www.bircu-journal.com/index.php/birci
Budapest International Research and Critics Institute-Journal (BIRCI-Journal)
Humanities and Social Sciences
ISSN 2615-3076 Online)
ISSN 2615-1715 (Print)
Budapest Institute

The Application and Legality of Telemedicine during a Pandemic Covid 19 in North Sumatra

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Abstract

The government through the Minister of Health has issued the Decree of the Minister of Health Number Hk.01.07/Menkes/4829/2021 concerning Guidelines for Health Services through Telemedicine during the 2019 Corona Virus Disease Pandemic. The design of this study was a systematic review by systematically viewing journals and articles on Google Scholar, garuda portal, and science direct and compared with the laws in force in Indonesia regarding telemedicine. The inclusion criteria in this study were journal publications spanning the years 2011-2021. The application of telemedicine services in Indonesia has not maximized the legal aspects that protect the confidentiality of patient data and patient problems. The Indonesian telemedicine service application does not guarantee the confidentiality of patient data. Telemedicine services have not been fully implemented in Indonesia because internet access services have not been evenly distributed in all regions. Telemedical application developers must pay attention to matters that have legal implications in order to protect the interests of patients and the interests of service providers.

Keywords
legality of telemedicine; covid-19 pandemic; health

I. Introduction

Indonesia is a state of law. This means that every state administration within the Unitary State of the Republic of Indonesia (RI) must be based on applicable law, including the issue of Human Rights (HAM). In Indonesia, human rights are implicitly enshrined in the basic constitution of the country, namely the 1945 Constitution. Article 28 H paragraph (1), 2 that "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to obtain a good living environment. and good, healthy and entitled to health services" (Adelia Siregar, 2021) Law No. 36 of 2019, Article 14 Number 1 states that the government is responsible for planning, regulating, organizing, fostering, and supervising the implementation of health efforts that are equitable and affordable by the community. Based on Article 17 which states that the Government is responsible for the availability of access to information, education, and health service facilities to improve and maintain the highest level of health (Kemenkumham, 2009). Law No. 11 of 2008 Jo. Law Number 19 of 2016 concerning Information and Electronic Transactions (ITE). In Article 16 which states that the minimum requirement for an electronic system is to be able to re-display Electronic Information and/or Electronic Documents in full in accordance with the retention period stipulated by the Laws and Regulations, namely to protect the availability, integrity, authenticity, confidentiality, and accessibility of Electronic Information in the Electronic System Operation. Can operate in accordance with the procedures or instructions in the Electronic System Operation. Equipped with procedures or instructions

announced in language, information, or symbols that can be understood by the parties concerned with the Electronic System Operation and has a continuous mechanism to maintain the novelty, clarity, and accountability of procedures or instructions (Kemenkumham, 2016). Positive Covid-19 in Indonesia, makes all elements of society and the country think hard. Covid-19 is a disease that can spread and be contagious, so prevention efforts must be carried out by not causing crowds. Conditions that are still worrying make everyone feel anxious to get out of the house. Reported from the Covid-19 website.

The outbreak of this virus has an impact of a nation and Globally (Ningrum *et al*, 2020). The presence of Covid-19 as a pandemic certainly has an economic, social and psychological impact on society (Saleh and Mujahiddin, 2020). Covid 19 pandemic caused all efforts not to be as maximal as expected (Sihombing and Nasib, 2020).

With restrictions on each activity, health services through the use of information and communication technology in the form of telemedicine during the Covid-19 pandemic is one solution to deal with Covid-19. The government through the Minister of Health has issued the Decree of the Minister of Health Number Hk.01.07/Menkes/4829/2021 concerning Guidelines for Health Services through Telemedicine during the 2019 Corona Virus Disease Pandemic. Telemedicine is a means to connect users and health providers with the efficiency and effectiveness of health services involving patients, management, health, and professionals. Telemedicine is one of the modalities of providing health services that has technology as a component, which mainly consists of media or medical information exchange channels. The dependence of telemedicine on telecommunications technology is the main reason for its continuous evolution. It relies on network and communication technologies, which are themselves in a constantly changing state. Therefore, telemedicine can be claimed to have inherited the evolution of one of its components, namely communication technology and as a service modality that is centered around patients.

Telemedicine services consist of services including tele-radiology, tele-electrocardiography, tele-ultrasonography, clinical tele-consultation and other Telemedicine consulting services in accordance with the development of science and technology. In Article 3 Paragraph 1 PMK 2019. Telemedicine is a health practice using audio, visual and data communication, including treatment, diagnosis, consultation and treatment as well as medical data exchange and remote scientific discussions. The scope of telemedicine includes the provision of health services remotely (including clinical, educational and administrative services), through the transfer of information (audio, video, graphics), using telecommunication devices (two-way interactive audio-video, computers, and telemetry) involving doctors, patients and other parties. Simply, Telemedicine services provide an opportunity for doctors and patients to interact with each other remotely. Telemedical services between doctors and doctors have long developed in the form of consuls, and currently telesurgery and teleradiology are features that have the potential to be developed. The main advantage of telemedical services is the use of technology to eliminate distance and geographical restrictions and associated costs, especially for medical services in remote areas where there is a shortage of medical personnel. This is very relevant and a necessity in Indonesia, which has a very large area, consisting of thousands of islands, with transportation infrastructure connecting is still not good, and has a very limited number of doctors. Meanwhile, the internet network can be supported via satellite to all corners of the archipelago, across geographical barriers such as seas, hills, mountains, forests, and so on.

Of course, the Indonesian government needs to prioritize investment in the procurement of state-owned satellites that can support telemedical services (Prawiroharjo et al., 2019). The existence of disparities in health services, the uneven distribution of doctors in Indonesia, especially specialist doctors, are obstacles that are difficult to overcome. Apart from all the problems above, the interest of the Indonesian people for treatment abroad is also quite high. This kind of condition, consciously or not, is very difficult for the government's efforts to improve health development in Indonesia. Whereas health development has a very important goal in national development efforts, namely to increase awareness, willingness, and ability to live healthy for everyone in order to realize the highest degree of public health, and as an investment for the development of socially and economically productive human resources.

II. Research Method

2.1 Problem Approach

The design of this research is a systematic review by looking systematically at journals and articles on Google Scholar, Garuda Portal, and Science Direct. The inclusion criteria in this study were journal publications spanning 2011-2021, the outcomes studied were the legal aspects of telemedicine, open access journals that could be accessed and downloaded, journals containing factors that influenced the implementation of telemedicine, full article journals, journals having qualitative research designs and quantitative, and journals using Indonesian and/or English. The exclusion criteria in this study were the type of literature review research method, prototype telemedicine or telemedicine system design and articles only in the form of correspondence letters or only research abstracts.

2.2 Legal Material

The legal materials needed in this research are primary and secondary and tertiary legal materials. Primary legal materials are legal materials that are authoritative, meaning they have authority and binding legal materials. Secondary legal materials are legal materials that provide explanations of primary legal materials such as books, research results, works from legal circles and draft laws. While tertiary legal materials are all publications on law and materials that provide instructions and explanations of primary and secondary legal materials such as the Great Indonesian Language Dictionary (KBBI), legal dictionaries, legal journals, encyclopedias, comments on court decisions and through searches from Internet.

2.3 Legal Material Collection and Analysis Procedure

The research was conducted in 2 (two) stages, namely the collection of legal materials and the study and or analysis of legal materials. The collection of legal materials is carried out through a positive legal inventory and literature search (library study) related to the problem under study. All legal materials that have been collected are then organized and classified according to the problem formulation, research objectives and systematic preparation of research results. After all legal materials are organized and classified, then analysis and/or interpretation is carried out, in this way it is hoped that the problems in this research can be studied and answered.

III. Results and Discussion

The Application of the Law of Telemedicine Practice in the Covid-19 Pandemic Situation

In 2017 Indonesia through the Ministry of Health issued the Telemedicine Indonesia (TEMENIN) application. TEMENIN can provide tele-radiology, tele-EKG, tele-USG, and tele-consultation services which currently have connected 39 supporting hospitals and 115 supported hospitals and health centers. TEMENIN as one of the implementations of telemedicine in Indonesia. During the COVID-19 pandemic, the Minister of Health through Circular Letter Number 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 (COVID-19) provides a reference in providing services health by utilizing information and communication technology to prevent the spread of COVID-19 in the form of the telemedicine method.

The legal basis for telemedicine is that in 2018 IDI's recommendation for the future of medical digitalis in Indonesia and the results failed. In 2019 PMK 20/2019 as the provider of telemedicine services between health care facilities. In the following year, in 2020 the Minister of Health of the Republic of Indonesia (RI) 303/2 the implementation of Yankes through the use of technology during the Covid-19 period was revoked. Perkonsil 74/20 clinical authority and medical practice through telemedicine during the Covid-19 period. In 2021 the Mankes Decree No. HK.01.07/Menkes/4829/2021 regarding Guidelines for Health Services through Telemedicine during the Covid-19 Pandemic. The use of technology in the world of health is very influential on efficiency in the implementation of health services. It continues to experience explosive growth and can be an innovation in the world of health in the future. Technology enables clinical services from doctors to provide healthcare services remotely. Telemedicine as information and telecommunication technology is used to transfer medical information, diagnosis, therapy and education (Weinstein et al., 2014). Information transfer is carried out with interactive video and audio between the patient and the medical professional. This information includes pictures, videos, audio, and other patient medical records therapy and education (Weinstein et al., 2014). Information transfer is carried out with interactive video and audio between the patient and the medical professional. This information includes pictures, videos, audio, and other patient medical records therapy and education (Weinstein et al., 2014). Information transfer is carried out with interactive video and audio between the patient and the medical professional. This information includes pictures, videos, audio, and other patient medical records.

The implementation of Telemedicine has a legal basis. At the statutory level, it is contained in Law No. 36 of 2009, Law No. 29 of 2004, Law No. 11 of 2008 Jo. Law Number 19 of 2016, Law Number 14 of 2008, Law Number 36 of 2014, Law Number 38 of 2014. For the Government Regulation level there are PP No. 82/2012 and PP No. 46/ 2014. The SE Minister of Health related to Telemedicin services needs to be upgraded to a Ministerial Regulation so that it can be binding and has sanctions, even though it is administrative in nature. Professional organizations need to immediately set limits on telemedical services, related to the authority of doctors, limits on diagnosis and treatment through audiovisual, electronic prescriptions. Telemedical application developers must pay attention to matters that have legal implications in order to protect the interests of patients and the interests of service providers. The factors that affect telemedicine are translated into 4 factors, namely organizational rules and regulations, financial factors, technological

infrastructure, and the existence of the COVID-19 pandemic which causes travel restrictions. The rules and regulations of telemedicine organizations led to the rapid development of telemedicine which led to an increase in visits and use of telemedicine. Financial factors affect telemedicine because with telemedicine the financial budget allocation from patients for treatment is considered to be reduced because the use of telemedicine can save costs in terms of travel and time. Infrastructure and technology factors are needed in telemedicine to support the smooth implementation of telemedicine and can support the satisfaction of telemedicine users. The Covid-19 pandemic factor in telemedicine is related to the transition of treatment methods to telemedicine methods by health service providers and patients during the Covid-19 pandemic which requires social distancing (Riyanto, 2021).

All electronic medical record applications that have been implemented in hospitals or first-level health facilities must comply with the provisions of Article 16 of the ITE Law. Because the signature of the service provider (doctor/dentist or other health worker) has legal implications, the use of an electronic system will guarantee that the signature is in the form of an electronic signature. For the creation of electronic signatures, the information system must be certified according to Article 13 of the ITE Law. The RME Information System that has not been certified and has an electronic signature has weaknesses from the legal aspect under the ITE Law. In an effort to prevent the spread of COVID-19, the government in Indonesia is actively urging the public and medical personnel to use startup results in the form of telemedicine as a remote or online public health service application between hospitals and patients. However, in its implementation, there are several challenges that arise such as technological capabilities, data security and patient privacy, laws and regulations, guidelines for use and individual patient problems hospitals and medical personnel on an ongoing basis (Machmud et al., 2020)

The contributing factor of the COVID-19 pandemic catalyzed the adoption of earlier telemedicine ideas as it helped support social distancing, remove patients from crowded waiting rooms and public transport, and reduce the need for personal protective equipment. In addition, telemedicine helps maintain appropriate care in times of limited access to healthcare and supports chronically affected patients to meet their medical and psychological needs in times of social and medical crisis. The non-inferiority of telemedicine for on-site appointments in the treatment of epilepsy was previously demonstrated, supporting the use of telehealth tools during the COVID-19 pandemic wherever possible (Wrede et al., 2020)

In this case, health services provided by doctors through telemedicine include:

a. History, including chief complaint, accompanying complaints, disease history, risk factors, family information and other information asked by the doctor.
b. Certain physical examinations are carried out through audio-visual.
c. Providing advice/advice needed based on the results of the examination support or the results of certain physical examinations.
d. The diagnosis is made based on the results of the examination obtained from history, physical examination, or investigations.
e. Management and treatment of patients, carried out based on enforcement diagnosis which includes non-pharmacological and pharmacological management, as well as medical treatment for the patient/family according to the patient's medical needs. In the event that medical action or further management is required, the patient is advised to carry out a follow-up examination to a health care facility.

f. Writing prescriptions for drugs/medical devices is given to patients according to the diagnosis, with the following conditions: (a) Doctors who write electronic prescriptions for drugs and/or medical devices must be responsible for the content and effects that may arise from drugs written in an electronic prescription. A copy of the electronic prescription must be kept in printed and/or electronic form as part of the medical record document. (b) Electronic prescribing of drugs and/or medical devices can be done manually closed or open. (c) Closely electronic prescribing is done through an application from a doctor to a doctor pharmaceutical service facilities.
g. Issuance of a referral letter for examination or further action to a laboratory or other health care facility according to the results of patient management.

In fact, there are many aspects of telemedicine practice that have not been regulated by the government or the competent authorities. Even the aspects that have been regulated, there are still many that are not widely known by doctors. One of them is the use of Practice License (SIP) in the implementation of Telemedicine practice. Law No.29 of 2004 concerning Medical Practice in Articles 36 and 37 states that "Every Doctor or Dentist who practices medicine in Indonesia MUST have a Practice License (SIP)". Minister of Health No. 2052 of 2011 concerning the Practice License and the Implementation of Medical Practice which states in article 2 that "Every Doctor and Dentist who practices medicine MUST have a Practice License issued by the Head of the District/City Health Office where the Medical Practice is carried out." Is Telemedicine Practice a recognized form of medical practice in Indonesia? This was clearly conveyed through the Circular Letter of the Minister of Health Number 303 of 2020 regarding the Implementation of Health Services through the Utilization of Information Technology. The Indonesian Medical Council (KKI), as the body with the authority to grant 'additional' Clinical Authority,

1. Receive medical information in the form of good images, images, text, biosignals, video and/or sound using electronic transmissions to answer consultations and/or provide Expertise; and
2. Receiving fees for Telemedicine Services.

And paragraph (2) the Consulting Health Facilities in implementing Telemedicine Services have the following obligations:

a. Delivering consultation answers and/or providing Expertise according to standards.
b. Maintain the confidentiality of patient data.
c. Provide correct, clear, accountable and honest information regarding the results of the consultation and/or Expertise.
d. Provide consultation time 24 (twenty four) hours a day, 7 (seven) day of the week.

In Article 18 paragraph (1) Health Facilities Requesting Consultation in implementing Telemedicine Services have the right to:

1. Obtain consulting answers and/or receive Expertise according to standards.
2. Receive correct, clear, accountable and honest information regarding the results of the consultation and/or Expertise.

Paragraph (2) Health Facilities Requesting Consultation in implementing Telemedicine Services have the following obligations:

a. Sending medical information in the form of images, imaging, text, biosignals, video and/or sound using electronic transmission according to quality standards to request answers for consultations and/or gain Expertise.
b. Maintain the confidentiality of patient data.

c. Provide correct, clear, accountable and honest information regarding the results of the consultation and/or Expertise to the patient.

The main advantage of telemedicine services is the use of technology to eliminate distance and geographical restrictions and associated costs, especially for medical services in remote areas where there is a shortage of medical personnel. This is very relevant and a necessity in Indonesia, which has a very large area, consisting of thousands of islands, with transportation infrastructure connecting is still not good, and has a very limited number of doctors. Meanwhile, the internet network can be supported via satellite to all corners of the archipelago, crossing geographical constraints such as seas, hills, mountains, forests, and so on. Of course, the Indonesian government needs to prioritize investment in the procurement of state-owned satellites that can support telemedical services (Rahman et al., 2021)

Public health in Indonesia is one of the goals of the Indonesian government. Article 34 paragraph (1) of the 1945 Constitution which philosophically stipulates health services is the responsibility of the State. Regarding the regulation regarding citizens' rights to health services, it is stated in Article 28 H paragraph (1). The provision of health services is related to values that respect Indonesian human dignity, while the determination of the right to obtain health services is an embodiment of the precepts of social justice that creates equity. Aspects of health law itself cannot be separated from public law and private law which are aimed at the health subsystem in society. Health law coverage of various legal aspects.

Health law regulation was first regulated in 1992, Law Number 23 concerning Health, then repealed in 2009 replaced by Law no. 36/2009 concerning Health, considering that the era has become more advanced, the rules are no longer suitable to be applied so that they need to be replaced by a new Law on Health. Law No. 36/2009 on Health is more accommodating to current developments.

IV. Conclusion

The application of telemedicine services in Indonesia has not maximized the legal aspects that protect the confidentiality of patient data and patient problems. The Indonesian telemedicine service application does not guarantee the confidentiality of patient data. Telemedicine services have not been fully implemented in Indonesia because internet access services have not been evenly distributed in all regions. Telemedicine application developers must pay attention to matters that have legal implications in order to protect the interests of patients and the interests of service providers.

Suggestion

It is advisable to be more specific regarding the use of telemedicine regarding existing legal arrangements so that they can follow the development of legal issues in the community. The benefits of telemedicine have many advantages, but it is also necessary to consider its use wisely, because the use of technology makes humans manipulated as a means and interests outside the world of medicine. During the Covid-19 era, people must be wise in using technology in the health sector.

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