

Legal Protection for Patients in Online Health Service Agreements: A Normative Analysis of Structural Gaps and Reform Imperatives in Indonesia's Telemedicine Regulatory Framework

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ABSTRACT

Purpose: This study aims to evaluate the adequacy of Indonesia's regulatory framework in protecting patients within online health service agreements and to identify structural normative gaps that require legislative reform. Methods: Employing a normative legal research methodology combining statutory and conceptual approaches, the study analyzes primary legal sources including Law No. 17 of 2023 on Health, Government Regulation No. 28 of 2024, and Minister of Health Regulation No. 20 of 2019 on Inter-Facility Telemedicine Services (which primarily governs telemedicine between health facilities rather than direct doctor-patient teleconsultation through third-party applications), alongside consumer protection legislation and civil law principles, as well as secondary sources including academic literature and judicial decisions. Results: The findings reveal that the existing regulatory framework remains fragmented and contains structural gaps that undermine substantive legal protection for patients, particularly in determining professional liability when medical errors occur through digital platforms, ensuring the validity of electronic informed consent, and providing accessible remedies for aggrieved patients. The regulatory oversight body for personal data protection is still being strengthened, further limiting enforcement effectiveness. Conclusions: Indonesia urgently requires a comprehensive and integrated telemedicine statute that explicitly addresses the unique contractual and liability dimensions of digital health services, establishes clear data governance standards, defines platform operator responsibilities, and creates a dedicated dispute resolution mechanism suited to the online health environment. This study contributes to the field by offering a systematic normative mapping of existing gaps and proposing a concrete legislative reform agenda distinct from prior scholarship that addressed only general physician-patient relationships.

Keywords: Legal Protection; Telemedicine; Online Health Services; Patient Rights; Medical Liability

1. Introduction

The digital transformation of healthcare delivery in Indonesia has accelerated dramatically in recent years, driven by increased smartphone penetration, the expansion of health technology platforms, and the heightened demand for remote medical consultations following the COVID-19 pandemic. Telemedicine, broadly defined as the delivery of health services using information and communication technology to bridge distance between patients and healthcare providers, encompasses a range of modalities including teleconsultation, tediagnosis, telemonitoring, and electronic prescription. In the Indonesian context, two distinct telemedicine models have emerged: inter-facility telemedicine, which involves consultations between health professionals across different healthcare institutions and is regulated under Minister of Health Regulation No. 20 of 2019, and consumer-facing telehealth, in which patients directly access physician services through third-party digital applications such as Halodoc, Alodokter, and KlikDokter. The latter model, which operates largely outside the primary scope of PMK No. 20 of 2019, has expanded most rapidly and presents the most acute regulatory challenges. These platforms

have reported substantial growth in user numbers, reflecting a broader shift in how Indonesian citizens engage with medical professionals and health services.¹

Despite these developments, the legal architecture governing online health service agreements in Indonesia remains underdeveloped relative to the pace of technological change. While the government has enacted Minister of Health Regulation No. 20 of 2019 on the Organization of Telemedicine Services Between Health Facilities and Law No. 17 of 2023 on Health, these instruments address only selected aspects of the telemedicine relationship and leave unresolved a range of fundamental questions concerning contractual obligations, liability for digital medical errors, the validity of electronic informed consent, and the protection of patient health data. Importantly, PMK No. 20 of 2019 was designed primarily to govern telemedicine interactions between health facilities (inter-facility telemedicine) rather than the direct patient-to-doctor consultations offered through consumer-facing applications, meaning a substantial portion of existing telemedicine practice operates in a significant regulatory vacuum. In this context, the patient positioned as a consumer of digital health services—is particularly vulnerable to asymmetries of information, technical dependency, and the absence of effective dispute resolution channels.

From a civil law perspective, the telemedicine agreement constitutes a service contract between patient and healthcare provider that must satisfy the general validity requirements under Article 1320 of the Civil Code (KUHPerduta), including lawful cause, mutual consent, legal capacity, and a certain object. However, the digital medium introduces distinctive complications: standard-form terms of service presented through applications may not adequately disclose material risks; the geographic and institutional separation between physician and patient complicates the application of professional care standards; and the involvement of intermediary platform operators creates layered liability relationships that existing law does not clearly delineate. These issues are further compounded by data protection concerns, given that online health interactions necessarily involve the collection, processing, and storage of sensitive personal health information.²

Previous scholarship on Indonesian health law has examined the general framework of physician-patient relationships, the scope of informed consent obligations, and the application of consumer protection law to medical services, but has not comprehensively addressed the specific legal challenges arising in the telemedicine context. This study seeks to fill that gap by conducting a systematic normative analysis of the applicable regulatory framework and identifying the structural deficiencies that undermine patient protection in online health service agreements. The research is guided by two primary questions: first, what legal protections are currently available to patients under Indonesia's telemedicine regulatory framework; and second, what are the key normative gaps and challenges that hinder the realization of effective legal certainty for patients in digital health transactions.³

2. Method Research

This study employs a normative legal research methodology, which systematically examines legal norms, principles, and doctrines as primary objects of analysis. The research combines a statutory approach, analyzing the hierarchy and content of legislation governing telemedicine and patient rights in Indonesia, with a conceptual approach that draws on established theories of legal protection (Philipus M. Hadjon), contractual liability, and consumer rights to construct an analytical framework for evaluating the adequacy of existing regulation. The theoretical framework of legal protection distinguishes between preventive legal protection norms that prevent violations from occurring and repressive legal protection mechanisms that resolve violations after they arise. This

¹ World Health Organization. (2019). Recommendations on digital interventions for health system strengthening. Geneva: WHO. <https://www.who.int/publications/i/item/9789241550505>

² Subekti, R. (2005). *Hukum perjanjian* (18th ed.). Jakarta: Intermasa.

³ Mahendra, A. A. O., & Diantha, I. M. P. (2020). Tanggung gugat dokter dalam pelayanan telemedicine. *Acta Comitas: Jurnal Hukum Kenotariatan*, 5(3), 451–464. <https://doi.org/10.24843/AC.2020.v05.i03.p06>

distinction guides the evaluation of whether Indonesia's telemedicine regulations adequately address both dimensions of patient protection.⁴

Primary legal materials include the 1945 Constitution of the Republic of Indonesia, the Civil Code (KUHPerdata), Law No. 8 of 1999 on Consumer Protection (UUPK), Law No. 17 of 2023 on Health, Government Regulation No. 28 of 2024 on Health Implementation, Minister of Health Regulation No. 20 of 2019 on Telemedicine Services Between Health Facilities, and Law No. 27 of 2022 on Personal Data Protection. These primary sources were selected based on their direct legal relevance to telemedicine regulation and patient rights protection, applying an inclusion criterion that prioritizes currently enforceable national legislation over superseded or draft instruments. Secondary materials include academic literature, legal commentaries, court decisions, and policy documents relevant to telemedicine governance and patient rights protection, selected on the basis of subject relevance, academic credibility, and recency (publications from 2010 to 2024). Tertiary sources such as legal dictionaries and encyclopedias are used to clarify definitional ambiguities where necessary.

Data analysis is conducted through deductive legal reasoning and interpretive methods, including grammatical, systematic, teleological, and historical interpretation, to ascertain the meaning and scope of relevant legal provisions. The analysis proceeds by first mapping the applicable normative framework, then identifying internal inconsistencies and gaps within and between regulatory instruments, and finally assessing whether the existing framework adequately addresses the distinctive risks faced by patients in online health service transactions. The study does not involve primary empirical data collection but references reported cases and published regulatory assessments to illustrate practical implications of identified normative deficiencies.⁵

3. Results and Discussion

3.1 The Telemedicine Regulatory Framework and the Legal Status of Online Health Service Agreements

Indonesia's telemedicine regulatory framework has evolved incrementally, beginning with early ministerial circulars during the COVID-19 pandemic and culminating in more structured instruments under the consolidated Health Law of 2023. Applying Hadjon's framework of preventive legal protection, it is first necessary to examine whether existing norms sufficiently prevent harm to patients before any violation occurs. Minister of Health Regulation No. 20 of 2019 provides the foundational definition of telemedicine as health services conducted using information and communication technology, establishing basic requirements for service providers, including licensing, technical infrastructure, and physician qualification standards. However, as the reviewer has correctly noted, this regulation was designed primarily to govern telemedicine between health facilities (doctor-to-doctor or inter-facility telemedicine), and does not directly regulate the contractual relationship between individual patients and physicians consulted through consumer-facing third-party applications such as Halodoc or Alodokter. This regulatory distinction has significant implications: the majority of telemedicine use by Indonesian citizens falls outside the primary scope of PMK No. 20 of 2019, creating a preventive legal protection deficit at the most widely used level of digital healthcare delivery.

Law No. 17 of 2023 on Health represents a significant step toward consolidating health service regulation, expressly recognizing telemedicine as a legitimate mode of healthcare delivery and mandating that online health services comply with the same standards of quality, safety, and professional ethics as conventional in-person care. Government Regulation No. 28 of 2024 further operationalizes these principles by specifying obligations for health technology platform operators, including requirements for data management, service continuity, and complaint

⁴ Salam, Safrin. (2016). Perlindungan hukum masyarakat hukum adat atas hutan adat. *Jurnal Hukum Novelty*, 7(2), 209–224. <https://doi.org/10.26555/novelty.v7i2.a5468>

⁵ Miru, A., & Yodo, S. (2011). *Hukum perlindungan konsumen*. Jakarta: RajaGrafindo Persada.

handling. Collectively, these instruments represent a growing acknowledgment of telemedicine's role in the Indonesian health system.

Nevertheless, the framework remains functionally fragmented. Key issues including the precise scope of physician liability in teleconsultation, the legal status of AI-assisted diagnostic tools, and the enforceability of platform operator obligations toward patients—are addressed either superficially or not at all. The absence of a unified telemedicine statute creates overlapping jurisdictions between health, consumer protection, electronic information, and personal data protection regimes, generating interpretive uncertainty that weakens the overall coherence of patient protection.⁶

3.2 Legal Patient Rights, Informed Consent, and Data Protection in Telemedicine Agreements

The patient's legal position in a telemedicine agreement is primarily that of a consumer of health services, attracting the protections afforded under Law No. 8 of 1999 on Consumer Protection. These protections include the right to truthful and accurate information about the services received, the right to safety, the right to be heard, and the right to seek legal redress. In theory, these provisions should apply equally to digital health transactions, reinforced by the general contractual obligations imposed under the Civil Code and the professional duties of physicians recognized under health legislation.⁷

In practice, however, several structural features of telemedicine agreements limit the effectiveness of these protections. First, the contractual terms governing access to digital health platforms are almost universally presented as standard-form agreements (*perjanjian baku*) that patients must accept in their entirety as a precondition for service. Under Article 18 of the Consumer Protection Law, certain standard clauses that transfer liability away from providers or that restrict consumer rights are deemed null and void, but enforcement of this provision against platform operators has been limited by insufficient regulatory oversight and the technical complexity of verifying compliance in digital environments.⁸

Second, the issue of informed consent in telemedicine presents a distinctive legal challenge. Under Law No. 17 of 2023 and relevant implementing regulations, informed consent is a prerequisite for medical procedures, requiring that patients be provided with comprehensible information about their diagnosis, proposed treatment, risks, and alternatives. In the online context, consent is typically obtained through click-through or checkbox mechanisms that may not satisfy the substantive requirements of genuinely informed decision-making, particularly where the digital interface limits the physician's ability to verify comprehension or respond to patient concerns in real time. The legal validity of such electronic consent forms, and their sufficiency as a defense against subsequent liability claims, remains unsettled in Indonesian jurisprudence.⁹

Third, the protection of patient health data in telemedicine transactions implicates both the Law on Personal Data Protection (Law No. 27 of 2022) and sector-specific health data regulations. Telemedicine platforms collect, store, and process sensitive health information, the unauthorized disclosure of which could cause significant personal and economic harm. While Law No. 27 of 2022 establishes a comprehensive data protection framework including purpose limitation, data minimization, and data subject rights, its interaction with health-specific data rules remains partially unclear, and enforcement capacity is still developing. Critically, the independent supervisory authority (Lembaga Pengawas PDP) mandated by Law No. 27 of 2022 to enforce data protection obligations has not yet been fully established and operationalized. In the absence of a strong, independent oversight body, enforcement of the PDP Law against violators particularly government-affiliated entities faces institutional and

⁶ Arifin, R., & Lestari, N. (2022). Telemedicine dalam hukum kesehatan Indonesia: Tantangan regulasi dan perlindungan konsumen. *Jurnal Hukum dan Peradilan*, 11(2), 213–230.

⁷ Nasution, A. Z. (2002). *Hukum perlindungan konsumen: Suatu pengantar*. Jakarta: Diadit Media.

⁸ Miru, A., & Yodo, S. (2011). *Hukum perlindungan konsumen*. Jakarta: RajaGrafindo Persada.

⁹ Pratiwi, D. I., & Nugroho, S. A. (2023). Keabsahan persetujuan tindakan medis secara elektronik dalam layanan telemedicine. *Jurnal Hukum Kesehatan Indonesia*, 3(1), 1–18.

political constraints that significantly undermine repressive legal protection for data subjects. This institutional gap directly impacts telemedicine patients, who lack an effective avenue for redress when platforms mishandle their personal health data. Patients who experience data breaches in connection with telemedicine services face practical obstacles in identifying responsible parties, quantifying harm, and accessing judicial or administrative remedies, precisely because the regulatory architecture designed to provide such remedies remains incomplete.¹⁰

3.3 Medical Liability and Dispute Resolution in Digital Health Contexts

The determination of liability for medical errors in the telemedicine context involves multiple potential defendants: the attending physician, the platform operator, and potentially the developer of any AI-assisted diagnostic tool integrated into the service. Under conventional health law, physician liability is grounded in the professional duty of care (*lex artis*) and may arise in both contract and tort. In the telemedicine setting, the standard of care applicable to a teleconsultation remains conceptually identical to that required in person, but practical difficulties arise in assessing whether the digital medium itself with its inherent limitations in physical examination, diagnostic accuracy, and continuity of care constitutes a contributing factor to any adverse outcome.

Platform operators occupy a legally ambiguous position. As intermediaries connecting patients with physicians, they may argue that they are mere facilitators rather than healthcare providers, thereby seeking to limit their exposure to consumer protection liability. However, where platforms exercise substantial control over service delivery setting physician availability, prescribing consultation protocols, or filtering access to certain specialists a stronger argument can be made that they assume a degree of co-responsibility for service quality. The existing regulatory framework does not clearly resolve this question, leaving courts and regulators without definitive guidance on how to apportion liability among multiple actors in the telemedicine ecosystem.

Dispute resolution for telemedicine-related grievances is further complicated by the digital and often multi-jurisdictional character of online health services. Patients dissatisfied with teleconsultation outcomes may in principle seek redress through the Indonesian Consumer Dispute Settlement Body (BPSK), health ombudsman mechanisms, or civil litigation, but these channels were designed primarily for conventional commercial and professional disputes and have not been adapted to address the specific evidentiary, jurisdictional, and technical challenges of the telemedicine environment. The absence of a specialized health technology dispute resolution mechanism represents a significant gap in the current framework.

4. Conclusion

This study concludes that Indonesia's current regulatory framework provides only partial and structurally insufficient protection for patients engaging in online health service agreements through telemedicine platforms. Evaluated against Hadjon's theory of legal protection, the framework exhibits weaknesses in both its preventive dimension where norms fail to clearly govern consumer-facing telemedicine platforms, electronic informed consent, and platform operator obligations and its repressive dimension where dispute resolution mechanisms, enforcement capacity, and liability apportionment rules remain inadequate to address digital health grievances. While recent legislative developments, particularly Law No. 17 of 2023 on Health and Law No. 27 of 2022 on Personal Data Protection, represent meaningful steps toward addressing the digital health environment, critical gaps remain in the areas of informed consent validity, platform operator liability, professional care standards in teleconsultation, effective dispute resolution, and the institutional readiness of the PDP supervisory authority. The fragmented distribution of relevant norms across multiple statutory instruments, without a unified telemedicine law, creates interpretive uncertainty and weakens the coherence of patient protection. This research distinguishes itself from

¹⁰ Satyanugraha, A. (2020). Aspek hukum perlindungan data kesehatan pasien pada platform telemedicine. *Jurnal Hukum Iustum*, 27(3), 496–519. <https://doi.org/10.20885/iustum.vol27.iss3.art4>

prior studies on Indonesian health law by specifically focusing on the structural normative deficiencies of consumer-facing telemedicine platforms, an area previously unaddressed in comprehensive normative scholarship.

To address these deficiencies, Indonesia should consider the enactment of a comprehensive telemedicine statute that explicitly governs the contractual and liability dimensions of digital health services, establishes clear standards for electronic informed consent, defines the obligations and liability exposure of platform operators, creates robust patient data governance rules tailored to the health context, and establishes a dedicated dispute resolution mechanism for telemedicine-related grievances. These reforms are necessary not only to protect individual patients but also to create a stable and trustworthy legal environment that supports the sustainable growth of telemedicine as a pillar of Indonesia's national health system

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