

Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

Comparative Study of the Regulation of Health Service Providers Through Telemedicine Between Indonesia and Singapore

Naimah¹⁾, Gunarto²⁾ & Bambang Tri Bawono³⁾

¹⁾University of Lumajang, E-mail: salsabilaima@yahoo.co.id

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: gunarto@unissula.ac.id

³⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: bambang@unissula.ac.id

Abstract. *Telemedicine is needed for several health service constraints such as the uneven distribution of doctors in all regions. Singapore is a country that has special regulations in the implementation of telemedicine, including for telemedicine service providers. Therefore, it is necessary to conduct a comparative study of regulations regarding telemedicine service providers in Indonesia and Singapore in order to develop specific regulations regarding telemedicine in Indonesia, because telemedicine service providers are one of the important factors besides service users and service systems, in order to realize optimal and standardized telemedicine services. to produce a discussion of the existing Telemedicine Service Provider license regulations in Indonesia and Singapore and to produce a discussion of the necessary regulations in Indonesia relating to Telemedicine Service Providers. This research uses a normative research method with a statutory approach and a comparative approach, The research shows that Indonesia does not yet have specific, detailed and clear regulations for Telemedicine Service Providers, while in Singapore the Ministry of Health has implemented a telemedicine regulatory approach using a regulatory sandbox, so that regulations can be adjusted to real and specific circumstances. The practice of telemedicine is permitted if carried out by a Doctor registered with the Singapore Medical Council (SMC) and takes reference from the SMC Ethical Code and Ethical Guidelines, Telemedicine practice is supervised by the National Telemedicine Guidelines (NTG) in planning and providing care.*

Keywords: *Healthcare; Providers; Regulatory; Sundbox; Telemedicine.*

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1. Introduction

Health is something that is important and vital for human life in living life in achieving (fighting for) ideals.¹ In addition, health is a human right,² therefore the community has the right to the highest degree of health.³

Health is a human right and also one of the elements of welfare, which must be realized as the ideals of the Indonesian nation stated in Pancasila and the 1945 basic law of the republic of Indonesia. (Pariati & Jumriani, 2021). The right to health, from a human rights perspective, is one of the fundamental human rights given by God that must be legally recognized and safeguarded.⁴

The fulfillment of the right to health services is the responsibility of the state, which is guaranteed in the 1945 Constitution (UUD 1945). The argument can be seen in Article 28H which stipulates that "Everyone has the right to live in physical and mental prosperity, to have a place to live, and to have a good and healthy environment and the right to obtain health services". Meanwhile, from a human rights perspective, the government also has the responsibility to fulfill the right to health services.⁵ As stated in Article 8 of Law Number 39 of 1999 concerning Human Rights (Human Rights Law) which states that "The protection, promotion, enforcement and fulfillment of human rights are primarily the responsibility of the Government". Therefore, the government must be present to provide the rights of its citizens.

Health as a human right must be realized by providing various health services to the entire community through the implementation of comprehensive health development, including health services through telemedicine by the Central Government and local governments in a directed, integrated and sustainable, fair and equitable, and safe, quality, and affordable by the community.

The presence of the government in fulfilling the right to health can be realized in several ways, including issuing regulations that form the basis of health services. In addition, the provision of proper health care facilities and public service facilities is one of the fulfillments of the right to health. The right to health basically views health as a human rights and legal issue.⁶

The world is currently in the era of the Industrial Revolution 4.0, which is in the era of everything based on the internet.⁷ The development of technology affects various sectors such as education, economy, health and so on. Telemedicine is one of the developments in health services that is influenced by technological developments. Telemedicine provides opportunities for the implementation of medical practices that are not limited by distance and its existence is

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increasingly in demand by the public even after the COVID-19 pandemic ends.⁸ In line with that, Field M, revealed that telemedicine provides opportunities for the implementation of medical services that are not limited by distance, especially health services in remote areas.⁹

Telemedicine according to article 1 paragraph (22) of law number 17 of 2023 concerning health is the provision and facilitation of clinical services through telecommunications and digital communication technology based on. According to (Kharis, 2021), telemedicine is the provision of health services that combine medical expertise and information technology which includes consultation, diagnosis and medical action carried out remotely.

Health services through telemedicine must be balanced with adjustments including competent human resources, adequate facilities and infrastructure, an organized system and continuous supervision, therefore Telemedicine regulations are needed so as to provide a sense of security for patients as users of health services through Telemedicine. In addition, it can also provide legal certainty for health Human Resources, namely: medical personnel, health workers and supporting or supporting health personnel.

The practice of telemedicine services has been organized in Indonesia and will continue to develop along with technological developments, but there is no legal certainty for health service providers in organizing health services through telemedicine, in contrast to Singapore whose regulations use the *Regulatory Sandbox* approach. Therefore, the researcher is interested in researching with the title "Comparative Study of the Regulation of Health Service Providers Through Telemedicine Between Indonesia and Singapore".

2. Research Methods

This research is normative research, this method was chosen because the object of the research study is about legislation, to sharpen the analysis, the approach used as supporting arguments, namely: by using a statutory approach (statue approach) and a comparative approach (comparative approach). Legal materials in normative legal research are divided into two, namely primary legal materials and secondary legal materials. Primary legal material is an analysis knife for the object of study raised. Primary legal materials are usually.

3. Results and Discussion

3.1. Regulation of Telemedicine Healthcare Providers in Indonesia

Regulations are basically a reference for action, both for state administrators and for the

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community, including in the field of health service through telemedicine, regulations can be a reference for action both for service providers or health worker facilities, medical and health workers and for patients. Therefore, the existence of regulations is very important to ensure legal certainty. Regulation is a rule made to help control a group, institution/organization.

and society in order to achieve certain goals in living together, socializing, and socializing. So that the purpose of making regulations or rules is to control humans or society with certain restrictions, and these regulations are applied to various community institutions both for the needs of the general public and for business.

Telemedicine regulations in Indonesia exist in several laws and regulations including: Law Number 17 of 2023 concerning Health, Government Regulation Number 47 of 2016 concerning Health Service Facilities, Minister of Health Regulation Number 46 of 2017 concerning the National Health Strategy, Government Regulation of the Republic of Indonesia Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions, Regulation of the Minister of Health of the Republic of Indonesia Number 20 of 2019 concerning the Implementation of Telemedicine Services Between Health Service Facilities), Decree of the Minister of Health of the Republic of Indonesia Number HK.01.07/MENKES/4829/2021 concerning Guidelines for Health Services Through Telemedicine During the Corona Virus Disease (COVID-19) Pandemic, Indonesian Medical Council Regulation Number 74 of 2020 concerning Clinical Authority and Medical Practice Through Telemedicine During the 2019 Corona Virus Disease Pandemic in Indonesia.

Law number 17 of 2023 concerning Health article 172 paragraph (1) states that there are two (2) medical services through technology, namely Telehealth and Telemedicine services, further mentioned in article two (2).

"Health Care Facilities can independently organize Telemedicine services or cooperate with registered electronic system providers in accordance with the provisions of laws and regulations".

Then in paragraph three (3) Telemedicine services organized by Health Care Facilities include services: a. between Health Care Facilities; and b. between Health Care Facilities and the community. This provision is different from the previous regulation which limited health services through telemedicine to only between health care facilities, this opens up opportunities for Providers or Facilities of health services through telemedicine to be able to expand their services because they can directly organize telemedicine services directly to the community.

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Health Care Facilities must pay attention to medical personnel who work to provide Telemedicine health services because only Medical and HealthWorkers who have a practice license are allowed to practice. In terms of practicelicenses for Medical and Health Workers providing health services through telemedicine in Indonesia must follow the general health service regulations that apply to health services that meet in person, because there are no specific rules regarding telemedicine, this is regulated in Circular Letter Number HK.02.01 / MENKES / 6/2024 concerning the Implementation of Licensing for Medical and Health Workers after the issuance of Law Number 17 of 2023 concerning Health.

Furthermore, in paragraph (2) of Article 172 of the Health Law, it is stated that Health Service Facilities can independently organize Telemedicine services or cooperate with registered electronic system providers in accordance with the provisions of laws and regulations. In this provision, parties in health services through telemedicine can involve third parties outside health facilities, medical personnel and patients, namely electronic system providers.

The scope of telemedicine is quite broad, covering the provision of remote health services (including clinical, educational and administrative services), through the transfer of information (audio, video, graphics), using telecommunications devices (two-way interactive audio-video, computers, and telemetry) involving doctors, patients and other parties.¹³ So that clear and detailed arrangements are needed in its implementation to be able to provide legal certainty and a sense of security in action.

Legal certainty according to Sudikno Mertokusumo is a guarantee that the law must be carried out in a good way. Legal certainty requires efforts to regulate the law in legislation made by the authorities and authorities, so that these rules have juridical aspects that can guarantee the certainty that the law functions as a rule that must be obeyed.

The current regulation of telemedicine in Indonesia in terms of health service providers through telemedicine is still not specific and detailed, the existing regulations are still general in nature, thus requiring further regulations to be able to provide legal certainty to health service providers through telemedicine, both health facilities and third party service providers such as electronic system organizers.

Telemedicine regulations that are not specific and detailed in the health law or technical regulations under it will have consequences on: (1) there are no restrictions on telemedicine services in terms of licensing requirements, competence of health human resources (2) there is no minimum standard of infrastructure that is allowed for telemedicine services (3) there is no system that regulates telemedicine services.

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3.2. Regulation of Telemedicine Healthcare Providers in Singapore

In 2018, the Singapore government first developed a system for the regulation, registration, and quality assurance of digital technology in the healthsector through the Regulatory Sandbox mechanism.

Singapore implemented a *regulatory sandbox* in the health sector, for telemedicine and *mobile health*.¹⁶ This is done to ensure that telemedicine services are safe and in accordance with health standards in Singapore, in addition to the Regulatory Sandbox in Singapore also implements the LicensingExperimentation and Adaptation Program (LEAP) to review telemedicine practices, as well as other new innovative services, so as to create joint regulations in partnership with stakeholders.

Regulatory Sandbox is an interesting alternative in a regulatory ecosystem that is considered slow in responding to disruptive innovations, for this reason in Singapore, the Ministry of Health has implemented a regulatory sandbox for telemedicine and mobile medicine.¹⁸ This regulatory *sandbox* is important to test aregulation based on the real conditions that exist in society more quickly and precisely. Especially, considering that the formation of regulations at the national level requires a long time and large resources. In addition, the *regulatory sandbox* can also bridge the needs between the development of the digital health industry and the needs of health regulators. This is because the process requires the two sectors to work together intensively.

Regulatory Sandbox is a regulatory approach that is increasingly popular in various countries to encourage adaptive regulation of fast-growing and dynamic disruptive digital innovations. Regulatory sandbox is simply defined as a mechanism for testing digital products or business models in a limited environment under the supervision of regulators. This approach helps policymakers address the impact and uncertainty of the presence of new technologies, both intentional and unintentional, on society and all components of the ecosystem.

As a healthcare provider participating in the regulatory sandbox, providers must identify and commit to robust safety standards related to clinical processes, medication administration, data protection policies, and other best practices. Healthcare providers participating in the regulatory sandbox must ensure their services meet appropriate regulatory standards, with patient safety and well-being being the primary consideration. It is intended that the public can be assured that the provider's clinical and operational processes have been thoroughly reviewed and are continuously monitored by the Ministry of Health so that the telemedicine services provided are safe and reliable.

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The practice of telemedicine healthcare is permitted if performed by a Doctor registered with the Singapore Medical Council (SMC). Doctors performing these services must take reference from the SMC Ethical Code and Ethical Guidelines, for telemedicine, the National Telemedicine Guidelines (NTG) in planning and providing care.

4. Conclusion

Based on the above discussion, it can be concluded that the regulation of health service providers through telemedicine in Indonesia follows the general health service regulations that apply to conventional health services, Law number 17 of 2023 concerning Health is still limited in its provisions on telemedicine service providers, so it requires further regulation to be more specific and detailed so that it can provide legal certainty for health service providers through telemedicine, while telemedicine regulation in Singapore uses a regulatory sandbox approach, so that health service providers have legal certainty in their implementation because they can work together in partnership with stakeholders to make regulations. The regulatory sandbox bridges the need between the development of the digital health industry and the needs of health regulators because the process requires both sectors to work together intensively.

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