

Regulations On Legal Protection For Doctors As Providers Of Telemedicine Services

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Abstrak

Although this technology promises wider access to healthcare services, its implementation in practice is often hampered by various legal and regulatory issues that have not yet been fully addressed. One of the main problems is the lack of specific regulations governing the practice of telemedicine. Consequently, protection for medical practice is urgently needed in this regard, as the lack of clear regulations governing the field could be detrimental to both doctors and patients. Legal protection for online and offline healthcare services is essentially the same; what distinguishes them is the context of the issues at hand. Ultimately, the legal protection in question is intended to safeguard both doctors and patients whilst they are receiving treatment. The research questions in this study are: What is the urgency of establishing legal protection for doctors as providers of telemedicine services? What is the concept of legal protection for doctors as providers of telemedicine services? The research method employed in this study is normative legal research; to complement the analysis, legal materials were required, including primary, secondary and tertiary sources. These legal materials were then analysed descriptively using legal interpretation methods to construct a legal argument as a conclusion, in the form of a prescription (stating what ought to be, whilst also serving as a recommendation). The research findings indicate that the urgency of establishing legal protection for doctors as providers of telemedicine services is of the utmost importance at this time, given that the medical profession is vulnerable to challenges regarding the provision of telemedicine services and that the legal regulation of telemedicine represents a new development in the field of healthcare. Health technologies such as telehealth and telemedicine have brought about significant transformation in the healthcare sector, offering a range of benefits that enhance the quality, efficiency and accessibility of healthcare services; it is therefore necessary for these to be regulated by law to ensure certainty regarding the provision of telehealth and telemedicine services. The concept of legal protection for doctors as providers of telemedicine services must be implemented systematically by applying the principle of legal certainty regarding healthcare services delivered via telemedicine, thereby providing legal protection for both doctors and patients.

Keywords: Protection, Telemedicine, Doctors

INTRODUCTION

Online healthcare services are now becoming increasingly popular amongst the public and are attracting a great deal of global attention. This is primarily due to the promise and potential that technology holds for improving people's quality of life¹.

In practice, as it is online-based, this enables healthcare services to extend beyond curative care alone, and also to encompass promotive and preventative aspects. Healthcare services can also be delivered easily and save time, something that is not possible when healthcare is still provided conventionally, where patients must visit a healthcare facility to seek treatment or attend an appointment, and consult with a doctor – an experience that is often considered unpleasant due to the inefficient use of time and the significant costs involved. The provision of online healthcare services can also help healthcare providers deliver administrative services efficiently, provide the best possible care, and avoid any negligence that might occur during medical procedures, thereby enabling them to make the best decisions for their patients.

¹ Ahmad Yani, *Pemanfaatan Teknologi dalam Bidang Kesehatan Masyarakat*, (Jurnal Kesehatan Masyarakat, Universitas Muhammadiyah Palu, 2018), Vol, 8 (1).

However, this situation has also led to the emergence of numerous healthcare platforms without proper validation, specific authorisation or adequate regulation, giving the impression that the government has relaxed its oversight.

Based on the introduction above, it is clear that whilst offering numerous benefits, the rapidly expanding provision of online healthcare services has also given rise to a variety of issues, particularly those relating to data protection and the legal aspects of medical practice.

Although this technology promises wider access to healthcare services, its implementation in practice is often hampered by various legal and regulatory issues that have not yet been fully addressed. One of the main problems is the lack of specific regulations regarding the practice of telemedicine. Although Law No. 36 of 2009 on Health provides a basic framework for healthcare services, this law does not clearly regulate the use of digital technology in the delivery of medical services. This can lead to legal uncertainty for healthcare providers and patients, and has the potential to undermine public confidence in telemedicine services.²

Protection in the practice of medicine is essential in this regard, as it may be detrimental to both doctors and patients due to the lack of clarity in the regulations governing it. Legal protection for online and offline healthcare services is essentially the same; what distinguishes them is the context of the issues that arise. This is because, fundamentally, the legal protection in question is protection for doctors and patients whilst providing medical treatment.

To address this issue, the government, together with the Ministry of Health, other relevant ministries, and professional organisations in the health sector, can collaborate and work in synergy to establish more detailed regulations not only regarding the provision of telemedicine under the Minister of Health Regulation, but also regarding the practice of medicine via telemedicine facilitated by health applications. It is hoped that these more detailed and comprehensive regulations will facilitate the implementation of telemedicine in Indonesia, thereby providing legal certainty and security for both patients and doctors.³

Based on the above analysis, and given that the author is also a doctor, I feel it is important to conduct research into the legal basis for online medical practice. Innovation in the field of healthcare has not yet been matched by legal developments in the health sector. The regulations currently in place are not yet comprehensive enough to serve as a legal framework for the protection of medical practice within online healthcare services in Indonesia.

METHOD

This research is of a normative legal nature, and in order to complete the study, legal materials are required, including primary, secondary and tertiary sources. Primary sources (or authorities) are all legal rules formally established and enacted by a state institution and/or government body, the enforcement of which is ensured through coercive measures officially carried out by state authorities.⁴

² Hanafi Manurung, dkk. Implikasi Hukum atas Penggunaan Teknologi dalam Pelayanan Kesehatan Telemedisin, Jurnal Judge, Vol 5 No, 3 Tahun 2024, Hlm 92-93

³ Irma Dewayanti dan Arief Suryono, Op.,Cit hlm 38

⁴ Soetandjo Wignjosoebroto, Hukum Konsep dan Metode, (Malang, 2013), hlm. 67

RESULTS AND DISCUSSION

A. The urgency of establishing legal protection for doctors as providers of telemedicine services

As of early 2024, the Government had not yet enacted the draft implementing regulations in the form of a Government Regulation relating to telemedicine, as delegated by Law No. 17 of 2023 on Health. This is because the drafting process continues to face the complexities inherent in regulatory drafting, as the formulation of implementing regulations for telemedicine involves a range of complex technical and legal aspects. These regulations must cover various types of telemedicine services, data security standards, operational procedures and liability mechanisms. This process requires coordination between various stakeholders, including the Ministry of Health, professional bodies and technology service providers. Furthermore, it also involves the need for public consultation and participation, as the drafting of implementing regulations requires public consultation and participation to ensure that the resulting regulations reflect the needs and interests of all parties involved. This process takes time to gather input from healthcare professionals, patients, technology providers and other stakeholders. Telemedicine technology is constantly evolving, and regulations must be adapted to these developments in order to remain relevant and effective. This process of adaptation requires an in-depth analysis of technological trends and best practice in the field of telemedicine.⁵

The absence of regulations and guidelines governing the practice of telemedicine gives rise to legal uncertainty, resulting in a lack of robust legal protection for doctors involved in such services. In the practice of telemedicine, ethical and professional standards must be upheld. Doctors must adhere to standards of practice equivalent to those established for in-person medical practice, safeguard patient data privacy, and communicate effectively via remote services. Furthermore, informed consent provides additional protection by ensuring that patients actively consent to and understand the services they receive, thereby building a strong foundation of trust between doctors and patients. Data security is also a key focus of this legal protection. Regulations governing the protection of patients' personal data ensure that sensitive medical information is not exposed or misused. This is a crucial step in safeguarding the confidentiality and integrity of medical information, which in turn strengthens patients' sense of security and trust in telemedicine.⁶

Based on the above, it is clear that the fundamental issue in the provision of telemedicine is the lack of clear regulations and guidelines, which gives rise to legal uncertainty. This situation results in a lack of adequate legal protection for doctors as service providers, as the limits of professional liability and standards of practice have not been set out in detail. In practice, telemedicine still demands adherence to the principles of medical ethics and professionalism, just as in conventional medical practice, including the obligation to maintain patient data confidentiality and to ensure effective communication in remote care. The application of informed consent also plays a vital role as an additional form of protection for

⁵ Ismi Fadjirah Hamzah, *Op., Cit* Hlm 130

⁶ Gallant Akmal Triana, dkk, "Pelindungan Hukum Terhadap Praktik Dokter Dalam Memberikan Pelayanan Kesehatan Online" *Jurnal Kesehatan Tambusai*, Vol, 6 No, 1 Maret 2025 Hlm 2798

patients, ensuring that patients have understood and consented to the services received consciously and voluntarily.

This builds a foundation of trust between doctors and patients, which lies at the heart of healthcare provision. Furthermore, the security of patient data is a key concern in the context of the legal protection of telemedicine, as regulations on the protection of personal data serve to prevent the misuse of sensitive medical information. Consequently, the existence of comprehensive regulations will strengthen legal certainty, provide protection for healthcare professionals, and guarantee patients' rights to privacy, security and trust in technology-based healthcare services. In mid-2024, the Government issued Government Regulation No. 28 of 2024 as implementing regulations for Law No. 17 of 2023 on Health, thereby bringing to an end the long-running controversy over the lack of implementing regulations for telemedicine. Although the government regulation has set out in sufficient detail the provision of telemedicine—covering aspects ranging from infrastructure, types of services and human resources to clinical standards—the provisions still focus on patient protection and the quality of healthcare services. However, the existing regulations do not yet explicitly provide for legal protection for doctors as providers of telemedicine. Provisions regarding liability, limits of authority, and protection mechanisms for doctors in the face of legal risks arising from the limitations of remote medical services have not yet been clearly formulated.

The absence of protective regulations for doctors has the potential to create legal uncertainty, particularly in the event of misdiagnosis, differences in interpretation of consultation findings, or medical disputes arising from the limitations of direct interaction between doctors and patients. In telemedicine practice, doctors rely heavily on the information provided by patients and are constrained by the limitations of physical examinations; consequently, the risk of medical errors is relatively higher than in face-to-face consultations. However, these specific circumstances have not yet been fully accommodated in the current regulations.

B. The concept of legal protection for doctors as providers of telemedicine services

Philipus M. Hadjon explains that legal protection is the protection of human dignity and the recognition of the human rights possessed by legal persons, in accordance with the provisions of the law, against arbitrary action; this is rooted in Pancasila and the concept of the rule of law. Philipus M. Hadjon further explains that, in order to provide legal protection, the following means must, of course, be employed:⁷

- a. Measures for Preventive Legal Protection; under this system of preventive legal protection, legal subjects are given the opportunity to raise objections or express their views before a government decision takes definitive form. The aim is to prevent disputes from arising. Preventive legal protection is of great significance for government actions based on discretion; consequently, the existence of such protection encourages the government to exercise caution when making decisions based on discretion. Compared with repressive legal protection mechanisms, the development of preventive legal protection has lagged somewhat behind. There are as yet few regulations governing preventive legal protection for the public; however, within this form of preventive legal protection, we can identify a preventive measure in the form

⁷ *Ibid.*, Halaman 32-33

of an objection (*inspraak*). In Indonesia itself, there are as yet no specific regulations concerning preventive legal protection.

- b. b. Repressive Legal Remedies; repressive legal remedies aim to resolve disputes. These repressive legal remedies are administered by the General Courts and the Administrative Courts. The principle of legal protection against government actions is based on and derives from the concept of the recognition and protection of human rights; historically, in the West, the emergence of concepts regarding the recognition and protection of human rights was directed towards imposing restrictions and establishing obligations on society and the government. Meanwhile, the second principle underpinning legal protection against government actions is the principle of the rule of law. In relation to the recognition and protection of human rights, the recognition and protection of human rights occupy a central place and can be linked to the objectives of the rule of law.

Legal protection is essential for everyone in Indonesia, as members of the public, in the course of their daily activities, are inevitably exposed to various disturbances or other acts that disrupt public order. The law must therefore serve as a means of protecting the public's various activities.

Protection may be regarded as legal protection if it contains the following elements:

- a. The provision of protection by the government for its citizens.
- b. The guarantee of legal certainty.
- c. Relating to the rights of citizens.
- d. The imposition of penalties on those who breach them.

In practice, these elements of legal protection are still not fully realised, such as the government's protection of members of the public or citizens who are in trouble with the law; furthermore, there are still many members of the public and citizens who find it difficult to obtain legal certainty, whether when facing legal proceedings or committing criminal offences, or when seeking to exercise their rights as set out in civil law.⁸

Legal protection for healthcare providers—in this case, healthcare workers—is set out quite clearly in Law No. 36 of 2014 on Healthcare Workers. The scope of this protection is specified for healthcare professionals who provide both direct and indirect services to the public. As stated in Article 4(c), the government has a responsibility to provide protection to healthcare professionals in the course of their practice, and they are entitled to legal protection provided they carry out their duties in accordance with Professional Standards, Professional Service Standards and Standard Operating Procedures, and receive complete and accurate information from the healthcare service recipient or their family. This Regulation also stipulates that should a dispute arise due to negligence on the part of a healthcare worker resulting in harm to a healthcare service recipient, it must first be resolved through out-of-court dispute resolution.⁹

Meanwhile, with regard to the protection of patients' personal data, healthcare providers are responsible, in this context, as operators of electronic systems and as data

⁸ Romli, dkk, *Op.cit* Halaman 33-34

⁹ *Ibid.*, Hlm 108-109

controllers for the processing of personal data. The provision of telemedicine services, which is the responsibility of healthcare centres, ensures the protection of patients' personal data and medical records in accordance with Law of the Republic of Indonesia No. 20 of 2022 on the Protection of Personal Data, where Article 65(1) states that no person shall violate the law on the collection of personal data, except where such collection is for the purpose of obtaining personal gain to the detriment of the data subject. Based on the prohibition set out in Article 65 of the Personal Data Protection Act, the provisions of criminal law are explained, which form the basis for the liability of healthcare institutions regarding telemedicine patient data.¹⁰

The concept of legal protection for doctors in the provision of telemedicine involves amending the Government Regulation on telemedicine, which substantively covers

- a. The administrative requirements for a doctor's authorisation are possession of an STR and a telemedicine SIP

A doctor's authority to provide telemedicine services must be based on the fulfilment of administrative requirements, namely a Certificate of Registration (STR) and a Practising Licence (SIP). The STR serves as legal proof that the doctor is registered at national level and that their competence is recognised by the Indonesian Medical Council. Meanwhile, the SIP serves as an operational licence for practising, issued by the local government.

- b. Arrangements for clinical appointments and clinical privileges

The arrangements for clinical appointments and clinical privileges are clinical governance tools that ensure that doctors only provide services in accordance with their competence, qualifications and authorisation.

- c. Informed consent, which ensures transparency in healthcare services

Informed consent in telemedicine encompasses not only consent to medical procedures, but also consent to the mechanisms of remote care, including the limitations of physical examinations and potential technical risks. This consent must be given knowingly, voluntarily and on the basis of adequate information, whether in written or electronic form. This transparency of information serves as a form of legal protection for both patients and doctors, as it ensures that patients fully understand the services they are receiving.

- d. Protection of patients' personal data

Telemedicine involves the processing of patients' personal data and sensitive health data. Therefore, the protection of personal data is a fundamental aspect of the provision of telemedicine services. Doctors and healthcare facilities are obliged to ensure the confidentiality of patient data through reliable information security systems, including data encryption and access restrictions. Breaches of personal data protection not only have ethical implications but also have the potential to give rise to civil and administrative legal liability.

- e. Authorised institutions acting as validators of digital medical imaging instruments

The role of these validators is crucial in ensuring that the devices and systems used meet medical and technical standards. Without clear validation, the use of digital

¹⁰ Dmasus Darma Wulan, dkk, "Kajian Yuridis Pelayanan Telemedisin Dalam Pemberian Pelindungan Data Pribadi Pasien" *Jurnal Cahaya Mandalika*, P-ISSN 2828-495X, Hlm 2686

medical images could potentially lead to misdiagnoses, which could harm patients and result in legal liability for doctors.

- f. The need for standard operating procedures (SOPs) for the protection of children and vulnerable adults to prevent victimisation resulting from technological, social and economic disparities in telemedicine services.

These standard operating procedures (SOPs) must set out mechanisms for support, parental or guardian consent, and verification of the patient's identity. Without adequate SOPs, vulnerable groups are at risk of service misuse, medical communication errors or human rights violations.

Conclusion

1. The urgency of establishing legal protection for doctors as providers of telemedicine services encompasses philosophical, legal and sociological aspects. The philosophical aspect is that health is a constitutional right underpinned by the principle of justice for both healthcare providers and recipients—that is, for doctors and patients—in a proportionate manner. Vulnerabilities in telemedicine services must be protected through legal certainty. The legal aspect is that telemedicine is already regulated under the Health Act and the Government Regulation on Health; however, clearer regulations are still required to ensure that the objectives of legal protection are achieved. The sociological aspect is that, in line with the digitalisation of healthcare, telemedicine services are needed to meet the demand for more responsive healthcare services alongside conventional healthcare delivery models.
2. The framework for the legal protection of doctors as providers of telemedicine services must be implemented systematically and cover the following aspects: a) Administrative requirements regarding a doctor's authorisation, namely possession of a STR and a telemedicine SIP; b) regulations governing clinical appointments and clinical privileges; c) informed consent that ensures transparency in healthcare services; d) the protection of patients' personal data; e) the authorised institution acting as the validator of digital medical imaging instruments; f) the requirement for standard operating procedures (SOPs) for the protection of children and vulnerable adults to prevent victimisation resulting from technological, social and economic disparities in telemedicine services

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