

ORIGINAL ARTICLE

Authority of Health Workers in Telemedicine Medical Services: Indonesian Perspective

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ABSTRACT

Introduction: This paper aims at conducting a legal analysis of the health workers' authority in telemedicine service in Indonesia. This article discusses an issue related to the importance of telemedicine usage in health services. That is beneficial to reduce virus transmission. Therefore, government issued regulations regarding telemedicine services by medical personnel. So, there is a change in the legal relationship that previously occurred in health care facilities into a legal relationship between doctors and patients. This case creates legal problems in the form of legal ambiguity regarding the authority of medical personnel through telemedicine services. **Methods:** Normative legal research implemented in this research and the approach implemented is the state and the conceptual approach. **Results:** Telemedicine provides medical services and health information. In Indonesia, telemedicine was made mandatory by Law Number 36 on Health in 2009, particularly in terms of medical expertise. Legal basis of telemedicine in Indonesia is the Law on health however the regulation is general. **Conclusions:** The conclusion is the need for detailed regulation of the limits of authority of health workers in health services through telemedicine. This article suggests that legal reform of the authority of medical personnel in providing services through telemedicine during the pandemic and after it.

Keywords: Outbreak, Covid-19, Authority, Health workers

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INTRODUCTION

Indonesia is an archipelago country and it has the largest area in the world. Based on the National Gasetir in 2020, Indonesia has 16,771 islands (17). This geographical condition has a potential problem of health facility availability and health workers. There are inequality results in the distribution of income between regions and the allocation of central and regional government funds for development and improvement for the quality of infrastructure and human resources in terms of the health sector. As a result, patients in remote areas found it difficult to get adequate health services like in big cities.

The Republic of Indonesia's 1945 Constitution, which already promised society to acquire facilities and special treatment to obtain the same opportunities and advantages in health services without any discrimination, has been deviated from by the inequality of health services and information (3). Health workers in remote areas often do not have the expertise and competence to make a decision in diagnostics, therapies or other medical actions that require an expert clinical skill. With the distance and time limits, it is difficult for health workers to be able to consult and obtain expert opinions. It can also be a fatal problem for a patient. Thus, we need a mechanism utilizing reliable Information and Communication Technology (ICT) to carry out long-distance communication through voice, digital images. The use of ICT for health services or E-Health is intended to enhance health services quality being effective and efficient on a work process. In general, E-Health consists of health informatics and tele-health efforts. The national

e-Health strategy is implemented through a framework stated in Article 28 H of the 1945 Constitution (3).

The application of e-Health in a series of health services to patients includes several components including; health management information systems, electronic medical records, surveillance systems, consumer health informatics, e-learning in health science and medical research, and telemedicine which is a series of activities to provide isolated health services done by health workers using the ICT (7). This study was undertaken to indicate the form of legal ambiguity regarding the authority of medical personnel through telemedicine services.

Based on the study backdrop, this paper executed normative legal research by using positive law provisions as the primary reference to solve legal difficulties that have arisen and caused a protest in a real society. In his book *Legal Research*, Peter Machmud Marzuki, a law professor at Airlangga University's Faculty of Law, states unequivocally that Socio-Legal Research is not a type of Legal Research. As a result, the study team does not utilize the following Socio-Legal Research in the context of this legal research, and the rules of the Socio-Legal Research are not employed in this legal research (2).

In this study, the statute and conceptual method are used. In the legislative approach (statute approach), the author conducting research will explore, evaluate, and attempt to comprehend the relevant laws and regulations (2). The conceptual approach is one in which the writing team believes that implementing the intellectual concept of right and obligation is absolutely vital (2).

MATERIALS AND METHODS

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RESULTS

Telemedicine

Telemedicine is using telecommunications to provide medical treatments and health information from a faraway location. Telemedicine is "health care services delivery where distance becomes a critical factor, where the professionals of all health care use data and communication technologies to exchange valid data to diagnose, treat, and prevent diseases and injuries, research and evaluate sustainable education of health care providers in the pursuit of improving individuals and communities," according to the World Health Organization (WHO) (17).

It combines technological advances by adapting to changing public health needs. Telemedicine has similar characteristics to tele-health focusing on providing services by health workers and/or health professionals to a patient. Telemedicine also has four characteristics distinguishing it from other health services, including (16): Telemedicine aims at providing clinical support in medical services. Implementation of Telemedicine can be used to surmount geographical barriers, connecting between parties who are in a different location. Telemedicine contains the usage and utilization of various types of ICT. The ultimate target of telemedicine is increasing success in providing medical services to the patient.

In general, the implementation of telemedicine provides many advantages for developed countries experiencing barriers to access to basic health services. Indonesia is included. It has difficulties due to extreme location and geographical conditions and it is far from one region to another. The benefits obtained from the implementation of telemedicine are; First, increasing access to basic health services that can reach the needs of an under-served patient so it has a positive impact on equal distribution of basic health rights for all citizens. Second, improving the quality and accessibility of basic health services by enabling health professionals to figure out, diagnose, treat, and equip the follow-up care to patients by providing an efficient means to give advice and direction about medical assistance in isolated areas. Third, there is a reduction in the number of referrals to first-level facilities by conducting telemedicine so that it can be beneficial for patients to short the distance and reduce cost, time and stress level that must be taken for specialist medical services. Fourth, there is an increase in communication between health care facilities and collaboration to support health services in remote areas through telemedicine learning. Fifth, there is the opportunity to learn and develop the skills of health workers by providing general information and long-distance professional health service training. Advantages of implementing telemedicine as a reason for many countries to begin adapting and applying these practices to health services in their countries.

Indonesian Regulation on Telemedicine

In Indonesia, telemedicine was administered in the Law Number 36 of 2009 on Health related to health technology (5). Although the discussion was still too broad and not focused on telemedicine, health technology became the starting point for adjustments in health services in Indonesia before it is finally being included into the National E-Health strategy which is a comprehensive approach in planning, progressing, applying, and assessing ICT usage in a national health sector. The government published supervision of the Minister of Health Number 20 of 2019 on Telemedicine Services Application in Health Service Facilities in two years, which similarly regulates the scopes, specifications, and protocols that must be followed for the application of telemedicine in medical assistance. This is defined as follows definition of telemedicine is the supply of health assistances in isolated areas by health professionals using data and technology in communication, encompassing the exchange of the analysis, medication, avoidance of disorder and injury, studies and evaluation, and sustainable education information of health help donor to provide advantages for personal and network health (1). Telemedicine is a health service institution that consults with other health assistance amenities to impose analysis, therapy, and/or sickness avoidance (1). Telemedicine services can only be performed by health workers who are licensed to practice at the health assistance facility provider, namely a. doctor/specialist doctor; b. other health workers; and c. other competent personnel in the field of information technology (1). Telemedicine services consist of several services (1); teleradiology; Tele-ultrasonography; medical tele-consultation; and different telemedicine advisory assistances concerning scientific developments knowledge and technology (1).

Provincial and district/city health offices are based on their respective authorities according to the provisions of the legislation. The legal relationship that occurs does not involve a doctor and a patient but the health facility recipient with the consulting health facility. Medical personnel have not been given full access to provide actions and/or opinions to patients in remote areas so there are still obstacles for patients who are unable to visit health facilities to receive medical aid. In terms of clinical authority and medical practice via telemedicine in the Corona virus disease 2019 pandemic in Indonesia, the Minister of Health Regulation Number 20 of 2019 was then supplemented with additional technical regulations with the Indonesian Medical Council Regulation Number 74 of 2020, which granted special rights to medical personnel to perform remotely medical services related to clinical assignments within the hospital environment for a specific amount of time (7). In evaluation to the Minister of Health regulation, The Regulation of the Minister of Health approximately medical authority and medical practice through telemedicine within side the COVID-19 pandemic

similarly governs telemedicine offering that generate a legal relationship between physicians and patients, which can be summarized in four articles. Article one defines medical authority because the special proper of a clinical personnel member to behavior a sure organization of clinical offering inner a hospital putting for a hard and fast period of time, relying on medical assignments. Medical practice refers to a variety of procedures done by doctors and dentists for patients in the interest of their health. Direct medical services are the direct provision of a doctor-patient interaction through face-to-face contact. Telemedicine is the provision of isolated medical services by physicians and dentists utilizing ICT to convey content on diagnosis, treatment, illness and damage prevention, studies and assessment, and long-time period schooling of health care workers to improve individuals and communities' health. Article three establishes that medical treatment during the Corona virus disease 2019 (COVID-19) pandemic may be carried out with the aid of using by medical doctors and dentists directly face-to-face and/or via an electronic implementation in the form of Telemedicine with efficient communication. A discussion or teleconsultation service provided by doctors and dentists while maintaining patient confidentiality is referred to as telemedicine, as defined in paragraph (1), and it involves the practice of medicine through an electronic application or system. According to paragraph (2), telemedicine is the practice of managing and treating patients in accordance with applicable laws and regulations. It is carried out through online writing, voice, and/or live video. In accordance with their competence and authority, doctors and dentists who practice medicine via telemedicine are required by Article 4 to evaluate the patient's merit. If the patient is not in an emergency situation, the doctor and dentist in charge must determine if the patient is eligible for telemedicine treatment. The doctor and dentist must refer the patient to a medical facility and provide any necessary information if the evaluation results indicate that the patient is in need of emergency care, diagnostic procedures, and/or therapy. Then, in line with the rules of the Act, patients seeking treatment via telemedicine are obliged to submit general/informed consent.

The provision states implementation of telemedicine must be done like medical practice issued in the Law Number 29 of 2004 on Medical Practice additionally making use of telemedicine services carried out by medical personnel to patients including service standards, rights and obligations of each party between medical personnel and patients who carry out therapeutic transactions by providing informed consent (4). Therefore, medical personnel are also required to keep medical records confidential in relation to the provisions of the applicable law as said in Article forty-eight of the Law on Medical Practice jo. Article fifty-seven of Law number 36 of 2009 regarding health jo. Article five of the law of the Minister of Health number 36 of 2012 regarding Medical Secrets (5). This scientific exclusive duty additionally applies

to digital files constructed from telemedicine offerings as stipulated within side the Law Number 19 of 2016 at the amendments of the Law Number eleven of 2008 on data and electronic transactions (6). In telemedicine services, patients have legal protection, especially on their personal data, because telemedicine services use the principles and/or legal foundations of direct medical practice adjusted in applicable laws and regulations

DISCUSSION

Since March 11, 2020, when the World Health Organization (WHO) declared Corona Virus Disease-19 to be a pandemic (16), according to the Presidential Decree No. 12 of 2020, which ordered the acceleration of handling COVID-19 and is carried out by task forces for the acceleration of COVID-19 control by combining the synergy between ministries/agencies and other government entities, the government of Indonesia has responded by designating non-natural disasters spreading COVID-19 as a national disaster (12). These task forces for the acceleration of handling Covid-19 were formed with five main goals in mind: improving national resilience in the health sector; accelerating COVID-19 control through synergies between ministries/agencies and regional government; increasing anticipation of the development of the escalation of COVID-19 spread; enhancing operational policymaking synergy and societal readiness for prevention, detection, and response.

In realizing this goal, the COVID-19 acceleration task force has two goals that can be divided into two parts, namely steering and implementing. The duty of the director is to provide direction to the implementing team to speed up the handling of Covid-19 accompanied by periodic monitor and evaluation of its implementation. While the duty of the executor is to establish and carry out operational plans by coordinating and/or directing supervision and mobilizing resources to carry out activities in accelerating the COVID-19 control, the executor also has responsibility to report operational implementation to the president and the director, in this case the Coordinating Minister. Human development and culture sector, Coordinating Minister for Political, Legal and Security Affairs, The Minister of Health and Minister of Finance focus on maintaining and implementing the Constitutional rights of citizens in a state of the COVID-19 pandemic. As a result, it can be concluded that the Minister of Health has the authority to establish a policy aimed at accelerating COVID-19 control by increasing national resilience in the health sector, as outlined in the objectives and composition of the task force for accelerating COVID-19 control in Presidential Decree Number 7 of 2020 (11).

The first policy related to COVID-19 control issued by the Minister of Health was Minister of Health Regulation Number 9 of 2020 on Guidelines for Large-Scale Social

Restrictions in the Context of Accelerating COVID-19 Control, which aimed to limit certain activities of the population in a Covid-19 suspected area. There are several exceptions to the prohibitions on locations or general facilities, such as health care institutions that provide health care.

Exceptions in certain areas are listed by taking into account to the restrictions on crowds of people based on protocols, laws and regulations. Hence, a person's mobility is increasing restricted and not free to travel, including visiting health facilities in order to obtain health services from medical personnel. This is certainly very difficult for a patient, especially with the reduction in the number of hospital visitors on a large scale at maintaining health protocols, especially during the Covid-19 pandemic. The hospital prioritizes patients who have complications or are elderly, making it difficult for other patients who want to consult / health checks for symptoms experienced by his body. Eventually, the government issued a Letter of the Minister of Health Number SE. 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 Corona Virus Disease 2019 as a reference to provide health services through telemedicine during public health emergencies and/or COVID-19 (9). Some basic references for the implementation of telemedicine services during COVID-19 administered within the letter of the Minister of Health include difference from the definition of telemedicine services in the Regulation of the Minister of Health number 20 of 2019.

According to Indonesian Medical Council Regulation Number 74 of 2020, Telemedicine services are more specifically described as medical services offered by medical professionals who use data and communication technology to diagnose, foster, prevent, and/or evaluate patients' conditions in accordance with their training and authority, as demonstrated by a registration certificate (STR), while maintaining service quality and patient safety. Both doctors and patients can receive assistance through telemedicine, as can doctors and other clinicians. Patients' data security when using telemedicine services is a responsibility of doctors who provide those services, in compliance with applicable laws and regulations. The outcomes of telemedicine assistances are preserved as medical record documents in digital or non-digital records used by doctors and are the responsibility of doctors as medical secrets used in accordance with laws and regulations. The digital record will be deemed a legally binding electronic document that may be used as evidence in court. The Indonesian Medical Council rule number 74 of 2020 is supplemented by this letter, which also indicates that doctors are capable of offering telemedicine services (14), While physicians' legal authority in telemedicine services includes history, including the principal

complaint, accompanying symptoms, history of present disease or hazardous circumstances, family, and other related facts given by the medical professional or doctor to the patient or family online or remotely. Audiovisual technology is used for several physical exams, including video calls, video recordings, and picture recordings. Providing necessary guidance based on the findings of promotional examinations and/or the findings of particular personal check-ups; Examining. Under the direction of medical professionals, people carry out this procedure utilizing the modalities they already possess or in accordance with the recommendations of a prior promotional assessment. Suggestions/advice come in the form of a follow-up health check-up at a health-care institution. The results of the examination, which are often generated from the history, particular personal examination, or supporting examinations, are used to form the diagnosis. Medications and patient care are based on an analysis that considers both non-pharmacological and pharmacological treatment, as well as medical interventions for patients and their families, according to the patient's medical needs. In this scenario, medical intervention or additional management is necessary, and the patient is urged to see a health care center for further evaluation. Patients receive prescriptions for medications and/or medical equipment based on the analysis, and letters of recommendation for follow-up or additional action in a laboratory and/or healthcare facility should be sent in accordance with the patient management results.

The intended doctor's abilities provide convenience for patients who are incapable or handicapped by the existence of a mobility restriction policy. Patients may still consult on a regular basis and receive accurate diagnoses without having to visit a medical center. Writing prescriptions for pharmaceuticals and medical equipment stated in the letters is done electronically, and the contents and effects of the drugs he prescribes are documented by the doctor. However, computerized prescriptions are not permitted for narcotics and psychiatric medicines since they must be administered in person by both doctors and patients. The Minister of Health's Decree Number HK.01.07/MENKES/4829/2021 concerning Guidelines for Health Services via Telemedicine during pandemic of covid-19 added requirements to the Minister of Health's Circular (8). According to the Minister of Health's Regulation, health service facilities classified as telemedicine providers during the pandemic of covid-19 include hospitals, community medical centers, clinics, independent practices of physicians, dentists, and specialists, as well as medical labs and pharmacies. These healthcare facilities can offer telemedicine services by developing their own applications or working with already-existing public or private applications. First, information, education consultation, and communication, and, which is a type of health promotion effort seek health information about sports, healthy lifestyle, fitness

information, diet, and other information related to Covid-19, specifically this service can be done by health workers who are competent with their authority. Second, a clinical consultation is a medical service provided by a physician via telemedicine in compliance with the legal framework specified in the Minister of Health's circular letter regulating the use of health assistance through the use of data and communication technology in the context of preventing the spread of COVID-19. Third, supportive exams are listed as one of the actions performed in the context of establishing a diagnosis and/or monitoring a patient's health status. Laboratory tests are used to support exams, and their execution can employ apps from medical laboratories or other health care institutions that provide medical laboratory services. The patient may request a laboratory examination through telemedicine by visiting a medical laboratory or another healthcare facility that provides medical laboratory services, or a medical laboratory officer may visit patients at home to collect samples. These requests may come from the patient or the doctor at the healthcare facility. Fourth, the pharmaceutical service facilities comply with all applicable rules and regulations.

Decree on Telemedicine Guidelines for Health Services issued by the Minister of Health covers regulations regarding infected patient self-isolation during the Corona Virus Disease 2019 (8). Isolation can be done autonomously at home or centrally at public facilities established by the prime minister, regional governments, or the business sector. When the clinical criteria and the needs of the house as a location of self-isolation have been completed cumulatively and without exception, self-isolation is performed at home. If the patient does not fit these criteria, he or she will be subjected to centralized isolation in public facilities provided by the prime minister, regional governments, and the private sector and coordinated by the community health service and the health office.

Patients who isolate themselves without direct monitoring by health personnel will have their symptoms monitored by telemedicine services offered by the telemedicine platform. In the event of an increase in confirmed Covid-19 cases, health care facilities with doctors with the appropriate competence and authority can monitor asymptomatic Covid-19 patients with comorbid or mild symptoms with comorbidities, or moderately symptomatic Covid-19 patients receiving therapy based on the medical needs of self-isolating patients. If symptoms increase during monitoring, the patient is referred to the hospital or given a referral letter for treatment. The local health office and health center coordinate the monitoring of the patients' health condition during a centralized isolation period. Medical professionals keep track of self-isolation patients' vital indicator online or offline, including pulse, oxygen saturation, blood pressure, respiration rate, and

temperature. Monitoring activities for Covid-19 patients who are self-isolating daily monitoring at least 2 (two) times a day via chat and video calls were carried out online system using telemedicine. The doctor will examine vital indicators such as pulse, oxygen saturation, blood pressure, respiration rate, and temperature, as well as doing offline or in-person examinations. Following that, patients, the environment, and their families will be educated about Covid-19. If there are new symptoms, extra medications can be prescribed electronically. Fourth, if the patient has just found the presence of comorbid disease or managed comorbid disease becomes uncontrolled while self-isolated, temporary therapy for comorbidities is indicated. As a result, producing referral letters and coordinating in the event of deterioration. Then, create a certificate of isolation completion.

COVID-19 patients who undergo autonomous or centralized isolation in public institutions established by the prime government, regional governments, and the private sector that lack basic health resources, particularly doctors, can be monitored online via telemedicine. The outcomes of monitoring activities are documented and reported to the local community health agency in the area where the patient is self-isolating. If the patient's health worsens, he or she must be immediately referred online using the Ministry of Health's Integrated Referral System (SISRUTE). If a recommendation through SISRUTE is not feasible, the patient is sent to a hospital for treatment and given a referral note. The patient is subsequently directed to the nearest health clinic. The Council Regulation on clinical authority and medical practice through telemedicine is strengthened by the existence of the Minister of Health's Decree on Guidelines for Health Services through Telemedicine during the Corona virus disease 2019 (COVID-19) and the Minister of Health's Circular Policy on the Implementation of Health Services through the Use of Data Technology. It is a unique guideline for doctors and dentists to achieve professionalism in accordance with their abilities. Furthermore, these three principles complement one another to form a constitutional connection between physicians and patients that is not addressed in the Minister of Health's Regulation on the use of telemedicine assistances between health-care institutions. This is inextricably linked to the implementation of the three policies implemented to expedite the treatment of COVID-19 by making it easier for patients who were unable to go directly to health care institutions. Based on the policies mentioned above, it can be concluded that there are fundamental differences between telemedicine services after and before the Covid-19 pandemic, including prior to Covid-19, telemedicine services could only be performed for receiving and consulting health facilities, and each health facility had the right and obligation to exchange information and/or diagnose the patients' condition that they did not understand. As a result, the patient must go to

the hospital. Whereas, following the pandemic, patients can access health care facilities at home, the most recent Minister of Health decision includes a strategy that governs patients who are self-isolating, including frequent check-ups and consultations to optimally cure patients. Following the adoption of the Circular of the Minister of Health and the Medical Council Regulation that governs the implementation of health services via telemedicine during the COVID-19 pandemic, doctors who provide telemedicine services have a legal relationship with patients under the applicable laws and regulations. Even if they do not meet in person and in order to provide patients with legal protection, doctors have a responsibility to practice medicine in a way that upholds the code of ethics and patients' safety. This surely enhances the existing rules in the Minister of Health's regulation governing the deployment of telemedicine assistances between health assistance facilities, with an emphasis on the relationship between the health facility receiver and the healthcare provider. In the midst of the COVID-19 pandemic, doctors and/or other health workers have clinical power that is clearly and expressly restricted based on the applicable rules and regulations. Therefore, there are obvious restrictions to the application of telemedicine.

The basic difference in telemedicine services, as described above, is that there is a legal relationship between health workers who provide services and patients, allowing them to contribute legal protection to patients who suffer losses as a result of negligence and/or medical errors in the implementation of the telemedicine. Furthermore, in the midst of the COVID-19 pandemic, telemedicine services provide a convenient mechanism for patients to get health care without physically visiting health facilities, particularly when infected with COVID-19 and meeting the requirements to undertake self-isolation at home.

CONCLUSION

In summary, health services through telemedicine is an effort to equalize services in the health sector. Indonesia is an archipelago country and it has different health facilities. The constitutional basis to apply telemedicine is the Law on Health, especially on health technology but the regulation is general. Additionally, the Minister of Health's Regulation Number 20 of 2019 on the deployment of telemedicine services in health-care facilities governs telemedicine. The rule governs the scope, circumstances, and processes that must be followed before telemedicine can be used in medical services. The persons engaged in this case are providers of health care.

The pandemic of Covid-19 has led to a rapid expansion of telemedicine services. Given the service approach, it may be possible to decrease or even prevent viral propagation. This is supported by the Minister of

Health's Regulation No. 20 of 2019, which is followed by more technical legislation, such as the Indonesian Medical Council's Regulation No. 74 of 2020 on clinical authority and telemedicine in pandemic of Covid-19 situations. The pandemic occurred in Indonesia, which grants medical workers specific privileges to offer remote services linked to clinical assignments inside a hospital environment for a limited time. These telemedicine rules establish a legal link between doctors and patients. With the provision, the implementation of telemedicine must be carried out in the same manner as medical practice; the regulations included in Law No. 29 of 2004 on medical practice also apply to telemedicine services provided to patients by medical staff.

The Circular Letter of the Minister of Health Number SE. HK. 02.01/Menkes /303/2020 on the implementation of health services through the utilization of data and communication technology in term of preventing the spread of Covid-19 also contains regulations regarding telemedicine services. This document is intended to serve as a guide for providing health services via telemedicine during public health emergencies and/or the national disaster Corona virus disease. The Minister of Health Circular was strengthened in order to comply with the Minister of Health Decree Number HK.01.07/MENKES/4829/2021, which addressed guidelines for telemedicine-based medical care during pandemic of the Covid-19.

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