

Indonesian Telemedicine: Between Hope and Legal Challenges

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Abstract

The presence of telemedicine in the era of society 5.0 has revolutionized the development of equal distribution of information systems in the field of digital-based health. The research conducted is a literature review study with a descriptive analysis method. The approach used is a conceptual approach discussing telemedicine, prescriptive nature, and providing analysis and recommendations related to the need to develop more comprehensive regulations for telemedicine. Based on the results of the Telemedicine Service Policy in Indonesia, the digitalization project needs to be supported by a comprehensive legal and regulatory framework and see the importance of utilizing telemedicine in health services. And Legal Problems in Providing Remote Health Services Using Information and Communication Technology (Telemedicine) that important aspects in the health care system, such as the rights and obligations of the government to health service standards, the use of telemedicine services. Starting from patient privacy regulations. Based on the application, the hope is to improve telemedicine for people living in remote areas. Without clear and precise legal construction, the potential benefits of telemedicine are neglected. The solution is to develop regulations that are able to adapt and develop sustainably as telemedicine facilities and bring benefits.

Keywords: Indonesian Telemedicine; Digitalization Project; Health Services.

Introduction

In this advanced time, the presence of an data framework is exceptionally imperative to back the equalization of data frameworks in all areas, counting the restorative field. Each person has the correct to health as controlled in Article 28H Passage 1 of the Structure of the Republic of Indonesia (1945 Structure of the Republic of Indonesia).¹ Improving health facilities needs to be done to increase public satisfaction with health services.² The healthcare sector has evolved significantly with the advancement of technology. The digital era has revolutionized medical training by combining augmented and virtual practice in surgery and diagnostics. However, in underdeveloped countries, the benefits of these technological advances are not as widespread due to limited accessibility compared to traditional medicine.³ During the Society 5.0 period, telemedicine hones will experience critical change, coinciding with the digitalization of the expansion of the computerized

¹ Nugraha, Rivaldi Indra, et al. "Pengembangan sistem informasi ibu hamil (sibumil-pe) dalam mendeteksi kejadian preeklampsia di kabupaten bangkalan." *Jurnal Ners* 7.2 (2023): 984-992.

² Rahmawati, Reza, et al. "Penyuluhan Penggunaan Oralit Pada Diare Anak dan Demo Cuci Tangan yang Baik dan Benar." *To Maega: Jurnal Pengabdian Masyarakat* 5.1 (2022): 75-83.

³ Lukitawati, Resita, and Widodo Trisno Novianto. "Regulasi Layanan Kesehatan Digital di Indonesia: Tantangan Etis dan Hukum." *Ajudikasi: Jurnal Ilmu Hukum* 7.2 (2023): 391-414.

mechanical period which is presently vital component of internet media in open health administrations. Already, Indonesia as of now had enactment overseeing health, to be specific Law no. 36 of 2009 on Health. On 8 Admirable 2023, the President of the Republic of Indonesia at last marked Law no. 17 of 2023 with respect to Health, which is within the shape of a Government Direction, which can be completed at the conclusion of 2023.⁴ The approval of Omnibus Law Number 17 on Health in 2023 is anticipated to supply solutions to different issues within the health division. Health organizations are still ruled by therapeutic approaches, the accessibility and task of health assets, course of action to handle wellbeing emergencies, perspectives of calm opportunity, and therapeutic contraptions, particularly telemedicine.⁵

Universally, there are a few approaches and rules with respect to advanced health, with the World Health Organization (WHO) discharging its Worldwide Advanced Health Technique 2020–2025 to fortify health systems through the application of computerized health progresses for buyers, health specialists and wellbeing organizations. providers, and changing the industry towards locks in patients and fulfilling a vision of health for all. It is laid out for choice in fact by Portion States that have obliged get to to progressed, items and organizations.⁶ EU security laws germane in EU Portion States have been redesigned and fortified through the utilization of the General Data Protection Regulation (GDPR), which came into oblige in May 2018. Computerized health organizations are on the rise inside the Asian landmass, particularly Southeast and East Asia.⁷

For case, in Singapore, the National Electronic Health Record (NEHR) sytem was moved in 2011, and this country has started to switch to private clouds to store health data. Other countries such as South Korea and Thailand in addition have strong computerized health models). Within the intervals, in Indonesia itself, after the Covid-19 broad, unsettling influence can be a gigantic change caused by headway that changes the system and a more up to date organize.⁸ Indonesia has started the starting stages of setting up a administrative system for telemedicine as outlined out inside the Serve of Health Control Number 20 of 2019 concerning the Execution of Telemedicine Organizations through Health Advantage Workplaces. Trailblazers such as Halodoc and Alodokter are at the dying edge, initiating the alter of computerized healthcare organizations.⁹ Meanwhile,

⁴ Arlinta, D. Aturan Turunan UU Kesehatan Ditargetkan Rampung September 2023. (2023). diakses pada 25 Juli 2024

⁵ Aris Prio Agus Santoso, "Hukum Kesehatan", Trans Info Media, Jakarta, 2020. hlm. 2.

⁶ World Health Organization. Global Strategy on Digital Health 2020–2025; Licence: CC BY-NC-SA 3.0 IGO; World Health Organization: Geneva, Switzerland, 2021; Available online: <https://www.who.int/docs/default-source/documents/g4dhdaa2a9f352b0445bafbc79ca799dce4d.pdf> (accessed on 25 July 2024).

⁷ Op.Cit, Lukitawati, R., & Novianto, W. T. (2023): 392

⁸ Nasar, Ismail, Yuspar Uzer, and Muhammad Bambang Purwanto. "Artificial intelligence in smart classrooms: An investigative learning process for high school." *Asian Journal of Applied Education (AJAE)* 2.4 (2023): 547-556.

⁹ Batara, Don Carlo, et al. "Targeting the multidrug and toxin extrusion 1 gene (SLC47A1) sensitizes glioma stem cells to temozolomide." *American Journal of Cancer Research* 13.9 (2023): 4021.

telemedicine services, which are expected to overcome this problem, are still very limited in terms of consultation services, examination coverage and treatment provision.¹⁰

Methods

The research conducted was literature review research using descriptive analysis methods. This research examines the primary legal materials of Law Number 17 of 2023 concerning Health and Minister of Health Regulation Number 20 of 2019 concerning the Implementation of Telemedicine Services and secondary legal sources (scientific journals, books and articles) as analysis material. The approach used is a conceptual approach that discusses legal concepts related to telemedicine, including its definition and scope in the context of Indonesian health law with a prescriptive nature that means this research not only describes existing legal regulations, but also provides analysis and recommendations regarding the need for regulatory development. which is more comprehensive for telemedicine.

Result and Discussion

Telemedicine service policy in Indonesia

Digitalization ventures must be bolstered by a legitimate and administrative system to tackle the extraordinary potential of advanced healthcare without relinquishing a rights-based approach to get healthcare.¹¹ Amid the Covid-19 widespread, the part of telemedicine is critically required since the Covid-19 infection transmission anticipation convention was actualized.¹² The COVID-19 pandemic has resulted in global crisis and put health systems under unprecedented pressure.¹³ Responding to Covid-19, the government started with a number of trusted online health services. The presence of telemedicine as reported by the Minister of Health (in the Limited Cabinet Meeting on Monday 6/4), there are 15 million people carrying out telemedicine services is expected to help reduce the number of patients who come to the hospital.¹⁴

At that point, by looking at the noteworthiness of the utilize of telemedicine in health organizations utilized in the midst of the COVID-19 far reaching, right presently, there are three bearings or courses of action related to the utilization of telemedicine organizations, to be specific Serve of Health Control No. 20 of 2019 concerning the Execution of Telemedicine Organizations between Health Advantage Work environments, Articulate of the Serve of Health Number HK.01.07/MENKES/4829/2021 concerning Rules for Health Organizations Through Telemedicine on Within the middle of the COVID-19

¹⁰ Op. Penelitian yang dilakukan adalah penelitian tinjauan literatur dengan metode analisis deskriptif Cit, Batara, D. C., Park, S. W., Kim, H. J., Choi, S. Y., Ohn, T., Choi, M. C., ... & Kim, S. H. (2023)

¹¹ Op.Cit, Lukitawati, R., & Novianto, W. T. (2023): 398

¹² Saputro, Aditya Rachmat, et al. "Tantangan Konektivitas dan Aksesibilitas Dalam Pengembangan Pelayanan Kesehatan Berbasis Telemedicine di Indonesia: Sebuah Tinjauan." (2021): 31

¹³ Wijaya, Jeremiah Hilkiah, Gilbert Sterling Octavius, and Lie Rebecca Yen Hwei. "A literature review of telemedicine in Indonesia: past, present, and future prospective." *Jurnal Administrasi Kesehatan Indonesia* 10.2 (2022): 267

¹⁴ Ashar, S. "Marak Konsultasi virus corona, startup telemedicine diakses 15 juta pengguna". [online]. Diakses dari <https://kesehatan.kontan.co.id/news/marak-konsultasivirus-corona-startup-telemedicine-diakses-15-juta-pengguna>. (2020).diakses pada 25 Juli 2024

Distant coming to which denied the Circular Letter of the Serve of Health Number HK.02.01/MENKES/303/2020 concerning the Utilization of Health Organizations Through the Utilization of Data and Communication Improvement interior the setting of Anticipating the Spread of COVID-19, and the Course of the Indonesia Accommodating Committee No. 74 of 2020 concerning Clinical Professional and Therapeutic Hone Through Telemedicine Within the middle of the COVID-19 Wide in Indonesia.¹⁵

Telemedicine is getting to be important. Usually since legitimate security is an fundamental component so that the reason of technology-based health administrations must moreover be in understanding with the arrangements of laws and directions.¹⁶ There are several regulations related to technology related to Telemedicine, namely:

1. Article 28C paragraph (1) of the 1945 Constitution;
2. Law No. 36/2009 on Health;
3. Law No. 29/2004 on Medical Practice;
4. Law No. 19/2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions;
5. Law No. 44/2009 concerning Hospitals;
6. Government Regulation No. 46/2014 concerning Health Information Systems;
7. Government Regulation No. 47/2016 concerning Health Service Facilities;
8. PMK No. 269/2008 concerning Medical Records;
9. PMK No. 2052/2011 concerning Practice Permits and Implementation of Medical Practice;
10. PMK No. 90/2015 concerning the Implementation of Health Services in Health Service Facilities in Remote and Very Remote Areas;
11. PMK No. 46/2017 concerning the National e-Health Strategy;
12. PMK No. 20/2019 concerning the Implementation of Telemedicine Between Health Service Facilities;
13. Permenkominfo No. 4/2016 concerning Information Security Management System;
14. Permenkominfo No. 20/2016 concerning Personal Data Protection in Electronic Systems;
15. Ministry of Health No. 409/2016 concerning Pilot Hospitals for Telemedicine Service Programs Based on Video Conference and Teleradiology;
16. Ministry of Health No. 650/2017 concerning Hospitals and Health Centers Organizing Telemedicine Service Program Trials;
17. Ministry of Health No. 4829/2021 concerning Guidelines for Health Services Through Telemedicine During the Corona Virus Disease 2019 (Covid-19) Pandemic.
18. Regulation of the Indonesia Medical Council Number 74 of 2020 concerning Clinical Authority and Medical Practice Through Telemedicine During the Corona Virus Disease 2019 (Covid-19) Pandemic in Indonesia;

¹⁵ Chairani, Milza Syafira. "Telemedicine Sebagai Bentuk Digitalisasi Pelayanan Kesehatan Di Indonesia: Tinjauan Literatur." (2022).

¹⁶ Pasal 1 ayat (3) UUD NRI 1945

19. Circular Letter No. HK.02.01.MENKES/303/2020 concerning the Implementation of Health Services Through the Utilization of Information and Communication Technology in the Context of Preventing the Spread of Covid-19

Telemedicine is characterized as the usage of inaccessible health administrations carried out by health specialists by utilizing data and communication innovation. This incorporates the trade of data related to conclusion, treatment, infection and damage anticipation, investigate, assessment, and continuous instruction for healthcare suppliers, all pointed at moving forward the health of people and communities.¹⁷ Health a Benefit Office, hereinafter alluded to as a Health Office, could be a device and/or put utilized to carry out health benefit endeavors, both promotive, preventive, corrective and rehabilitative, carried out by the central government, neighborhood governments and/or the community.¹⁸ Be that as it may, on the off chance that inspected more profoundly, the direction as it were directs Telemedicine administrations carried out by Health Offices with other Health Offices carried out by Health Laborers with other Health Specialists.¹⁹

Based on lawful hypothesis, the Circular Letter isn't a sort of control (regeling) and not a choice (beschikking). The Circular Letter may be a policy (beleidsregel) and a pseudowetgeving direction. A Circular Letter may be a caution in which the choices and activities decided and carried out by the Government Officer to overcome existing issues (concrete) to the degree that the arrangements of laws and directions are not controlled, fragmented or hazy.²⁰

In the event that you see at the arrangements of the Serve of Health's Declare No. 303/2022 concerning the Usage of Health Administrations Through the Utilization of Data and Communication Innovation within the Setting of Anticipating the Spread of Covid-19, specifically:

1. A discretionary decision of the Minister of Health that is important and urgent.
2. As a guideline in the provision of health services by utilizing ICT in the form of Telemedicine in order to prevent the spread of Covid-19.
3. The explanation that in providing health services using ICT, doctors can only be done by doctors to patients who are limited to the conditions of the Covid-19 pandemic.

The scope of the Control of the Indonesia Therapeutic Committee clarifies that Telemedicine administrations carried out by Specialists and Dental practitioners, can specifically connected with patients through applications or electronic frameworks, but Telemedicine administrations as alluded to are within the frame of Teleconsultation in online mode of composing, voice, and/or video straightforwardly to get the fundamental data in arrange to implement the diagnosis. In any case, it ought to be underlined that within the Telemedicine benefit, Doctors/Dentists are disallowed from giving Teleconsultation with patients specifically without going through a health office. The

¹⁷ PMK Nomor 20 Tahun 2019 Pasal 1 angka 1

¹⁸ PMK Nomor 20 Tahun 2019 Pasal 3 ayat (1)

¹⁹ Op.Cit, Lukitawati, R., & Novianto, W. T. (2023): 400

²⁰ Ibid

execution must also pay consideration to the appraisal of persistent qualification and the commitment to create therapeutic records either physically or electronically stored at the Health Office. In expansion, Specialists and Dental practitioners can carry out dialysis and supporting examination strategies within the frame of research facilities, imaging/radio imaging, treatment, and can endorse drugs or restorative gadgets whereas still utilizing the standards of caution and responsibility.²¹

The basic purpose of the preparation of the guidelines is so that doctors or health workers can monitor Covid-19 patients who are self-isolating through Telemedicine and to control referrals of Covid-19 patients to health offices and is additionally a preventive exertion in case there's a disintegration within the patient's health condition.²² Health organizations through Telemedicine carried out by health work environments can utilize applications that have been made by themselves or in collaboration with other applications claimed by the government or private division in understanding with the courses of activity of laws and heading.

Juridical Problems in the Provision of Remote Health Services Using Information and Communication Technology (Telemedicine)

Within the current conditions in Indonesia, the execution of telemedicine has created very quickly. Cited from information from the Indonesia Doctors Association (IDI), there are as numerous as 21,500 common professionals and 4,500 pro specialists who connect the Alodokter application, as numerous as 12,000 common specialists and 8,000 pro specialists at Halodoc, as numerous as 9,000 common specialists and 2,000 pro specialists at Klikdokter, as numerous as 100 common professionals and 1,000 pro specialists at Aido Health, and as numerous as 10,000 common specialists and 2,500 master specialists joined Great Specialist. The use of telemedicine encompasses a positive affect, such as expanding the adequacy and effectiveness of health administrations, overcoming topographical impediments, and lessening pointless referral numbers.²³

The 2023 "Health Law" and the current Control of the Serve of Health Number 20, set out the current legitimate system for telemedicine in Indonesia. Telemedicine administrations between medical benefit offices, hereinafter alluded to as Permenkes 20/2019. Telemedicine is the utilize of broadcast communications and computerized communication innovations to supply clinical administrations and prepare health experts, with the point of making strides the health of people and communities.²⁴

Legal and regulatory changes are an important aspect of the legal system, allowing the law to remain relevant and effective in the face of social, economic, technological, moral and political changes. Previous medical legislation focused only on promotional, preventive, therapeutic and rehabilitative measures in general medical care. Although this

²¹ Peraturan Konsil Kedokteran Indonesia Nomor 74 Tahun 2020 tentang Kewenangan Klinis dan Praktik Kedokteran Melalui Telemedicine Pada Masa Pandemi Corona Virus Disease 2019 (Covid-19) di Indonesia

²² Surat Edaran Kementerian Kesehatan tentang Penyelenggaraan Pelayanan Kesehatan Melalui Pemanfaatan TIK Dalam Rangka Pencegahan Covid-19.

²³ Chairani, Milza Syafira. "Telemedicine Sebagai Bentuk Digitalisasi Pelayanan Kesehatan Di Indonesia: Tinjauan Literatur." (2022).

²⁴ Pasal 1 angka 22 UU Kesehatan juncto Pasal 1 angka 1 Permenkes 20/2019

law covers various important aspects of the health care system, such as the right to health, government obligations and medical standards, there are no specific provisions governing the use of information and communication technology in telemedicine services. In contrast, Health Law Number 17 of 2023 pays special attention to telemedicine and telemedicine. This law provides a broader definition, scope and regulations regarding the use of technology in health services.²⁵

Health Benefit Offices both at the primary level such as Puskesmas, Essential Clinics, Autonomous Hones, and progressed levels such as Clinics, Primary Clinics, Health Centers, Autonomous Hones and supporting health benefit facilities that give administrations within the shape of person health administrations and/or open health administrations can give Telehealth and Telemedicine administrations.²⁶

In show disdain toward of the reality that telemedicine can make strides the quality of medical hone amid a widespread, the utilize of telemedicine as well raises some challenges, especially with respect to human assets, system and regulatory ethics.²⁷ In spite of the COVID-19 flare-up, few doctors are utilizing telemedicine due to the got to learn unused and complex examination procedures.²⁸ Due to the require for specialists to ace unused things and complicated discussion procedures, the utilize of telemedicine by therapeutic experts is still constrained amid the current Covid-19 plague.²⁹

Also, the components that shape health arrangement with respect to telemedicine will depend on the geology of innovation appropriation. Urban regions have simpler get to to therapeutic administrations than farther regions, which limits the utilize of telemedicine.³⁰ Most existing telemedicine approaches utilize telemedicine in country and farther zones to create it simpler for provincial inhabitants to see specialists without having to travel long separations. The require for telemedicine in thickly populated urban regions for Covid-19, a modern sort of coronavirus, is basic. Hence, empowering the utilize of telemedicine in a widespread situation may be a need to play down the chance of transmission through face-to-face contact.³¹

Another, with respect to morals and law. The lawful relationship between the beneficiary and supplier of health administrations happens since of the rights and commitments that got to be satisfied. In the event that the rights and commitments of one party are not satisfied, that's where a lawful issue will emerge since the law may be a run the show of person behavior in society which when paid attention to gets to be a ensure of common interface, whereas in the event that damaged it causes a common response against

²⁵ Hamzah, Ismi Fadjriah. "Telekesehatan dan Telemedisin: Perspektif Hukum Kesehatan." *Jurnal Ilmu Sosial Dan Pendidikan* 2.2 (2024): 128

²⁶ Pasal 172 Juncto Pasal 165 Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan

²⁷ Tedeschi, Christopher. "Ethical, legal, and social challenges in the development and implementation of disaster telemedicine." *Disaster medicine and public health preparedness* 15.5 (2021): 649-656.

²⁸ Omboni, Stefano. "Telemedicine during the COVID-19 in Italy: a missed opportunity?." *Telemedicine and e-Health* 26.8 (2020): 973-975.

²⁹ Smith, Anthony C., et al. "Telehealth for global emergencies: Implications for coronavirus disease 2019 (COVID-19)." *Journal of telemedicine and telecare* 26.5 (2020): 309-313.

³⁰ Ibid.

³¹ Kichloo, Asim, et al. "Telemedicine, the current COVID-19 pandemic and the future: a narrative review and perspectives moving forward in the USA." *Family medicine and community health* 8.3 (2020).

the individual who damages it.³² Preventive endeavors in medical debate have to be caught on with respect to the development of legitimate relations between beneficiaries and suppliers of health administrations. This legal relationship gives rise to authentic acts and gives rise to genuine comes about. In a genuine blue result, it cannot be isolated from who is attempted and genuine and to what degree the commitment is so that it can be clarified that in case a relationship is built up between a professional and a decided, it can be made into two focuses, to be specific law and restorative exchanges.³³

Acquirement of telemedicine offices requires foundation that can back telemedicine applications. In any case, there's no question that essential framework, such as electrical and electronic equipment, communication gear, and program applications, to support telemedicine activities may be a major challenge in creating nations.³⁴ Deloitte³⁵ Proposes a framework including "5-year development goals" to comprehensively plan infrastructure, data storage, and eHealth (smart hospitals using integrated management information systems) updates. In addition, the uncertain nature of investment returns due to unclear revenue measurement and complex insurance placement strategies pose financial difficulties for medical procedures performed via telemedicine.³⁶ Financial challenges related to the procurement of telemedicine infrastructure have hampered the development of necessary technology and limited the adoption of telemedicine in healthcare settings.³⁷

The capacity to get to medical records by means of telemedicine amid doctor-patient discussions is one of the issues within the advance advancement of telemedicine. Telemedicine postures challenges to the security of medical information and data in each healthcare setting. In telemedicine, the utilize of unregulated drugs causes this condition. The moral issues encompassing quiet data for treatment can be expensive to resolve.³⁸ To overcome this ethical situation, medical experts ought to educate patients around the restrictions of utilizing telemedicine so that they can concur to it or dismiss it. To guarantee the secrecy of persistent information and data to patients, specialists who utilize telemedicine must moreover take after certain directions and laws.³⁹

³² Leon Duguit dalam C.S.T. Kansil, Pengantar Ilmu Hukum dan Tata Hukum Indonesia. Balai Pustaka. Jakarta 1986

³³ Hutomo, Muhammad, and Lalu Wira Pria Suhartana. "Perlindungan Hukum Terhadap Pasien Pengguna Jasa Layanan Kesehatan Online." *Jurnal Education and development* 8.3 (2020): 967-967.

³⁴ Combi, Carlo, Gabriele Pozzani, and Giuseppe Pozzi. "Telemedicine for developing countries." *Applied clinical informatics* 7.04 (2016): 1025-1050.

³⁵ Deloitte (2019). Available at: <https://www2.deloitte.com/content/dam/Deloitte/ide/Documents/publicsector/id-gps-ehealth-publicationIndonesia.pdf> (Accessed: 25 July 2024).

³⁶ Iribarren, Sarah J., et al. "What is the economic evidence for mHealth? A systematic review of economic evaluations of mHealth solutions." *PloS one* 12.2 (2017): e0170581.

³⁷ Kim, Taehoon, and James E. Zuckerman. "Realizing the potential of telemedicine in global health." *Journal of global health* 9.2 (2019).

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³⁹ Gibson, Cody, Christian Ventura, and George Donald Collier. "Emergency Medical Services resource capacity and competency amid COVID-19 in the United States: preliminary findings from a national survey." *Heliyon* 6.5 (2020).

Conclusion

Telemedicine in Indonesia appears extraordinary potential in bridging the crevice in get to health administrations, particularly after the development of COVID-19. In hone, there are numerous complex lawful impediments in its usage, extending from directions that are not however complex to issues of understanding information assurance. On the one hand, telemedicine offers trust for progressing the quality of life, particularly for individuals in farther ranges. On the other hand, without a clear and solid lawful system, the potential benefits of telemedicine may be misplaced. Hence, in arrange to define comprehensive controls and adjust to mechanical advancements so that telemedicine can create reasonably and give benefits to Indonesian individuals, the government, medical personnel, and partners included in telemedicine must make joint endeavors.

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