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TELEMEDICINE LEGAL LIABILITY THE ELECTRONIC MEDICAL RECORD IN INDONESIA

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Abstract

Advancements in information technology have transformed healthcare services through the implementation of telemedicine. While telemedicine expands access to healthcare, it also raises legal challenges regarding the management of Electronic Medical Records (EMRs), which contain confidential personal and health data requiring adequate legal protection. Data breaches, misuse, or unauthorized access may harm patients and create issues of legal liability. This study aims to analyze the legal framework governing electronic medical records in telemedicine services in Indonesia and to examine the legal responsibilities arising from violations involving EMRs. This research employs a normative legal method using statutory and conceptual approaches. Legal materials were collected through library research, including primary, secondary, and tertiary legal sources, and analyzed qualitatively using a deductive approach. The findings show that the legal framework is regulated under Law Number 17 of 2023 on Health, Law Number 27 of 2022 on Personal Data Protection, Law Number 1 of 2024 concerning the Second Amendment to the Law on Electronic Information and Transactions, and Minister of Health Regulation Number 24 of 2022 concerning Medical Records. However, these regulations do not explicitly allocate legal responsibilities among healthcare professionals, healthcare facilities, and electronic system providers in cases of EMR violations. Therefore, regulatory harmonization is necessary to ensure legal certainty and strengthen the protection of patients' health data in telemedicine services in Indonesia.

INTRODUCTION

The development of Information and Communication Technology (ICT) has transformed healthcare services in Indonesia; digital technologies are no longer limited to purely administrative tasks, but rather have become an integral part of the health system through the implementation of "telemedicine". Telemedicine is a form of health service that utilizes ICT to support various processes including consultation, diagnosis, and treatment as well as patient monitoring and exchange of medical information among health workers, patients, and various health service facilities (regulation of the Minister of Health number 20 of 2019, Article 1 Number 1). The emergence of telemedicine is an innovation that supports the transformation of the National Health System, especially by expanding access to health services for the public in disadvantaged areas, islands, and areas that experience a shortage of health workers.

The implementation of telemedicine services in Indonesia has grown rapidly, especially as exposure to COVID-19 has triggered an increase in the need for Online Health Services. This trend shows that digital technology offers solutions to maintain the continuity of health services amid the need to limit direct interaction between individuals. In addition to providing convenience for the community, telemedicine offers various benefits, including time savings, reduced service costs, and faster coordination between health professionals in providing care to patients (Ministry of health of the Republic of Indonesia, 2024). Against this background, the government continues to encourage digital transformation in the health sector as part of the ongoing development of the National Health System.

The application of telemedicine is closely related to the use of electronic medical records (RME). RME is a file that contains patient identity data, examination results, diagnoses, medical procedures, treatment actions, and other health information that are all generated, stored, and managed entirely through an electronic system (Minister of Health Regulation Number 24 of 2022, Article 1). RME offers various advantages: the system enables the storage of patient health data. in a more organized and easier access for authorized health workers, thus supporting the continuity of Health Services. On the other hand, the use of electronic systems. it also carries risks related to data leakage, unauthorized access, manipulation of Health Information, and misuse of patients ' personal data by unauthorized parties.

Health Data is a special classification of personal data that requires stricter legal protection than personal data in general; leakage or misuse of such data not only causes financial losses, but can also violate privacy rights, trigger discrimination, and erode public confidence in the digital healthcare system. therefore, the implementation of telemedicine services must be accompanied by an adequate data protection framework to ensure the protection of patients' rights in accordance with the principle of confidentiality of medical records (Hadjon, 1987).

As a legal country, Indonesia has established various regulations governing the implementation of telemedicine services, electronic medical records, and personal data protection. These regulations, among others, are contained in law No.17 of 2023 related to health, law No.27 of 2022 related to Personal Data Protection, Law No.1 of 2024 related to the Second Amendment of Law No.11 of 2008 related to Information and electronic transactions, as well as Permenkes No.24 of 2022 related to medical records. The existence of these regulations shows the government's commitment to provide legal protection for patient health data while supporting the implementation of Information

Technology-Based Health Services (Law Number 17 of 2023; Law Number 27 of 2022; Law Number 1 of 2024; Minister of Health Regulation Number 24 of 2022). However, these provisions are still spread across various regulations, thus preventing absolute certainty regarding the determination of legal liability in the event of violations that include electronic medical records in the implementation of telemedicine services.

The issue of legal liability is becoming more complex because the implementation of telemedicine involves various legal subjects, namely health workers, health care facilities, telemedicine platform providers, and electronic system providers. The issue of legal liability is becoming increasingly complex because the provision of telemedicine services involves various parties namely health workers, health care facilities, telemedicine platform providers, and electronic system operators. In the event of data leakage or misuse of electronic medical records, there is often a difference of interpretation as to which party is responsible for the losses suffered by patients; this aspect indicates the need for harmonization of regulations governing the division of responsibilities of the parties concerned in order to ensure legal certainty and provide effective legal protection for patient health data.

LITERATURE REVIEW

Legal Protection Theory

Legal protection theory explains how the law safeguards the rights and interests of individuals by providing legal certainty, justice, and security. According to Philipus M. Hadjon, legal protection aims to uphold human dignity and fundamental rights through applicable legal instruments. He classifies legal protection into two forms: preventive protection, which seeks to prevent legal violations through regulations and supervision, and repressive protection, which provides remedies and sanctions after a violation has occurred.

In telemedicine services, this theory is relevant because electronic medical records contain confidential personal and health data that must be protected from unauthorized access, misuse, and data breaches. Therefore, healthcare providers and electronic system operators are legally required to ensure the confidentiality, integrity, and security of patient data. This study uses legal protection theory to assess whether Indonesian laws adequately protect electronic medical records and guarantee patients' rights to privacy and legal certainty in telemedicine services.

Legal Responsibility Theory

Legal responsibility theory explains the basis for imposing legal liability on individuals or legal entities for acts that produce legal consequences. According to Hans Kelsen, legal responsibility is the relationship between an unlawful act and the legal sanctions prescribed by law. A person or legal entity is held responsible when the applicable legal norms require them to bear the legal consequences of their actions, whether arising from intent or negligence.

In the context of telemedicine, this theory is used to identify the parties responsible for violations involving Electronic Medical Records (EMRs). Liability may be imposed on healthcare professionals, healthcare facilities, or electronic system providers if they fail to comply with legal obligations regarding the management and protection of patient health data. This theory provides the conceptual basis for assessing legal responsibility and ensuring accountability, legal certainty, and justice in the protection of electronic

medical records in Indonesia.

RESEARCH METHOD

This study includes normative legal research that examines the legal framework related to the implementation of telemedicine services as well as legal liability arising from violations related to electronic medical records (RME) in Indonesia. Methodologically, this study chose the Perpu approach as well as the conceptual approach: the Perpu approach involves the analysis of various policies and legal provisions regarding telemedicine, RME, personal data protection, and electronic systems; meanwhile, a conceptual approach was chosen to analyze the concepts of legal responsibility, legal protection, and legal certainty by referring to special legal perspectives and academic studies (Marzuki, 2021).

Legal material in this study includes primary, secondary, and tertiary sources resulting from literature research. All of these materials were qualitatively analyzed using deductive reasoning to assess the consistency of legislation and identify forms of legal accountability that apply to health workers, health care facilities, and electronic system providers in the implementation of telemedicine services (Ibrahim, 2019; Soekanto & Mamudji, 2019).

RESULTS AND DISCUSSION

Telemedicine Legal Regulation of electronic medical records in Indonesia

Digital transformation in the health sector has brought changes to Indonesia's health system, particularly through the implementation of telemedicine services. The use of information and communication technology allows the provision of health services without requiring the existence of direct face-to-face interaction between health care providers and patients. This approach offers various benefits, such as increased access to health services, time savings, and better distribution of services, especially for residents in disadvantaged areas and those who have limited access to health facilities (Ministry of health of the Republic of Indonesia, 2024). However, the use of digital technology in healthcare also carries legal implications, especially regarding the security and confidentiality of RME.

REM is an integral component among telemedicine services, as all patient medical information is stored and managed through electronic systems. This information includes details of the patient's identity, medical history, diagnosis, medical procedures, treatment history, as well as the progress of the patient's health status. Thus, RME not only plays a role as an administrative document for health services, but also a legal record and a source of medical information that demands strict confidentiality (Ministry of health of the Republic of Indonesia, 2022).

Regulations regarding telemedicine and electronic medical records in Indonesia are spread across a variety of legal instruments. Act No.17 of 2023 related to health becomes the main legal framework that regulates the implementation of technology-based health services, including the obligation to maintain the confidentiality of patient health data. Based on the law, the government mandates that all health service providers must ensure the security, confidentiality, and availability of health data they manage; these provisions show that the protection of health data is not only a duty for health workers, but also the responsibility of health care facilities in their capacity as service providers.

In addition to the provisions in the health law, the protection of electronic medical records is strengthened by law No.27 of 2022 regarding the protection of personal Data. Based on the law, health data is classified into a classification of personal data of a specific character, thus obtaining a higher level of protection than General personal data; the party responsible for the processing of personal data must process the data legally, maintain its confidentiality, and implement a security system that can inhibit unauthorized access, loss, or misuse of data (Law Number 17 of 2023; Law Number 27 of 2022). Thus, the obligations of telehealth service providers are not limited to the provision of high-quality health services; they must also guarantee that the chosen electronic system meets the standards for the protection of personal data.

In other aspects, the security aspects of electronic systems are regulated by law No.1 of 2024, which establishes the Second Amendment of Law No.11 of 2008 related to Information and Electronic Transactions. This law establishes the legal framework for the implementation of electronic systems, including the obligations of system operators to maintain the reliability, security, and integrity of the systems used. In the event of unauthorized access, data manipulation, or misuse of electronic systems, the perpetrator can be charged with penalties as stipulated in the applicable criminal Policy (Law Number 1 of 2024). These regulations show that the protection of electronic medical records is not just a matter of health law; it is also closely related to cyber law and the protection of personal data.

Additional technical provisions regarding electronic medical records are regulated in the policy published by the Ministry of Health (Regulation No.24 of 2022 regarding medical records). This regulation requires every health care facility to gradually implement RME, becoming a layer between national digital transformation in the health sector. In addition to regulating the procedure for procuring medical records, the regulation emphasizes the obligation of health workers and health care facilities to maintain patient confidentiality and establishes access mechanisms to medical record data in accordance with the level of authority established for each category (Ministry of health of the Republic of Indonesia, 2022).

Although these various regulations have established a fairly comprehensive legal framework, the division of responsibilities of the contributing parties is still not entirely clear; the organization of telemedicine services involves health workers, hospitals or clinics, telemedicine application providers, and electronic system organizers. In the event of violations involving electronic medical record data, existing regulations do not explicitly set limits on liability for each party, thus opening up opportunities for differences in interpretation in the enforcement process and reducing legal guarantees whether for patients or health care providers.

According to this analysis, it is clear that Indonesia has a sufficient regulatory framework to regulate telemedicine services and electronic medical records. However, the regulation still has a sectoral character and is spread across various legal instruments, thus inhibiting the formation of an integrated regulatory system. Therefore, there is a need for harmonization between the health law, the Personal Data Protection Law, The Information and Electronic Transactions Law, and the regulation of the Minister of Health. Such harmonization is very important to ensure legal certainty regarding the protection of electronic medical records and clarify the responsibilities of the parties involved in the organization of telemedicine services.

Legal liability for violation of electronic medical records in the Organization of telemedicine

Telemedicine services involve the participation of health workers, health care facilities, and electronic system operators; therefore, legal responsibility for violations related to RME does not just lie with one party. Instead, each party is obliged to maintain the security, confidentiality, and integrity of the patient's health data, in accordance with their respective duties and authorities (Kelsen, 1945).

Healthcare providers are responsible for maintaining the confidentiality of patients ' medical information when providing healthcare services; if they knowingly and without permission disclose or misuse patient data, they may face legal liability in accordance with the provisions of Law No.17 of 2023 related to health and Law No.27 of 2022 regarding the protection of Personal Data (Law Number 17 of 2023; Law Number 27 of 2022). At the same time, healthcare facilities must provide a secure system for managing RMES as well as ensuring the protection of patient data against the risk of leakage or unauthorized access (Ministry of health of the Republic of Indonesia, 2022).

On the other hand, the electronic system provider bears the responsibility to guarantee that the system chosen in telemedicine meets the security and reliability standards as stipulated in the law related to Information and Electronic Transactions. In the event of a violation caused by a security system that has not been qualified or negligence in the management of electronic systems, system providers can be held legally liable based on the existing Perpu (Law Number 1 of 2024).

Based on the analysis, the policy related to legal responsibility for violations related to electronic medical records has not explicitly established the division of responsibilities among health workers, health care facilities, as well as the procurement of electronic systems. Therefore, harmonization is needed from the health law, the personal data protection law, the law governing information and electronic transactions, and Permenkes No.24 of 2022, in order to ensure legal guarantees and optimal protection of patient health data in the implementation of telemedicine services (Hadjon, 1987).

CONCLUSION

Based on the results of the study, it can be concluded that the legal regulation of electronic medical records in the implementation of telemedicine services in Indonesia has been regulated through various laws and regulations, namely Law Number 17 of 2023 on Health, Law Number 27 of 2022 on Personal Data Protection, Law Number 1 of 2024 on the Second Amendment to Law Number 11 of 2008 on Electronic Information and transactions, and Minister of Health Regulation Number 24 of 2022 on medical records. The four regulations provide the legal basis for the implementation of telemedicine, electronic medical record management, patient health data protection, and electronic system security. However, the regulation is still sectoral and spread in various legal instruments so that it does not provide complete legal certainty regarding the distribution of responsibilities of the parties involved.

Legal liability for violation of electronic medical records in the implementation of telemedicine is in principle imposed on health workers, health care facilities, and electronic system operators in accordance with the duties, authorities, and forms of violations committed. However, the applicable regulations have not expressly provided for the division of legal responsibility of each party in the event of leakage, misuse, or unauthorized access to electronic medical records. Therefore, it is necessary to harmonize

laws and regulations in order to create legal certainty, a clear division of responsibilities, and optimal protection of patient health data in the implementation of telemedicine services in Indonesia.

BIBLIOGRAPHY

Indonesia. 2023. *Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan.*

Indonesia. 1945. *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.*

Indonesia. 2019. *Peraturan Menteri Kesehatan Republik Indonesia Nomor 20 Tahun 2019 tentang Penyelenggaraan Pelayanan Telemedicine Antar Fasilitas Pelayanan Kesehatan.*

Indonesia. 2022. *Peraturan Menteri Kesehatan Republik Indonesia Nomor 24 Tahun 2022 tentang Rekam Medis.*

Indonesia. 2022. *Undang-Undang Nomor 27 Tahun 2022 tentang Perlindungan Data Pribadi.*

Indonesia. 2024. *Undang-Undang Nomor 1 Tahun 2024 tentang Perubahan Kedua atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik.*

Hadjon, Philipus M. 1987. *Perlindungan Hukum Bagi Rakyat di Indonesia*. Surabaya: Bina Ilmu.

Ibrahim, Johnny. 2019. *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing.

Kelsen, Hans. 1945. *General Theory of Law and State*. Cambridge: Harvard University Press.

Kementerian Kesehatan Republik Indonesia. 2024. *Blueprint Transformasi Digital Kesehatan Indonesia 2024*. Jakarta: Kementerian Kesehatan Republik Indonesia.

Marzuki, Peter Mahmud. 2021. *Penelitian Hukum*. Edisi Revisi. Jakarta: Kencana.

Moeljatno. 2015. *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta.

Soekanto, Soerjono, dan Sri Mamudji. 2019. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: RajaGrafindo Persada