

## Reconstructing Legal Frameworks for Safeguarding Telemedicine Consumers

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### Abstract

*Telemedicine is very beneficial for a vast country with a large population like Indonesia. Since 2005, the World Health Organization has recommended the use of telemedicine and in various countries has prepared regulations. Modern technology has legal implications, it needs to be regulated to provide legal certainty, protect all parties, avoid medical disputes, as well as be able to answer the demands of medical technology development. This study aims to provide input for the creation of regulations that provide legal protection for all parties involved in health service efforts by exploring existing legal rules. Two stages of research were conducted, the first with a statutory approach, namely an inventory of positive legal materials and tracing the literature related to the problem under study. Then organized and classified according to the formulation of the problem, research objectives and systematics of preparing research results. The second, with a conceptual approach, is to study, analyze and interpret these legal materials. In the absence of an adequate legal umbrella, there is a chance of medical disputes and legal disputes between the parties involved in therapeutic transactions. For this reason, internationally applicable legal rules such as online dispute resolution are needed.*

**Keywords:** Innovation Technology, Legal Reconstruction, Medical Disputes, Legal Protection, Alternative Dispute Resolution.

### INTRODUCTION

There is a need for technological innovation to address health problems in a country that has many islands and many inhabitants and is as widespread as Indonesia. Judging from the use of modern telecommunication equipment in Indonesia, the Global Information Technology Report ranks Indonesia 15th, with a score of 3.75 out of the 7 highest scores for Asia Pacific.

The above conditions support the use of telemedicine with the aim of optimizing clinical support, improving public health, and overcoming geographical barriers by involving the innovation of various information technology devices. Legal regulations related to telemedicine have been newly established through the revision of the medical law in March 2002.

Protecting public health is necessary to enforce norms within a responsible framework. Telemedicine is a technology-based healthcare model that allows interactive consultations between service users and medical personnel without face-to-face. Telemedicine services can include medical consultation, diagnosis, and remote treatment. The consultative interactive includes diagnostic consultations and treatment management. Currently, there are too few medical personnel to serve a large population, with an uneven distribution of medical personnel concentrated in large cities. As an e-health concept, telemedicine allows for virtual practice. The use of information technology has been regulated in Law No. 36 of 2009, which has now been merged into Law No. 17 of 2023 concerning Health. In the form of e-health, telemedicine is an intersection between medical informatics, public health and business.

To expand services, Telemedisin has penetrated e-commerce; its activities involve legal subjects in various institutions and the possibility of data misuse the possibility of medical disputes, which later become legal disputes. This research is necessary because the implementation of telemedicine is needed, considering that the number of medical personnel is much less than the population. Provide input for the creation of regulations that provide legal protection for all parties involved in health service efforts by exploring existing legal rules.

Innovative implementation needs to be done by every growing organization (H. O. E. Abdulla Alzaabi and H.

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Hasan 2012). The risk of purchasing telecommunication equipment is the potential for data transfer by vendors or other parties (Gilmartin et al. 2018). The medical law has stipulated a revision of legal regulations related to telemedicine (Kwon, Seon, and Kim 2012). To determine clinical status is necessary to conduct remote patient monitoring and continuous evaluation (Honkoop, Usmani, and Bonini 2022).

Geographical barriers make it difficult to access health services for pregnant women (Tongue 2022). Health services will be a valuable foundation for the development of the public healthcare system (Kwon, Seon, and Kim 2012). Telemedicine is health contact without face-to-face has many advantages for various health problems (Cindy.-Lee. et al. 2012). After consultation, the patient may be asked to perform laboratory tests and other examinations according to the doctor's diagnostics (Qiao et al. 2019). The patient can consult a doctor or other specialist to monitor his condition during treatment (Luo, Zheng, and Yu 2023). A 2017 survey in China reported that 66% of medical personnel had experienced verbal abuse or physical injury (Mao et al. 2021). Medical personnel who provide health services need to get legal protection (Purwadianto et al. 2022),

Telemedicine services minimize the chance of contracting infection between interacting parties (Helmi et al. 2022). This research contributes positively to enhancing the role of mediation for legal subjects involved in technological innovation in relation to health services (Abdulla Alzaabi and Hasan 2022). This study focuses on the experiences of perpetrators who are exposed to one particular condition (Zhu et al. 2023). How much time doctors spend serving patients related to the level of patient satisfaction (Qiao et al. 2019).

This study aims to provide input for the creation of regulations that provide legal protection for all parties involved in health service efforts by exploring existing legal rules.

## **RESEARCH METHOD**

Research is designed using qualitative descriptive methods. 2 stages of research were conducted, the first of which included legal material:

Collect (inventory) positive legal materials (legal materials) and trace the literature (literature study) related to the problem studied. Organize and classify according to problem formulation, research objectives and systematics of preparing research results. The second stage with a conceptual approach is reviewing, analyzing and interpreting; then, a triangulated analysis is carried out.

The second phase is to extract information from 100 respondents involved in 25 cases of health services with telemedicine. The population is medical personnel, pharmacy workers, and patients as telemedicine users.

## **RESULT**

Getting access to health services is the right of every citizen. Currently, there are 239,003 medical personnel consisting of doctors + dentists and doctors + dentists of various specialties. This number is too small to be able to serve a population of 278.8 million people spread throughout the archipelago; medical personnel are distributed unevenly and concentrated in large cities.

The conditions of the respondents are as follows:

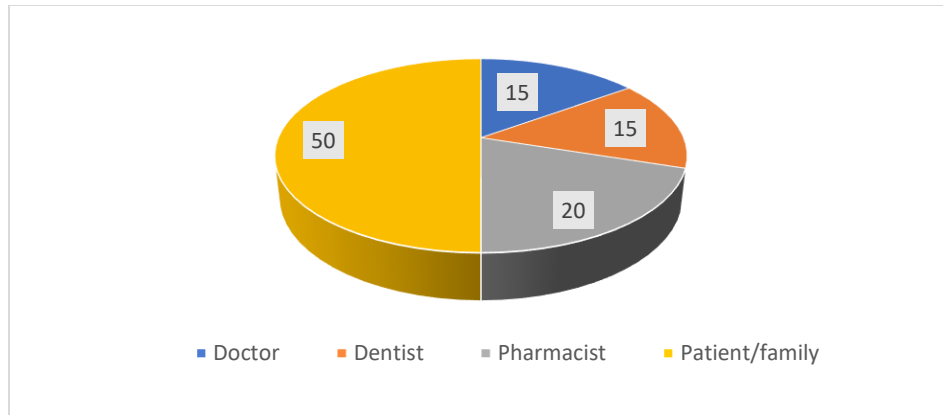


Figure 1. Characteristic of respondents

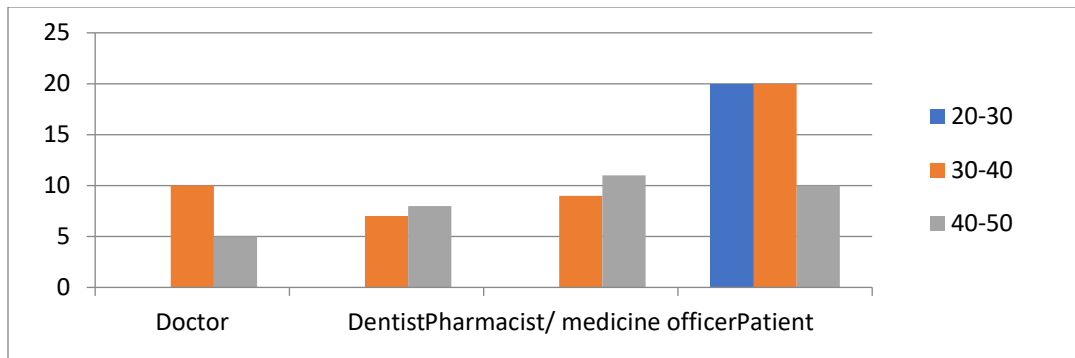


Figure 2. Respondents by age

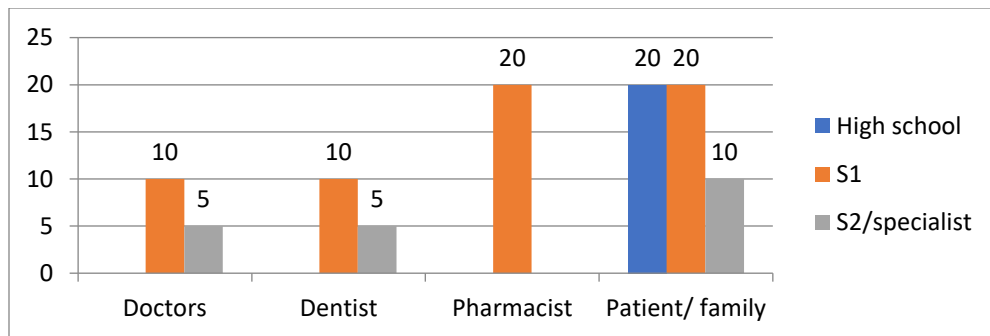


Figure 3. Respondents based on education

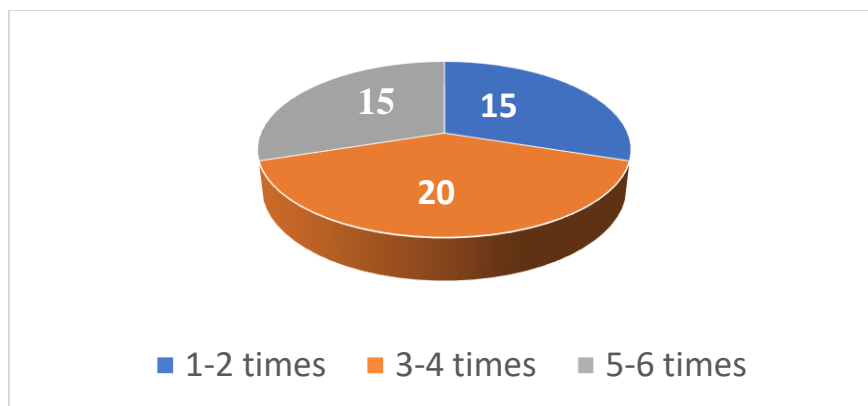


Figure 4. Patient utilize telemedicine

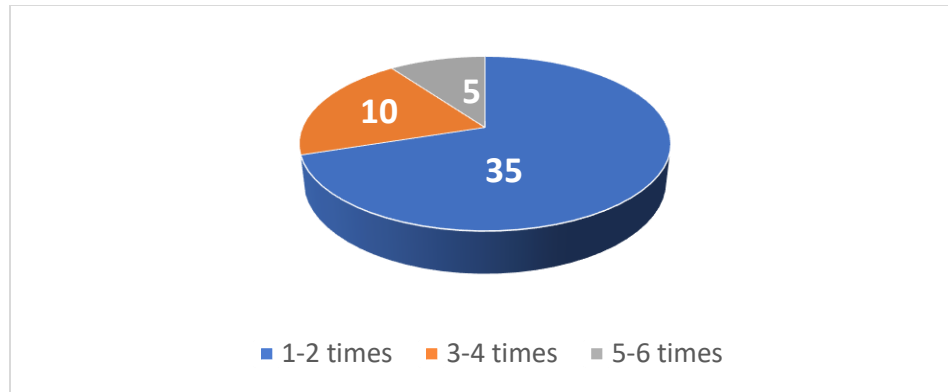


Figure 5. Patient buy medicines from pharmacies on doctor's advice

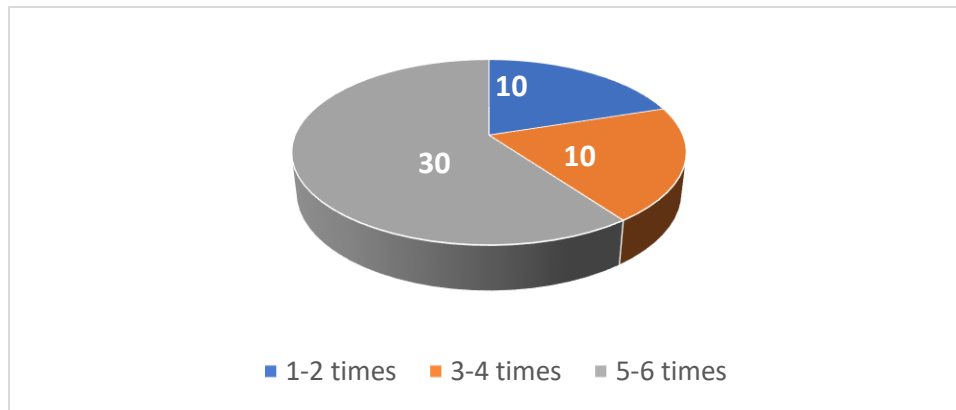


Figure 6. Patient repeat buying medicines without doctor's advice

In terms of medical personnel (30 respondents), the following results were obtained:

the patient's complaint was not clear, the patient only focused on the complaint without showing a link with other complaints. There is no supporting data that allows doctors to make differential diagnoses

In conducting interactions, doctors do not meet with patients, so it is considered inaccurate when giving orders for laboratory examinations for the basis of determining the diagnosis.

In terms of pharmacist (20 respondents), the following results were obtained:

If the doctor prescribes drugs without an accurate basis for diagnosis, it can happen that the drugs given are not in accordance with the patient's actual condition. There is no education about the use of drugs, indications, contraindications, dosages and how to use them

If the drug is deemed suitable, patients tend to repeat every time there are the same symptoms every day, and the sale of over-the-counter drugs is increasingly rampant.

From 50 patients and their families, information was obtained that doctors never examined patients accurately. Doctors don't order laboratory tests, never ask for laboratory results, doctors don't ask many questions, only ask about complaints so the patient can't tell a complete story.

Because doctors and patients do not meet face to face, there is no informed consent process which should be the basis of health services. This is very important because it has been proven to trigger dissatisfaction for both of them

In several cases, patients complained to any institution they thought could help, some to Indonesian Doctors Association (IDI), to Indonesian Dental association (PDGI), to the ombudsman, even to law enforcement, but

did not get the resolution they desired. Doctors also feel aggrieved by the patient's demands, but don't know where to look for a solution.

If there is a failure of treatment that is not due to the actions/advice of doctors and then a dispute occurs, it is difficult to determine who should be responsible

For business-related dispute resolution cases, things like this are actually normal, but for health problems, it is not so common

There is no law that protects both parties, so legal reconstruction is needed. If there is a lawsuit, there are no rules for resolving this problem either through litigation or non-litigation.

In contrast to Malaysia (and many other countries), which already have particular regulations regarding e-commerce through the Electronic Commerce Act 2006. This law accommodates other laws that support the implementation of electronic commerce, so this law does not stand alone but is supported by several other laws supporters, namely the Electronic Government Activities Act 2007, Personal Data Protection Act 2010, Digital Signature Act 1997, and Consumer Protection Act 1999.

If the case occurs in the hospital, periodic measurements are carried out to reduce measurement errors and also related to patient activities.

## **DISCUSSION**

Apart from the cost issue, the chances of something going wrong are huge because there is no face-to-face interaction and inspection (Zelevnikow 2017). Doctors who misuse their professional abilities and meet the criteria for a crime may be called a medical crime (Karjoko et al. 2021)

Informed consent is a process by which the patient understands after being explained. After understanding, the patient signs a statement. The Informed Consent document is in the medical record file (Jenie and Yuni Lestari 2019). Throughout a doctor's career, he may have faced at least one malpractice case that led to a medical dispute (Lee 2019). As a form of responsibility to the public, a medical professional must be able to provide quality health information (Mackey et al. 2014). In the era of the Internet of Things, dispute resolution also emerged with the application of Internet technology (Yuru Liu and Wan 2023)

Medical disputes occur not only with external parties but also prevail among hospital administrators and can be reduced by the construction of effective hospital by-laws (Yi et al. 2022). E-commerce and technology are developing rapidly, including innovations in dispute resolution (Alessa 2022). These measurements are recorded in anticipation of the emergence of demands (Bo, Liu, and Tong 2023). In 1986, when the Medical Treatment Act was enacted in Taiwan, there was no explicit legal provision for medical malpractice (Hsieh et al. 2021)

Dispute resolution is necessary precisely to restore the trust of the parties (Loutocký 2015)

The disputing parties mediate virtually, and there is no direct meeting between the parties (Sulistianingsih et al. 2023). Various disputes can now be resolved online. Experts argue that online dispute resolution (ODR) mechanisms are an evolution of alternative dispute resolution mechanisms (Alternative Dispute Resolution) (Yuru Liu and Wan 2023). The solution to good dispute resolution is integrative negotiation (Zelevnikow 2021)

Consumers may not understand about finding solutions through online dispute resolution and may also not be able to hope for these services, but efforts must still be made so as not to destroy health services without face-to-face that are urgently needed (Loutocý 2016)

In medical disputes, patients often do not know what is happening. However, they are revealed by the media untruthfully, unbalancedly, unfairly, and based on certain motives, thus tarnishing the image of the doctor. Something that is actually simple, by the media, is exaggerated to look more profound (Tucker et al. 2015)

In times of outbreaks such as during the last coronavirus, many patients need health services without face-to-face (Jelle et al. 2021)

Technological innovation affects the way we interact, both to diagnose and to solve problems that arise. It needs significant training because it is not easy to start a new way (Terekhov 2019)

Nurses, as physician assistants, can conduct health education online, which includes disease prevention and treatment. The material given includes examination, causes of disease, clinical features, complications and others. by using poster media and lectures and others (Yanan Liu et al. 2021)

## CONCLUSION

E-commerce arrangements, including telemedicine, have been regulated and recognized in Indonesia but are still partial. Indonesia does not yet have regulations that specifically regulate the basic rules and technical infrastructures that support the realization of e-commerce as a whole.

E-commerce must regulate the obligation for business actors to provide their identity clearly, include product specifications on the website page in detail, precise payment mechanisms to avoid payment errors and clear delivery mechanisms to provide certainty when and how consumers receive goods. E-commerce must clearly state its identity, product specifications, payment mechanisms and delivery mechanisms to provide certainty about when and how consumers receive goods. Because not all legal disputes can be resolved by litigation, it is necessary to resolve disputes outside the court (non-litigation). Legal reconstruction is needed to overshadow the various regulations that have been created so that telemedicine activities can benefit the community of health service users. A law is needed that becomes a legal umbrella for all e-commerce, which also regulates therapeutic transactions, telemedicine, buying and selling drugs and others. Regarding alternative dispute resolution as has developed in the international world, namely Online Dispute Resolution, which is typical of Indonesia

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