

Legal Protection for Medical Personnel in the Implementation of Telemedicine Via Digital Platform

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Abstract

In the contemporary global era, information technology is experiencing rapid development, particularly within the healthcare sector, where it is extensively utilized for communication between healthcare providers and patients, commonly referred to as telemedicine. Telemedicine constitutes a technology-driven healthcare service facilitating consultations with medical professionals remotely, obviating the necessity for in-person meetings, and enabling diagnostic and therapeutic consultations for patients. In Indonesia, telemedicine is anticipated to alleviate healthcare access issues, particularly in remote regions lacking adequate medical facilities and personnel. Previously, concerns regarding data security and patient privacy posed obstacles for both medical practitioners and patients utilizing telemedicine. However, with the enactment of Law No. 27 of 2022 on Personal Data Protection and the stipulation for platforms to collaborate with the Ministry of Health and the Ministry of Information, these concerns have begun to be addressed. Nevertheless, ethical dilemmas and instances of fraudulent patient data have recently surfaced. Some patients provide false information either due to not meeting age requirements for consultation or simply to disrupt medical proceedings. In light of these developments, researchers seek to explore the legal safeguards for medical personnel engaged in telemedicine services and the roles digital platforms play in mitigating issues encountered throughout the telemedicine process.

Keywords: Telemedicine, Medicolegal, Health Research

1. INTRODUCTION

Since the 21st century, technological developments have accelerated rapidly until now. The world is now starting to enter the era of society 5.0 which emphasizes the concept of combining technology and humans which focuses on combining advanced technology such as artificial intelligence (AI), IoT and robotics. Even though this is still in the development and debate stage, technological developments will continue to increase and penetrate all sectors of life, including the health sector. One of the technological developments in the health sector that we can experience is telemedicine. *Telemedicine* is the use of information technology which aims to provide long-distance health services. According to WHO, there are four elements related to telemedicine, namely, it aims to provide clinical support, is useful for overcoming geographical and distance barriers, aims to improve public health, and involves the use of various types of information technology devices. Currently, telemedicine is not only limited to patients and health care facilities, but there are digital platforms as third parties that act as intermediaries between medical personnel and patients. Some of these digital platforms even offer free consultations with medical personnel. Of course, the trend of seeking treatment via digital platforms is increasingly widespread because patients feel it is more efficient to carry out therapeutic transactions without having to go to a health service facility. Patients can also choose directly which medical personnel they want to consult with. In addition, during a consultation, patients can send photos or videos related to their complaints. However, in practice, this freedom that patients can exercise is sometimes misused. Several medical personnel who collaborate with the platform complained that individuals were dishonest in entering personal data and deliberately wrote unethical sentences outside of their complaints to medical personnel. Based on this,

researchers are interested in conducting research regarding legal protection for medical personnel in implementing telemedicine on digital platforms and researchers also want to know the role of digital platforms as facilitators of health services.

2. METHODOLOGY

The research is descriptive analytical, namely describing the research object to obtain a complete picture of the application of the law. The data used in this research is secondary data where data is obtained from literature study. Next, secondary data was obtained and analyzed qualitatively. In this research, there are five approaches that can be applied, namely the statutory approach, case approach, historical approach, comparative approach and conceptual approach. In this case, the author uses two statutory approaches (state approach) and a conceptual approach (conceptual approach).

3. RESULTS AND DISCUSSION

The World Health Organization (WHO) states that the term " *Telemedicine*" was first coined in 1970, which literally means long-distance healing. WHO defines *telemedicine* as the provision of health services remotely by all experts in the field of health by utilizing information and communication technology for the exchange of valid information for the diagnosis, treatment and prevention of disease, research and evaluation, as well as for continuing education for health service providers, which aims to advance Individual and community health. The legal basis and regulations for telemedicine regulations in Indonesia include:

1. Law No. 17 of 2023 concerning Health
 - a) Article 1 paragraph (21)

Health is the provision and facilitation of health services, including public health, health information services, and self-service, through telecommunications and digital communication technology.
 - b) Article 1 paragraph (22)

Telemedicine is the delivery and facilitation of clinical services via digital telecommunications.
 - c) Article 25 paragraph (1)

Implementation of Health Efforts in the form of Health Services can utilize information and communication technology.
 - d) Article 25 paragraph (2)

The use of information and communication technology as intended in paragraph (1) can be implemented through Telehealth and Telemedicine which are integrated with the National Health Information System.
 - e) Article 25 paragraph (3)

Health as referred to in paragraph (2) consists of providing clinical and non-clinical services.
 - f) Article 25 paragraph (4)

The provision of clinical services as intended in paragraph (3) is carried out via Telemedicine. Telemedicine as referred to in article 25 paragraph (4) Forms of Health Services through Telemedicine include, among other things, medical/clinical care and/or health consultation services.
 - g) Article 25 paragraph (5)

Further provisions regarding the implementation of Health Efforts that utilize information and communication technology are regulated by Government Regulations.
2. Minister of Health Regulation Number 20 of 2019 concerning the Implementation of Telemedicine between Health Service Facilities
 - a) Section 2

Telemedicine services are carried out by health workers who have a practice permit at the organizing health facility
 - b) Article 3

Telemedicine services as referred to in Article 2 consist of services: (1) Teleradiology; (2) Teleelectrocardiography; (3) Teleultrasound (4) Clinical teleconsultation; and (5) Other Telemedicine consultation services in accordance with developments in science and technology
 - c) Article 4

Telemedicine services as intended in Article 3 are carried out in accordance with the provisions of statutory regulations.

Legal Protection of Medical Personnel in Telemedicine Services in Indonesia

Legal protection is to provide protection or human rights that are harmed by other people and legal protection is provided so that they can enjoy all the rights granted by law. Legal protection for medical personnel in implementing Telemedicine is needed so that problems that may arise from long-distance services are not immediately blamed on medical personnel.

1. Article 28D paragraph (1) of the 1945 Constitution states that:
Everyone has the right to recognition, guarantees, protection and fair legal certainty as well as equal treatment before the law
2. Law No. 17 of 2023
 - a. Article 1 paragraph (25)
The Council is an institution that carries out tasks independently in order to improve the quality of practice and professional technical competence of Medical Personnel and Health Personnel as well as providing legal protection and certainty to the public.
 - b. Article 12
The Central Government and Regional Governments are responsible for:
 1. Arrangement, development, supervision and improvement of the quality and competence of Medical Personnel and Health Personnel;
 2. Planning, procurement and utilization of medical personnel and health workers in accordance with the needs of the community and region based on statutory provisions;
 3. Welfare of medical personnel and health workers; And
 4. Protection for patients and Health Human Resources

Article 273

- (1) Medical personnel and health workers in carrying out practice have the right to:
 - a. Get legal protection as long as you carry out your duties in accordance with professional standards. Professional service standards, standard operational procedures, and professional ethics, as well as patient health needs;
 - b. Obtain complete and correct information from patients or their families;
 - c. Receive appropriate salaries/wages, service rewards and performance allowances in accordance with statutory provisions;
 - d. Get protection for safety, occupational health and security;
 - e. Obtain health insurance and employment guarantees in accordance with statutory provisions;
 - f. Obtain protection from treatment that is not in accordance with human dignity, morals, decency and socio-cultural values;
 - g. Obtain awards in accordance with statutory provisions;
 - h. Get the opportunity to develop yourself through competency, knowledge and career development in your professional field;
 - i. Rejecting the wishes of patients or other parties that conflict with professional standards, service standards, standard operational procedures, codes of ethics, or provisions of laws and regulations; and
 - j. Obtain other rights in accordance with statutory provisions.
- (2) Medical personnel and health workers can stop health services if they receive treatment that is not in accordance with human dignity, morals, decency and socio-cultural values as intended in paragraph (1) letter f, including acts of violence, harassment and bullying.

Previously there was an Indonesian Medical Council Regulation regarding Clinical Authority and Medical Practice via Telemedicine During the Covid-19 Pandemic. However, unfortunately, the Indonesian Medical Council Regulations have ended since the issuance of Presidential Decree No. 17 of 2023 concerning Determining the End of the 2019 Corona Virus Disease Pandemic Status. Regarding the issue of using fake identities by patients, the person concerned may be subject to sanctions as stated in Law No. 27 of 2022 in Chapter XIV Article 67 which regulates:

- a. Paragraph (1)
Any person who intentionally and unlawfully obtains or collects Personal Data that does not belong to him with the intention of benefiting himself or another person which may result in loss to the Personal Data Subject as intended in Article 65 paragraph 1 shall be punished by imprisonment for a maximum of 5 (five) years and/or a maximum fine of IDR 5,000,000,000 (five billion rupiah).
- b. Paragraph (3)

Any person who intentionally and unlawfully uses Personal Data that does not belong to him as intended in Article 65 paragraph (3) shall be punished with a maximum imprisonment of 5 (five) years and/or a maximum fine of IDR 5,000,000,000 (five billion rupiah).

Then, in telemedicine services, it is important for medical personnel and patients to maintain good communication with each other. Ignoring ethics in communication will eliminate sensitivity and empathy. Ethical violations committed by patients against medical personnel in the form of harsh words or verbal harassment can be associated with: Article 27 paragraph (1) Law Number 11 of 2008 as amended by Law Number 19 of 2016 concerning Information and Electronic Transactions (ITE). "Every person intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents which have content that violates decency." Article 289 of the Criminal Code "Anyone who by force forces someone to commit or allows an obscene act to be committed, is threatened for committing an act that attacks the honor of morality, with a maximum imprisonment of 9 years"

Digital Platform as a Container for Health Services

According to the Big Indonesian Dictionary, a platform is a work plan or program. In simple terms, a platform is a container that is used to run a system according to the program plan that has been created. A digital platform is a collection of software that forms a certain system. This software can be opened on a PC (Personal computer) or Android system. If it is on the Android system, the digital platform can be an application. The platform is not a health service facility such as a clinic, hospital or health center, but only a platform or third party that connects patients with health services. In its policy, the platform writes that they can deactivate a user's account if they violate the terms. The platform also wrote that they are not responsible for problems that occur between service users, in this case patients and medical personnel because the platform is only a facility provider that connects health services with patients, not a service provider itself.

4. CONCLUSION

Telemedicine is one way that is considered to improve the quality of health services in Indonesia. With the presence of telemedicine, it is hoped that it will make it easier for people to get health services without being limited by distance and time. Telemedicine can now be accessed via digital platforms on smartphones. Even though the ease of access to health services is becoming increasingly evident, there are still gaps that need to be corrected. After the privacy and security issues of patient data, ethical and authentication issues now arise. According to researchers, this could happen because there are no detailed regulations or regulations regarding the implementation of telemedicine. It would be better if a regulation was created that discussed telemedicine specifically and in detail, including clear protocols and legal protection for medical personnel so that they also feel comfortable while working. Apart from that, the platform as a liaison facility between health services and patients should play an important role as a supervisor and warning service users so that they always maintain norms, including norms of decency, and there needs to be sanctions that provide a deterrent effect to violators of telemedicine rules.

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