

The Legal Construction of Guardianship in Relation to the Temporary Suspension of Notaries: An Analysis of Article 9 Paragraph (1) Letter b of Law Number 2 of 2014

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Abstract

Ideally, the regulation of guardianship in Article 9 paragraph (1) letter b of Law Number 2 of 2014 concerning the Position of Notaries is designed to ensure that notaries possess adequate mental and professional capacity before performing their duties or being temporarily suspended. However, in reality, a normative gap exists: the definition of guardianship still relies on classical civil law, independent medical verification guidelines are absent, and administrative procedures are often subjective, risking violations of administrative justice principles. This study aims to analyze the legal construction of guardianship and to formulate a new interpretative model that integrates legal perspectives, administrative practices, and evidence-based decision medical verification. The study employs a qualitative library research methodology. Primary sources include the Notary Law, Civil Code, and legal doctrines, while secondary sources consist of scientific journals, policy reports, and contemporary psychiatric literature. Data analysis was conducted through content analysis and comparative methods, validated using literature triangulation. The findings suggest that guardianship should be assessed based on contextual functional capacity rather than normative status, allowing temporary suspension to be applied fairly, proportionally, and based on evidence, thereby enhancing the legitimacy of the Notary Law and protecting the notary profession.

Keywords: Guardianship, Functional Capacity, Administrative Justice.

Abstrak:

Idealnya, pengaturan pengampunan dalam Pasal 9 ayat (1) huruf b Undang-Undang Nomor 2 Tahun 2014 tentang Jabatan Notaris dirancang untuk memastikan notaris memiliki kapasitas mental dan profesional yang memadai sebelum menjalankan atau diberhentikan sementara dari jabatannya. Namun, realitas menunjukkan adanya *normative gap*: definisi pengampunan masih bersandar pada hukum perdata klasik, pedoman verifikasi medis independen belum tersedia, dan prosedur administratif sering bersifat subjektif, berisiko melanggar prinsip *administrative justice*. Penelitian ini bertujuan menganalisis konstruksi hukum pengampunan serta merumuskan model interpretasi baru yang mengintegrasikan perspektif hukum, praktik administrasi, dan verifikasi medis berbasis bukti (*evidence-based decision*). Metodologi yang digunakan adalah penelitian pustaka (*library research*) dengan pendekatan kualitatif. Sumber primer terdiri atas UUJN, KUH Perdata, dan doktrin hukum, sementara sumber sekunder meliputi jurnal ilmiah, laporan kebijakan, dan literatur psikiatri modern. Analisis dilakukan melalui metode *content analysis* dan komparatif, serta divalidasi melalui triangulasi literatur. Hasil penelitian menunjukkan bahwa pengampunan sebaiknya dievaluasi berdasarkan *functional capacity* kontekstual, bukan status normatif, sehingga pemberhentian sementara dapat diterapkan secara adil, proporsional, dan berbasis bukti, memperkuat legitimasi UUJN dan perlindungan profesi notaris.

Kata kunci: *Pengampunan, Functional Capacity, Administrative Justice.*

Introduction

In the national legal system, notaries occupy a strategic position as public officials authorized by the state to draft authentic deeds, which carry full evidentiary power and legal binding effect. The presence of notaries constitutes a crucial element in ensuring legal certainty, order, and protection for the public, particularly in civil law transactions. Accordingly, the role of a notary requires not only technical competence in law but also moral integrity, professional diligence, and mental as well as intellectual stability in exercising the public authority entrusted by the state. To maintain the quality and legitimacy of this office, the Notary Position Law (UUJN) regulates mechanisms for supervision, guidance, and dismissal of notaries as part of the accountability system for public office. One of the control instruments stipulated in the law is the provision regarding temporary suspension, intended as a preventive measure to safeguard public interests while preserving the dignity of the notarial profession.

One of the grounds for the temporary suspension of a notary, as provided in Article 9 Paragraph (1) Letter b of the UUJN, is the condition of being “under guardianship.” This provision aims to ensure that notaries executing their duties possess adequate legal competence and mental capacity. However, the concept of guardianship applied in the UUJN still refers to the classical construction in the Indonesian Civil Code (KUH Perdata), which interprets legal incapacity in a

categorical and static manner, such as in cases of mental disorders, idiocy, or prodigality. This approach lacks operational definitions, assessment standards, and clear mechanisms for medical verification. Consequently, the application of the guardianship norm in notarial administration potentially creates ambiguity, both in legal interpretation and in implementation by supervising authorities.

Ideally, the regulation of guardianship as a basis for temporary suspension is intended to protect public interests by ensuring that only legally and mentally competent notaries exercise state authority. In practice, however, this provision faces significant challenges due to its misalignment with advancements in medical understanding and modern legal capacity theory. Contemporary psychiatry views mental disorders as fluctuating, treatable conditions that do not necessarily eliminate an individual's ability to make professional decisions. In the context of modern law, assessments of competence emphasize the capacity to decide at the moment a decision is required, rather than relying solely on a permanent legal status. When a static concept of guardianship is used as a basis for administrative action with serious implications for a notary's office, without independent medical verification and evaluation of functional capacity, there is a risk of overgeneralization and injustice. This renders Article 9 Paragraph (1) Letter b of the UUJN problematic, as it may contravene the principles of due diligence, proportionality, and protection of office rights under administrative law. The tension between normative ideality and implementation reality constitutes the central issue of this study.

Based on these challenges, this study aims to critically analyze the legal construction of guardianship in Article 9 Paragraph (1) Letter b of the UUJN and assess its conformity with the principles of modern legal capacity. Furthermore, the study seeks to formulate a new interpretative model that integrates perspectives from civil law, administrative law, and independent medical verification mechanisms in the application of temporary suspension of notaries. The contribution of this research lies in providing a conceptual framework that is more equitable, proportional, and evidence-based in evaluating the professional competence of notaries. Consequently, the study not only enriches the academic discourse on notarial law but also offers normative-operational recommendations relevant to strengthening the protection of the notarial profession while safeguarding public interests in legal practice in Indonesia.

Literature Review

Studies on the legal construction of guardianship in relation to the temporary suspension of notaries have attracted the attention of legal scholars, particularly in the context of enforcing the Notary Position Law and safeguarding the notarial profession as a public office. Various studies have been published adopting normative, empirical, and conceptual approaches. Nevertheless, most of these studies still treat guardianship as a formal and static legal concept, without fully linking it to the dynamics of professional capacity of notaries or the developments in modern medico-legal understanding. As a result, issues of guardianship are often interpreted textually, without considering the accompanying humanistic and administrative implications.

Chairil Lailia Maharani et al., in the article “Guardianship as a Basis for Temporary Dismissal from the Notary Office”, examine guardianship as a normative foundation for the temporary suspension of notaries through a normative juridical approach. This study asserts that a guardianship status renders a notary legally incapable of performing acts, thus conceptually opening the possibility for temporary suspension. The findings indicate that the UUJN still relies on the classical paradigm of legal incapacity (Maharani et al., 2022a). The similarity with the present study lies in the focus on guardianship as a basis for temporary suspension. However, the difference is in the depth of analysis, as the previous study does not critically examine the relevance of the classical guardianship concept to the dynamic and contextual professional capacity of notaries.

Muhammad Zaki and Saidin Saidin, in “Legal Protection and Law Assistance to Notaries as a Public Official in Indonesia”, address the legal protection of notaries as public officials vulnerable to legal and administrative actions. Using a normative-conceptual approach, this study emphasizes the urgency of legal protection to prevent notaries from being subjected to disproportionate sanctions. The findings reveal that Indonesia’s legal protection system for notaries remains fragmented and does not fully guarantee procedural justice (Zaki & Saidin, 2024). The similarity with the present study is the concern for protecting notaries’ rights in the face of administrative actions. The difference, however, is that this study does not specifically discuss guardianship as a basis for temporary suspension, nor does it link professional protection to mental capacity or guardianship assessment.

Shintia Latifa et al., in “Law Enforcement Against Notaries Violating the Notary Position Law (Case Study in Padang City)”, explore law enforcement practices against notaries using an empirical approach. This study provides concrete insights into the application of administrative sanctions, including temporary suspension, and the role of notary supervisory bodies at the local level. Findings show that the implementation of sanctions is often influenced by institutional interpretation and is not fully uniform (Latifa et al., 2025). The similarity with the present study lies in the discussion of temporary suspension as a notarial administrative instrument. The difference is that this study does not position guardianship as the focus of analysis and does not link the practice of temporary suspension to issues of legal capacity in a conceptual manner.

In contrast, Hisyam Ikhtiar Mulia et al., in the international article “Assessment of the Guardianship System for Persons with Psychosocial Disability in Indonesia”, offer a profound critique of the guardianship system in Indonesia from the perspective of legal capacity and human rights. The study demonstrates that the national guardianship system is still oriented toward substitute decision-making and tends to completely negate an individual’s legal capacity (Mulia et al., 2024). This study is relevant to the present research because it similarly critiques the classical guardianship concept. However, it does not specifically relate guardianship to the notary profession or its implications for administrative law practices in notarial administration.

Based on the literature review, it is evident that previous studies have examined guardianship, temporary suspension of notaries, and professional protection within separate scopes. No study has yet integratively linked Article 9

Paragraph (1) Letter b of the UUJN, the concept of guardianship in civil law, and modern understanding of functional legal capacity. Meanwhile, notarial administrative practice requires a more sensitive approach to humanistic, professional, and procedural justice dimensions. Consequently, the research gap lies in the absence of a comprehensive study that reconstructs the guardianship concept in the context of temporary suspension of notaries.

This study aims not only to fill this gap but also to offer a novel, adaptive, and humanistic perspective by integrating civil law, administrative law, and contemporary medico-legal thought. The novelty of this research lies in the conceptual reconstruction of guardianship in Article 9 Paragraph (1) Letter b of the UUJN, shifting the paradigm from absolute incapacity toward a functional legal capacity approach grounded in modern medico-legal evidence. Unlike prior studies that treated guardianship as a static legal status automatically resulting in temporary suspension, this study emphasizes that a notary's professional competence should be assessed contextually, task-specifically, and based on scientific evidence, rather than solely on legal labels or psychiatric diagnoses.

This novelty is further strengthened by integrating perspectives from notarial law, administrative law, and modern psychiatry, producing a new interpretative model that clearly distinguishes between disability (existence of a medical condition) and incapacity (inability to perform professional functions). With this approach, the study not only fills a conceptual gap in the notarial law literature but also provides a more equitable, proportional, and practically relevant normative-operational framework for the temporary suspension of notaries in Indonesia, thereby offering significant theoretical and practical contributions to the development of contemporary notarial law.

Research Methodology

This study is a qualitative research employing a library research approach, emphasizing an in-depth analysis of legal norms, academic literature, and documents related to guardianship and the temporary suspension of notaries. The methodology used is normative-descriptive legal research, aiming to examine the substance of Article 9 Paragraph (1) Letter b of the UUJN, assess its relevance to the principles of modern legal capacity, and identify normative and implementation gaps in the available literature. Analysis was conducted thematically and comparatively, linking developments in legal theory, notarial administrative practices, and contemporary psychiatric concepts to construct a coherent, evidence-based framework.

Primary sources for this study include legislation, government regulations, and official documents concerning supervision and temporary suspension of notaries. Secondary sources comprise journal articles, academic books, research reports, and scientific publications related to notarial law, administrative law, and modern psychiatry. Data analysis was carried out through literature synthesis and normative interpretation, while data validation and reliability were ensured through literature triangulation, citation verification, and cross-referencing with official documents. The drafting process followed a systematic sequence, beginning with literature collection, identification of legal and practical issues, critical

analysis of norms and practices, and culminating in the formulation of a legal construction of guardianship relevant to the needs of the contemporary notarial profession.

Guardianship and Temporary Suspension of Notaries from the Perspective of Civil Law

Guardianship is a classical institution in civil law aimed at providing legal protection to adults deemed legally incapable of performing certain legal acts. In the continental civil law tradition, guardianship is positioned as a corrective mechanism for the inability of legal subjects to independently manage their personal and legal interests (Shalihah, 2023). Normatively, guardianship is intended as an instrument of legal protection for individuals, not as a form of sanction or social stigma (Mulia et al., 2024). However, when this concept is adopted into the public office regime, including the notary profession, conceptual and practical issues emerge that are far from straightforward.

In the Indonesian legal context, guardianship is explicitly regulated in the Civil Code (*Burgerlijk Wetboek*), particularly concerning adults who experience mental disorders, extreme prodigality, or other conditions causing legal incapacity. This conception originates from a classical paradigm that views legal capacity as binary: a person is either capable or incapable (Temporary Suspension of a Notary Due to Guardianship, 2019). Such an approach is inherently general and personal, meaning that guardianship attaches to the legal subject, rather than to the function or office held by the individual.

Problems arise when guardianship status becomes the normative basis for the temporary suspension of notaries, as regulated in Article 9 Paragraph (1) Letter b of Law Number 2 of 2014 on the Notary Position. This provision implicitly links a notary's private civil status with the continuity of the public office they hold. Here, the meaning of guardianship shifts from a personal protective instrument to an administrative basis directly affecting the office. This shift raises fundamental questions regarding the compatibility of civil law logic with the needs of notarial administrative law (Maharani et al., 2022). Theoretically, a notary's office is a public trust office requiring legal competence, moral integrity, and professional expertise. However, the office is not entirely identical with the notary as an individual. Modern administrative law recognizes the distinction between personal capacity and functional capacity (Polii, 2019). While civil law assesses general legal competence, office law should evaluate capacity in the context of performing concrete official functions.

The absence of a clear distinction between personal incapacity and functional incapacity generates practical problems. Guardianship status, which may be partial or temporary, automatically triggers temporary suspension without adequate functional evaluation. Not all conditions underlying guardianship necessarily impair a notary's ability to perform professional duties. This situation creates the potential for substantive injustice for the affected notary. From a civil law perspective, guardianship is fundamentally protective and restorative, aimed at safeguarding the interests of the ward against harm due to certain limitations (Maharani et al., 2022b). However, when guardianship is transformed into a basis

for office suspension, its protective nature shifts to a repressive function. Guardianship no longer merely protects the individual but becomes an administrative tool potentially undermining professional rights and the dignity of the notary office.

Moreover, Polii (2019) highlights that this regulation raises issues of legal certainty. Article 9 Paragraph (1) Letter b of the Notary Position Law does not clarify the scope, level, or duration of guardianship relevant for temporary suspension. The vagueness of this norm opens broad interpretive space for supervisory authorities, potentially resulting in inconsistent and subjective practices. In a constitutional state (*rechtsstaat*), such conditions are clearly problematic (Ariwangsa & Yustiawan, 2024). Furthermore, developments in modern science, particularly psychiatry and forensic psychology, have introduced functional capacity assessment approaches that are more contextual and proportional. This approach evaluates an individual's ability based on specific functions performed rather than solely on general civil status. Unfortunately, this approach has not been adequately integrated into Indonesia's civil law framework, especially concerning the notary office.

The absence of a functional approach results in civil law and office law operating in parallel without sufficient conceptual dialogue. Consequently, guardianship norms, which should be flexible and contextual, are applied rigidly in the temporary suspension regime. This condition not only impacts individual notaries but also affects public trust in the notarial institution as a whole. In practice, temporary suspension of notaries due to guardianship is often carried out based on formalistic administrative approaches, without in-depth assessment of the notary's actual capacity to perform duties. This may violate the principles of due care and proportionality that should underpin administrative decision-making, thus touching on ethical and professional justice dimensions (Yuswanti & Santiago, 2024).

From a contemporary civil law perspective, a reinterpretation of guardianship is necessary to align it with the dynamics of modern public office. Guardianship should not be understood as an absolute status nullifying all legal capacity, but as a condition that can be limited, situational, and subject to periodic evaluation. This reinterpretation is essential to prevent civil law from becoming a disproportionately restrictive instrument on a notary's professional rights. Guardianship and temporary suspension of notaries must be placed within a more just and rational framework linking civil law and office law. Without this renewed perspective, Article 9 Paragraph (1) Letter b of the Notary Position Law risks continuing to generate tensions between individual protection, legal certainty, and professional justice, highlighting the urgency of critical reading and conceptual reconstruction in addressing contemporary notarial practice.

Ambiguity of Guardianship and Functional Capacity in Notarial Practice

The provisions on guardianship in Article 9 Paragraph (1) Letter b of Law Number 2 of 2014 on the Notary Position reveal fundamental issues at both normative and implementation levels. The norm does not provide technical guidance regarding the authority responsible for determining guardianship status,

the verification mechanisms to be followed, or the medico-legal parameters used as a basis for assessment (Dento, 2025). This regulatory gap renders the norm open to multiple interpretations, making its implementation highly dependent on the discretion of supervisory officials. Reliance on subjective judgment risks shifting the legal function from an instrument of certainty to an unmeasurable and difficult-to-account administrative tool. Normatively, the concept of guardianship in the Notary Position Law still stems from the classical construction in the Civil Code (Burgerlijk Wetboek). This construction links legal incapacity to general categories such as “insane,” “idiot,” or “prodigal,” which were formulated without the foundation of modern medical approaches. Subekti emphasizes that these categories are overly general and do not reflect the complexity of human mental conditions (Yunari, 2019). Consequently, the incapacity concept adopted in the Notary Position Law can be understood as a legacy concept that has not undergone substantial renewal.

The problem becomes increasingly complex when the classical guardianship concept is confronted with developments in modern psychiatry. From a contemporary psychiatric perspective, mental disorders are not viewed as absolute or permanent conditions; rather, they are fluctuating, temporal, and in many cases can be stabilized through therapy or medical intervention (Temporary Suspension of a Notary Due to Guardianship, 2019). Therefore, a mental disorder diagnosis cannot automatically be used as a basis to conclude a professional incapacity, including in carrying out the duties of a notary, which require precision and high responsibility. The misalignment between legal norms and medical approaches produces conceptual ambiguity, risking overgeneralization—equating medical conditions with professional incapacity. In notarial administration practice, Tumundo (2021) explains that this ambiguity may lead to the temporary suspension of notaries who are still functionally competent, without strong medico-legal grounds. This situation not only generates legal uncertainty but also creates the potential for disproportionate administrative actions that may conflict with the principles of due care and proportionality in administrative law.

Modern legal thought emphasizes that legal capacity should no longer be measured solely by the presence of mental disorder diagnoses. Contemporary psychiatry stresses functional capacity assessment—evaluating an individual’s actual ability to comprehend information, weigh consequences, and communicate decisions relevant to specific legal or professional actions. This approach fundamentally differs from the classical onbekwaamheid construction in civil law, which views incapacity as permanent and all-encompassing (Zaki & Saidin, 2024). The medico-legal perspective has gained academic and judicial legitimacy in proceedings before the Constitutional Court of Indonesia when reviewing Article 8 Paragraph (1) Letter b of the Notary Position Law. In these proceedings, psychiatric experts testified that non-physical cognitive abilities—such as working memory, precision, comprehension, logical accuracy, and professional judgment—can remain stable or even improve with work experience (Najmuddin, 2025). This statement underscores that professional capacity cannot be reduced to age or physical condition alone but must be assessed based on actual abilities relevant to the performance of office.

Empirical findings further support the functional capacity approach. Many notaries aged 65 to 75 have been shown to perform their duties competently without significant decline in professional capacity (Najmuddin, 2025). This evidence indicates that chronological age is not a reliable indicator for evaluating professional competence. Consequently, functional capacity is a more accurate measure than guardianship status grounded in the static paradigm of classical civil law. The tension between unadaptive legal norms and evidence-based medical developments creates a serious gap in notarial administrative practice. Article 9 Paragraph (1) Letter b of the Notary Position Law is still premised on the assumption that a person “under guardianship” is automatically incapable of performing legal acts. This assumption contradicts scientific realities showing that mental capacity is dynamic and must be assessed contextually. As a result, the norm is prone to producing unjust administrative practices that neglect substantive justice (Yunari, 2019).

This ambiguity is compounded by the absence of operational guidelines detailing the procedures for temporary suspension of notaries. Studies indicate that notaries under guardianship are considered legally incapable (Maharani et al., 2022b); however, these studies do not specify medico-legal standards, competent assessment institutions, or mechanisms for reinstatement if the notary’s condition improves. This gap expands uncontrolled administrative discretion. Reports from the National Legal Development Agency (BPHN) confirm that several Regional Offices of the Ministry of Law and Human Rights have implemented direct temporary suspensions, including the mandatory surrender of protocols, without objective independent medical examination. To date, there is no national standard for medical examination prior to guardianship determination. This situation demonstrates a serious gap between norms and practice and risks violating the right to be heard and due care principles.

This analysis highlights that guardianship issues are not merely normative but also concern administrative governance. Without standardized technical guidance grounded in medical science, temporary suspension practices will continue to depend on regional policies, potentially creating inconsistent law enforcement and weakening the principle of equality before the law. Therefore, this study emphasizes the urgency of reformulating the concept of guardianship in the Notary Position Law to align with modern legal capacity principles. The reformulation must clearly distinguish between disability (the presence of a medical condition) and incapacity (the inability to perform professional functions). Under this approach, temporary suspension of notaries should occur only when professional capacity is genuinely impaired, ensuring that the law guarantees not only certainty but also humanistic and evidence-based justice.

Implications of Guardianship for Professional Protection and Legal Reconstruction of the Notary Office

The findings of this study indicate that the absence of operational guidelines in the application of Article 9 Paragraph (1) Letter b of the Notary Position Law not only affects the technical aspects of temporary suspension but also has serious implications for fundamental principles of administrative law.

Without standardized procedures regulating medical verification and mechanisms for determining guardianship status, administrative actions risk losing their basis of objectivity. This situation shifts the legal function from an instrument of certainty to discretionary practices that are difficult to measure and justify, both legally and ethically. The lack of objective and independent medical verification renders decisions regarding temporary suspension highly susceptible to violations of the principle of due care (*zorgvuldigheid*). This principle obligates public administration to act based on thorough, careful examination grounded in valid evidence. In the context of notarial guardianship, due care requires comprehensive medico-legal assessment before an administrative decision is made. In the absence of such assessment, temporary suspension may be premature and fail to reflect the factual condition of the notary (Archqueta, 2024).

Moreover, temporary suspensions implemented without consideration of the fluctuating nature of psychiatric conditions and without evaluation of a notary's functional capacity risk violating the principle of proportionality. This principle demands that administrative actions be balanced in relation to the severity and nature of the issue at hand. When medical conditions are not objectively verified but are used as a basis to restrict office rights, the administrative action is disproportionate to the unverified factual circumstances (Yumna & Badriyah, 2025). This highlights a tension between the goal of public protection and the protection of professional rights. The problem is further compounded by the absence of a right to be heard or appeal procedure prior to the imposition of temporary suspension. Field findings reveal that notaries have been temporarily suspended based solely on unilateral claims regarding mental condition, without independent medical verification or opportunity for clarification by the concerned party. This practice poses serious risks to professional protection, as notaries lose the right to perform their duties and are required to surrender protocols before objective assessment of functional competence (Lubis et al., 2025).

Policy research on notarial administration also indicates that, to date, no national standard exists regarding medical examination as a prerequisite for determining guardianship status. The absence of such a standard results in variations in implementation across regions, creating potential for inconsistent or even discriminatory administrative actions. The impact is felt not only by notaries as office holders but also by the broader public, which relies on the continuity of notarial services as part of public legal service (Zaki & Saidin, 2024). From an academic perspective, studies integrating notarial law, administrative law, and modern psychiatry remain relatively limited. Most research emphasizes procedural norms or professional ethics without examining mental capacity functionally in the context of notarial duties. Developments in modern psychiatry have shifted the incapacity paradigm from a diagnosis-based approach to the concept of functional mental capacity—an assessment of ability based on actual capacity to understand, consider, and communicate specific legal decisions (Turner-Stokes et al., 2024). Psychiatric disorders are inherently fluctuating and situational, necessitating contextual (situational) capacity assessment rather than reliance on fixed categories as in classical law. These findings align with

international studies emphasizing that professional capacity assessment should be task-specific rather than diagnosis-specific (Moynihan et al., 2018).

The gap between advances in psychiatry and the still-formalistic legal approach reveals a significant research gap in Indonesian notarial literature. Field studies indicate that guardianship is still understood statically, so the status “under guardianship” is often automatically used as the basis for temporary suspension, even in the absence of independent medical assessment. In contrast, modern psychiatry emphasizes dynamic, time-specific, and decision-specific capacity assessments, which may allow individuals to remain competent in performing certain professional functions (Lubis et al., 2025). This situation underscores the need for a paradigm shift from a status-based approach to a capacity-based approach. The law should no longer rely solely on medical labels or civil status but must accommodate assessments based on the actual functional capacity of the office. Without this shift, administrative actions in notarial practice risk remaining in tension between legal certainty and substantive justice.

Based on these findings, this study proposes a new, adaptive, evidence-based legal framework. The model includes three main elements: an independent medico-legal criterion that can be objectively verified, capacity assessment based on the context of professional decision-making (capacity to decide), and a balance between public interest protection and safeguarding professional rights. With this approach, temporary suspension is no longer repressive but functions as a protective mechanism that is fair, proportional, and aligned with modern psychiatric principles and the substantive justice principles of administrative law.

Conclusion

The analysis of Article 9 Paragraph (1) Letter b of Law Number 2 of 2014 on the Notary Position reveals a significant normative gap between the formal legal provisions on guardianship and the administrative practice of temporary suspension of notaries. The definition of guardianship, still anchored in classical civil law constructions, fails to capture the dynamics of contemporary professional capacity, while the absence of independent medical verification guidelines leaves room for subjective interpretation. This ambiguity potentially generates legal uncertainty, undermines the principles of administrative justice, and affects the protection of professional rights for notaries who remain functionally competent. In other words, temporary suspensions are often carried out in an overgeneralized manner, without evidence-based decision-making, thereby placing the legitimacy of administrative actions at risk of being questioned.

This study emphasizes the necessity of reconstructing the legal concept of guardianship by integrating civil law, administrative law, and modern psychiatry perspectives to develop a temporary suspension mechanism that is fair, proportional, and evidence-based. The proposed new interpretive model of Article 9 Paragraph (1) Letter b of the Notary Position Law should prioritize contextual and scientifically verified assessment of functional capacity, while simultaneously balancing the protection of notaries’ professional rights with the public interest. Through this approach, guardianship is no longer merely a static or normative legal instrument but becomes a mechanism that supports administrative justice,

evidence-based decision-making, and the legitimacy of the Notary Position Law in contemporary notarial practice. Consequently, the contribution of this study highlights normative innovation while enriching the literature on modern notarial law.

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