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Criminalizing JKN Fraud as a White-Collar Crime: Regulatory Reform and Forensic Audit Framework

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Abstract

National Health Insurance (JKN) fraud causes substantial financial losses, erodes public trust, and threatens the sustainability of Indonesia's healthcare system. This study examines the legal gap between the complexity of JKN fraud and the limitations of the existing criminal law framework using doctrinal legal research with statutory, conceptual, and comparative approaches. Comparative analysis focuses on the National Health Care Anti-Fraud Association (NHCAA) in the United States and the Health Insurance Counter Fraud Group (HICFG) in the United Kingdom. The findings indicate that the current legal framework is inadequate to address the systemic and technology-enabled nature of JKN fraud. Although forensic audits supported by big data analytics enhance fraud detection and investigation, their findings rarely progress beyond administrative enforcement because sector-specific criminal provisions are lacking. This study proposes reforming the SJSN and BPJS Laws by introducing lex specialis *provisions on JKN fraud, expanding corporate criminal liability, and strengthening the legal framework for forensic audits. These reforms would improve law enforcement and support the long-term sustainability of the JKN program..*

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A. Introduction

Universal Health Coverage (UHC) is a key target of the 2030 Sustainable Development Goals (SDGs)[1] and aligns with the constitutional rights guaranteed under Article 28H(1) and Article 34(3) of the 1945 Constitution of Indonesia. BPJS Kesehatan administers the National Health Insurance (JKN) program pursuant to Law No. 40 of 2004 on the National Social Security System and Law No. 24 of 2011 on BPJS. As of 31 March 2025, JKN covered 279.5 million people, representing approximately 98.3% of Indonesia's population.[2]

Despite this achievement, fraudulent practices continue to threaten the integrity and financial sustainability of JKN, undermining the broader objective of UHC. Minister of Health Regulation No. 16 of 2019 defines fraud as an intentional act committed to obtain financial benefits from the National Social Security System's health insurance program through deceptive conduct prohibited by law. Fraud in JKN extends beyond an administrative violation. It constitutes a criminal offence that erodes public trust, causes financial losses to the state, and jeopardises the sustainability of healthcare financing. However, neither Law No. 40 of 2004 nor Law No. 24 of 2011 expressly regulates healthcare fraud. Instead, fraud cases are prosecuted under the Indonesian Criminal Code (KUHP), which lacks specific mechanisms for recovering state losses and preventing repeat offences.

Several countries have addressed healthcare fraud by establishing coordinated, cross-institutional detection and prevention systems. Examples include the Health Insurance Counter Fraud Group (HICFG) in the United Kingdom and the National Health Care Anti-Fraud Association (NHCAA) in the United States. By contrast, Indonesia has yet to develop an effective and systematic framework for detecting and preventing healthcare fraud. This deficiency hinders oversight of healthcare services and funding, despite the significant and persistent risk of fraud within the JKN system.

The SJSN Law and the BPJS Law primarily impose administrative sanctions, including written warnings, fines, claim cancellations, refunds, and the denial of certain public services. The SJSN Law contains no criminal provisions. Although Chapter XV of the BPJS Law establishes criminal sanctions, these apply only to violations of contribution payment obligations by members of the supervisory board, directors, and employers. Neither law explicitly criminalises fraud within the JKN program.

This regulatory gap fails to address the increasingly sophisticated nature of JKN fraud and weakens its deterrent effect, as most cases are resolved through administrative sanctions alone. Regulatory reform is therefore necessary. This should include introducing a dedicated chapter on criminal offences in the SJSN Law and expanding the scope of criminal provisions in the BPJS Law. Such reforms would recognise JKN fraud as a systemic threat, establish corporate criminal liability, and strengthen cross-agency coordination in enforcing criminal law against health insurance fraud.

Previous studies on JKN fraud have primarily examined administrative billing errors, healthcare management optimisation, and digital detection systems. However, limited attention has been given to JKN fraud from a criminal law perspective, particularly the inadequacy of

[1] United Nations, "Take Action for the Sustainable Development Goals," United Nations, n.d., accessed July 15, 2025, https://www.un.org/sustainabledevelopment/sustainable-development-goals/.

[2] Kementerian Keuangan Republik Indonesia, "JKN Sebagai Pilar Perlindungan Kesehatan Nasional: Capaian, Kepesertaan, Dan Realisasi Klaim Hingga Maret 2025," Kementerian Keuangan Republik Indonesia, May 15, 2025, https://anggaran.kemenkeu.go.id/in/post/jkn-sebagai-pilar-perlindungan-kesehatan-nasional-capaian-kepesertaan-dan-realisasi-klaim-hingga-maret-2025.

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sectoral regulations[3][4][5]. This study addresses that gap by conceptualising JKN fraud as a form of white-collar crime and proposing a strategic framework that integrates corporate criminal liability with a forensic audit model adjusted to Indonesia's social security system. It contributes to the literature by offering policymakers a roadmap for implementing corporate criminal liability and asset recovery mechanisms to strengthen the financial integrity of the National Health Insurance system and protect the constitutional right to healthcare for Indonesia's 279.5 million JKN participants.

This doctrinal research examines the legal rules governing a particular area of law, analyzes the relationships among those rules, clarifies areas of legal uncertainty, and identifies potential future developments.[6] The study adopts three complementary approaches: statutory, conceptual, and comparative. The legal materials consist of primary sources, including the 1945 Constitution, Law No. 40 of 2004 on the National Social Security System (SJSN), Law No. 24 of 2011 on the Social Security Administering Bodies (BPJS), and relevant provisions of the Indonesian Criminal Code (KUHP); secondary sources, including textbooks, peer-reviewed international journals, and official reports; and tertiary sources, including legal dictionaries. These materials were collected through comprehensive library research and online document searches to ensure a current and reliable body of legal sources.

The analysis employed qualitative descriptive methods with deductive reasoning, applying general legal principles to assess the absence of sector-specific criminal provisions. The comparative analysis used a functional approach by examining the National Health Care Anti-Fraud Association (NHCAA) in the United States and the Health Insurance Counter Fraud Group (HICFG) in the United Kingdom to identify institutional best practices that may inform Indonesia's anti-fraud regulatory framework.

B. Discussion

1. Profile and Typology of Fraud in the Implementation of the National Health Insurance Program: Frequent Modes of JKN Fraud

Article 1(1) of Minister of Health Regulation No. 16 of 2019 on the Prevention and Handling of Fraud and the Imposition of Administrative Sanctions in the Implementation of the National Health Insurance Program defines fraud as any intentional act committed to obtain financial gain from the National Health Insurance program through deceptive conduct that violates applicable laws and regulations. Article 1(2) defines health insurance as a form of health protection that enables participants to receive healthcare benefits and financial security to meet their basic health needs.[7] Coverage is provided to individuals who pay health insurance contributions or whose contributions are financed by the central or regional government.

The Fraud Tree theory developed by the Association of Certified Fraud Examiners (ACFE) classifies the primary drivers of fraud into three components: non-shareable financial needs, perceived opportunities, and rationalization. When applied in the context of JKN implementation in Indonesia, these three elements have high relevance, namely:

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[3] Anvika Taufik et al., "Analisis Implementasi Mekanisme Pengendalian Mutu Dan Pencegahan Fraud Dalam Pelaksanaan Program Jaminan Kesehatan Nasional (JKN) Di Indonesia (Periode 2020-2025) : Tinjauan Literatur," *Jurnal Administrasi Rumah Sakit* 3, no. 1 (2026): 1–9, https://doi.org/https://doi.org/10.52741/ars.v3i1.128.

[4] Safirina Aulia Rahmi et al., "Analisis Strategi Manajemen Klaim Dalam Menekan Risiko Fraud Asuransi Kesehatan: Analisis Systematic Literature Review," *Jurnal Manajemen Informasi Dan Administrasi Kesehatan* 8, no. 2 (2025): 104–11, https://doi.org/https://doi.org/10.32585/jmiak.v8i2.7082.

[5] Hanif Noer Rofiq, "Deteksi Inefisiensi Pada Klaim BPJS Kesehatan Dengan Menggunakan Machine Learning," *Jurnal Jaminan Kesehatan Nasional* (Jakarta) 3, no. 1 (2023): 83–98, https://doi.org/https://doi.org/10.53756/jjkn.v3i1.134.

[6] Terry Hutchinson, *Researching and Writing in Law*, 4th ed. (Thomson Reuters, 2018).

[7] Association of Certified Fraud Examiners, "Fraud 101: What Is Fraud?," Association of Certified Fraud Examiners, n.d., https://www.acfe.com/fraud-resources/fraud-101-what-is-fraud.

a. Unshareable Financial Need

Some healthcare workers receive inadequate compensation or face financial obligations that exceed their income. Others may have lifestyles or financial commitments that are disproportionate to their earnings. In addition, hospital owners or shareholders may prioritize financial performance and pressure employees to engage in fraudulent practices to increase revenue.

b. Perceived opportunity

Fraud is more likely to occur when internal controls are weak. Effective prevention requires clear operational procedures, early fraud detection mechanisms, and continuous supervision. Although hospitals are expected to establish anti-fraud units to support oversight of JKN claims, these units often lack independence because they operate within the hospital's organizational structure. This conflict of interest may undermine their effectiveness, particularly when fraud benefits the institution itself. Moreover, hospitals often seek to resolve suspected fraud internally to avoid reputational damage. BPJS Kesehatan also has limited direct oversight of hospital-based claims processing, creating additional opportunities for fraudulent conduct.

c. Rationalisation

Rationalization enables perpetrators to justify fraudulent conduct despite recognizing that it is unlawful. Individuals may perceive fraud as an acceptable or common practice because of financial pressures or institutional norms. For example, some hospitals justify charging JKN patients additional fees by claiming that BPJS reimbursements are insufficient to cover the actual cost of healthcare services.

These three elements demonstrate that fraud arises from the interaction of internal and external factors. Internal factors include the perpetrator's financial motivations and rationalizations, while external factors include weak governance and inadequate oversight. Low wages, pressure to maximize hospital profits, ineffective internal controls, and the normalization of unethical practices all contribute to fraud within the JKN system. These conditions indicate that JKN fraud is not merely a technical issue but a structural problem requiring coordinated cross-sectoral responses and stronger regulatory oversight.

According to the National Health Care Anti-Fraud Association (NHCAA), common forms of healthcare fraud include:

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According to the National Health Care Anti-Fraud Association (NHCAA), common forms of healthcare fraud include[8]:

a. Billing for services, procedures, or medical supplies that were never provided.
b. Intentionally misrepresenting information to obtain reimbursement, or a higher reimbursement, than legally permitted. This includes falsifying the nature of services or procedures, dates of treatment, medical records, diagnoses, charges, or the identity of the healthcare provider or patient.
c. Deliberately providing medically unnecessary services to obtain financial gain.

[8] National Health Care Anti-Fraud Association, *Consumer Information* (National Health Care Anti-Fraud Association, n.d.), accessed June 30, 2025, https://www.nhcaa.org/general-public/consumer-information/.

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Fraud in the healthcare sector is a multidimensional problem that is also evident in Indonesia's National Health Insurance (JKN) program.[9] According to the Corruption Eradication Commission, phantom billing by healthcare facilities remains one of the most difficult forms of fraud to detect. Other common schemes include manipulation of participant data and the provision of unnecessary medical treatments and prescriptions.[10]

The Occupational Fraud 2024 report by the Association of Certified Fraud Examiners (ACFE) estimated the global median loss per fraud case at USD 145,000.[11] In Indonesia, healthcare fraud was estimated to cost approximately IDR 20 trillion, or 10% of public health expenditure, in 2024.[12] These figures underscore the need to strengthen Indonesia's anti-fraud framework.

Healthcare fraud depletes public resources, reduces service quality, and restricts access to care, particularly for vulnerable populations. Despite these consequences, enforcement remains limited because sector-specific regulations provide inadequate criminal sanctions.[13] Strengthening the JKN program therefore requires regulatory reform, stronger intersectoral coordination, and greater accountability.

2. Impact of JKN Fraud and Analysis of Related Regulations

Health fraud is the intentional use of deceptive practices to obtain financial benefits from the National Health Insurance (JKN) program in violation of applicable laws and regulations. It poses a significant challenge to health insurance systems and requires effective fraud control mechanisms to prevent and detect misconduct.[14] Fraud may be committed by participants, BPJS Kesehatan, healthcare providers, pharmaceutical and medical device suppliers, and other stakeholders involved in the JKN program.[15]

Health fraud has broad consequences, including human, financial, operational, reputational, governmental, and industry-wide impacts.[16] Within the JKN system, fraud can delay healthcare services, reduce service quality, and increase financial burdens on BPJS Kesehatan. It also erodes public trust, discourages contribution payments, delays claim settlements, and may result in legal action against healthcare providers. Given these far-reaching consequences, JKN fraud requires a robust and comprehensive legal framework.

3. JKN Fraud as White-Collar Crime and the Challenge of Positive Criminal Law

JKN fraud constitutes a form of white-collar crime. Although typically non-violent, white-collar crime can inflict substantial economic losses, undermine public trust, and weaken institutional integrity. In the context of JKN, fraud increases healthcare costs, raises insurance premiums and public expenditure, and may expose patients to unnecessary medical procedures. It may be committed by healthcare providers,

[9] Komisi Pemberantasan Korupsi, *Sinergi KPK-BPJS Kesehatan Kawal Layanan Kesehatan Anti-Fraud* (Komisi Pemberantasan Korupsi, 2025), https://www.kpk.go.id/id/ruang-informasi/berita/sinergi-kpk-bpjs-kesehatan-kawal-layanan-kesehatan-anti-fraud.

[10] Komisi Pemberantasan Korupsi, *Sinergi KPK-BPJS Kesehatan Kawal Layanan Kesehatan Anti-Fraud*.

[11] Matt Gutzwiller, *Breaking Down the ACFE's Latest Fraud Report* (Clark Schaefer Hackett Business Advisors, 2024), https://www.cshco.com/insights/breaking-down-the-acfes-latest-fraud-report?

[12] Komisi Pemberantasan Korupsi, *Sinergi KPK-BPJS Kesehatan Kawal Layanan Kesehatan Anti-Fraud*.

[13] Rakhal Gaitonde et al., "Interventions to Reduce Corruption in The Health Sector," *Cochrane Database of Systematic Reviews*, no. 8 (2016), https://doi.org/https://doi.org/10.1002/14651858.CD008856.pub2.

[14] Erlina Puspitaloka Mahadewi, "Investment Risk Management Strategies in Sukuk: A Sharia Management Perspective," *Kontigensi Jurnal Ilmiah Manajemen* 12, no. 2 (2024): 598–608, https://doi.org/https://doi.org/10.56457/jimk.v12i2.

[15] Arip Sopian and Erlina Puspitaloka Mahadewi, "Indonesia Insurance Development with Various Aspects and Prespectives of The Regulatory Approach," *International Journal of Science, Technology, and Management* 4, no. 5 (2023), https://doi.org/https://doi.org/10.46729/ijstm.v4i5.921.

[16] International Public Sector Fraud Forum; Australian Government Attorney-General's Department, *Guide to Understanding the Total Impact of Fraud* (UK Goverment, 2020), https://assets.publishing.service.gov.uk/media/5e4bedb986650c10e5a91d89/2377_The_Impact_of_Fraud_AW__4_.pdf.

participants, or other parties who intentionally deceive the healthcare system for unlawful financial gain.[17] Weak enforcement against white-collar crime further enables such misconduct and erodes public confidence in the justice system, making prevention and prosecution more difficult.

To address JKN fraud, the Indonesian government has established several regulatory instruments, including the SJSN Law, the BPJS Law, the Minister of Health Regulations on fraud prevention and handling, and the BPJS Health Regulation on the Fraud Prevention System. These regulations primarily impose administrative sanctions, such as verbal and written warnings and orders to reimburse losses caused by fraudulent conduct.[18]

Although the current regulatory framework provides administrative sanctions for JKN fraud, its effectiveness remains limited. This reflects the weakness of the legal framework identified by Soerjono Soekanto, who argued that effective law enforcement depends on the quality of legal norms and institutions.[19] In the context of JKN, these weaknesses are evident in several areas:

a. Legal framework. Minister of Health Regulation No. 16 of 2019 establishes measures to prevent and address fraud through administrative sanctions. However, sanctions such as warnings and reimbursement orders provide little deterrence, particularly where criminal liability may be appropriate.
b. Law enforcement. The JKN Fraud Prevention and Handling Team (JKN-PK), comprising the Ministry of Health, BPJS Kesehatan, the Financial and Development Supervisory Agency (BPKP), the Corruption Eradication Commission (KPK), and other agencies, lacks effective inter-agency coordination. In addition, the KPK may investigate only cases involving state losses of at least IDR 1 billion, limiting its role in many fraud cases.
c. Facilities and infrastructure. BPJS Kesehatan's fraud detection and claims verification systems are not fully integrated or capable of real-time monitoring, leaving significant opportunities for fraud.
d. Public awareness. Limited understanding of JKN rights and obligations among participants and healthcare providers, combined with tolerance of improper claims practices, hinders fraud prevention.
e. Legal culture. Some healthcare facilities tolerate fraudulent practices when they are perceived to benefit the institution or medical personnel, reinforcing a culture that enables fraud.

Five factors undermine the enforcement of JKN fraud: the absence of specific criminal sanctions in the BPJS and SJSN Laws, limited authority and capacity of law enforcement agencies, inadequate fraud detection systems, low public awareness, and a permissive legal culture that treats healthcare fraud as a minor offense. Although administrative sanctions play an important role in maintaining regulatory compliance, they provide limited deterrence. Consistent with Soerjono Soekanto's law enforcement framework, weaknesses in legal norms reduce the effectiveness of law enforcement institutions, supporting infrastructure, and public compliance. The following discussion therefore examines the relationship between administrative sanctions and the application of the general provisions of the Indonesian Criminal Code.

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[17] Firman Firdausi and Asih Widi Lestari, "Eksistensi White Collar Crime Di Indonesia :Kajian Kriminologi Menemukan Upaya Preventif," *Jurnal Reformasi* 6, no. 1 (2016), https://doi.org/https://doi.org/10.33366/rfr.v6i1.680.

[18] Yuliana Surya Galih, "Kejahatan Tingkat Tinggi.," *Jurnal Ilmiah Galuh Justisi* 3, no. 2 (2015), https://doi.org/http://dx.doi.org/10.25157/jigj.v3i2.423.

[19] Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Rajawali Pers, 2019).

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JKN fraud is currently prosecuted under the general provisions of the Criminal Code. However, the principle of legality (*nullum crimen sine lege*) requires that criminal offenses be expressly prescribed by law. Because JKN fraud is not specifically criminalized under the SJSN or BPJS Laws, enforcement lacks a clear sectoral legal basis and offers limited deterrence. Introducing a dedicated chapter on criminal offenses in the SJSN Law and expanding the criminal provisions on fraud in the BPJS Law would strengthen legal certainty, facilitate prosecution, and ensure that JKN fraud is addressed through an appropriate criminal justice framework. These reforms would also support the long-term sustainability of the JKN program as part of the constitutional right to health.

4. Forensic Audit and the Addition of a Criminal Chapter to Address JKN Fraud

According to The Institute of Internal Auditors, fraud consists of deliberate, improper, and illegal acts intended to deceive. These acts may benefit or harm an organization and may be committed by individuals inside or outside the organization. Given the significant consequences of fraud, all stakeholders should collaborate to promote anti-fraud awareness and strengthen prevention and mitigation strategies.[20] These efforts should align with the organization's professional structure, vision and mission, organizational culture, positive work environment, and effective supervisory processes.

Fraud prevention refers to efforts to deter actions that may cause financial losses to an organization.[21] Benny defines fraud prevention as protecting organizational assets and information by preventing fraudulent activities.[22] Based on these definitions, fraud prevention encompasses measures to identify high-risk activities and reduce financial risk. Fraud is typically detected only after preventive measures fail. Because fraudulent schemes are often carefully planned and concealed through complex financial transactions, forensic auditors play a critical role in identifying fraud indicators, tracing fund flows, detecting irregularities in financial statements, and collecting evidence. They apply specialized fraud detection techniques to obtain sufficient preliminary evidence, uncover fraudulent activities, and identify the individuals involved.[23]

A forensic audit is a specialized investigative approach designed to determine whether fraud has occurred and to produce evidence admissible in litigation. In fraud investigations, forensic audits can be enhanced through the use of big data analytics.[24] Competent forensic auditors can leverage big data to conduct faster, more comprehensive, and more detailed investigations, thereby improving fraud detection.[25,26] However, Certified Fraud Examiners have encountered challenges in investigating fraud within Indonesia's National Health Insurance (JKN) program because no specific criminal provisions govern JKN fraud.

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[20] Rozmita Dewi YR and Irfan Ariandi, "The Effect of Internal Control and Anti-Fraud Awareness on Fraud Prevention (A Survey on Inter-Governmental Organizations)," *Journal Economics, Business, and Accoutancy Ventura* 20, no. 1 (2017), https://doi.org/https://doi.org/10.14414/jebav.v20i1.751.

[21] Benny Marciano et al., "Whistleblowing System Dan Pencegahan Fraud: Sebuah Tinjauan Literatur," *Jurnal Akuntansi Berkelanjutan Indonesia* 4, no. 3 (2021), https://doi.org/10.32493/JABI.v4i3.y2021.p313-324.

[22] Mark Conner, "Theory of Planned Behaviour," in *Handbook of Sport Psychology* (John Wiley & Sons, Inc, 2020).

[23] Anggi Sari Tambunan and Tuti Meutia, "Pengaruh Audit Forensik Terhadap Pencegahan Dan Pengungkapan Fraud," *Jura: Jurnal Riset Akutansi* 2, no. 2 (2024), https://doi.org/https://doi.org/10.54066/jura-itb.v2i2.1783.

[24] Oktavilia Kristanti and Cris Kuntadi, "Literature Review: Pengaruh Audit Forensik, Audit Inventigatif, Dan Kompetensi Auditor Terhadap Pengungkapan Fraud," *SENTRI : Jurnal Riset Ilmiah* 1, no. 3 (2022), https://doi.org/https://doi.org/10.55681/sentri.v1i3.295.

[25] Jiali Tang and Khondkar E Karim, "Financial Fraud Detection and Big Data Analytics – Implications on Auditors' Use of Fraud Brainstorming Session," *Managerial Auditing Journal* 34, no. 3 (2019), https://doi.org/https://doi.org/10.1108/MAJ-01-2018-1767.

[26] Jiali (Jenna) Tang and Khondkar E. Karim, "Big Data in Business Analytics: Implications for the Audit Profession," *The CPA Journal* 87, no. 6 (2017), https://www.cpajournal.com/2017/06/26/big-data-business-analytics-implications-audit-profession/.

Once fraud has been detected, fraud disclosure follows. Fraud disclosure is an evaluative process conducted by forensic auditors and investigators to identify and substantiate intentional unlawful acts committed for personal gain through deception. Mandatory disclosure refers to information that organizations are required to report under accounting standards or regulatory requirements.[27] In the context of JKN, forensic audits trace the claims process from healthcare providers to BPJS Kesehatan payments while verifying the validity of reported diagnoses and medical procedures.

The United States demonstrates the effective integration of data analytics into forensic auditing. Government agencies such as the Internal Revenue Service have used machine learning algorithms to detect tax evasion, significantly improving detection rates and saving billions of dollars in public revenue.[28][29] This success is supported by advanced technological infrastructure, high-capacity data processing systems, regular auditor training in analytical tools, and well-established data privacy and cybersecurity regulations.[30][31]

Within Indonesia's JKN program, forensic auditing is essential for investigating fictitious claims, inflated service costs, and manipulation of patient records. By integrating forensic auditing with big data analytics, BPJS Kesehatan can rapidly identify anomalous claim patterns, trace responsible parties, and support legal enforcement. Predictive models can also detect upcoding by identifying statistically improbable increases in high-tariff diagnoses that are not supported by corresponding epidemiological trends. Despite these advantages, the effectiveness of forensic auditing remains constrained by limited data integration across government institutions, which impedes real-time fraud detection. Indonesia could address this limitation by adopting a regulatory framework similar to that of the United States to facilitate the use of data analytics in forensic audits.[32]

The legal framework governing JKN fraud remains largely administrative. Sanctions are provided under the SJSN Law, BPJS regulations, Minister of Health Regulation No. 16 of 2019, Minister of Health Regulation No. 36 of 2015, and BPJS Health Regulation No. 6 of 2020. However, these regulations do not establish specific criminal offenses for JKN fraud, creating a significant legal gap. Given the substantial financial and social consequences of JKN fraud, a dedicated criminal framework is needed to ensure that forensic audit findings can support criminal prosecution rather than merely administrative sanctions.

The Criminal Code regulates criminal offenses in general but has limited capacity to address the unique characteristics of JKN fraud. Its limitations include the following:

a. Complexity of JKN fraud. JKN fraud often involves multiple actors, complex medical and administrative procedures, and manipulation of electronic data. Conventional offenses under the Criminal Code, such as fraud and forgery, require proof of individualized acts of deception, making them less suitable for addressing systemic or institutional fraud involving coordinated conduct.

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[27] Anggi Sari Tambunan and Tuti Meutia, "Pengaruh Audit Forensik Terhadap Pencegahan Dan Pengungkapan Fraud."

[28] SeukGue Hong et al., "Data Auditing for Intelligent Network Security Monitoring," *IEEE Communications Magazine* 61, no. 3 (2023), https://doi.org/10.1109/MCOM.003.2200046.

[29] Jianfei Ruan et al., "Identifying Suspicious Groups of Affiliated-Transaction-Based Tax Evasion in Big Data," *Elsevier* 477 (March 2019), https://doi.org/https://doi.org/10.1016/j.ins.2018.11.008.

[30] Miloš Savić et al., "Tax Evasion Risk Management Using a Hybrid Unsupervised Outlier Detection Method," *Expert Systems with Applications* 193 (August 2021), https://doi.org/10.1016/j.eswa.2021.116409.

[31] Narongchai Visitpanya and Taweesak Samanchuen, "Synthesis of Tax Return Datasets for Development of Tax Evasion Detection," *IEEE* 11 (May 2023), https://doi.org/10.1109/ACCESS.2023.3276761.

[32] Yuda Gao et al., "Tax Evasion Detection with FBNE-PU Algorithm Based on PnCGCN and PU Learning," *IEEE* 35, no. 1 (2021), https://doi.org/https://doi.org/10.1109/TKDE.2021.3090075.

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b. Limited application to healthcare fraud. Although the Criminal Code recognizes corporate criminal liability and broader financial sanctions, its application to fraud within the public healthcare system remains limited. A sector-specific criminal framework under the SJSN or BPJS legislation would provide a clearer legal basis for prosecution, asset recovery, and restitution of state losses.
c. Fragmented enforcement framework. Reliance on the general provisions of the Criminal Code results in fragmented enforcement, separating administrative sanctions from criminal liability. Incorporating specific criminal provisions into the SJSN and BPJS legal framework would establish a *lex specialis* regime that integrates administrative enforcement, forensic audit findings, including those derived from big data analytics, and corporate criminal liability within the healthcare sector.

The general provisions of the Criminal Code are insufficient to address the complexity of fraud within the JKN program. This limitation highlights a legal vacuum because neither the SJSN Law nor the BPJS Law explicitly classifies JKN fraud as a sector-specific criminal offense. Under the principle of legality (*nullum crimen sine lege*), criminal liability may be imposed only for conduct expressly defined by law.

The absence of specific criminal provisions on JKN fraud in the SJSN and BPJS Laws limits criminal prosecution and weakens the protection of the national health insurance system. Although criminal sanctions are essential to deter fraud in healthcare services, they should be established through sector-specific legislation. The SJSN Law currently contains no criminal chapter addressing JKN fraud.[33] While Chapter XV of the BPJS Law provides criminal provisions, its scope is confined to compliance-related offenses, including violations of contribution payment obligations and misconduct by members of the Supervisory Board or Board of Directors. It does not criminalize fraudulent conduct by healthcare facilities, healthcare professionals, participants, or other parties involved in the JKN program. Expanding these provisions would close the existing legal gap, address forms of fraud beyond the reach of the general Criminal Code, and establish a comprehensive framework for corporate criminal liability, asset recovery, and restitution of state losses.

Comparative experience supports this approach. In the United States, the National Health Care Anti-Fraud Association (NHCAA) and, in the United Kingdom, the Health Insurance Counter Fraud Group (HICFG) combine administrative and criminal enforcement within specialized institutional frameworks. These organizations coordinate across healthcare providers, government agencies, and law enforcement through formal data-sharing protocols, enabling timely fraud prevention and detection. Their institutional models provide useful references for reforming the SJSN and BPJS Laws by integrating administrative and criminal sanctions within a single regulatory framework. Such an approach would strengthen legal certainty, enhance deterrence, and safeguard the sustainability of the JKN program.

The NHCAA and HICFG models also illustrate how healthcare fraud can be addressed as a distinct category of economic crime rather than solely through general criminal or corruption laws.[34][35] This approach enables the prosecution of systematic fraud,[36][37]

[33] Business Wire, "Health Insurance Counter Fraud Group Selects Shift Technology to Develop New Health Insurance Counter Fraud Database."
[34] National Health Care Anti-Fraud Association, *Consumer Information*.
[35] "Health Insurance Counter-Fraud Group (HICFG)," Insurance Fraud Investigators Group (IFIG), August 16, 2025, https://ifig.org/hicfg/.
[36] National Health Care Anti-Fraud Association, "A Private Public Partnership Against Health Care Fraud," National Health Care Anti-Fraud Association, accessed August 17, 2025, https://www.nhcaa.org/.
[37] Business Wire, "Health Insurance Counter Fraud Group Selects Shift Technology to Develop New Health Insurance Counter Fraud Database," Business Wire, July 11, 2018, https://www.businesswire.com/news/home/20180711005033/en/.

including coordinated data manipulation, based on the nature of the offense rather than the monetary value of the loss. In addition, both frameworks authorize structured data sharing among relevant institutions, facilitating real-time fraud detection while operating within statutory safeguards for data protection.[38] Adopting comparable mechanisms could help overcome Indonesia's current barriers to data integration and improve the effectiveness of forensic audits and criminal enforcement. These comparative models demonstrate that administrative sanctions and criminal prosecution are complementary stages of an integrated enforcement strategy rather than alternative responses.

The need to reform the legal framework governing JKN fraud is consistent with Barda Nawawi Arief's theory of criminal law reform, which views the development of criminal law as a process of reorienting and restructuring legal norms in accordance with the socio-political, socio-philosophical, and socio-cultural values underlying Indonesia's social, criminal, and law enforcement policies. Within the JKN context, this reform requires a legal framework that reflects the program's unique characteristics by incorporating specific criminal provisions on fraud. The proposed reform should be guided by three fundamental values:

a. Socio-political values, supporting Indonesia's commitment to expanding health insurance coverage in line with the objectives of the World Health Organization (WHO) and the Sustainable Development Goals (SDGs);
b. Socio-philosophical values, promoting justice, legal certainty, and public benefit for participants, BPJS Kesehatan, and healthcare providers; and
c. Socio-cultural values, reflecting professional practice and Indonesia's social and cultural conditions.

These three values underscore the need to reform the SJSN and BPJS Laws by introducing specific criminal provisions on JKN fraud. Such reform would accommodate evolving fraud schemes, integrate administrative and criminal sanctions, and strengthen cross-sector coordination supported by technological advances.

This proposal reflects Barda Nawawi Arief's theory of criminal policy, which views crime control as a rational and systematic combination of penal and non-penal measures. Explicit criminal provisions would close the existing legal gap that limits enforcement to administrative sanctions while preserving criminal law as an *ultimum remedium*, applicable when administrative measures fail to deter fraud effectively.[39]

The findings indicate that forensic audits supported by big data can detect fraud more rapidly and accurately. However, without a clear criminal framework, audit findings rarely progress beyond administrative enforcement. Incorporating criminal provisions into the SJSN Law and expanding those in the BPJS Law would strengthen law enforcement and enhance the sustainability of the JKN program by promoting legal certainty, fairness, and effective social protection.

C. Conclusion

JKN fraud exposes a significant legal gap arising from the reliance on administrative sanctions and the general provisions of the Criminal Code. These mechanisms are inadequate to address the complex, collective, and technology-enabled nature of healthcare fraud and do not provide a sector-specific framework for effective prosecution or recovery of state losses. The absence of *lex specialis* provisions in the SJSN and BPJS Laws weakens law enforcement and reduces the deterrent effect of criminal sanctions. This weakness is

[38] Arief Barda Narawi, *Bunga Rampai Kebijakan Hukum Pidana (Perkembangan Penyusunan Konsep KUHP Baru). Jakarta: Kencana Prenada Media Group.* (Kencana, 2017).
[39] Arief Barda Narawi, *Bunga Rampai Kebijakan Hukum Pidana (Perkembangan Penyusunan Konsep KUHP Baru). Jakarta: Kencana Prenada Media Group.*

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compounded by limited data integration across institutions, which constrains effective fraud detection and enforcement.

Forensic audits supported by big data analytics improve the detection of fraudulent schemes, trace financial transactions, and identify responsible parties. However, their effectiveness remains limited without a legal framework that enables audit findings to support criminal prosecution. Strengthening the legal framework is therefore essential to protect the financial sustainability of the JKN program.

D. Suggestion

This study recommends reforming the SJSN and BPJS Laws by introducing specific criminal provisions on JKN fraud as a lex specialis. The framework should establish corporate criminal liability, integrate administrative and criminal sanctions, regulate state loss recovery, and authorize real-time data sharing among BPJS Kesehatan, healthcare providers, and law enforcement agencies. It should also strengthen forensic audit capacity through regular training, enhanced competence of Certified Fraud Examiners, and investment in big data analytics infrastructure. These reforms would close the existing legal gap, improve law enforcement, and strengthen the sustainability of the JKN program.

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