

# Medical authority in Indonesian clinical : An app-based telemedicine program

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## Medical authority in Indonesian clinical : An app-based telemedicine program

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### Abstract

**Background :** Doctors who practice through application-based telemedicine do not have a clear legal regarding the services they provide. Telemedicine regulations that exist in Indonesia are still inadequate to cover all actions in telemedicine transactions, especially for legal protection for doctors who are legal subjects in this transaction. Given that until now, every telemedicine transaction must be under a Health Service Facility or an Online Doctor Consultation Service Provider. Thus, the doctor here as a provider of consulting services is actually not the main person who makes this transaction possible

**Method:** Normative juridical approach, namely research conducted by how to examine theories, concepts, legal principles and legislation related to this research

**Results:** Article 50 of law number 29 of 2004 concerning medical practice explains that a doctor has the right to obtain legal protection as long as his actions are in accordance with professional standards and standard operating procedures. In terms of application-based telemedicine, doctors do not have a practice permit, but during the COVID-19 pandemic, telemedicine was developed massively, the pandemic was considered an emergency, so the KKI regulation NUMBER 74 of 2020 concerning clinical authority and medical practice through telemedicine was issued during the COVID-19 period. The limit of clinical authority for application-based telemedicine practice is limited to consultation, not including medical action and administration of hard drugs.

**Conclusion:** A doctor who has pocketed the STR is authorized to provide health services in accordance with his competence. The authority obtained by a doctor who has an STR is a form of recognition given by the government to the doctor concerned that he is worthy to provide health services in the form of medical practice. The limit of clinical authority for application-based telemedicine practice is limited to consultation, not including medical action and administration of hard drugs.

**Keywords:** Legal Concepts; Medical authority; Telemedicine Program

### INTRODUCTION

Health is a human right, as stated in Article 28H of the 1945 Constitution, "Everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment and have the right to health services". Unfortunately realizing equitable health services for all the people of Indonesia, as an archipelagic country with more than

17,000 islands, is not an easy thing. Conventional health services, namely face to face between patients and doctors, are often difficult to achieve in remote areas where it is not easy to reach them because geographical constraints. Indonesian citizens have the right to obtain health information through various

means, one of which is through information technology (Kuntardjo, 2020).

Therefore, it is necessary to provide clear boundaries between the liaison platform or service provider and the telemedicine service or provider (Hutomo & Suhartana, 2020). Health facilities providing and requesting consultations are required to submit a registration application submitted to the Ministry of Health through the Directorate General of Health Services. Meanwhile, the digital platform that provides online consultation services with the doctors we often meet is not part of the health facilities, so the services provided cannot be categorized as telemedicine practices.

When referring to Article 12 paragraphs 2 and 3 of the Minister of Health Regulation No. 20 of 2019, the telemedicine application is provided by the Ministry of Health, but if the telemedicine service provider uses an application that was raised unilaterally, the application must be registered and officially registered at the Ministry of Health (Ministry of Health of the Republic of Indonesia, 2019) Referring to the situation above, various countries in the world have made breakthroughs to improve health services by utilizing technology and information media, namely through online medical applications or other social communication media that we usually know as telemedicine. Based on the Regulation of the Minister of Health of the Republic of Indonesia No. 20 of 2019, Telemedicine is the provision of long-distance health services by health professionals using information and communication technology, including the exchange of information on diagnosis, treatment, disease and injury prevention, research and evaluation, and continuing education of health service providers. for the benefit of improving individual and community health (Afandi et al., 2021).

The use of telemedicine technology in Indonesia since the 90s. Currently, the use of telemedicine technology in Indonesia has experienced significant development, but telemedicine technology has not been used by all Indonesian people because not many people understand the telemedicine technology. Telemedicine facilitate patient access to health services in an easier, more comfortable way, and reduce waiting time in queues such as face-to-face

consultations. Health consultation via telemedicine makes it easy for consultations anytime and anywhere, by making online appointments. Telemedicine offers many advantages, one of which is fast and timely examination. Patients requiring emergency care consultations can get consultation and advice in minutes. With the presence of telemedicine in the world of health, it is hoped that it will be able to answer the challenges posed by circumstances, namely that patients can consult with doctors without face to face (Awaluddin et al., 2019).

Apart from all the benefits obtained from the presence of telemedicine, it cannot be denied that the use of telemedicine also has the potential to cause legal medical disputes. Among them, related to Practice License (SIP), accreditation, confidentiality of patient's electronic medical records, accountability in case of malpractice, clinical guidelines and insurance. In connection with the 2019 Corona Virus Disease Pandemic, the Indonesian Medical Council issued regulation Number 74 of 2020 concerning Clinical Authority and Medical Practice Through Telemedicine during the Corona Virus Disease (Covid-19) Pandemic in Indonesia, Article 3 states that, Medical practice during the Covid pandemic -19 may be done by a Doctor or Dentist either directly face-to-face or by utilizing technology using an application/system in the form of Telemedicine while still applying the concept of effective communication (Primavita et al., 2021).

Without SIP, a doctor should not be allowed to perform any medical services, including consultations in it. However, if you look at what is currently happening in the community, doctors who practice online based on applications can still provide consultation, education and even therapy (Ziviani et al., 2004). Although, there are indeed limitations that are applied in the practice of telemedicine based on this application, it still doesn't feel like a doctor/dentist should serve the community without SIP. However, even if the doctor/dentist wants to take care of his/her license, where should he/she report it, because there is no agency/organization that regulates it. Telemedicine regulations that exist in Indonesia are still inadequate to cover all actions in telemedicine transactions, especially for legal protection for doctors who are legal subjects in this transaction.

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Article 37 of Law number 29 of 2004 concerning Medical Practice states that a doctor's practice permit (SIP) is only given for a maximum of three places and only applies to one place of practice, while in article 38 the second point is stated to get a SIP as referred to by a doctor. must have a place of practice. If a doctor already has three SIPs and he continues to practice telemedicine, it can be said that the doctor is practicing without a permit. Based on article 76 of this law, a doctor who intentionally practices medicine without a SIP is subject to a criminal fine with a maximum fine of Rp. 100,000,000.

The importance of the position and existence of telemedicine, especially in the face of the Covid-19 Pandemic, the existing regulations and laws are actually inadequate and disproportionate. Considering the risk of the position of the doctor in the implementation of this telemedicine service, then with the above considerations, the author has the attention to conduct research with the title Medical authority in Indonesian clinical.

## DISCUSSION

The definition of a doctor in the legislation (Law No. 29 of 2004) is "doctor, specialist doctor, dentist, and specialist dentist who has obtained medical or dental education at home and abroad that is recognized by the Indonesian government. Legal Aspects of Medical Practice and Medical Malpractice (Ratman, 2014). As for the authority of doctors written in Article 35 of Law No. 29/2004 are Conduct interviews with patients, Check the patient's physical and psychological condition, verify supporting examination, confirm the patient's diagnosis, ensure the management and treatment of patients, if necessary, an injection is given to the patient, teating medical or dental procedures, issuing a doctor's certificate who performs pratik, packing drugs with permitted quantity and form, oncoct and distribute drugs to patients who do not have pharmacies in remote areas. Based on article 1 number 2 in ministerial regulation number 20 of 2019 concerning telemedicine, this method can be carried out by means of consultation to diagnose, treat, or prevent disease remotely. Minister of Health Regulation No. 20 of 2019 : Telemedicine regulations are made and based on Law number 29 of 2004

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concerning the code of medical ethics, written in the Decree of the Minister of Health of the Republic of Indonesia Number HK.02.02/MENKES/409/2016.

Linkage to telemedicine, Inadequate infrastructure in rural or district hospitals, the large number of patients requiring referral for special care, low availability of health experts in district hospitals or remote areas, and back of adequate opportunities to continue training or medical education in rural areas or health facilities in remote areas. Benefits for patients are access to specialized health care services in rural, semi-urban and remote areas, expertise from medical specialties to a larger population without physical referrals, and reducing visits to specialized hospitals for long-term follow-up care for elderly and critically ill patients. Hospital and insurance benefits are significant reduction in unnecessary visits and hospitalizations for special care in tertiary hospitals, early discharge of patients leads to shorter hospital stay, and increased service coverage without creating physical infrastructure in remote hospitals.

This telemedicine regulation was strengthened by the issuance of the Indonesian Medical Council Regulation Number 74 of 2020 in this pandemic era, one of which is contained in Article 3 numbers 1 to 4 which reads as follows, medical practices held during a pandemic can be carried out with an application or electronic system in the form of Telemedicine by communicating effectively and doctors and dentists who practice medicine through telemedicine must have a registration certificate and practice license at the health facilities (health care facilities) in accordance with the provisions of the legislation.

The authority of doctors in telemedicine is contained in article 5 in the Circular Letter of the Minister of Health Number HK.02.01/MENKES/303/2020 of 2020, it is written as follows, carry out history taking activities for patients, which include chief & co-morbid complaints, disease history, risk factors, family information and various other information asked by doctors to patients/families online, checking the patient's specific physical condition which can be done through audiovisual, provide advice to patients based on the results of supporting examinations & results of audiovisual examinations. The results of supporting examinations



can be carried out by the patient using the available resources and according to the doctor's advice. Recommendations can also be in the form of a follow-up health check to the health facility, diagnose based on the results of the examination, which is mostly obtained from the history, certain physical examinations or investigations, taking care of and treating patients, carried out based on establishing a diagnosis which includes non-pharmacological and pharmacological management, as well as medical actions against patients/families according to the patient's medical needs. If further medical action is needed, the patient is advised to further check himself at the health facilities, writing prescriptions for drugs and/or medical devices and given to patients according to the diagnosis/issuance of a referral letter for examination or further action to the laboratory and/or health facilities according to the results of patient management. There are some things that doctors are not allowed to do in telemedicine services, such as, teleconsultation between medical personnel and patients directly without health service facilities / health facilities.

The basis for granting clinical authority as a doctor in carrying out his medical practice is his competence. Administratively, the authority of a doctor is indicated by the possession of a registration certificate (STR). In Law Number 29 of 2004 Article 29, it is stated that in order to have a doctor's STR file, he must meet several requirements, including, have a diploma as proof of having graduated from medical professional education, a statement letter that has taken an oath or doctor's appointment, a certificate of physical and mental health, and a certificate of competence. The requirements as mentioned above are applied as a form of proving that doctors who will enter the community to provide health services have skills both physically and mentally, competently, and ethically. Therefore, it is hoped that the public will be protected from a medical practice that does not comply with standards or is at risk of injuring / harming patients (Veronica & Dhani, 2018).

The registration certificate is issued by the Indonesian Medical Council (KKI) and is valid nationally for a period of 5 years, and must be extended according to the provisions, if the doctor

concerned is still providing health services. KKI is an institution formed to protect clients receiving health services and to improve the quality standards of medical services provided by doctors and dentists. UU no. 29 of 2004 Article 37 concerning Medical Practice, related to the government's authority to issue practice licenses (SIP) for professional medical experts, with the continuation contained in PMK Number 2052 of 2011 concerning Practice Permits and Implementation of Medical Practices. In Article 2 of PMK Number 2052 of 2011, it is regulated. The registration certificate is issued by the Indonesian Medical Council (KKI) and is valid nationally for a period of 5 years, and must be extended according to the provisions, if the doctor concerned is still providing health services. KKI is an institution formed to protect clients receiving health services and to improve the quality standards of medical services provided by doctors and dentists. UU no. 29 of 2004 Article 37 concerning Medical Practice, related to the government's authority to issue practice licenses (SIP) for professional medical experts, with the continuation contained in PMK Number 2052 of 2011 concerning Practice Permits and Implementation of Medical Practices. In Article 2 of PMK Number 2052 of 2011, it is regulated, each professional doctor and dentist is required to have a practice license before providing health services to the public; issued by an official of the head of the local regency/municipal health service; to consider the distribution of evenness between the number of doctors and dentists and the need for public health services in issuing a practice permit.

Because the issuance of a doctor's SIP is carried out by considering and assessing the needs of medical personnel in the area concerned, the Head of the District/City Health Office where the practice is carried out has the authority not to grant any application for a practice permit in the area, it is hoped that the goal of equal distribution of medical personnel in this case is achieved. doctors to meet the needs of the entire community. A professional doctor is only allowed to practice at most in three different places, this is because the ownership of SIP is limited to three locations. This policy is implemented in accordance with the provisions of Law no. 29 of 2004 Article 37 paragraph 2. This limitation is imposed so that a doctor

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can carry out his medical practice services optimally and in the interest of patient safety as well as himself. Even so, in certain circumstances, a doctor may provide.

Medical practice services without having a license to practice in the area concerned, among others, if faced with the following conditions, a doctor is asked by a health facility to complete medical services that are specialized in nature, and this does not happen continuously or does not have a definite schedule, if a doctor is asked to serve health in social services/humanitarian activities; carry out state duties; help provide health services in disaster management or other emergency assistance; provide assistance in health and medical services to family, neighbors, friends, home visit services and assistance to the underprivileged at any time, not routine/scheduled; specially for certain specialist doctors are allowed to provide health services outside the 3 SIP areas. Permission is given to the doctor concerned in the form of an assignment letter issued by the head of the provincial service based on a request from the Head of the Regency/City Service which aims to meet the needs of health services for the community.

Without SIP, a doctor should not be allowed to perform any medical services, including consultations in it. However, if you look at what is currently happening in the community, doctors who practice online based on applications can still provide consultation, education and even therapy. Although, there are indeed limitations that are applied in the practice of telemedicine based on this application, it still doesn't feel like a doctor/dentist should serve the community without SIP. However, even if the doctor/dentist wants to take care of his/her license, where should he/she report it, because there is no agency/organization that regulates it. Considering that medical practice using online-based medical services requires special skills and expertise, of course the doctor needs to be equipped with special knowledge and abilities in the field of online medical services. Mastery of minimum quality standards by health workers should be proven by a trusted certification system. Professional Standards are the minimum knowledge, skills and professional attitudes that must be mastered by an individual to be able to carry out

professional activities in society independently made by professional organizations. Likewise for medical practice using online medical services, it can only be done if the right to use it has obtained legal certainty in advance and there is no doubt about its professionalism. As in the previous discussion so far, medical professional organizations have not specifically regulated professional standards in the use of online-based medical services. For this reason, measurable professional standards must be part of the legal principles of using online medical services.

The task of KKI is not only limited to registering doctors and dentists who have just graduated from education, but KKI is also authorized to determine the professional education standards for doctors and dentists that will apply in Indonesia, as well as carry out guidance on medical practice which is carried out together with other related institutions. according to their respective duties and functions. For example: A doctor is allowed to perform a visual and auditory examination and perform an action (on a body part that requires an action with approval) where such permission is not granted to a profession other than a doctor (Iswandari, 2006). Based on the provisions of Article 35 of Law Number 29 of 2004, a doctor who has pocketed the STR is authorized to provide health services in accordance with his competence. The authority obtained by a doctor who has an STR is a form of recognition given by the government to the doctor concerned that he is worthy to provide health services in the form of medical practice. In carrying out his medical practice, the authority of a doctor can be expanded or narrowed according to the circumstances he faces. The types of authority contained in medical practice health services include (Veronica & Dhani, 2018).

Independent Authority, namely the authority of a doctor in providing health services to practice medicine independently without direct supervision or supervision from other senior colleagues. This kind of authority is the most common a doctor has in carrying out independent practice, joint practice, or practice in a hospital. This authority applies in accordance with the STR and the competence of the doctor. Limited Authority, is an authority that can be exercised if it is under direct supervision or assistance from another

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doctor's colleague who has been determined by the competent authority, but doctors who exercise this authority are required to have competency standards that are used as requirements. This form of authority is only granted in certain circumstances, such as when a doctor is taking a service program (internship) or specialist doctor education (residency) as described in the following paragraph, Internship Program One of the requirements for a doctor to get an STR is that the doctor is required to pass an internship program that is implemented in the context of the stage of proficiency and independence of a doctor to practice. Internship itself is a form of process of strengthening the quality standards of the medical profession and applying the knowledge gained during the education period, in an integrated, comprehensive, independent manner, with a family medicine approach, in the context of proficiency and alignment between educational outcomes and health service practices. Before undergoing the internship program, a doctor is required to have an Internship STR issued by the Indonesian Medical Council and valid only during the internship period. Basically, the authority possessed by an intern doctor is not much different from the authority of a doctor in general, it's just that in carrying out this authority it is limited to the designated internship area and remains under the supervision of a previously appointed accompanying doctor (Veronica & Dhani, 2018).

A doctor who undergoes a specialist professional education program is called a resident. Doctors who are pursuing a specialist professional education program (residency) have the authority to provide certain medical services under the supervision of another authorized doctor. The authority granted to the resident doctor is in accordance with the field he is engaged in and in accordance with the competencies that have been determined by the head of the study program from the relevant medical faculty. Resident doctors are also required to have a PPDS Participant STR (STR-P PPDS). One of the requirements for submitting a PPDS STR-P issuance is a valid STR. Doctors who already have STR-P PPDS will be given a certificate of competence issued by the head of the study program as the basis for their authority to

provide medical practice services within the framework of specialist professional education.

Based on KKI Regulation Number 48 of 2010 Article 1 concerning Additional Authorities of Doctors and Dentists, it is related to other authorities possessed by doctors or dentists to improve certain medical practice services independently if they have attended additional education and/or training, this is an additional from the authority that was previously owned based on the competence of formal education. The granting of additional authority aims to meet the needs of health services and specialist medicine so that they can be evenly distributed in certain areas. Additional authority is only given in accordance with the additional competencies possessed and only applies to areas that have been determined by the Minister of Health. Additional competencies obtained must also come from special education and/or training venues organized by institutions or institutions that have been recognized by the government and medical colleges. Formally, additional authority must be proven by possession of an Additional Competency Certificate (Veronica & Dhani, 2018).

A doctor who has additional authority is required to have SIP in order to provide medical practice services at certain health service facilities (fasyankes) in accordance with his assignment. Practice licenses for doctors who have the same additional authority as doctors' SIPs in general, only that they have additional certificates of competence from the relevant colleges. Thus, basically doctors who are given additional authority have independent authority to carry out his medical practice according to the additional competencies he has. Although there are many advantages offered from the benefits of telemedicine, it is also necessary to consider its use wisely, because the use of technology can have an impact on strengthening the mechanistic paradigm and instrumentalistic approach to the human body. So that it can make humans manipulated as a means and interests outside the medical world. Therefore, the therapeutic relationship between doctors and patients in the use of telemedicine must be based on the noble values of medical philosophy which views humans as noble beings. Spirituality or spiritual health is expected

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to be part of the development of telemedicine in medical practice (Anwar, 2013).

Another regulation 5 that also discusses telemedicine during the Covid-19 Pandemic is the Indonesian Medical Council Regulation Number 74 of 2020 concerning Clinical Authority and Medical Practice Through Telemedicine During the Corona Virus Disease 2019 (COVID-19) Pandemic in Indonesia. This regulation emphasizes the limits of authority for a doctor in carrying out medical services via telemedicine in conditions of the Covid-19 pandemic. This regulation states that in the face of the Covid-19 pandemic, a medical 7 practice activity is permitted to be carried out through an application system/electronic system in the form of telemedicine by paying attention to effective communication, applying the principle of patient confidentiality. Telemedicine which is meant in this case includes, online mode of writing.

Limitations in telemedicine when referring to KKI Regulation No. 74 of 2020, among other things, a doctor is required to provide services in accordance with his competence and authority, must assess the eligibility of patients to be served online, and if the doctor's expert assessment finds an emergency condition, requiring diagnostic or therapeutic action, the health service provider must refer to other health facilities with appropriate information, a doctor is also allowed to request additional relevant examinations and prescribe drugs (excluding narcotics and psychotropic drugs) / medical devices, sick certificates by upholding the principles of prudence and accountability.

A telemedicine service practitioner, in this case a doctor, is prohibited from conducting teleconsultation between medical personnel and patients directly without going through health facilities, providing dishonest, unethical, and inadequate explanations (inadequate information) to patients or their families, conducting diagnoses and treatments beyond their competence, request irrelevant supporting examinations, perform disgraceful acts, acts of intimidation, acts of violence, invasive actions through teleconsultation, charge fees other than tariffs and are prohibited from giving health certificates.

This regulation also states that every doctor 10 who will serve patients with telemedicine is required to have a Registration Certificate (STR) and a Practice License (SIP) at the Health Facilities which will become a communication forum. The reason given by KKI for the obligation of telemedicine services through the Health Facilities is because the Health Facilities have been regulated by the state to maintain the safety of patients, doctors and the Health Facilities itself. So for doctors who serve telemedicine through a digital platform that is definitely not a health facility, they must ensure that the platform is registered as a partner of the health facility where the doctor works and registers SIP. Also make sure that the Health Facilities know and allow doctors to provide telemedicine services (Saleem et al., 2021).

The 3 regulations and laws above only regulate things that are general in nature and are considered important, considering that the implementation of telemedicine has only begun to be regulated in 3 19 through a Regulation of the Minister of Health. Until now, there are no regulations or laws governing the implementation of comprehensive telemedicine between doctors and patients, which does not only apply during the pandemic. The laws and regulations governing the implementation of telemedicine 3 in this pandemic condition are still relatively general and have not been regulated in detail for each health sector (Andrianto & Fajrina, 2021).

## CONCLUSION

A doctor who has pocketed the STR is authorized to provide health services in accordance with his competence. The authority obtained by a doctor who has an STR is a form of recognition given by the government to the doctor concerned that he is worthy to provide health services in the form of medical practice. The limit of clinical authority for application-based telemedicine practice is limited to consultation, not including medical action and administration of hard drugs.

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