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CERTAINTY OF MEDICAL PRACTICE LICENSES PLATFORM TELEMEDICINE FROM A HEALTH LAW PERSPECTIVE AS A FORM OF COMMUNITY PROTECTION IN INDONESIA

KEPASTIAN HUKUM SURAT IZIN PRAKTIK KEDOKTERAN PADA PLATFORM TELEMEDICINE DALAM PERSPEKTIF HUKUM KESEHATAN SEBAGAI BENTUK PERLINDUNGAN MASYARAKAT DI INDONESIA

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ABSTRACT
The development of telemedicine as a form of digital transformation in the healthcare sector has emerged as an alternative solution to the uneven distribution of healthcare workers and medical facilities, particularly in underdeveloped, frontier, and outermost (3T) areas. While telemedicine expands public access to medical services, it also raises legal issues, particularly regarding the legitimacy of medical practice on online platforms. To date, there are no specific regulations governing the ownership of a Practice License (SIP) for telemedicine services. This regulatory gap creates potential legal uncertainty, weakens patient protection, and increases the vulnerability of healthcare workers to civil and criminal prosecution. This study aims to analyze the form of government oversight of telemedicine practices in Indonesia based on the Health Law, emphasizing efforts to prevent potential malpractice and guarantee legal protection for medical personnel as well as the public's constitutional rights to health services through the issuance of a License for Telemedicine Services (SIP). This study uses a normative-sociological juridical approach, which examines law from three dimensions: legal text, legal values, and social reality. The research findings indicate that SIP not only serves as an administrative instrument for legitimizing medical practice, but also as a manifestation of the state's responsibility to ensure professional competence, accountability, and legal protection for medical personnel in online therapeutic interactions with patients. Without adaptive SIP regulations, the state risks failing to fulfill its constitutional mandate to provide fair, equitable, and quality healthcare services. Therefore, SIP regulations compatible with the telemedicine ecosystem are a necessity in the era of increasingly decentralized digital healthcare.
Keywords:Legal protection, Telemedicine, Medical SIP

ABSTRAK
Perkembangan telemedicine sebagai wujud transformasi digital di sektor kesehatan telah muncul sebagai solusi alternatif atas ketidakmerataan distribusi tenaga kesehatan dan fasilitas medis, khususnya di daerah tertinggal, terdepan, dan terluar (3T). Meskipun telemedicine memperluas akses masyarakat terhadap pelayanan medis, pada saat yang sama ia memunculkan persoalan hukum, terutama terkait legitimasi praktik kedokteran dalam platform daring. Hingga kini, belum terdapat regulasi spesifik yang mengatur kepemilikan Surat Izin Praktik (SIP) untuk layanan telemedicine. Kekosongan pengaturan ini menimbulkan potensi ketidakpastian hukum, melemahkan perlindungan pasien, serta meningkatkan kerentanan tenaga medis terhadap tuntutan perdata maupun pidana. Penelitian ini bertujuan untuk menganalisis bentuk pengawasan pemerintah terhadap praktik telemedicine di Indonesia berdasarkan Undang-Undang Kesehatan, dengan menekankan upaya pencegahan potensi malpraktek serta menjamin perlindungan hukum bagi tenaga medis sekaligus hak konstitusional masyarakat atas pelayanan kesehatan melalui penerbitan SIP pada layanan telemedicine. Penelitian ini menggunakan pendekatan yuridis normatif-sosiologis, yang mengkaji hukum dari tiga dimensi: teks hukum, nilai hukum, dan realitas sosial. Hasil penelitian menunjukkan bahwa SIP tidak hanya berfungsi sebagai instrumen administratif legitimasi praktik kedokteran, tetapi juga sebagai

manifestasi tanggung jawab negara dalam menjamin kompetensi profesional, akuntabilitas, serta perlindungan hukum bagi tenaga medis dalam interaksi terapeutik daring dengan pasien. Tanpa regulasi SIP yang adaptif, negara berisiko gagal menjalankan mandat konstitusional dalam menyediakan layanan kesehatan yang adil, merata, dan berkualitas. Oleh karena itu, pengaturan SIP yang kompatibel dengan ekosistem telemedicine menjadi suatu keniscayaan dalam era layanan kesehatan digital yang semakin terdesentralisasi.

Kata Kunci: Perlindungan hukum, Telemedicine, SIP Kedokteran

1. INTRODUCTION

Technological developments in the era of the Industrial Revolution 4.0 to Society 5.0 have brought significant transformations in various sectors of life, including health. While the previous phase focused on automation, the Internet of Things (IoT), artificial intelligence, and smart manufacturing, the primary challenge now shifts to creating a more inclusive, equitable, and sustainable society. The Society 5.0 concept, first introduced by Japan, demands rapid adaptation from business and industry players, including healthcare providers, to integrate technological innovation with humanitarian principles. This is increasingly crucial given the public's need for high-quality, accessible healthcare services, which is disproportionate to the availability of healthcare infrastructure and medical personnel throughout Indonesia.

Data from the Central Statistics Agency (BPS) in 2023 shows a striking disparity between provinces with high healthcare worker availability, such as West Java, which has 183,694 medical workers with a population density of over 1,300 people per square kilometer, compared to Central Papua, which only has 235 medical workers for an area of 66,129 km. These disparities demonstrate that decentralization, geography, demographics, and social conditions play a significant role in the distribution of healthcare workers. While regional autonomy allows local governments to manage health care according to local characteristics, disparities in access to healthcare services cannot be justified solely as a consequence of differences in fiscal capacity or geographic conditions.On the other hand, the state remains obligated to guarantee citizens' constitutional rights to obtain equal and fair health services.

From a human rights perspective, health is recognized as a fundamental right inherent in every individual. Article 25 of the Universal Declaration of Human Rights (UDHR) affirms that everyone has the right to a decent standard of living, including health services. This is reinforced in Article 28H paragraph (1) of the 1945 Constitution, which states that everyone has the right to receive health services, and in Law Number 17 of 2023 concerning Health, which defines health as a physical, mental, and social condition that enables a person to live productively. Thus, health is a constitutional right as well as a basic human right whose existence must be guaranteed by the state.

However, fulfilling the right to health in Indonesia faces serious challenges, particularly in the equitable distribution of medical personnel. Information technology-based innovations have emerged as an alternative solution. Telemedicine, which involves remote healthcare services through digital platforms, has grown rapidly following the COVID-19 pandemic and is now no longer limited to remote areas but has also become a part of the urban lifestyle.Initially, regulations regarding telemedicine were contained in Minister of Health Regulation No. 19 of 2015, which was intended for healthcare services in remote areas. Now, the legitimacy of telemedicine services has been strengthened by its explicit regulation in Law No. 17 of 2023, specifically Articles 172–173, and in Government Regulation No. 28 of 2024 as the implementing regulation.

However, the development of telemedicine has raised new legal issues. The relationship between medical personnel, patients, and digital platform providers encompasses not only conventional therapeutic services but also concerns aspects of personal data protection, potential malpractice due to inaccurate diagnoses, breach of service delivery, and the legality of electronic transactions. One fundamental issue is the lack of specific requirements regarding a Practice License (SIP) for medical personnel practicing via

telemedicine. A SIP is a legal instrument that ensures the competence, legality, and protection of medical personnel and the public.

Based on this background, this study focuses on the legal certainty of medical personnel's Practice Permits (SIPs) in the provision of telemedicine. The main questions posed are: first, how is the government's oversight of telemedicine practices in Indonesia through the Health Law to prevent potential malpractice? Second, how can the SIP issuance mechanism function as an instrument of legal protection for medical personnel while ensuring public access, particularly in remote areas, to equitable and quality healthcare services?

2. METHODS

This study adopts a normative sociological juridical approach, which examines the law from three key dimensions:

1. Legal Texts: An analysis of relevant legislation, particularly Law No. 17 of 2023 on Health and its implementing regulation, Government Regulation No. 28 of 2024.
2. Legal Values: Consideration of the underlying legal and ethical principles governing medical practice regulation, including patient and medical personnel protection as well as the constitutional right of citizens to healthcare services.
3. Social Reality: An assessment of the practical implementation of telemedicine, focusing on the emerging legal challenges such as potential malpractice and legal uncertainty related to Medical Practice Licenses (Surat Izin Praktik/SIP) for telemedicine services.

2.1. Research Focus

The study specifically aims to:

- Analyze the government’s supervisory mechanisms over telemedicine practices in Indonesia under the Health Law to mitigate the risk of malpractice.
- Examine the role of the SIP issuance mechanism as a legal protection instrument for medical professionals, while ensuring equitable access to quality healthcare services for the public, particularly in remote areas.

3. RESULTS AND DISCUSSION

Based on the observations and studies that the author has carried out, the author can say that the development oftelemedicineIn Indonesia, healthcare has significantly transformed healthcare services by increasing accessibility, efficiency, and reach, including in remote areas. However, its implementation still leaves various legal challenges, particularly related to the potential for medical malpractice. This potential legal risk arises because healthcare services aretelemedicineoften carried out without direct physical examination, limited communication due to unstable networks, and the vulnerability of electronic medical records to data leaks.This situation is exacerbated by the fact that not all telemedicine providers in Indonesia meet legal accountability standards and professional ethics. This is reflected in the current regulations regarding telemedicine services that do not require a special Practice License (SIP) and ignore the credentialing process for medical personnel. This finding indicates weak administrative controls that can lead to uncertainty about legal responsibility and liability in the event of malpractice, whether it is imposed on the medical personnel providing the service or the company providing the platform.

Research also confirms that Law No. 17 of 2023 concerning Health and Government Regulation No. 28 of 2024 have legitimized the practice of telemedicine by explicitly regulating provisions regarding telehealth and digital clinical services. These regulations require medical personnel involved to possess a valid Registration Certificate (STR) and Practice Permit (SIP), and stipulate that telemedicine must be implemented through and by authorized healthcare facilities in collaboration with registered electronic system providers. However, the effectiveness of these regulations has not been fully effective in preventing malpractice.

Weaknesses identified include the lack of detailed regulations regarding medical data security, unclear oversight mechanisms for digital service providers, and the absence of a specific SIP. telemedicine which can function as an administrative control instrument.

Furthermore, this study demonstrates that the state, through the SIP mechanism, plays a fundamental role in protecting both medical personnel and the public. The SIP serves not only as an administrative document but also as a legal instrument that guarantees the legality of medical practice. However, with the emergence of digital practices across platforms and regions, conventional SIPs are no longer adequate, necessitating the creation of a dedicated SIP for telemedicine. The existence of this dedicated SIP is deemed crucial to prevent practice overload, maintain service quality, and provide legal certainty to medical personnel so they are not easily criminalized in digital practices. From the public's perspective, the SIP serves as a guarantee that the health services received are legitimate, high-quality, and under state supervision, including in the 3T (frontier and remote) areas that still face limited medical personnel and health facilities. So the author can provide a discussion based on the phenomena found, including several main points, including:

Government Oversight of Telemedicine Practices in Indonesia through the Health Law to Prevent Malpractice

The development of digital technology has led to significant transformations in healthcare services, one of which is through telemedicine. This innovation enables faster, more affordable, and more widespread access to healthcare, even in remote areas. However, despite this convenience, telemedicine poses serious challenges, particularly the potential for medical malpractice due to a lack of legal oversight and service standardization. Therefore, the state, through legal instruments, particularly Law Number 17 of 2023 concerning Health and its derivative regulations, plays a crucial role as a control instrument and legal protection for medical personnel and patients.

Potential Legal Risks in Telemedicine Practice

Telemedicine is transforming traditional medical interactions into digital ones. While it offers widespread access, this practice also creates legal complexities. The primary risk of concern is malpractice, whether due to negligence (culpa) or intentional misconduct (dolus). Malpractice is defined as actions by medical personnel that deviate from professional standards and ethical codes, resulting in harm to patients.

In conventional services, proving malpractice is relatively easier due to the availability of physical medical records and face-to-face interactions. In contrast, in telemedicine, diagnoses are often made without a direct physical examination, communication can be disrupted due to network limitations, and electronic medical records are at risk of being disconnected or vulnerable to leaks. These factors increase the potential for misdiagnosis and patient data leakage .

In Indonesia, not all telemedicine providers meet legal accountability standards and professional ethics.For example, some services still don't require a special SIP for doctors providing telemedicine services. The credentialing or re-credentialing processes common to conventional practices are often ignored. This raises a serious issue: if malpractice occurs, who is responsible—the doctor providing the service or the corporation providing the platform?

Similar phenomena have also occurred in other countries. For example, the case of Deepa Sanjeev Pawaskar v. State of Maharashtra in India (2020) shows that a telephone medical consultation without a physical examination, which results in the death of the patient, still gives rise to professional liability for the physician. In the United States, the case of Hageseth v. The Superior Court of San Mateo County involved the practice of telemedicine across state lines without a valid license, which resulted in criminal charges against the physician for the death of the patient.

These two cases emphasize that the use of digital media does not exempt medical personnel from professional standards, ethics, and legal responsibilities. This consequence is also relevant in Indonesia, given that our regulations are still adapting to the digital reality. Therefore, the application of the principles of lex artis, professional standards, and prudential medical practice must continue to be upheld.

Position and Role of UU No. 17 Year 2023 and PP No. 28 of 2024

The latest Health Law has granted legal recognition to telemedicine. Articles 25 and 172 of Law No. 17 of 2023 explicitly include telehealth and telemedicine within the regulatory framework. Further provisions are stipulated in Government Regulation No. 28 of 2024, which details the operational provisions for providing these services.

Some important provisions include:

a) **Article 1 verse 27-28 PP No. 28/2024**defines telehealth as health information services (promotion, education, etc.), while telemedicine as virtual clinical services.
b) **Article 557 paragraph 2 of Law No. 17/2023**(as clarified by PP 28/2024) states that telemedicine includes clinical consultations and interpretation of diagnostic results. This requires**Valid STR/SIP, identity verification, professional medical records, and minimum standards for hardware, software, and networks.**
c) **Article 558 of the Law/PP**Telemedicine is required to be carried out by healthcare facilities (hospitals, community health centers, clinics, pharmacies, laboratories, or private practices) in collaboration with registered electronic system providers. Healthcare workers are required to have a STR and SIP (Permanent Registration Certificate) in accordance with the relevant healthcare facility.

Thus, this regulation aims to protect telemedicine practices from identity misuse, misdiagnosis due to technical reasons, and to ensure that the medical personnel involved are legally competent.

Effectiveness of Regulation in Preventing Malpractice

Despite existing regulations, their effectiveness still leaves legal gaps. Some of the identified weaknesses include:

a) Lack of technical details on data security. Government Regulation No. 28/2024 does not yet regulate details on encryption, audit trails, and mitigating the risk of electronic medical record leaks.
b) The oversight mechanism remains unclear. Independent audit instruments and legal sanctions for electronic system administrators have not been detailed.
c) The absence of a dedicated SIP for telemedicine. Regulations do not yet require medical personnel to have a separate SIP for digital practice. This loophole is dangerous because it allows doctors to serve unlimited patients through various digital platforms without administrative control.

In fact, the existence of a special SIP will function as:

a) Legal authorization of medical personnel in telemedicine practice.
b) Administrative control tools to limit the number of practices.
c) Efforts to maintain service quality and prevent overload which risks increasing human error.

Thus, the author assesses that the issuance of more detailed derivative regulations regarding SIP specifically for telemedicine is an urgent need within the health regulatory framework.

The Role of the State through SIP in Protecting Medical Personnel and the Community

In a state of law (rule of law), the state has a constitutional obligation to guarantee the health rights of citizens as stated in Article 28H paragraph (1) of the 1945 Constitution. This obligation includes protection for medical personnel and patients through legal instruments. One of these instruments is the Practice Permit (SIP).

SIP as an Instrument for Protecting the Medical Profession

The SIP serves not only as an administrative document but also as legal legitimacy, certifying that medical personnel are legally allowed to practice medicine. In conventional practice, the SIP limits the number of practice locations to a maximum of three to prevent overload, which could reduce service quality.

However, with the advent of telemedicine, the question arises: is conventional SIP still relevant? Telemedicine allows doctors to serve patients anytime, anywhere, even across regions. Without a digitally integrated SIP, medical personnel are legally vulnerable in the event of disputes or allegations of malpractice.

The author argues that a specific SIP for telemedicine is needed, tailored to its digital, cross-platform, and cross-regional nature. This aligns with the principle of legal protection for the medical profession, which demands legal certainty so that medical personnel are not burdened with the risk of criminalization simply for carrying out professional duties through digital media.

SIP as a Tool to Fulfill the Constitutional Rights of the Community

Apart from protecting medical personnel, SIP also functions to guarantee the public's constitutional rights to quality health services.

a) **As a service quality validator.**The SIP serves as proof that medical personnel have met competency standards through certification and professional credit units (SKP). Therefore, patients have the right to trust that the services provided are legal, ethical, and professional.
b) **As a representation of state responsibility.**The SIP signifies that all medical procedures are under the supervision of state law, not simply a private doctor-patient relationship. This strengthens legal protections for patients.
c) **In the context of 3T areas.**A significant challenge arises from the limited availability of medical personnel and healthcare facilities in remote, frontier, and outermost (3T) areas. Many practices are conducted without a SIP due to limited access. Therefore, the government needs to expand the digitization of SIP processing to make it more accessible, without compromising competency standards. This way, telemedicine services in 3T areas will maintain equal legal legitimacy.

4. CONCLUSION AND SUGGESTIONS

This study confirms that government oversight of telemedicine practices in Indonesia is a crucial legal instrument in preventing potential medical malpractice. The state, as the guarantor of constitutional rights as stipulated in Article 28H paragraph (1) of the 1945 Constitution, has an obligation to guarantee access to safe, quality, and affordable health services. In the context of telemedicine, the existence of a Practice Permit (SIP) is not merely an administrative document, but rather a professional legitimacy that determines the scope of medical practice, protects health workers from unfounded criminalization, and provides legal certainty for patients.However, this study found that there is a lack of clarity in regulations regarding SIP in telemedicine, which creates legal loopholes, has implications for declining service quality, and increases the risk of legal disputes. This urgency is even greater in underdeveloped, frontier, and outermost (3T) areas, where telemedicine is expected to be a

strategic solution to address the disparity in access to healthcare. Therefore, adaptive, comprehensive, and integrated regulations are urgently needed to ensure balanced legal protection for medical personnel and the public.

Based on these findings, it is recommended that the government, through the Ministry of Health, the Indonesian Medical Council, and relevant professional institutions, immediately draft derivative regulations from Law Number 17 of 2023 and Government Regulation Number 28 of 2024 that specifically regulate telemedicine practices and digital SIP mechanisms. These regulations must be responsive to technological dynamics, aligned with health law principles, and integrated into the digital service platform system. Further research should be directed at evaluating the implementation of digital SIP policies in 3T regions, examining the effectiveness of professional ethics oversight in online services, and comparing telemedicine regulations with international practices. Thus, the results of this research are expected to not only provide conceptual contributions but also encourage the establishment of sustainable, equitable, and effective telemedicine governance.

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