

Legal Protection for Doctors in Medical Practice Using Telemedicine According to Law Number 17 of 2023 Concerning Health

Fakhrurrozi^{1*}, Handar Subhandi Bakhtiar²

^{1,2} Faculty Of Law, Universitas Pembangunan Nasional “Veteran” Jakarta, Jakarta, Indonesia,
frozi8565@gmail.com¹, handar@upnvj.ac.id²

Address: Jalan RS. Fatmawati Raya, Pd. Labu, Cilandak District, South Jakarta City, Special Capital
Region of Jakarta 12450

Author Correspondence : frozi8565@gmail.com*

Abstrak. Health is a basic right guaranteed by the Indonesian constitution, as stipulated in Article 28H of the 1945 Constitution and Article 34 paragraph (3), which states that the state is responsible for the provision of adequate health care facilities for all citizens. Nonetheless, challenges in the provision of health services in remote areas are still significant, especially related to the limitations of facilities, medical personnel, and service quality. The development of technology, particularly telemedicine, has opened up new opportunities in the delivery of health services, which can overcome geographical limitations and improve community access to medical services. The type of research in this study is normative juridical. The research results in this discussion are the protection of doctors and the regulation of telemedicine policies in Indonesia, by reviewing Law Number 17 of 2023 concerning Health regarding the implementation of telemedicine between health service facilities. Although telemedicine can expand access to health, the risks associated with remote diagnosis and treatment require special attention in terms of legal protection of health workers. Therefore, adaptive legal tools are needed to accommodate the growing development of health technology and provide legal protection for the parties involved in the implementation of online-based health services.

Keywords: legal protection, doctor, medical practice, telemedicine.

1. INTRODUCTION

Health is a basic right that should be owned by every citizen and guaranteed by the constitution. This is as stipulated in Article 28 H of the 1945 Constitution which reads “Every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment and the right to obtain health services” and Article 34 paragraph (3): “The state is responsible for the provision of proper health care facilities and public service facilities”. In reality, Indonesia with its vast territory has a population of 274,795,584 people. However, health services in some remote areas are still limited. Puskesmas readiness has only reached 71%, due to lack of facilities, limited drugs, infrastructure, medical devices, health workers and inadequate quality. Although the number of health workers is sufficient, their distribution is uneven. In the regions, health promotion and community empowerment are also not optimal due to the lack of extension workers.

The rapid development of information and communication technology has changed the pattern of interaction in society. Many activities that once had to be done in person can now be done remotely. Banking, shopping and other matters are done with the touch of a hand. Medical treatment is no exception. During this pandemic, people can get clinical services online. Even

the government suggests that people take these online services to reduce physical contact. Long before the pandemic, health services in the form of telemedicine had emerged. Even in some countries the service has been practiced. In Indonesia, before the pandemic, telemedicine services were only applied within the scope of inter-health service facilities (Fasyankes). The pandemic has prompted the government to enact a policy of implementing telemedicine that reaches clinical services between doctors and patients. Although legally its application is only enforced during the pandemic, this telemedicine will continue to grow along with the influence of technology that increasingly reaches the services needed by the community.

The healthcare sector has a close relationship with technological developments that continue to advance rapidly, requiring medical personnel and healthcare facilities to adapt and provide modern equipment. Limited resources and technological delays can reduce the quality of healthcare services. One important innovation in this sector is telemedicine, a remote health service that utilizes information and communication technology. WHO defines telemedicine as health services that overcome the constraints of distance, including diagnosis, treatment, prevention, research, and training for medical personnel. The term has been around since the 1970s, but is now increasingly relevant in the internet era to meet people's needs for practical and efficient access to health services.

This definition covers a wide range of interests, from clinical, non-clinical services, to education and research. In today's internet age, telemedicine is increasingly relevant to people's healthcare needs. Healthcare is increasingly expected to provide remote options by adapting to the development of the internet. This applies not only to the relationship between healthcare facilities, but also the interaction between medical personnel and patients. Patients can now receive services ranging from consultations to pharmaceutical services without having to go to a healthcare facility. They can directly consult with doctors regarding complaints through chat or video call features.

Although it has some drawbacks, such as the inability to conduct in-person physical examinations, telemedicine is considered to provide easy access for the public in obtaining health services. Consultations can be done without a visit to a health facility, thus saving time and money. Distance and time are no longer the main obstacles in this context. The development of telemedicine will bring the world of health to a new stage with adjustments to information and communication technology. This new stage needs to be accompanied by adjustments to relevant regulations so that telemedicine practices can run optimally and provide legal certainty for all related parties, including medical personnel, health workers, and patients. This is the basis for the public to choose telemedicine services as a health solution.

Health services include efforts made individually or in groups within an organization to maintain and improve health, prevent and treat disease, and support the recovery of individual, group, and community health.

Health development management must combine health efforts and resources in an integrated manner across various sectors. Advances in science and technology have improved people's well-being and awareness of the importance of healthy lifestyles. This has resulted in an increased demand for services and a redistribution that includes manpower, facilities and infrastructure in both quantity and quality. As a result, there is a need for regulation to protect both providers and recipients of medical services.

Health services are basically access to fulfill basic rights carried out by the government as the representative of the State in accordance with the Constitution of the Republic of Indonesia Article 28H paragraph (1): "Every person has the right to live in physical and spiritual prosperity, to have a place to live and to have a good and healthy environment and to obtain health services", and Article 34 paragraph (3): "The state is responsible for the provision of health care facilities and proper public service facilities".

Munandar states that good health care facilities are a right to health. The right to health essentially considers health as a human rights and legal issue. Health as a matter related to human rights can be seen from the government's involvement in ensuring the protection of human rights is fulfilled. In addition to being responsible for providing proper health services, the government is currently faced with the challenges of technological advances that have impacted various aspects of public health. This includes technology in the form of tools for health workers and technology used as a means of health services.

The work of a doctor is based on two key behavioral principles, namely the sincerity to do what is best for the patient and without the intention to harm, injure, or harm the patient. To demonstrate professional responsibility and behavior, health workers must respect the rights of patients. According to Maskawati, "patient rights that must be respected by doctors and other health workers consist of the right to be treated, the right to receive treatment by doctors who make professional decisions ethically and freely. Another right that must be respected from patients is the right to be protected in terms of health services that have been entrusted by a health worker so that the work of a health worker deserves legal protection to a certain extent. This means that a health worker in carrying out his duties must be in accordance with predetermined limits so as not to get sued or sued in front of the court".

A doctor who will practice medicine or provide medical services has undergone a long education and training. This profession is the hope for the recovery of patients and their families

who are sick. According to Reni A.H., “In providing health services, doctors and other health workers cannot be separated from the fact that as humans, they are not free from making mistakes. Mistakes can occur in every job, of course with various consequences. This error can be in the form of failure (error), or negligence (negligence) in carrying out the duties carried out “.

The rise of the practice of Telemedicine began when there was an outbreak of the Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2) virus or also referred to as Corona Virus Disease (COVID-19). Telemedicine, which is the practice of providing health services virtually at a distance, uses communication technology as a means of connecting patients and health care providers. The patient and the health care provider are physically present in another location. Accumulation of the patient's health footprint, appropriate clinical examination, is carried out using information and communication technology. Telemedicine applications are considered as an effective way out.

Based on BPS data, only 4.89% of the population in the country have used telemedicine. Meanwhile, 95.11% of the country's population has never used the health service. Looking in more detail, 2.65% of the Indonesian population used telemedicine for health service registration at health facilities. Then, 2.13% of the population used telemedicine for health consultations. The percentage of Indonesians who use it to get medicine services from pharmacies is 0.69%. Meanwhile, only 0.26% of the population used these services during Covid-19. Meanwhile, 56.25% of residents do not use telemedicine because they prefer direct or conventional health services. As many as 22.57% of the population felt they did not need it. Meanwhile, 20.94% of the population did not know about telemedicine.

The existence of Telemedicine itself is the impact of health services in Indonesia which are still not optimal, because there are still many basic health facilities that do not meet service standards, the absence of health service guideline standards, availability of facilities, completeness of facilities, drugs, equipment and health workers. In addition, there are still many people in Indonesia who have minimal health care, due to several factors such as the distance of the health center or hospital that is far from the place of residence or the time constraints to queue to get good service from the hospital.

In general, telemedicine refers to the use of information and communication technology combined with medical expertise to provide health services such as consultation, diagnosis, and medical treatment, without the limitations of geographical or physical distance in its implementation. To operate optimally, this system must be equipped with communication technology that supports the transfer of data in the form of video, voice, and images

interactively in real time, with integration into video conferencing technology. One of the supporting technologies for telemedicine is image processing technology for medical image analysis.

The goal of telemedicine is to ensure equitable healthcare across the country's population, improve the quality of care especially in remote areas, and save costs compared to conventional methods. Telemedicine aims to reduce referrals to doctors or health services in big cities, provide medical education, and support emergency cases. Expansion of the benefits of telemedicine can include disaster areas, long-distance flights, and foreign travelers who are in tourist areas.

Health services are carried out by health service facilities in accordance with the provisions of Law Number 17 of 2023 concerning Health Article 1 number 7:

“Health Service Facilities are places and / or tools used to organize Health Services to individuals or the community with a promotive, preventive, curative, rehabilitative, and / or palliative approach carried out by the Central Government, Regional Governments, and / or the Community.”.

The Covid-19 pandemic significantly increased public interest in the use of telemedicine services. In 2020, a striking increase of 600% in the frequency of visits to telemedicine applications was recorded. With this increase in users, telemedicine service providers need to continue to strive to improve the quality of their services so that users feel satisfied and get satisfying services.

Rock Health (2023) reported that four out of five people have used telemedicine services at least once. Telemedicine use increased by 12% in the over 55 age group and a 13% increase in use by rural patients. The use of telemedicine for mental health from the data is about 38%. The study found 96% of telepsychiatry patients were satisfied with virtual mental health services. The use of telemedicine increased from 15.4% to 86.5% from 2019 to 2021.

Health Law Number 17 of 2023 concerning Health regulates three things related to SIP. First, the SIP that has been issued is declared to remain valid until the SIP period ends. Second, the issuance of SIP that has completed the verification process and meets the requirements is immediately completed and declared valid until the expiration of the SIP. Finally, the issuance of SIP that is still in the initial process before verification is adjusted to the provisions in Law Number 17 of 2023 concerning Health. The implementation of licensing of medical personnel and health workers is issued by the district/city government with the provisions of application and extension of SIP Medical personnel and health workers who apply for the issuance of SIP or extension of SIP that has expired can apply for the issuance of SIP to the head of the

district/city health office or the head of the investment office and one-stop integrated service in the district/city where the medical personnel and health workers carry out their practice.

The risk of providing health services through telemedicine is greater than health services through face-to-face or in-person information obtained is not complete or comprehensive. The ease of communicating with doctors through online consultation services or telemedicine does not guarantee the absence of barriers. In terms of medical consultation and diagnosis, meetings between doctors and patients are usually conducted in person, so that doctors can perform physical examinations directly. If the examination is not done in person, the doctor cannot know the patient's condition, especially if it is done online. In addition, inaccuracies in the patient's diagnosis can also potentially interfere with the identification of the type of disease and the accuracy of administering medication to the patient. Online health consultation services should be held accountable for any misdiagnosis that harms the patient. Similarly, doctors, when conducting an online examination, must trust the information provided by the patient regarding the symptoms of their illness. Sometimes, patients may forget to provide important information about their condition, making it difficult for doctors to determine the correct diagnosis and necessary medical measures. Such matters affect the doctor-patient relationship that rests on a therapeutic transaction.

Based on the explanation above, it can be concluded that legal protection for doctors here, is a form of protection for doctors' rights and online health services through mobile applications have not been officially regulated, so there are no regulations that protect the interests of doctors as a profession that plays an important role in efforts to improve public health. Therefore, a dynamic health law is needed to provide legal protection and legal guarantees. Legal instruments must have the ability to accommodate the increasingly complex developments that will occur in the future. It is necessary to improve and integrate legal instruments for this purpose.

From this explanation, as a doctor who is also a writer, I feel the need to conduct legal research on the legal basis for online medical practice. Therefore, the author formulates the problem, namely How are the regulations and policies towards doctors in practicing medicine with Telemedicine? With the aim of the study, namely to examine and analyze the form of regulation and policy towards doctors in carrying out medical practice with Telemedicine.

2. LITERATURE REVIEW

Linguistically, the word protection in English is called protection. The term protection according to KBBI can be equated with the term protection, which means the process or act of protecting, while according to Black's Law Dictionary, protection is the act of protecting. In general, protection means protecting something from harmful things, something that can be in the form of interests or objects or goods. In addition, protection also means protection given by someone to a weaker person. Thus, legal protection can be interpreted as all government efforts to ensure legal certainty to provide protection to its citizens so that their rights as citizens are not violated, and those who violate them will be subject to sanctions according to applicable regulations. The definition of protection is a place of refuge, things (actions and so on) protect. In the KBBI what is meant by protection is the method, process and act of protecting. Meanwhile, law is a regulation made by the government or that applies to all people in society (state).

In terminology, policy comes from the term “policy” (English) or “politiek” (Dutch). This terminology can be interpreted as general principles that serve to direct the government (including law enforcement) in managing, regulating or resolving public affairs, community problems or areas of drafting laws and regulations and allocating laws / regulations in a (general) goal that leads to efforts to realize the welfare and prosperity of society (Citizens).

Criminal law policy (penal policy) is essentially also a criminal law enforcement policy. Criminal law enforcement policy is a series of processes consisting of three policy stages. First, the formulative policy stage or legislative policy stage, which is the stage of criminal law formulation. Second, the judicial/applicative policy stage, which is the stage of criminal law implementation. The third stage is administrative/executive policy stage, which is the stage of implementation/execution of criminal law. M. Cherif Bassiouni calls the three stages: formulation stage (legislative process), application stage (judicial process) and execution stage (administrative process). The first stage (legislative policy) which is part of the author's current research study is the stage of law enforcement “in abstracto”, while the second and third stages (judicial and executive policy stages) are stages of law enforcement “in concreto”. The three stages of criminal law enforcement policy mentioned above contain three legislative powers or authorities that formulate or stipulate acts as punishable acts (criminal offenses) and their criminal sanctions, the power/authority to apply the law by law enforcement officials, and the power/authority to execute or implement the law concretely by authorized officials/bodies. These three powers are similar to the terms used by Masaki Hamano when describing the scope of jurisdiction.

3. METHODS

This research uses a normative juridical method, because the main focus of attention in this research is Legal Protection for Doctors in the Practice of Medicine with Telemedicine According to Law Number 17 of 2023 concerning Health, both current positive law (*ius constitutum*) and aspired law (*ius constituendum*). Based on this, in terms of the data, this type of research is a research that uses the type or type of normative legal research.

This research uses a normative juridical approach, namely by examining / analyzing secondary data in the form of legal materials, especially primary legal materials and secondary legal materials, by understanding the law as a set of positive rules or norms in the legislative system that regulates human life. This research uses the statute approach and conceptual approach.

4. RESULTS AND DISCUSSION

Regulations and policies for doctors in practicing medicine with Telemedicine

The rapid development of information and communication technology has changed the pattern of interaction in society. Many activities that once had to be done in person can now be done remotely. Banking, shopping and other matters are done with the touch of a hand. Medical treatment is no exception. During this pandemic, people can get clinical services online. Even the government suggests that people take these online services to reduce physical contact. Long before the pandemic, health services in the form of telemedicine had emerged. Even in some countries the service has been practiced. In Indonesia, before the pandemic, telemedicine services were only applied within the scope of inter-health service facilities (*Fasyankes*). The pandemic has prompted the government to enact a policy of implementing telemedicine that reaches clinical services between doctors and patients. Although legally its application is only enforced during the pandemic, this telemedicine will continue to grow along with the influence of technology that increasingly reaches the services needed by the community.

The healthcare sector has a close relationship with technological developments that continue to advance rapidly, requiring medical personnel and healthcare facilities to adapt and provide modern equipment. Limited resources and technological delays can reduce the quality of healthcare services. One important innovation in this sector is telemedicine, a remote health service that utilizes information and communication technology. WHO defines telemedicine as health services that overcome the constraints of distance, including diagnosis, treatment, prevention, research, and training for medical personnel. The term has been around since the

1970s, but is now increasingly relevant in the internet era to meet people's needs for practical and efficient access to health services.

This definition covers a wide range of interests, from clinical, non-clinical services, to education and research. In today's internet age, telemedicine is increasingly relevant to people's healthcare needs. Healthcare is increasingly expected to provide remote options by adapting to the development of the internet. This applies not only to the relationship between healthcare facilities, but also the interaction between medical personnel and patients. Patients can now receive services ranging from consultations to pharmaceutical services without having to go to a healthcare facility. They can directly consult with doctors regarding complaints through chat or video call features.

According to a Katadata Insight Center (KIC) survey, 44.1% of respondents used telemedicine for the first time in the last six months, with Halodoc and Alodokter apps being the top choices. Halodoc was used by 46.5% of respondents as their favorite telemedicine platform, followed by services from hospitals or clinics (41.8%). The apps offer services such as health consultations, drug purchases, and health information that can be accessed from home, thus reducing the risk of physical visits to health facilities. The utilization of telemedicine is not only limited to big cities, but is also starting to reach areas with limited access to healthcare services. This helps to address health service inequalities, especially in areas with limited medical personnel. However, the adoption of telemedicine in Indonesia faces challenges, such as people's preference for in-person healthcare, lack of awareness about telemedicine, as well as uneven internet penetration, especially in remote areas.

Data from the Central Statistics Agency (BPS) shows that more than half of the doctors in Indonesia are located in Java, while regions such as West Papua have very few doctors. Telemedicine can help distribute health services more evenly if supported by the development of internet infrastructure in remote areas. Government support through subsidies, incentives, and policies to protect the privacy and security of user data is needed to increase public trust in this service. The implementation of a hybrid model that integrates telemedicine and conventional health services can be a solution to overcome the shortcomings of each method. Public education on the benefits and safety of telemedicine is also important, especially in areas with low internet penetration. With the cooperation of various parties to overcome the obstacles of infrastructure, privacy, and public awareness, telemedicine has the potential to become a major tool to realize inclusive and equitable health services in Indonesia.

Although it has some drawbacks, such as the inability to conduct in-person physical examinations, telemedicine is considered to provide easy access for the public in obtaining

health services. Consultations can be done without a visit to a health facility, thus saving time and money. Distance and time are no longer the main obstacles in this context. The development of telemedicine will bring the world of health to a new stage with adjustments to information and communication technology. This new stage needs to be accompanied by adjustments to relevant regulations so that telemedicine practices can run optimally and provide legal certainty for all related parties, including medical personnel, health workers, and patients. This is the basis for the public to choose telemedicine services as a health solution.

Although telemedicine has a lot of potential, there are a number of challenges that can cause concern to the public in its implementation. The three main challenges in the implementation of telemedicine are:

a. Technology Limitations

One of the factors causing public concern in the implementation of telemedicine is the limitations of technology, especially in remote areas. In some areas, technological infrastructure such as stable internet connections and communication devices may not be adequately available. This may hinder patients' and medical professionals' access to telemedicine services. To overcome this, further development in technological infrastructure is needed in these remote areas.

b. Data Security Issues

Data security is one of the causes of public concern in accessing telemedicine services and other digital technologies. In healthcare, patient medical data is highly sensitive and personal information. Poor data security can result in the risk of hacking and misuse of medical information. To address this issue, strict measures in data protection are required, such as having a strict privacy policy. Any company that provides telemedicine services must ensure that patient data is maximally protected.

c. Regulation and Legality

Telemedicine often faces problems in regulation and legality. Each country has different regulations when it comes to medical practices and the use of medical technology. To ensure that telemedicine can operate properly, it is important to have clear regulations that are in line with technological developments. This includes regulations regarding the licensing of medical practitioners, drug prescription, and the application of health technology. The alignment between technology and legal provisions needs to be strengthened to ensure that telemedicine operates legally and safely.

Therefore, the role of law as social control or social control is a form of implementation of legal certainty, so the laws and regulations made must be in accordance with the needs that

exist in society and can be implemented properly by the government and law enforcement officials. Legal changes must be able to keep up with the latest developments according to the needs of the community to overcome inequality and polemics that occur today or in the future so that impacts such as disruption of public order, loss of morals, and other potential legal problems can be overcome. This need needs to be supported by a good regulation to create protection and legal certainty for those who receive and provide health services. Service providers or e-health platforms must also be in line with regulations and policies to reorganize legal measures to support the advancement of science and technology.

The development of science and technology is the most obvious sign of the digital era, but this digital era has its own challenges, which can potentially be positive or negative. The development of technology that has emerged in the last decade has changed the pattern of people's daily life, work and even entertainment that is strongly structured. The digital revolution as it is known today, is very influential for the world of industry, banking and so on.

In the field of healthcare, technology has been utilized in terms of providing health services, which is known as telemedicine. This technology presents the possibility of a health service that can be carried out remotely for diagnostics, patient education, therapy, treatment, and consultation.

In use, telemedicine offers several advantages, including:

a. Increased health service coverage;

Telemedicine can increase the coverage of health services. This is because health services can be carried out remotely, so that they can reach a wider area. Not only between regions, between islands, but it can even occur between countries. Telemedicine can be an alternative to problems regarding access to health facilities and mal-distribution of health workers that still occur in Indonesia. Especially with the limited number of specialist doctors and their presence more in hospitals in big cities.

Telemedicine plays a role in bridging this. With telemedicine, patients can obtain services remotely including specialty services, so that it will uphold equitable distribution of health services. With the archipelago and geographical conditions of Indonesia, telemedicine is very useful if applied in Indonesia. However, infrastructure support such as the internet and technological support as well as user literacy are needed so that remote health services can be carried out.

b. Cost and time efficiency;

The existence of health services that can be carried out remotely will reduce costs and time spent. Transportation costs, chronic disease management costs, and monitoring

costs can be reduced through remote health services. It can be imagined, if there are still many patients who have to travel tens of kilometers away and for hours just to get health services. Through telemedicine, patients can consult about their symptoms without having to meet face-to-face and when they need follow-up examinations offline, the examinations will be more efficient, scheduled, and absolutely necessary.

c. Improved quality of health services;

Telemedicine can improve the quality of health services. This is because patients can obtain information and services quickly, anytime, and anywhere without being limited by distance and time as long as the infrastructure supports. During the Covid-19 pandemic, this service is recommended to be used due to restrictions on patients checking themselves directly to health service facilities, except in certain conditions or emergencies.

Ante Natal Care (ANC) examination for pregnant women, for example, before the pandemic ANC was recommended to be done at least 4 times, namely 1x in the first trimester, 1x in the second trimester, and 2x in the third trimester. However, during the pandemic, ANC is recommended to be done twice, namely 1x at the beginning of pregnancy and 1x before delivery.

This can be supported by telemedicine, for example by monitoring pregnant women through teleconsultation or through the availability of emergency call applications that can be directly used by pregnant women when experiencing emergency conditions. These steps are expected to reduce maternal and child mortality, especially due to delays in early detection of emergencies and delays in referral.

d. In accordance with the patient's needs.

In the current era, where many people use smartphones and have extensive access to cyberspace. Of course, people prefer to search for health information online because it is considered faster and easier. So much so that they are often known as “Google patients”, patients who often search for information about their health problems through Google, even doing self-diagnosis and self therapy.

However, the search for information should be limited and its validity ensured because the abundance of information will make it difficult for patients to distinguish what is right from what is wrong. Teleconsultation with a health professional can be an alternative, so that patients can obtain valid information about their health problems. In addition, patients can freely ask questions or conduct consultations according to their needs and more freely.

Although there are many benefits that can be obtained from telemedicine, considering that telemedicine is done remotely, inaccuracy is one of the weaknesses of telemedicine, as well as other weaknesses, which will certainly have an impact on the health of patients.

In general, everyone must be responsible for every action or deed they do. Providing quality health services to patients directly or remotely without discrimination is a mandate from God Almighty entrusted to doctors and other medical personnel as bearers of a noble profession that must be accountable to the Creator.

The legal regulation of telehealth and telemedicine is a new change in the health sector. Health technologies such as telehealth and telemedicine have brought significant transformation in the health sector, providing various benefits that improve the quality, efficiency, and accessibility of health services so that it is necessary to be regulated by law to provide certainty of services in telehealth and telemedicine.

Telemedicine is a form of telecommunication healthcare such as telephone, video conferencing, or internet to provide medical consultation, diagnosis, and treatment to patients without the need to physically meet with medical personnel. With telemedicine, patients can interact with doctors or medical personnel through electronic devices such as computers, smartphones, or tablets that allow patients to get medical care without having to come to a health facility in person.

Telemedicine has many advantages that make it a valuable solution in the field of healthcare. Firstly, telemedicine increases the accessibility of medical services for individuals residing in remote or hard-to-reach areas. By using communication technology, patients can easily connect with medical personnel without having to travel far to a healthcare facility, saving time and transportation costs.

Secondly, telemedicine helps reduce the waiting time to get a medical consultation. Patients do not need to physically line up in the waiting room of a hospital or clinic, thus improving efficiency and reducing backlogs at healthcare facilities.

Third, telemedicine also enables remote medical consultations, allowing collaboration between medical personnel from different locations or specialties. This allows for improved quality of diagnosis and treatment of complex cases through multidisciplinary consultations.

Fourth, telemedicine provides the ability for healthcare to be performed remotely, which can improve time efficiency and productivity. It allows medical professionals to treat patients from various locations without the need to be in physically similar locations.

In telemedicine services, sensitive patient health data is transmitted, stored, and processed digitally. This creates potential risks to data security and privacy, including:

- 1) Hacking and unauthorized access to patient data;
- 2) Misuse of data for commercial or criminal purposes;
- 3) Data leakage due to negligence or system weakness; and
- 4) Breach of doctor-patient confidentiality.

Given the sensitivity of health data, strict protection is crucial to maintain public trust in telemedicine services and guarantee patients' rights. To overcome these challenges, several key steps need to be taken:

- a. Development of Specialized Regulations: Specific regulations governing data protection in the context of telemedicine are needed, including minimum security standards, consent procedures, and audit mechanisms.
- b. Implementation of the Privacy by Design Principle: Telemedicine service providers should implement the privacy by design principle, where privacy protection is integrated from the system design stage.
- c. End-to-End Encryption: Implementation of end-to-end encryption for all patient data transmission in telemedicine services.
- d. Training and Education: Training for healthcare workers and education for patients on the importance of data protection and security practices in the use of telemedicine.
- e. Periodic Security Audits: Periodic security audits of the telemedicine system to identify and address vulnerabilities.
- f. Transparent Consent Mechanism: Development of a clear and transparent consent mechanism for patients regarding the use of their data in telemedicine services.
- g. International Cooperation: Given the cross-border nature of digital services, there is a need for international cooperation in the enforcement of data protection standards.

Legal protection for doctors in providing health services for patients, in this case is the provision of doctors' rights as regulated in Law Number 29 of 2004 concerning Medical Practice, namely:

- 1) Receive legal protection as long as they carry out their duties in accordance with professional standards and standard operating procedures;
- 2) Provide medical services in accordance with professional standards and standard operating procedures;
- 3) Obtaining complete and honest information from patients or their families;
- 4) Receive compensation for services.

According to the regulation of Government Regulation No. 28 of 2024 on the Implementation of Law No. 17 of 2023 on the License to Practice and Implementation of

Medical Practices regarding telemedicine between Health Care Facilities, telemedicine refers to the provision of health services remotely by health professionals using information and communication technology. This process includes the exchange of information related to diagnosis, treatment, prevention of disease and injury, research, evaluation, as well as continuing education, with the aim of improving the health of individuals and communities.

Legal liability in telemedicine covers several aspects:

- a. Professional Responsibility: The doctor's obligation to provide care according to the standards of the medical profession.
- b. Ethical Responsibility: Maintain patient confidentiality and act in the best interest of the patient.
- c. Contractual Responsibility: Fulfill obligations arising from the telemedicine service agreement.
- d. Civil Liability: The obligation to compensate in the event of loss due to negligence.
- e. Criminal Liability: In extreme cases where there is a violation of criminal law.

Currently, there are no specific regulations governing legal liability in telemedicine in Indonesia. However, some relevant regulations include:

- 1) Law No. 17 of 2023 on Health;
- 2) Law No. 29 of 2004 on Medical Practice; and
- 3) Minister of Health Regulation No. 20 of 2019 concerning the Implementation of Telemedicine Services Between Health Care Facilities.

The advantage of telemedicine is that it enables remote patient monitoring and surveillance. Telemedicine technology can be used to keep an eye on a patient's condition in real-time, transmit medical data, and monitor disease progression. This allows for early treatment and appropriate intervention, thereby improving treatment outcomes.

In Indonesia, not everyone has access to adequate technology and internet connection to use telemedicine. This issue can be a constraint for individuals residing in remote or low-income areas who may not have electronic devices or stable internet access.

Aspects of data privacy and security are also a concern in the use of telemedicine. The transfer of medical data over the internet can present a risk of leakage of personal information and health data, so strict security measures are needed to protect patient privacy. In addition, telemedicine can reduce the interpersonal relationship between patients and medical personnel, interpersonal itself refers to the relationship or communication between individuals, this can affect the level of patient trust and satisfaction with health services because the communication is not direct.

In some situations, such as in routine check-ups or medical consultations, doctors may also provide online consultation services or telemedicine. However, due to limitations in physical examinations and the absence of regulations on the provision of health certificates through telemedicine, the certificate is not valid in use.

While telemedicine brings significant benefits, especially in improving the accessibility of healthcare during the pandemic, a number of potential legal issues arise. One of these is the lack of a clear legal basis regarding the limitations of practicing medicine through telemedicine. Government Regulation No. 28 of 2024 on the Implementation Regulation of Law No. 17 of 2023 regarding the implementation of Telemedicine Services Between Health Service Facilities has not fully addressed the practice of telemedicine, especially in the aspect of clinical telemedicine between health service providers and health service users (patients), which can create a situation of legal uncertainty.

Thus, legal issues may arise due to the vagueness or lacuna of regulations related to telemedicine. This can create uncertainty for doctors, patients, and health care facilities in providing and using telemedicine services legally and in accordance with applicable regulations.

Article 5 of Perkonsil Number 74 of 2020 concerning Clinical Authority and Medical Practice through Telemedicine during the 2019 Corona Virus Disease Pandemic in Indonesia states that patients who receive services through telemedicine must provide general informed consent in accordance with applicable regulations. In accordance with Article 2 paragraph (2) of the Minister of Health Regulation Number 290 of 2008, informed consent can be given either orally or in writing. Currently, there is no specific regulation that regulates it in detail in the context of telemedicine. This leads to uncertainty regarding the level of consent required and the information that must be provided to patients in telemedicine practices.

The lack of clarity of regulations regarding informed consent in telemedicine can raise questions regarding the extent to which patients are aware of the risks and benefits of the telemedicine services to be received. In addition, the absence of specific guidelines can also make it difficult for telemedicine service providers to ensure that consent from patients has been obtained correctly and legally in accordance with applicable regulations.

However, in the current development trend of online health services, patients directly interact with doctors who have a license to practice in providing services, without involving health care facilities as intermediaries. This service is carried out through an integrated online-based health service platform, where patients can interact directly with doctors via telephone, video call, or online message.

Until now, regulations on telemedicine have not specifically regulated the utilization of online health services that are growing and in demand among the public. The utilization of online health service platforms has now become a trend and facilitates the affordability of consultations for the community with doctors or obtaining health services without having to come to a health service facility.

Article 262 in Law Number 17 of 2023 concerning Health states that more detailed regulations regarding the registration of medical personnel and health workers are regulated through Article 677 in Government Regulation Number 28 of 2024 concerning the Implementation Regulations of Law Number 17 of 2023 stating that telemedicine services refer to consultations for diagnosis, therapy, or prevention of disease carried out by health workers who have a license to practice at the implementing health service facility. Types of telemedicine services include teleradiology, teleelectrocardiography, teleultrasonography, clinical teleconsultation, and various other telemedicine consultation services in accordance with the development of science and technology.

During the Covid-19 pandemic, health services through telemedicine include the delivery of health information, diagnosis, treatment, prevention of deterioration, evaluation of the patient's health status, and/or pharmaceutical services. This includes monitoring Covid-19 patients who are in self-isolation. Service delivery is carried out by doctors and other health workers in health care facilities in accordance with their competence and authority, while ensuring service quality and patient safety.

The government needs to issue strict guidelines and regulations regarding aspects of legal liability for medical personnel and health institutions involved in the provision of telemedicine services. This includes aspects of liability in terms of diagnosis, drug prescribing, remote treatment, as well as response to emergency situations. In addition, it is also necessary to consider regulations regarding compensation and payment for telemedicine services. The payment system should be clearly regulated to ensure that medical personnel and healthcare institutions receive fair compensation for the services they provide. To achieve telemedicine regulatory harmonization, several strategies can be implemented:

- a. Drafting of the Telemedicine Bill: Develop a comprehensive Telemedicine-specific Bill.
- b. Revision of Related Regulations: Revise existing regulations to align with the new telemedicine framework.
- c. Development of Technical Guidelines: Develop detailed technical guidelines for the implementation of telemedicine at various levels of healthcare.

- d. Education Program: Organize educational and socialization programs on telemedicine regulations for health workers and the public.
- e. International Cooperation: Enhance international cooperation in the development of telemedicine standards and best practices.

The risk of providing health services through telemedicine is greater than health services through face-to-face or in-person information obtained is not complete or comprehensive. The ease of communicating with doctors through online consultation services or telemedicine does not guarantee the absence of barriers. In terms of medical consultation and diagnosis, meetings between doctors and patients are usually conducted in person, so that doctors can perform physical examinations directly. If the examination is not done in person, the doctor cannot know the patient's condition, especially if it is done online. In addition, inaccuracies in the patient's diagnosis can also potentially interfere with the identification of the type of disease and the accuracy of administering medication to the patient. Online health consultation services should be held accountable for any misdiagnosis that harms the patient. Similarly, doctors, when conducting an online examination, must trust the information provided by the patient regarding the symptoms of their illness. Sometimes, patients may forget to provide important information about their condition, making it difficult for doctors to determine the correct diagnosis and necessary medical measures. Such matters affect the doctor-patient relationship that rests on a therapeutic transaction.

With this regulation, it is hoped that the practice of medicine through telemedicine can take place more regularly and safely, and doctors and dentists can provide services in accordance with their competence in facing the challenges of the Covid- 9 pandemic. The regulation of telemedicine services is more inclined to focus on urgent needs during pandemic situations, currently there are no regulations that specifically regulate online telemedicine services in the context of non-pandemic times. This indicates that there is a difference in regulation between emergency and normal situations, which indicates the need for more comprehensive and sustainable regulatory development to regulate the growing practice of telemedicine in the future.

The new Health Law Number 17 of 2023, which was inaugurated on July 11, 2023, does not specifically discuss telemedicine. The absence of such discussion is a challenge, especially in an effort to provide a complete and clear legal framework for the practice of telemedicine. In this case, efforts to perfect the legislation are needed as an important step to ensure adequate legal protection for telemedicine practitioners. The continuity of the law needs to be adapted

to technological developments and the dynamics of health practice, ensuring that the regulation can provide appropriate and up-to-date guidance for the practice of telemedicine in the future.

5. CONCLUSION

The legal foundation of Telehealth and Telemedicine in Indonesia is regulated in Law No. 17 of 2023 on Health and Government Regulation No. 28 of 2024 on the Implementation Regulation of Law No. 17 of 2023 on Practice License and Implementation of Medical Practice. Nonetheless, it should be noted that to date, the Government has not ratified the Draft Implementing Regulation in the form of a Government Regulation relating to Telemedicine as has been delegated by Law Number 17 of 2023 on Health. This is due to the complexity in drafting regulations that cover various technical and legal aspects. The absence of these implementing regulations can lead to legal uncertainty in the practice of Telehealth and Telemedicine in Indonesia. So it is necessary to immediately stipulate Government Regulations related to Telemedicine.

REFERENCES

- Aji Prakoso. (2023). Kajian viktimologi dalam tindak pidana penggelapan pada perusahaan pembiayaan. *Sivis Pacem*, 1(1), 47-68. Retrieved from <https://sivispacemjournal.my.id/index.php/login/article/view/3>
- Arman Anwar. (2013). Aspek hukum penggunaan telemedicine. *Jurnal FIKI*, 1(1). Retrieved from <https://publikasi.dinus.ac.id/index.php/fiki2013/article/view/525>
- Bryan A. Garner. (2009). *Black's law dictionary* (p. 1343). St. Paul: West.
- Catur Nugroho. (2020). *Cyber society: Teknologi, media baru, dan disrupsi informasi* (1st ed., p. 27). Kencana Prenada Media.
- Faiz Emery Muhammad, & Beniharmoni Harefa. (2023). Pengaturan tindak pidana bagi pelaku penipuan phishing berbasis web. *Jurnal USM Law Review*, 6(1), 226-241. <https://doi.org/10.26623/julr.v6i1.6649>
- Febriana Sulistya Pratiwi. (n.d.). Baru 4,89% penduduk Indonesia pernah gunakan telemedicine. *Data Indonesia*. Retrieved from <https://dataindonesia.id/kesehatan/detail/baru-489-penduduk-indonesia-pernah-gunakan-telemedisin>
- Fian Yunus. (2020). *Polri dan era disruption: Perang melawan revolusi kejahatan abad 21* (1st ed., p. 11). Pustaka Star's Lub.
- H. Zein Asyhadie. (2020). *Aspek-aspek hukum kesehatan di Indonesia* (2nd ed., p. 2). Rajawali Pers.

- Joni Afriko. (2016). Hukum kesehatan (teori dan aplikasinya) dilengkapi undang-undang kesehatan dan keperawatan (p. 27). IN MEDIA.
- Knowles, M., & Krasniansky, A. (2023, February 21). Consumer adoption of digital health in 2022: Moving at the speed of trust. Retrieved from <https://rockhealth.com/insights/consumeradoption-of-digital-health-in-2022-moving-at-the-speed-of-trust/>
- Lilik Mulyadi. (2008). Bunga rampai hukum pidana perspektif teoritis dan praktik (p. 389). PT. Alumni.
- M. Nur Sholikin. (2022, January 19). Urgensi menyusun regulasi komprehensif telemedicine. Hukumonline. Retrieved from <https://www.hukumonline.com/berita/a/regulasi-telemedicine-lt61e77813f14ea?page=1>
- Mahsun Ismail. (2018). Kebijakan hukum pidana cyberpornography terhadap perlindungan korban. Jurnal Hukum Ekonomi Syariah, 1(2), 117-134. <https://doi.org/10.30595/jhes.v1i2.3734>
- Marcel Seran, & Anna Maria Wahyu Setyowati. (2010). Dilema etika dan hukum dalam pelayanan medis (1st ed., p. 7). Mandar Maju.
- Munandar Wahyudin Suganda. (2017). Hukum kedokteran (p. 8-9). Alfabeta.
- Myrick, K. L., Mahar, M., & DeFrances, C. J. (2024, February). Telemedicine use among physicians by physician specialty: United States, 2021. CDC. Retrieved from <https://www.cdc.gov/nchs/products/index.htm>
- Rani Tiyas Budiyaniti. (2020). Pasien online: Panduan literasi kesehatan di era 4.0 (1st ed., p. 13). Asta Karya Kreativa.
- Rencana Strategis Kementerian Kesehatan Tahun 2015-2019.
- Reni Agustina Harahap. (2021). Etika hukum & kesehatan (1st ed., p. 153). Merdeka Kreasi.
- Syahiduz Zaman. (2024). Telemedicine dan masa depan layanan kesehatan di Indonesia. Kompasiana. Retrieved from https://www.kompasiana.com/syahiduzzaman5860/6672181534777c44680bc282/telemedicine-dan-masa-depan-layanan-kesehatan-di-indonesia?page=4&page_images=1
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- Urness, D., Wass, M., & Bulger, T. (2006). Client acceptability and quality of life—telepsychiatry compared to in-person consultation. Sage Journals.
- World Health Organization (WHO). (2010). Report on the second global survey on eHealth 2009: Telemedicine – Opportunities and developments in member states (ISBN: 978-92-4-156414-4). WHO Press.
- Worldometer. (2025). Coronavirus statistics. Retrieved from <https://www.worldometers.info/coronavirus/>