

ONLINE DOCTOR CONSULTATION (TELEMEDICINE) ON COVID-19 PATIENTS IN PERSPECTIVE DOCTOR'S RIGHTS PROTECTION

Kartina Pakpahan¹, Juli Esther Napitupulu², Dessy Darmayani
Harianja³

¹Universitas Prima Indonesia, kartinapakpahan@unprimdn.ac.id

²Universitas Prima Indonesia, julyesther@uhn.ac.id

³Universitas Prima Indonesia, dessy.harianja1212@gmail.com

ABSTRACT

In general, everyone has the right to health, so this means that the government must create conditions that allow each individual to live a healthy life, with efforts to provide adequate health care facilities and affordable health services for the community and the state is responsible for providing health care facilities. and proper public service facilities. In a pandemic condition like today, doctors as health care providers must still provide health care services to patients with the aim of improving patient health. The risk of transmitting the corona virus to each other between doctors and patients in health care facilities and the incessant calls for social and physical restrictions have made telemedicine a popular choice for both doctors and patients. Telemedicine is the provision of health services remotely 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 care providers for the benefit of improving individual and community health. This study was conducted with the aim of knowing the mechanisms carried out by doctors or health workers for COVID-19 patients and the rights of doctors to protect in telemedicine services for Covid-19 patients. The research method used in this study is library research, which is a method used by studying literature books, legislation. The analytical method used is qualitative analysis with descriptive analysis method, namely the selection of theories, principles, norms, doctrines, and articles in the most important legislation relevant to the problem. Then make a systematic from these data so that it will produce a certain classification. This study shows that Telemedicine carried out by doctors or other health workers on Covid-19 patients has been regulated in Article 17 paragraphs (1) and (2) and Article 18 paragraphs (1) and (2) of the Minister of Health 20/2019, but there is no synchronization of regulations regarding the protection of doctors' rights in telemedicine services for Covid-19 patients in Indonesia, in this case receiving a service fee.

Keywords: Telemedicine, Protection of Doctor's Rights, Covid-19

INTRODUCTION

Health is an important aspect of human rights (HAM), the right to health means that the government must create conditions that allow every individual to live a healthy life, with efforts to provide adequate health care facilities and affordable health services for the community and the state is responsible for providing health services. health service facilities and facilities.

Health services are basically the same as hospital services where doctors are the providers of health services and patients are the recipients of health services. This is done by the patient by going to the hospital or practice place to submit a complaint of his illness to the doctor. Entering the 21st century, the world is faced with the emergence of new technologies in the medical field that allow doctors to practice in a virtual space. This innovative technological revolution is known as telemedicine. Thanks to telemedicine, medical services can now be provided via telecommunications, audio, visual and data that can connect health care facilities even though they are geographically separated so that differences in time, place and distance are no longer an obstacle in the therapeutic relationship between doctors and patients.

The case of the corona virus disease (COVID- 19) first appeared in Wuhan, Hubei Province, China in December 2019 and has spread throughout the world. In Indonesia the first positive case was confirmed on March 2, 2020 and continues to increase as of this writing. Distribution faster than the SARS virus CoV-2 can occur through contact with healthy people through the air or droplets. The rapid spread has a detrimental impact on every aspect of human life from across sectors so that it can make it difficult for normal human survival.

Health services that are not ready to deal with COVID-19 have caused an increase in cases in Indonesia. This finally made the President of Indonesia take steps to implement the Large-Scale Social Restrictions (PSBB) in March 2020 and re- enacted several times in several areas that were vulnerable to the spread of COVID-19. This policy is also followed by a policy to limit oneself in activities outside the home and meeting people (physical distancing) as well as an appeal to use the telemedicine platform to obtain health services. Physical distancing and self-quarantine policies that are carried out to break the chain of disease transmission make it difficult for interactions between doctors and patients. The COVID-19 pandemic conditions have resulted in unusual changes in doctors' practices. The current pandemic situation makes doctors adapt to current conditions, one of which is by using telemedicine. in providing health services. Telemedicine is defined as the delivery of health services remotely using electronic means for diagnosing, treating, preventing disease and injury, research and education, and education of health care providers.

Telemedicine is one of the strategies to prevent the spread of COVID-19 in many countries, because telemedicine is the provision of health services using electronic communication technology. This service will probably become more and more popular, because it is efficient in terms of time and access. Plus, we don't know when the pandemic will end. However, the government and the health community need to pay attention to medical and ethical, legal, and socio-technological aspects in the use of communication technology in health services. In practice, the relationship between doctors and patients in online medical services is carried out via the internet, so just like the relationship between doctors and patients in conventional medical services, the relationship between doctors and patients using online medical services must also meet the requirements stipulated in Law No. 29 of 2004 concerning Medical Practice. in principle, online- based medical services only provide doctor and patient interaction, one form of interaction is health consultations, where patients can consult remotely via online, from the consumer point of view the presence of online medical services makes

it easy because they can present doctors through daily habits, but in practice doctors can potentially make professional mistakes because the process is carried out online which does not meet in person, besides this online medical service has not been specifically regulated in legislation and does not yet have operational standards made by professional organizations (Indonesian Doctors Association). rule out the possibility of a medical error in its implementation. Meanwhile, here are some potential legal problems that can arise in online medical services in the future, including regarding the granting of practice licenses through online, data protection of patient privacy rights, and accountability if there are parties who suffer losses. In addition, this online medical service has not been specifically regulated in legislation and does not yet have operational standards made by a professional organization (Indonesian Doctors Association) so that it is possible for medical errors to occur in its implementation. Meanwhile, here are some potential legal problems that can arise in online medical services in the future, including regarding the granting of practice licenses through online, data protection of patient privacy rights, and accountability if there are parties who suffer losses. In addition, this online medical service has not been specifically regulated in legislation and does not yet have operational standards made by a professional organization (Indonesian Doctors Association) so that it is possible for medical errors to occur in its implementation. Meanwhile, here are some potential legal problems that can arise in online medical services in the future, including regarding the granting of practice licenses through online, data protection of patient privacy rights, and accountability if there are parties who suffer losses.

To limit the transmission of the Covid-19 virus to health workers, especially doctors, this telemedicine service is a fairly effective solution. However, when viewed from KMK NO. HK.01.07/Menkes/2539/2020 dated October 7, 2020 regarding the Provision of Incentives and Death Compensation for health workers who handle Covid-19, doctors who serve Covid-19 patients via telemedicine cannot get incentives in accordance with the intended requirements.

Based on the description of the background above, the author is interested in conducting research which is outlined in the form of a thesis entitled "Online Doctor Consultation (telemedicine) in Covid-19 Patients in the Perspective of Protecting Doctors' Rights".

CONCEPTUAL FRAMEWORK

The research method used is Library Research with the source of legal materials consisting of primary legal materials contained in the Republic of Indonesia Law no. 36 of 2009 concerning Health and secondary legal sources, namely laws and regulations relating to the use of Telemedicine during the Covid-19 Pandemic and tertiary legal sources, namely legal dictionaries, newspapers, encyclopedias, papers related to research objects, and also the internet. Secondary data collection is done by means of literature study / document study. Secondary data analysis was conducted qualitatively with descriptive analysis method.

DISCUSSION

A. Telemedicine As a Health Service

In general, telemedicine is the use of information and communication technology combined with medical expertise to provide health services, ranging from consultations, diagnoses and medical actions, without being limited in space or carried out remotely. The goal of telemedicine is to strive to achieve health services evenly throughout the population of the country, improve the quality of services, especially for remote areas and save costs compared to conventional methods. The types of telemedicine in its implementation are applied in two concepts, namely real time (synchronous) and store-and-forward (asynchronous). Learning from the experiences of several countries, it is known that Malaysia has made a Law on Telemedicine under the name Telemedicine Act 1997.

B. Mechanism Of Implementing Telemedicine For Covid-19 Patients In Indonesia

a) Principles of Utilization of Information and Communication Technology (ICT)

The Government of Indonesia through the Ministry of Health has designed the National Health Information System Network (SIKNAS). This network is a virtual connection/network of electronic health information systems managed by the Ministry of Health and can only be accessed when connected. The SIKNAS network is an integrated data communication network infrastructure using a Wide Area Network (WAN), a telecommunications network that covers a large area and is used to transmit data over long distances between different Local Area Networks (LAN), and other local computer network architectures. However, this network is still limited to collecting health data for the purposes of health statistics, not yet designed in a special capacity for clinical service purposes in its function as telemedicine.

b) Principles of State and Community Responsibility

Doctors as organizers of medical practice have the authority to practice medicine based on permits granted by the government. Medical practice using telemedicine contains potential vulnerabilities that can cause changes in orientation, both in values and thinking because it is influenced by political, economic, social, cultural, defense and security factors as well as science and technology. The change in orientation will affect the process of implementing health development.

Such health care facilities cannot be equated with ordinary health care facilities. Thus, the certificate or license must also be different. This difference requires different legal arrangements. Therefore, it is necessary to set national standards and guidelines for the use of telemedicine so that it can create responsible, safe, quality, and equitable and non-discriminatory health services.

c) Principles of Competence, Integrity and Quality

Professional Standards are the minimum limits of ability (knowledge, skill and professional attitude) 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 services using telemedicine, 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. In Indonesia, so far, medical professional organizations have not specifically regulated professional standards in the use of telemedicine. For this reason, measurable professional standards must be part of the legal principles of using telemedicine, both by Indonesian doctors and foreign doctors.

d) Principles of Equality, Good Faith, Independence, and Volunteering and Legal Certainty

If health services from medical facilities located abroad as telemedicine providers want to open their virtual network in order to reach patients in Indonesia, then to establish such cooperation, provisions governing special cooperation between the two countries are needed based on the principles of equality, good faith and mutual respect. respect between the two countries. In order to make this cooperation easier to do, it is better if the cooperation is carried out with countries that already have diplomatic relations with Indonesia. Likewise, the health facilities of the two countries must be based on good cooperation regarding technical operations and technical accountability to the public/patients.

e) Principles of Data Security and Confidentiality and Standardization

Everyone has the right to the secret of his personal health condition that has been disclosed to the health service provider (Article 57 paragraph (1) of Law No. 36 of 2009 concerning Health). In the use of telemedicine, the protection of patient privacy rights over their health data that is recorded electronically at health care facilities, needs to be regulated so that it is not easily accessed by unauthorized parties. Every electronic system operator must operate an electronic system reliably and safely and be responsible for the proper operation of the electronic system (Article 15 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions).

1) Patient Autonomy Principles and Freedom to Chose Technology or Technology Neutral

Every patient has the right to accept or reject part or all of the action for the relief action that will be given to him after receiving and fully understanding the information regarding the action (Article 56 paragraph (1) of Law No. 36 of 2009 concerning Health). Patients also have the freedom to choose technology or technology neutral. after being given information about the benefits and risks of using the technology. So that whatever decisions are taken by patients, they can equally provide a sense of security, justice, and legal certainty.

2) The Principle of Patient Interests is Prioritized, Data Protection, It Forensics, Best Practices, and Legal Audit and Fairness Standards

If a dispute arises, Everyone can file a lawsuit against the party that operates the Electronic System and/or uses Information Technology that causes losses (Article 38 paragraph (1) of Law Number 11 of 2008 concerning Information and Electronic Transactions). In the process of proving in court, it is very important that the patient's

medical data is used as evidence. For this reason, health services using telemedicine must pay attention to the provisions on data protection so that if needed in the future it can be used as evidence. In addition, experts in the IT Forensic field must be provided. IT forensics or known as computer forensics is a derivative discipline that studies computer security and discusses the findings of digital evidence after an event occurs.

3) Legal Protection Concept

Based on Law Number 11 of 2008, any person who commits a legal act as regulated in this Law, both within the jurisdiction of Indonesia and outside the jurisdiction of Indonesia, which has legal consequences within the jurisdiction of Indonesia and/or outside the jurisdiction of the Republic of Indonesia. jurisdiction of Indonesia and harming the interests of Indonesia can be punished.

C. Perspective on Protecting Doctor's Rights in Telemedicine Services For Covid-19 Patients

Coronavirus Disease 2019 (COVID-19) is an infectious disease caused by Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2). SARS-CoV-2 is a new type of coronavirus that has never been previously identified in humans. There are at least two types of coronavirus that are known to cause diseases that can cause severe symptoms such as Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS). Common signs and symptoms of COVID-19 infection include symptoms of acute respiratory distress such as fever, cough and shortness of breath. The average incubation period is 5-6 days with the longest incubation period being 14 days. In severe cases of COVID-19 it can cause pneumonia, acute respiratory syndrome, kidney failure, and even death.

On December 31, 2019, the WHO China Country Office reported a case of pneumonia of unknown etiology in Wuhan City, Hubei Province, China. On January 7, 2020, China identified the case as a new type of coronavirus. On January 30, 2020, WHO declared the incident a Public Health Emergency of International Concern (PHEIC) and on March 11, 2020, WHO had declared COVID-19 a pandemic. On February 11, 2020, WHO officially announced the new naming of the virus that causes the mysterious pneumonia as Severe Acute Respiratory Syndrome Coronavirus-2 (SARS-CoV-2) and the name of the disease it causes is Coronavirus Disease 2019 (COVID-19).

Online doctor consultation does have several advantages when compared to conventional doctor consultations. First, given the uneven distribution of development and health facilities in Indonesia, of course the existence of online doctor consultations is very easy for patients. Patients who live in areas with less development and inadequate health facilities will be greatly helped by online consultations that only rely on electronic devices. Thus, online consultation can be a bridge and an alternative for these limitations. The second thing that is an advantage of online consultations is the convenience for patients with physical limitations. Patients with paralysis and disabilities who usually will have physical difficulties to come to health facilities, are greatly helped by online consultations because they can conduct consultations in a comfortable situation relying on electronic devices.

Third, online consultation is considered more economical and efficient for patients as well as doctors and health facilities. The operational costs that are usually charged during conventional consultations are minimized, so consulting costs tend to be cheaper. For patients, transportation costs and time spent on consultations are drastically reduced. The time spent on consultation becomes shorter and easier to predict.

Limitations of Online Doctor Consultation

Behind all the advantages of online consultation, it is undeniable, especially in terms of examination. The stages of establishing the initial diagnosis start from the interview or anamnesis of the patient's complaint. In this interview process, in addition to asking questions, the doctor also pays attention to the expressions and facial expressions of the patient to assess whether the patient is telling the truth or not. In an online consultation that only relies on audio, of course this will be an obstacle because the doctor cannot see the patient's face.

In terms of law, online consultation does not yet have clear regulations. This situation causes a legal vacuum which then becomes an obstacle for doctors to be able to carry out proper consultations. For patients, this legal vacuum threatens to violate rights and endanger patients.

One of the crucial things in the doctor's authority is related to the legality of practice, namely the registration certificate (STR) and the practice permit (SIP). As mentioned in Article 29 and Article 36 of the Medical Practice Law, Article 47, a doctor is required to have STR and SIP in carrying out medical practice. However, in extraordinary and urgent circumstances such as during this pandemic, the Ministry of Health has issued a Circular Letter of the Minister of Health Number HK. (COVID-19), which contains the authority of doctors in providing telemedicine services. This then becomes a reference for doctors to carry out their profession during the pandemic.

- a. History, including the main complaint, accompanying complaints, history of current illness, other diseases or risk factors, family information and other related information asked by the doctor to the patient/family online
- b. Certain physical examinations performed through audiovisual
- c. Providing the necessary advice/advice based on the results of supporting examinations, and/or the results of certain physical examinations. The results of the supporting examination can be carried out by the patient using the modalities/resources they have or based on the recommendation of the previous supporting examination on the doctor's instructions. Suggestions/advice can be in the form of examination
- d. The diagnosis is made based on the results of the examination, most of which are obtained from the history, certain physical examinations or supporting examinations.
- e. The management and treatment of patients is 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. In the event that further medical action or management is required, the patient is advised to carry out a follow-up examination to an advanced health care facility to a health care facility.
- f. Writing prescriptions for drugs and/or medical devices, given to patients according to the diagnosis.

- g. Issuance of a referral letter for examination or further action to a laboratory and/or health care facility according to the results of patient management.

Doctor's Rights Protection

Despite all the problems above, doctors have an obligation to continue to provide health services to patients. In accordance with the doctor's oath and the applicable medical code of ethics, doctors must always prioritize the health of patients by taking into account the interests of the community and must provide services competently, and use all their knowledge and skills for the benefit of humans. So that medical personnel can continue to provide health services and remain protected and guaranteed safety, it is necessary to make efforts to carry out "medical safety and protection" for medical personnel, in this case doctors who are members of IDI, to Doctors as one of the human resources in health facilities, both first and foremost, have a risk of contracting biological exposure to the SARS-CoV-2 virus during the 21 COVID-19 pandemic.

In Article 50 Law NO. 29 YEAR 2004 CONCERNING MEDICAL PRACTICE, states the Right of Doctors or Dentists in Medical Services

1. Obtain legal protection as long as carrying out duties in accordance with professional standards and standard operating procedures
2. Provide medical services according to professional standards and standard operating procedures
3. Obtain complete and honest information from patients or their families
4. Receive service fees.

KMK NO. HK.01.07/Menkes/2539/2020 dated October 7, 2020 regarding the Provision of Incentives and Death Compensation for health workers who handle Covid-19 provides a requirement that health workers who are entitled to incentives are health workers who are directly involved in examining specimens of suspected patients, handling patients, provide direct services and/or other health services that support the prevention of COVID-19 both in the COVID-19 Isolation Room including the HCU/ICU/ICCU COVID-19, the Triage Emergency Room used for COVID-19 services, or treatment; at Health Facilities or Health Institutions. To limit the transmission of the Covid-19 virus to health workers, especially doctors, this telemedicine service is a fairly effective solution. However, when viewed from KMK NO. HK.01.07/Menkes/2539/2020 dated October 7, 2020 regarding the Provision of Incentives and Death Compensation for health workers who handle Covid-19, doctors who serve Covid-19 patients via telemedicine cannot get incentives in accordance with the intended requirements.

CONCLUSIONS

1. Rules about telemedicine in Indonesia is regulated in 1945 Constitution, and Regulation of the Minister of Health Number 20 of 2019 concerning Service Delivery telemedicine.
2. Implementation mechanism telemedicine carried out by doctors or other health workers on Covid-19 patients has been regulated on Article 17 paragraphs (1) and (2) and Article 18 paragraphs (1) and (2) of the Minister of Health 20/2019

3. Not yet there is a synchronization of regulations regarding protection of doctors' rights in service telemedicine on covid-19 patients in Indonesia, in this case receive a service fee.

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- Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik
- Permenkes 20/2019, aplikasi telemedicine disediakan oleh Kementerian Kesehatan
- Hotline Virus Corona 119 ext 9. Berita inidisiarkan oleh Biro Komunikasi dan Pelayanan Masyarakat, Kementerian Kesehatan RI. Untuk informasi lebih lanjut dapat menghubungi nomor hotline Halo Kemenkes melalui nomor hotline 1500-567, SMS 081281562620, faksimili (021) 5223002, 529216

