Code, guided by the valid requirements of an agreement and the formal provisions for making a deed. Although this study does not specifically address medical wills or terminally ill patients, Susilawati's findings are relevant in demonstrating how notaries incorporate the testator's unconventional will into the existing notarial will structure, while applying the principles of prudence and professional responsibility.

Meanwhile, in an international context, Jefferson [5] emphasized that in terminally ill patients, the assessment of decision-making capacity cannot be based solely on physical condition, but must also consider the patient's ability to understand information, assess consequences, and consciously express their will. Although the study did not address notarial instruments, its emphasis on the importance of evaluating actual capacity provides a relevant conceptual foundation for notaries in assessing the validity of a terminally ill patient's will as outlined in a deed.

This demonstrates the potential for significant legal controversy, particularly when the medical will of a terminally ill patient is challenged by heirs or other aggrieved parties. The lack of standard procedures for assessing capacity and documenting the testator's mental state opens up room for differing interpretations and disputes. Therefore, applying the principle of extra caution, including considering supporting medical evidence, is an integral part of a notary's professional responsibility.

Theoretically, the views of Marzuki [16], who places the will as the core of the validity of legal acts, and Atmadja and Budiartha [17], who emphasize legal certainty through the conscious will of the legal subject, reinforce the importance of capacity verification in this context. Therefore, the most relevant form of will

regarding the health of terminally ill patients is a notarized will containing medical wishes and drafted with due regard to the testator's clinical condition. Its structure must meet formal civil requirements while also accommodating the dimension of medical capacity, thereby minimizing the potential for disputes and providing legal certainty for all interested parties [18].

Health Criteria for Patients with Terminal Illnesses in Making a Will

Determining the health criteria for a terminally ill patient when drafting a will is fundamental because the testator's legal capacity is significantly influenced by their medical condition and state of consciousness. In medical science, a terminal illness is understood as a medical condition that is progressive, incurable, and clinically leading to death. Consequently, curative interventions are no longer effective, and the focus of care shifts to a palliative approach that emphasizes the patient's comfort and quality of life [19]. However, significant physical decline does not automatically diminish the patient's mental capacity to understand, assess, and make legal decisions, including drafting a will [19].

Key characteristics of terminal illness include unstoppable disease progression, increasing severity of clinical symptoms, and unresponsiveness to standard therapies. This condition is often accompanied by severe physical complaints such as chronic pain, respiratory distress, and extreme weakness. Beyond the physical aspects, nursing literature emphasizes that terminally ill patients also experience profound psychological and emotional distress, such as death anxiety, mental stress due to loss of bodily functions, and psychosocial and spiritual distress that can impact emotional stability [1]. For notaries, this psychological dimension is relevant because even though patients appear physically weak, their rational faculties are not always impaired; rather, emotional distress demands more careful assessment to ensure that expressed wishes are truly authentic and free from internal and external influences [1].

Various medical conditions, such as advanced cancer, degenerative diseases of the elderly, chronic obstructive pulmonary disease, cystic fibrosis, advanced Parkinson's disease, severe stroke, progressive genetic diseases, end-stage heart failure, and advanced HIV/AIDS, are medically classified as terminal illnesses because they meet the criteria of progression, poor prognosis, and unresponsiveness to therapy [19]. In these conditions, physical decline is not always accompanied by loss of cognitive function, at least to some extent. Therefore, a notary cannot assess legal capacity solely based on physical appearance; instead, they must communicate adequately to assess the patient's ability to understand and express their will rationally [19].

This medical framework aligns with the normative definition of a terminal patient in Article 1, number 12 of Law Number 17 of 2023 concerning Health, which states that a terminal patient is someone who, according to medical science, cannot be cured and requires treatment to improve their quality of life [2]. This definition emphasizes that terminal status is related to the condition of the disease, not automatically to the loss of cognitive capacity. The law does not stipulate that a terminal patient loses consciousness or the ability to understand legal procedures, so as long as the patient remains conscious and able to express their will freely, their capacity to act remains legally recognized.

Furthermore, Article 45 paragraph (1) of Law Number 29 of 2004 concerning Medical Practice requires that every medical procedure must obtain the patient's consent after adequate explanation. The ability to provide informed consent is an objective indicator that the patient is still capable of understanding information, assessing risks, and making independent decisions [3]. Thus, patients who are still capable of providing valid medical consent can also be deemed to have the capacity to understand the legal consequences of making a will.

Conversely, Article 1330 of the Civil Code emphasizes that legal incompetence relates to legal status and mental capacity, not merely physical condition [20]. Therefore, patients with terminal illnesses cannot be automatically categorized as legally incompetent unless their medical condition clearly causes impaired consciousness or a mental disorder that diminishes their free will.

To integrate the medical, civil law, and notarial authority dimensions, the normative and procedural criteria for terminally ill patients in making a will can be summarized as follows.

Table 2. Normative and Procedural Criteria for Terminal Patients in Making Wills

Number	Aspect/Level	Legal Basis/Source	Objective Indicators	Legal Relevance/Ethic
1	Terminal condition	Article 1 number 12 of Law 17/2023	Terminal diagnosis, incurable disease, need palliative care	Determines the stage of the disease, but does not automatically remove legal capacity
2	Ability to understand information	Article 45 paragraph (1) of Law 29/2004	The patient is able to receive explanations and provide medical consent	The parameter is that the patient is still conscious and able to make legal decisions

3	Ability to act	Article 1330 of the Civil Code	Not underage or underage	Affirming competence as a mental and legal category, not a physical one
4	Free agreement	Articles 1320 and 1321 of the Civil Code	There is no coercion, error, or deception	The legal requirement of free will in the making of a deed
5	Patient autonomy	Article 353 paragraph (2) of Law 17/2023	Consent to medical treatment is voluntary, without coercion, in a conscious state	Demonstrates the harmony of medical autonomy and legal will
6	Notary verification	Article 16 paragraph (1) letters a and m of the UUJN	The notary observes the psychological condition, the logic of the answers, and reads and explains the contents of the deed	Form of moral and administrative responsibility to ensure that the deed reflects the legitimate will
7	Actual capacity assessment	Article 875 of the Civil Code	The speaker is able to speak, understand and answer logically	Determining the validity of a will in a will; capacity must be assessed on an actual, not a formal basis
8	Notary procedural stages	Article 39, 38, 40, 16 paragraph (1) letter b UUJN	Identity verification, initial observation, documentation of the condition of the person appearing, witnesses, and storage of minutes	Provide legal protection for the parties and notaries if a dispute arises

Based on the construction of Table 2. above, it can be seen that the criteria for a terminally ill patient in making a will are not determined by the severity of the physical illness, but rather by the actual ability to understand information, assess the consequences, and express one's will freely. Provisions in the Health Law and the Medical Practice Law provide medical benchmarks regarding patient awareness and understanding, while the Civil Code and the Notary Law provide a normative framework regarding legal capacity and the notary's verification obligations.

Similar considerations are reflected in Banda Aceh High Court Decision No. 578/PDT/2021/PT.BDG, which affirms that a deed can only be annulled if it is proven that the person who made it was unaware or did not understand the contents of the deed at the time of signing. Although this case does not directly relate to terminally ill patients, the considerations are relevant because they place awareness and understanding as determining factors in determining the validity of a legal act.

In the realm of notarial law, Susilawati [15] points out that when the object of a will involves a human body, such as in an organ donation will, the notary is required to apply a higher degree of caution, particularly in ensuring the testator's capacity and free will. Although the study did not specifically address terminal patients, its emphasis on the notary's responsibilities is relevant in this context, as the testator's fragile medical condition requires more careful verification of capacity before the deed is ratified.

These findings align with a study by Kotze and Roos [21], which examined decision-making capacity in elderly patients with terminal illnesses. The study demonstrated that terminally ill patients, even those with serious psychiatric disorders, can still retain decision-making capacity as long as they are able to understand information, assess consequences, and communicate choices consistently. Capacity assessments in medical contexts are situational and specific to the decision being made, not based solely on diagnosis. The normative implication is that collaboration between notaries and doctors is crucial to ensure that the will expressed in the deed truly arises from a conscious and competent legal subject.

This integration of the roles of notaries and medical professionals also serves to prevent potential disputes. Wills made by terminally ill patients are often challenged by heirs, citing unconsciousness or psychological distress. Documentation of medical conditions and verification of capacity by healthcare professionals can be important evidentiary tools to protect the validity of the deed and reduce the risk of future revocation.

Adjie [13] emphasizes that the ability to understand and express one's will is an essential requirement for the validity of a deed, so a notary is obligated to refuse to execute a deed if there are indications of impaired consciousness or mental incapacity. This view is reinforced by Atmadja and Budiartha [17], who place the

authority of public officials within the framework of legal protection, namely ensuring that legal subjects understand the consequences of their actions. Subekti, through the concepts of wilsvorming and wilsverklaring, asserts that a statement of will is only valid if it aligns with the inner will of the person making it [22].

Thus, the health criteria for terminally ill patients in making a will are the result of harmonization between medical indicators, such as level of consciousness, ability to understand information, and cognitive stability, and legal indicators such as capacity to act, free will, and notarial verification based on the Civil Code, UUJN, and the Health Law. As long as a terminally ill patient meets the legally justifiable standards of consciousness and free will, their capacity to make a will remains recognized, and the notary's responsibility is to ensure that all these elements are met before the deed is legalized.

Legal Consequences If a Will Does Not Comply with Statutory Provisions

The preparation of a will by a notary has fundamental legal significance in the Indonesian civil law system because a will is an authentic deed containing a person's last wishes regarding the distribution of assets and certain legal actions that apply after his death. Authentic deeds in the form of a will have perfect evidentiary force as long as they are made in accordance with the formal and material requirements stipulated by statutory regulations [12]. Therefore, the validity of a will is not solely determined by the substance of the testator's wishes, but also by compliance with the form, procedure, and authority of the official who made it. Subekti [22], views a will as rechtshandeling bij uiterste wilsbeschikking, namely a unilateral legal act that only gives rise to legal consequences after the testator's death, so that protection of the will is placed precisely on the accuracy of the form and procedure for making it. From a legal protection perspective, Hadjon [23] asserts that procedural deviations that harm legal subjects constitute a violation of the principle of legal certainty, while Marzuki [16] qualifies violations of formal norms in the formation of deeds as normative maladministration that directly impacts the validity of legal acts.

In the context of terminally ill patients, the legal consequences of a will that does not comply with statutory provisions become increasingly complex because they intersect with the testator's medical capacity and the responsibilities of public officials. Revocation or annulment of a will in such circumstances serves not only as a corrective mechanism for procedural defects but also as an instrument to protect the rights of interested parties, particularly heirs. Subekti [22] defines revocation of a will (herroeping van testament) as a legal action that eliminates the legal consequences of an act due to failure to meet specified legal requirements. In continental civil law systems, revocation is always linked to the principles of legality and legal certainty, so the law not only assesses the content of the testator's wishes but also ensures that these wishes were made consciously, freely, and through legal procedures. Hernoko [24] emphasizes that a notary's authority is derived from the law, so violating formal provisions in the creation of a deed constitutes a form of detournement de pouvoir, opening up the opportunity for revocation as a correction to the abuse of authority by public officials.

The normative framework regarding the validity and revocation of a will is systematically regulated in the Civil Code. Article 875 of the Civil Code affirms that a will is a statement of will that takes effect after death and can be revoked [4]. Articles 938–940 regulate the formal requirements for making a general will before a notary and witnesses, including the obligation to read and sign [4]. Failure to comply with this formal structure results in the deed losing its authenticity as defined in Article 1868 of the Civil Code [4]. Furthermore, Article 1320 of the Civil Code stipulates four conditions for the validity of a legal act, with the elements of agreement and competence being crucial in the context of terminally ill patients [4]. If the testator is not conscious or unable to understand the legal consequences of their actions, the element of agreement is not met, and the will is null and void. Article 992 of the Civil Code further stipulates that the revocation of a will is only valid if executed with a new deed in the same form, so that personal oral or written statements have no legal force [4].

The obligations and responsibilities of notaries in this regard are affirmed in the Notary Law. Article 15 paragraph (1) of the UUJN authorizes notaries to draw up authentic deeds, while Article 16 paragraph (1) letters a and c require notaries to act honestly, independently, and impartially, and to read the deed in the presence of the parties and witnesses. Violation of these obligations can result in administrative sanctions up to and including dismissal, as stipulated in Article 84 of the UUJN [6]. In addition, administrative aspects are also regulated in the Regulation of the Minister of Law of the Republic of Indonesia Number 16 of 2025 concerning Reporting of Wills and Applications for Issuance of Will Certificates, which requires electronic reporting of wills within a certain time period [7].

Table 3. Harmonization of Norms on Cancellation of Wills and Their Legal Consequences

Number	rules	Main Contents of the Provisions	Type of Defect	Legal Consequences
1	Civil Code Articles 938–940	Formal requirements for making a deed before a notary and witnesses	Formal Defects	Act of loss of authenticity

2	Civil Code Article 1320	Conditions for the validity of legal acts	Material Defects	The deed is void by law
3	Civil Code Article 992	Revocation must be done with a new deed	Procedural Flaws	Unauthorized revocation
4	UUJN Article 16 paragraph (1) letter c	Mandatory reading and witness	Formal Ethics	The deed can be revoked
5	Minister of Law and Human Rights Regulation No. 60 of 2016	Electronic will reporting	Administrative	Unregistered deed

Table 3. above shows that the legal consequences of a will's inconsistency can be categorized into formal, material, and administrative defects. Formal defects result in the loss of authenticity of the deed, material defects result in legal cancellation, while administrative defects create uncertainty in implementation and proof. This difference is in line with Adjie's [12] view, which distinguishes between deeds that are legally void due to substantial defects and deeds that can be cancelled due to procedural violations.

In cases involving terminally ill patients, these civil norms must be interpreted systematically in conjunction with health law provisions. Law Number 17 of 2023 concerning Health affirms the patient's right to accurate information and the right to give informed consent or refuse medical treatment without coercion [2]. If a will is made when the patient no longer meets the standards of consciousness as referred to in these provisions, the element of free will as stipulated in Article 1320 of the Civil Code is invalidated [4]. In such circumstances, the court's annulment of a will reflects not only the application of civil norms but also the protection of patient autonomy and substantive justice, as emphasized in the study of end-of-life communication [25].

Jurisprudentially, courts tend to consider the testator's mental state and consciousness as determining factors in assessing the validity of a will, particularly when the testator is in a vulnerable state of health. This approach demonstrates that the law is not merely formalistic but also considers the humanitarian dimension and the protection of the testator's authentic will. In this context, the role of the notary becomes crucial as the guardian of the integrity of the will, as any failure to ensure the testator's capacity and free will has the potential to result in serious legal consequences.

Theoretically, the annulment of a will in the context of non-compliance with statutory regulations reflects the corrective function of the law to maintain the legality and ethics of the notary profession. Hadjon [23] views legal protection as the legal system's ability to proportionally correct violations, while Marzuki [16] views violations of formal norms as maladministration that diminishes the legitimacy of legal acts. Hernoko [24] asserts that the cancellation of a deed is a means of maintaining the integrity of the legal system so that every product of a public official meets formal, material, and ethical requirements. Therefore, in drafting a will for a terminally ill patient, the notary's responsibility is not merely administrative but also encompasses legal and moral responsibility to ensure that the expressed wishes are truly the product of a conscious and competent legal subject.

Therefore, the legal consequences of a will that does not comply with statutory provisions demonstrate the coherence between the Civil Code, the Notary Law, Regulation of the Minister of Law of the Republic of Indonesia Number 16 of 2025, and Law Number 17 of 2023 concerning Health. This entire legal regime places free will, the legal capacity of the legal subject, and the appropriate form of the deed as the primary prerequisites for the validity of a will. However, the absence of technical regulations explicitly governing the mechanism for assessing the medical capacity of terminally ill patients leaves room for interpretation and variation in practice, thus requiring extra caution from notaries. In this context, notaries serve as a liaison between civil law, health law, and professional ethics, ensuring that wills are not only formally valid but also just and morally responsible.

4. CONCLUSION

Based on the results and analysis of the form and composition, health criteria of terminal patients, and the legal consequences if the will does not comply with the provisions of laws and regulations, several conclusions can be drawn in this study as follows:

The format and structure of a will prepared by a notary for a terminally ill patient essentially follow the construction of a notarial will as stipulated in the Civil Code and the Notary Law. Articles 938 to 940 of the Civil Code stipulate that a general will must be drawn up before a notary and two witnesses, with the deed structure containing a title containing the notary's identity and the basis of his or her authority (Article 15 of Law Number 2 of 2014), an opening section stating the testator's identity and a statement of awareness, a body section containing

the testator's wishes, which in the context of a terminally ill patient may include wishes related to medical procedures as long as they do not conflict with the law, and a closing section confirming the reading, signing, and retention of the minutes of the deed. Thus, the notary's role is not merely to record the will, but also to safeguard the integrity of legal norms and the patient's freedom of will, so that the will functions simultaneously as a valid legal instrument and a final statement that respects the dignity of the legal subject.

The health criteria of terminally ill patients in drafting a will demonstrate that terminal status does not necessarily eliminate the testator's legal capacity. Article 1, number 12 of Law Number 17 of 2023 concerning Health defines terminally ill patients based on their incurable disease and the need for palliative care, without stating the loss of decision-making capacity. The provisions of Article 895, Article 1320, and Article 1330 of the Civil Code emphasize that legal capacity is determined by mental capacity and legal status, not merely physical condition. This is reinforced by Article 45 of Law Number 29 of 2004 concerning Medical Practice and Articles 351, 353, and 356 of Law Number 17 of 2023, which place informed consent, the right to information, and consent in a conscious and uncoerced state as objective indicators of decision-making capacity. Within this framework, a normative recommendation that can be drawn is the need for operational guidelines formulated jointly by lawmakers, notary professional organizations, and health authorities to regulate the mechanism for verifying the capacity of terminally ill patients, including the involvement of medical personnel in assessing the awareness and ability to understand information as a basis for the notary's considerations before the deed is ratified.

If a terminally ill patient's will is not prepared in accordance with formal, material, and administrative requirements, the legal consequences may include the deed losing its authenticity, being null and void, or being revoked. Violations of the formal requirements stipulated in Articles 938–940 and Article 1868 of the Civil Code result in the deed losing its evidentiary force, while material defects in the elements of agreement and capacity as stipulated in Article 1320 of the Civil Code raise the possibility of its being null and void. On the other hand, administrative negligence, such as failure to comply with electronic reporting requirements under Regulation of the Minister of Law and Human Rights Number 60 of 2016, weakens the legitimacy of deed registration and increases the potential for disputes between heirs. Implementing clear capacity verification guidelines integrated with medical assessments is expected to reduce legal disputes regarding the validity of wills, strengthen legal certainty, and increase public trust in the legal system and the notary profession. Thus, the alignment between the Civil Code, the Notary Law, and the Health Law not only maintains the formal validity of deeds but also serves as a substantive legal protection instrument for terminally ill patients, their heirs, and notaries as public officials.

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