

Legal Protection for Patients and Providers Telemedicine Services: Perspectives Principle Balance

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Abstract

Development technology No only change pattern life public everyday, but also influential in various industry, including in service known health with Telemedicine Services health through telemedicine has Lots benefits, but also risks high, so that required protection law for doctor and patient in service health through telemedicine as digital transformation. Objective from study This mapping and testing existing rules and regulations regarding digital transformation in particular For telemedicine, is it is already optimal in fulfil its function as service health to society, and is also associated with principle balance as outlined in Health Law No. 17 of 2023 Concerning Health. Methods the approach used is legal normative, with specification study nature descriptive analytical. The data used studies literature using secondary and tertiary data with technique analysis qualitative normative. Based on results study This show that; regulation protection law for doctor and patient in service health through telemedicine not yet based on principle balance. Invite law temeledicine regulated in Law No. 17 of 2023 concerning Health is still Not yet explain guidelines in detail about implementation telemedicine.

Introduction

Development technology rapid information and communication has bring impact significant in various aspect life, including in sector health (Hamzah, 2024). One of the emerging innovations is telemedicine, namely service health care that is done in a way distance Far with utilise digital telemedicine technology offers various advantages, such as greater accessibility area, efficiency time, and more costs affordable, especially for people living in the area remote or difficult reachable. In the middle COVID-19 (Afandi et al., 2021) pandemic, telemedicine even be one of solution main For guard continuity service health without increase risk transmission disease (Hasnah, 2024; Ramachandran & Sarbadhikari, 2021; Eddine & Zedan, 2021).

However, the development of telemedicine has also given rise to new challenges, especially in terms of the legal relationship between the parties involved, such as patients, medical personnel, and telemedicine platform providers (Fields, 2020; Su et al., 2024; Omboni et al., 2022). This legal relationship is complex because it involves various aspects, such as protection of personal data, consent to medical procedures, and legal responsibility in the event of errors or negligence. In this context, a clear and orderly legal relationship mechanism is very important to protect the rights and obligations of all parties (Romdlon et al., 2021; Chen et al., 2021; Wu & Zhang, 2023).

One of the relevant legal principles in this context is the principle of balance, which emphasizes the importance of equality of rights and obligations between the parties. The principle of

balance aims to ensure that no party is harmed, either from patients who are eligible to receive safe and quality health services, or from medical personnel and platform providers who need legal protection in carrying out their duties (Sinaga, 2017). However, the implementation of the principle of balance in telemedicine in Indonesia still faces various obstacles, especially due to the limitations of existing regulations. For example, there are no clear guidelines (Yandriza et al., 2023) on the distribution of inadequate services between telemedicine service providers and telemedicine platforms, as well as effective dispute resolution mechanisms in the event of violations of patient rights. Anwar (2016) Existing regulations, such as the Regulation of the Minister of Health Number 20 of 2019 concerning the Provision of Telemedicine Services Between Health Service Facilities, have not fully regulated aspects of legal protection comprehensively (Mannas & Elvandari, 2023). This legal vacuum has the potential to create uncertainty and imbalance in legal relations between the parties involved.

As an effort to realize comprehensive telemedicine, Health Law Number 17 of 2023 is present as a new legal framework that seeks to adapt health service regulations to technological developments (Kesuma, 2024; Kaplan, 2020; Burrell, 2023; Nittari et al., 2020). This law recognizes the strategic role of telemedicine in improving health services while emphasizing the importance of legal protection for all parties involved.

The principle of balance which is the main principle in the legal relationship is also emphasized in the Health Law Number 17 of 2023. This principle regulates the rights and obligations between patients, medical personnel, and telemedicine platform providers to be in an equal and fair position. The application of this principle of balance is the key to preventing the occurrence of legal relationship imbalances that can be detrimental, one of which can reach remote areas and areas that are difficult for residents to reach. During the COVID-19 pandemic, telemedicine even plays a strategic role in reducing the risk of disease transmission while still providing health services (Lestari, 2021; Chauhan et al., 2020; Omboni et al., 2022).

However, the development of telemedicine also presents significant legal challenges, especially in protecting the rights and obligations of the parties involved (Mazzuca et al., 2022). The legal relationship between patients, medical personnel, and telemedicine platform providers is often complex because it involves various aspects, such as personal data protection, medical consent actions, and the lack of legal responses in the event of errors or negligence (Romdlon et al., 2021; Maduratna et al., 2024; Angellia et al., 2024). In this case, adequate legal protection is very important to create a sense of security and trust for all parties involved.

In an effort to realize comprehensive telemedicine, Health Law Number 17 of 2023 is present as a new legal framework that seeks to adapt health service regulations to technological developments. This law recognizes the strategic role of telemedicine in improving health services while emphasizing the importance of legal protection for all parties involved. One important aspect of this Health Law is the regulation of patient rights regarding personal data, the obligation of service providers to ensure quality services, and a clearer dispute resolution mechanism (Fields, 2020; Hodge et al., 1999; Wiley, 2015).

The principle of balance, which is the main principle in the legal relationship, is also emphasized in Health Law Number 17 of 2023. This principle regulates the rights and obligations between patients, medical personnel, and telemedicine platform providers to be in an equal and fair position (Garetto et al., 2022). The application of this principle of balance is the key to preventing the occurrence of inequality in legal relations that can harm one of the parties. However, the implementation of this regulation still faces various obstacles in the field, such as the lack of understanding of the parties regarding the new regulations, as well as challenges in the mechanism for implementing supervision and law enforcement. This study

aims to examine how legal protection can be optimally applied in the practice of health services through telemedicine, based on the principle of balance as regulated in Health Law Number 17 of 2023.

Methods

Study This aim For measure to what extent is the utilization telemedicine in view from fulfillment need right patient in accept service through telemedicine e and competence doctor in give service health through telemedicine. The research design used is normative juridical approach research used is Statute Approach, Conceptual Approach, Comparative Approach, Case Approach and Historical Approach, Data sources used The 1945 Constitution of the Republic of Indonesia, Law No. 17 of 2023 concerning Health, Standards Practice medicine, Regulations Council Indonesian Medicine No. 74 of 2020, Ministry of Health, Republic of Indonesia (2020). Decree of the Minister of Health of the Republic of Indonesia

Results and Discussion

Regulation Implementation *Telemedicine* In Indonesia

Three current regulations and policies This become reference related with use telemedicine (Risawati, 2024) services. First, the Regulation of the Minister of Health Number 20 of 2019 concerning Implementation Health Services Through Telemedicine Between Facilities Health Services. Second, Decree of the Minister of Health Number HK. 01. 07/ MENKES /4829/ 2021 concerning Guidelines Health Services Through *Telemedicine* During the Covid-19 Pandemic (Minister of Health Decree 4829), which combines the Circular Letter of the Minister of Health Number HK.02.01/MENKES/303/2020 concerning Implementation Health Services Through Utilization Technology I. Third, Regulation Council Indonesian Medicine No. 74 of 2020 concerning Authority Clinical and Practice medical via Telemedicine during Covid-19 pandemic in Indonesia After Health Law no. 17 of 2023 ratified, regulations previously deleted. Health Law No. 17 of 2023 concerning Health Article 25 is intended For increase service health specialization and quality service especially For area remote (Kania, 2021). Telemedicine and telehealth can integrated with System National Health Information for allow utilization technology information and communication as mentioned in paragraph (1). Based on regulation this, service health between health facilities can done via telemedicine. Some example telemedicine services between health facilities is teleradiology, tele electrocardiography, tele ultrasonography, teleconsultation clinical, and services other emerging telemedicine along with progress technology and science knowledge

Service medical based on *telemedicine* in Indonesia

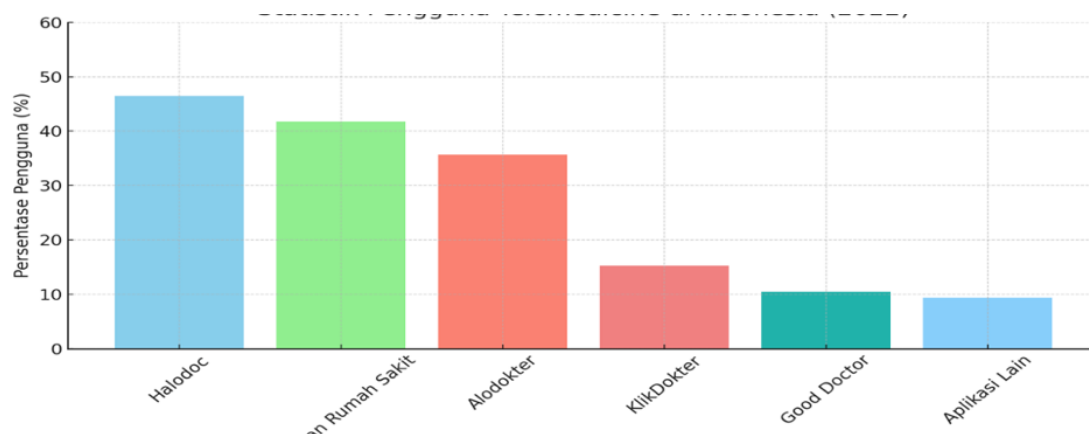


Figure 1. Graph telemedicine users in Indonesia

The graph above illustrates the percentage of use of various telemedicine platforms in Indonesia in 2022. Halodoc (46.5%) Halodoc dominates the telemedicine market share in Indonesia with 46.5% of users. This platform offers a variety of health services, including consultations with doctors, purchasing medicines, and laboratory examination services. Hellodoc's dominance can occur due to the variety of features offered and ease of access, which appeal to people looking for practical and fast health solutions. Halodoc has also partnered with many hospitals and health service providers, increasing its credibility and appeal. Hospital Services (41.8%) telemedicine services provided by hospitals follow Hellodoc with 41.8% of users. Hospital services generally offer more service specializations, making them the primary choice for those in need of further medical consultation. However, these services may be more limited in terms of access compared to platforms such as Halodoc, which provide a variety of doctor options.

The implementation of telemedicine in Indonesia tends to be new, when viewed from the regulatory aspect, the implementation of telemedicine in Indonesia is currently based on several statutory regulations. Until now, there is only one statutory regulation that regulates telemedicine in general, namely Law No. 17 of 2023 concerning Health. Article 57 of the types of telemedicine services mentioned in general include teleradiology, tele-electrocardiography, tele ultrasonography, and teleconsultation. This does not mean that other types of telemedicine services are prohibited or not recognized because it is then stated that telemedicine consultation services and others that are in accordance with the development of science and technology are also included in the scope of telemedicine services in Indonesia. Legal protection for doctors and patients in health services through telemedicine that are not yet based on the principle of balance refers to several things that need to be considered, namely Regulation and Authority, Privacy and Data Security, Medical Practice Standards, Informed Consent, Professional Responsibility, Ethical and Moral Aspects. Effective legal protection in the context of telemedicine requires the development of appropriate regulations and strict adherence to existing practice standards. Both parties, both doctors and patients, must understand the rights, obligations, and risks involved in using this technology. In order to maintain justice and safety in remote health services.

Conclusion

Telemedicine practice places doctors and health workers as the main actors in providing technology-based health services. With the development of digital technology, legal protection for doctors/health workers has become a necessity so that they can work safely, professionally, and free from disproportionate legal pressure. Legal protection for doctors/health workers in telemedicine practice includes several aspects, including: Preventive Protection; The government establishes regulations that strictly regulate telemedicine practice standards and the responsibilities of doctors. There are policies that protect doctors from unfounded lawsuits if they have carried out their duties according to standards and Platform providers are required to provide a safe and reliable technology system, so that technological failure is not entirely the responsibility of the doctor. Repressive Protection; If a doctor faces a lawsuit due to negligence that occurs in telemedicine services, the dispute resolution mechanism must ensure that the doctor receives fair legal treatment. Law enforcement must consider technological limitations, such as communication quality, diagnostic accuracy, and infrastructure conditions in certain areas. The principle of balance in legal protection for doctors/health workers emphasizes the proportionality between the rights and obligations of doctors, as well as the responsibilities of other parties involved in telemedicine practice. The implementation of this principle can be seen from doctors being responsible for their medical actions according to professional standards, platform providers being responsible for the security of the technology

used, the government being responsible for fair supervision and law enforcement. Legal Certainty; Comprehensive regulations are needed to provide clear and proportional legal protection to doctors from unreasonable demands. Justice for all parties in the event of a dispute, the legal resolution mechanism must consider the limitations of technology and the responsibilities of each party involved, so that no party is harmed. Adhalia's research, CK (2023), for example, revealed that although telemedicine has the potential to increase access to health services, the problem of the digital divide in remote areas of Indonesia needs to be addressed so that the principle of distributive justice can be implemented properly (Adhalia, 2023). Distributive justice according to Rawls' theory (1971) can be achieved if the law regulates that this technology can be accessed by all levels of society, both in terms of cost and infrastructure. In Hermawan's research (2020) on telemedicine regulations in Indonesia, it was found that ambiguity in medical procedures applicable to telemedicine services can lead to injustice. Patients often do not have adequate understanding of the services they are provided, their acceptance and the rights they have in that context. This study suggests that the law should regulate in a clearer way the procedures for telemedicine services, so that patients feel they are served fairly, in accordance with the principle of justice.

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