

## Legal Certainty of Telemedicine Provision in Technology-Based Health Services in Indonesia

Hadi Zulkarnain<sup>1</sup> , Azis Budianto<sup>2</sup> 

<sup>1,2</sup>Universitas Borobudur, Indonesia

### ABSTRACT

**Background.** Technological advances in healthcare, particularly the use of Information and Communication Technology (ICT), have led to the emergence of telemedicine, which provides remote medical and health services. This innovation has the potential to revolutionize healthcare delivery but also presents legal challenges related to its legitimacy and the protection of patient data. In Indonesia, the legal framework for telemedicine is still developing, raising questions about its legal certainty and compliance with regulations.

**Purpose.** This study aims to analyze the legal certainty surrounding the implementation of telemedicine in technology-based health services in Indonesia, focusing on its regulatory framework and the legal protection of patient data.

**Method.** This is a normative legal study using secondary data, analyzed descriptively. The study examines existing regulations, government policies, and case studies of telemedicine platforms in Indonesia to assess the legal status of telemedicine services.

**Results.** The study finds that the legal certainty of telemedicine in Indonesia is not fully realized. While the theory of utilizing ICT in healthcare, such as telemedicine, is supported, practical implementation remains incomplete. Telemedicine services like Alodokter and HALodokter exist, but their legal foundation is still lacking. The Government Regulation concerning telemedicine, mandated by Article 25, Section (5) of Law No. 17/2023 on Wellbeing, has not been issued, leaving gaps in the legal framework.

**Conclusion.** The legal framework for telemedicine in Indonesia requires immediate development. A Government Regulation must be issued to address key issues such as business licensing, electronic signatures, doctor identity verification, and the rights and obligations of doctors and patients. This regulation will ensure that telemedicine services operate within a clear and legally secure framework.

### KEYWORDS

Health Services, Legal Certainty, Telemedicine

### INTRODUCTION

The Indonesian government has an obligation to create conditions that enable every citizen to live healthily (Saunders, 2022). As expressed in Article 28 H Section (1) of the 1945 Constitution of the Republic of Indonesia (UD NRI) which states that everybody has the proper to live in physical and otherworldly thriving, to have a put to live, and to have a great and healthy living environment and has the proper to get wellbeing administrations (Mbunge, 2022). In Article 28 H Section (1) of the 1945 Constitution of the Republic of Indonesia, it does not necessarily have to be interpreted that

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#### Correspondence:

Hadi Zulkarnain,  
[hadzulkarnain@yahoo.com](mailto:hadzulkarnain@yahoo.com)

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the Government must provide expensive health services that are inaccessible to the public, but the Government is obliged to provide adequate and equal health services for all Indonesian people (Ferguson, 2021).

The demands of health services in accordance with the Medical Practice Law which is stated regarding the rights and obligations of actors in the health sector, of course, cannot be separated from the binding legal regulations (Kyoung, 2022). To fulfill excellent health services, the availability of health resources in the form of personnel, facilities and infrastructure in adequate quantity and quality is very necessary (Kaihlanen, 2022). Even with the advancement of technology and in an effort to improve health services, a concept has been introduced in the world of health services that uses Information and Communication Technology (ICT) to provide long-distance medical and health services called telemedicine (Owolabi, 2021).

The point of lawful certainty is to form legitimate security which has the meaning of assurance utilizing legitimate implies or security given by law, pointed at ensuring certain interface, to be specific by making the interface that got to be secured into a lawful right (Chua, 2021).

Telemedicine services can certainly save time, costs, and effectiveness of health services (Cantor, 2021). Personal factors that make patients use e-health services are because of the awareness that health is an important asset that must be maintained and the desire to find information quickly from sources that are considered reliable (Chu, 2021). This is also found in technology health services such as Alodokter and HALodokter (Patel, 2021b).

Alodokter is a site that provides health information in Indonesia that helps people make good decisions about their health (Zhang, 2022). The concept built by this site, in addition to providing information about health, also provides an opportunity for patients to consult directly with professional doctors (Patel, 2021a). This company guarantees the accuracy of the information provided because it is based on scientific research and carefully edited, causing public trust to increase day by day (Ahmad, 2021). Alodokter presents 8 post themes, namely; body, facts and myths, nutrition, reproduction and pregnancy, breastfeeding, child growth and development, health tips and questions and answers, all handled by professional doctors (Shah, 2021).

HALodokter is a health teleconsultation company in Indonesia founded in 2016 by Jonathan Sudharta (Haleem, 2021). This site provides services to talk to doctors, buy medicine and access to do laboratory examination via smartphone (Orrange, 2021). Jargon This company is simplifying healthcare, providing convenience and excellent service to the public online 24 hours a day in Indonesia (Chunara, 2021).

The use of telemedicine services for stem cell technology in general has been regulated in Article 22 section (1) in conjunction with Article 25 of Law Number 17 of 2023 concerning Wellbeing, which states:

The implementation of health efforts encompasses a wide range of services aimed at improving public health and well-being. These include healthcare for mothers, infants, children, adolescents, adults, and the elderly; healthcare for people with disabilities; reproductive health; family planning; mental health; and the control of both infectious and non-infectious diseases. Other essential areas of focus are dental and oral health, vision and hearing health, family health, school health, occupational health, and sports health. Environmental health, disaster health, blood services, and the use of pharmaceutical preparations, medical devices, and traditional health services also fall under health efforts. Additionally, this includes organ and/or body tissue transplantation, cell and/or stem cell-based therapies, reconstructive and aesthetic plastic surgery, food and beverage safety, the protection of addictive substances, medical services for legal purposes, and various other health-

related services. Each of these areas contributes to ensuring comprehensive health coverage and safety for the population.

Article 25 of Law Number 17 of 2023 concerning Wellbeing stipulates that the implementation of health efforts in the form of health services may utilize information and communication technology. This can be carried out through Telehealth and Telemedicine, which are integrated with the National Health Information System. Telehealth includes the provision of both clinical and non-clinical services, with clinical services specifically delivered via Telemedicine. Further details regarding the implementation of health efforts that use information and communication technology will be regulated by a Government Regulation.

In its use, HALodokter and Alodokter will request some access from users. This access is needed to provide maximum user experience. Usually, the application will ask for user permission before accessing certain data or features on a device (Faiz, 2023). This is what is sometimes doubted if an application asks for access from the user. Because it is not uncommon to hear news such as "data leaks" in the use of other applications (Eriksen, 2023). Data security in an application is very important, considering the various issues and challenges related to privacy and security in the current digital era. In addition to protecting user privacy being a basic right, users also tend to choose and use applications that have trusted branding (Salazar, 2022).

For example, in May 2021, BPJS experienced a data breach, it is suspected that as many as 279 million Indonesian residents' data from BPJS Health were leaked and sold on hacker forums. The case involves millions of patient data from various hospitals allegedly leaked and sold on dark forums (Gaffar, 2021). The hackers claim the data came from a "centralized server of the Indonesian Ministry of Health" on December 28, 2021. Based on the circulating link, the 720 GB document contains medical information of patients from various hospitals (Wicaksono, 2021). The uploader on the gathering joined a test of 6 million information containing, among other things, the patient's full title, clinic, persistent photo, Covid-19 test comes about and X-Ray check comes about (Zainuddin, 2021). In addition to those mentioned, the leaked data also contains patient complaints, referral letters from the Health Social Security Agency (BPJS Kesehatan), radiology reports, laboratory test results and letters of approval to undergo isolation for Covid-19.

Based on the above case, the doctor's position is very vulnerable to being sued when the patient's medical record data in the form of medical diagnosis results is spread and used by unauthorized parties (Ayunda, 2022). Meanwhile, special regulations regarding the implementation of health efforts that utilize information and communication technology in Indonesia have not yet been formed (Linden, 2023). Based on the background above, the problem in this research is how to ensure legal certainty in the implementation of *telemedicine* in technology-based health services in Indonesia?

## RESEARCH METHODOLOGY

This investigate is fundamentally a standardizing lawful inquire about, since the target of this inquire about is law or standardizing standards within the shape of legitimate standards and legitimate frameworks (Jian, 2020). Normative research in this study is research that describes or illustrates in detail, systematically, comprehensively and in depth the basis for thinking about the legal certainty of the implementation of *telemedicine* in technology-based health services in Indonesia (McFadden, 2021). This research is descriptive in nature because it describes the applicable laws and regulations and is linked to legal theories in their implementation practices related to the problems to be studied (Li, 2020). The data obtained will be analyzed using qualitative analysis (Hu, 2021).

## RESULT AND DISCUSSION

### Health Law and Legal Certainty

L.J. van Apeldoorn argues that the definition of legal certainty is the certainty of a law. However, legal certainty does not create justice because the definite value in the law requires certain things, while the interests of humans/populations are never certain. Rochmat Soemitro has a different opinion, legal certainty is justice because legal *certainty* that is manifested in the law has accommodated the value of justice. Legal certainty is certainty, namely the purpose of every law. In making laws and regulations that are binding on the public, it must be endeavored so that the provisions contained in the law are clear, firm, and do not contain double meanings or provide opportunities for other interpretations.

Legal certainty should contain the value of justice. Legal certainty is the enforcement of all applicable written laws and regulations in the life of society, nation and state. This means that a law is said to have legal certainty if it is fair and can be applied in law enforcement practices. However, justice here is not individual justice but equal justice or social justice so that law enforcement for the sake of social justice can ignore individual justice and even human rights.

The point of lawful certainty is to form legitimate security which has the meaning of assurance utilizing legitimate implies or security given by law, pointed at ensuring certain interface, to be specific by making the interface that got to be secured into a lawful right. This also applies to health law which aims at developing health.

Health development initially focused on efforts to treat diseases (curative) and restore health (rehabilitative), shifting to the implementation of comprehensive health efforts with an emphasis on efforts to prevent diseases (preventive) and improve health (promotive). This paradigm is known in health circles as the healthy paradigm. As a logical consequence and acceptance of the healthy paradigm, all activities must be oriented towards health insight, continued maintenance and improvement of the quality of individuals, families, and communities and the environment and continuously maintaining and improving quality, equitable, and affordable health services and encouraging community independence to live healthily.

Health efforts activities (preventive, promotive, curative, and rehabilitative) require adequate health legal instruments. Adequate health legal instruments are intended to provide legal certainty and comprehensive protection for both health effort organizers and the community receiving health services.

Health law is a legal discipline that has only developed in the last few decades. Previously, it was only included in elective courses in law faculties. However, with the development of science and technology in health services, the development of public awareness of their rights and obligations, and the buzz in the mass media about humanities, ethics, morals, rights and obligations between patients and health workers, more and more "*lawyers*" are starting to understand the existence of negligence that violates the law, whether intentionally or unintentionally, carried out by health workers.

In Indonesia, before the 1945 Constitution was changed (amended), the legislators passed Law Number 23 of 1992 concerning Wellbeing. Article 1 number (3) of Law Number 23 of 1992 concerning Wellbeing states that:

“Health workers are anyone who dedicates themselves to the health sector and has knowledge and/or skills through education in the health sector which for certain types requires authority to carry out health efforts.”.

Based on these provisions, Law Number 23 of 1992 concerning Wellbeing implicitly classifies (medical law) as part of (health law). This classification became clear when the House of Representatives (DPR) passed Law Number 29 of 2004 concerning Medical Practice. In its General Explanation, Law Number 29 of 2004 concerning Medical Practice states:

“Doctors and dentists as one of the main components providing health services to the community have a very important role because they are directly related to the provision of health services and the quality of services provided.”

Article 3 of Law Number 17 of 2023 concerning Wellbeing states that the regulation of health services aims to:

**Improve** healthy living behavior;

**Improving** access and quality of health services and health resources;

**Improve** effective and efficient human resource management;

**Fulfilling** the community's need for health services;

**Increase** health resilience in dealing with outbreaks or epidemics;

**Ensure** the availability of sustainable and equitable health funding and is managed in a transparent, effective and efficient manner.;

**Realizing** the development and utilization of sustainable health technology; and

**Provide** protection and legal certainty for patients, health human resources and the community.

Nowadays, society is increasingly developing, can access information from various sources such as the internet through cyberspace, society is increasingly intelligent, society is increasingly aware of its rights. Moreover, health is also a Human Right and society has the right to obtain the highest level of health, so that if their rights are not given, society does not just accept it as before, or considers "doctors as gods", and society is not passive but becomes active and does not hesitate to bring it to the legal realm. For health workers, this is not to be a specter or fear, because it will cause "*defensive medicine*", because in the world of medicine and the world of health services, doctors, midwives, nurses are not angels, but are still ordinary humans with all their strengths and weaknesses.

### **Certainty Law on the Implementation of Telemedicine in Technology-Based Health Services in Indonesia**

The point of lawful certainty is to form legitimate security which has the meaning of assurance utilizing legitimate implies or security given by law, pointed at ensuring certain interface, to be specific by making the interface that got to be secured into a lawful right.

In practice, a doctor is a person who provides individual assistance between doctors and patients where medical services will be provided. So if someone comes to a doctor to use customized medical services, that's where the relationship between the patient and the doctor occurs, which is called a therapeutic transaction.

Hospitals as one of the health service institutions are explained in Article 1 number 10 of Law Number 17 of 2023 concerning Wellbeing which states:

“A Hospital is a Health Service Facility that provides comprehensive individual Health Services through promotive, preventive, curative, rehabilitative and/or palliative Health Services by providing inpatient, outpatient and Emergency services”.

Based on this, it can be interpreted that a Hospital is a health service institution that functions to provide and organize health efforts that are healing and restoring patients and patient safety. Health services provided by the Hospital to patients can also be viewed as services provided between business actors (Hospitals) and patients (consumers).

Along with the development of the times, hospitals which are places where health facilities are provided for doctors to meet patients, which were initially carried out face-to-face by coming to the hospital to consult with a doctor, can now be done online using facilities called telemedicine, which is the provision and facilitation of clinical services through telecommunications and digital communication technology as regulated in Article 1 number 22 of Law Number 17 of 2023 concerning Wellbeing.

Technology-based services such as *telemedicine* currently exist in Alodokter and HALodokter, which are technology-based corporations in Indonesia that operate as a means of communication and consultation in the health sector through mobile services that are now commonly referred to as tech-health companies. The existence of Alodokter and HALodokter certainly has a positive impact, especially for people in areas that live far from the city center or in remote villages. Indonesian people do not only live in big cities, but there are also those who live in sub-districts to villages that do not yet have hospitals or even health centers.

The use of *telemedicine* on Alodokter and HALodokter can provide benefits, especially for the availability of current health services. However, there are legal issues that arise, namely related to the legality and legal protection for patients over their electronic medical record data. This is certainly something that must be implemented, because the progress or decline of *telemedicine* based health services will be greatly determined by the success of the parties working on the platform, in this case doctors, nurses and people who are in that place.

In wellbeing administrations, we must too pay consideration to the proficient morals of the staff working on the significant telemedicine stage. However, the professional personnel working on the *telemedicine* platform in making choices professionally are independent. The choice must be based on *atas* tall mindfulness, obligation and ethics in agreement with the morals of each calling. For this reason, health services on the *telemedicine* platform are important and their quality must be kept up and moved forward concurring to pertinent benefit guidelines so that the open as customers can feel the administrations given.

There are 3 (three) components that are unmistakable in a benefit handle, specifically that benefit is exceptionally much decided by the quality of benefit given, who gives the benefit, and customers who survey a benefit through their craved desires. This is quite rational, considering that health services are essentially provided through treatment and care. Health workers, medical and non-medical, are responsible for providing optimal services.

In providing health services, there are several basic requirements that must be met so that a service can be called a good service. The basic requirements for health services include:

**Available and sustainable**

The first basic requirement for good health services is that the services must be available to the community (*available*) and (continuous). This means that all sorts of wellbeing administrations required by the community are easily accessible to the community.

**Acceptable and reasonable**

The second basic requirement for good health services is that it is (*acceptable*) to the community and is (*appropriate*). This means that the health services do not conflict with the customs, culture, beliefs, and beliefs of the community and are appropriate.

**Easy to reach**

The third basic requirement of good health services is that they are easily (*accessible*) to the public. The definition of accessibility here is mainly from the location perspective. Thus, to realize good health services, the arrangement of health facilities becomes very important.

**Easy to reachable**

The fourth basic requirement for health services is that they are easily accessible (*affordable*) to the community. The definition of affordability here is primarily from a cost perspective. The definition of affordability here is primarily from a distance and cost perspective. To realize this condition, it must be able to. It is hoped that the approach to health service facilities and health costs will be in accordance with the economic capabilities of the community.

### **Quality**

The fifth basic requirement for health services is (*quality*). The definition of quality refers to the level of perfection of the health services provided, which on the one hand can satisfy the users of the service, and on the other hand the procedures for its implementation are in accordance with the code of ethics and standards that have been set.

When viewed from the position of the parties in health services, doctors can be seen in their position as professionals in the medical field who must play an active role, and patients can be seen in their position as recipients of medical services who have an assessment of the appearance and quality of the medical services they receive. This is because doctors do not only carry out work to serve or provide assistance alone, but also carry out professional work related to a code of medical ethics.

Based on this, the legal position of the parties in health services describes a legal relationship between doctor and patient, so that in health services, several legal principles apply which form the legal basis.

According to Veronica Komalawati, the legal principles that apply and underlie health services can be summarized broadly as follows:

### **Principle of Legality**

This rule is fundamentally inferred in Article 260 of Law Number 17 of 2023 concerning Wellbeing, which states that:

**Every Medical Personnel and Health Personnel** who will carry out practice must have a STR.

**The STR** as alluded to in section (1) is issued by the Committee on sake of the Serve after satisfying the prerequisites.

**The requirements** as referred to in section (2) must be at least:

*have a diploma in health education and/or a professional certificate; and*

*have a certificate of competence.*

**The STR** as expecting in section (1) is substantial for life.

Based on the provisions above, health administrations can as it were be given on the off chance that the wellbeing specialist concerned has satisfied the necessities and grants stipulated in Law Number 17 of 2023 concerning Wellbeing, especially Article 263 which reads as follows:

**Certain** types of medical personnel and wellbeing laborers are required to have a allow when carrying out their professional practice.

**The allow** as alluded to in section (1) is given within the frame of a SIP.

**The SIP** as alluded to in section (2) is issued by the district/city government where the medical personnel or health personnel carry out their practice.

**Beneath** certain conditions, the Minister may issue a SIP.

**In the context** of issuing the SIP as referred to in section (3), the Central Government will involve the district/city regional government in determining the quota for each type of medical personnel and health personnel by paying attention to the minimum criteria:

*availability and distribution of medical personnel and health workers in the area;*

*the ratio* of the number of residents to active Medical Personnel and Health Personnel as determined by the Minister; and  
*workload* of Medical Personnel and Health Personnel.

This practice permit will be granted if the requirements as expressly stipulated in Article 264 of Law Number 17 of 2023 concerning Wellbeing have been met, which states that:

**To get a SIPP** as alluded to in Article 263 section (2), certain Therapeutic Faculty and Wellbeing Work force must have:

*STR* and  
*place* of practice.

**The SIP** is still valid as long as the practice location is in accordance with that stated in the SIP.

**The SIP** as alluded to in section (1) is substantial for 5 (five) a long time and can be amplified as long as the prerequisites are met.

**The requirements** for extending the SIP as referred to in section (3) include:

*STR*;  
*place* of practice; and  
fulfillment of professional credit unit requirements.

**Management** of the fulfillment of the adequacy of professional credit units as referred to in section (4) letter c is carried out by the Minister.

**SIP** as intended in section (2) and section (3) is not valid if:

*expired*;  
*the person* concerned died;  
*STR* is revoked or deactivated;  
*SIP* is revoked; or  
*practice* place changed.

Based on the provisions above, it can be interpreted that all of these requirements are the legal basis for doctors and dental specialists in carrying out wellbeing administrations. This means, "the principle of legality" in health services is latently implied in Law Number 17 of 2023 concerning Wellbeing. However, in relation to *telemedicine*-based health services, it has been specifically regulated in Article 25 of Law Number 17 of 2023 concerning Wellbeing which states:

**The usage of wellbeing** endeavors within the shape of wellbeing administrations can utilize data and communication innovation.

**The use of data** and communication technology as alluded to in section (1) can be actualized through Telehealth and Telemedicine which is integrated with the National Health Information System.

**Telehealth** as referred to in section (2) consists of the provision of clinical services and non-clinical services.

**The provision** of clinical services as referred to in section (3) is carried out via Telemedicine.

**Further provisions** regarding the implementation of Health Efforts that utilize information and communication technology are regulated by Government Regulation.

Based on the arrangements over, it can be seen that the execution of Wellbeing Endeavors that utilize data and communication innovation is controlled by Government Directions. Until presently, the Government Direction on the execution of Wellbeing Endeavors that utilize data and communication innovation has not been issued, so that in hone, the execution of telemedicine in Indonesia is as it were controlled at the ecclesiastical direction level, to be specific the Direction of the Serve of Wellbeing Number 20 of 2019 concerning the Usage of Telemedicine Administrations

Between Wellbeing Benefit Offices which too does not direct telemedicine hones within the frame of clinical teleconsultation between wellbeing benefit, so of course it can be stated that until now there are legal loopholes in the implementation of *telemedicine* in Indonesia which can ultimately lead to legal problems in the future, especially related to the legality and legal protection of patients.

### **Principle of Balance**

Agreeing to this rule, the execution of wellbeing administrations must be carried out in a adjusted way between person interface and community interface, between physical and mental, between fabric and otherworldly. In wellbeing administrations, it can moreover be translated as a adjust between objectives and implies, between implies and comes about, between benefits and dangers emerging from health services carried out.

Based on this, the application of the principle of balance in health services is closely related to the issue of justice. In relation to health services, the justice in question is case-specific, because it is closely related to the allocation of resources in health services.

### **Principle of Timeliness**

In the provision of health services, the principle of punctuality is a crucial principle, because it is closely related to legal consequences arising from health services. The results of a doctor's carelessness in giving suitable help at the time required can cause hurt to the quiet. The application of this principle must be observed by doctors, because the law cannot accept any reason in terms of the safety of a patient's life being threatened due to the doctor's delay in treating his patient.

### **Principle of Good Faith**

This rule of great confidence is essentially based on the moral rule of doing great in common which moreover must be connected within the execution of the doctor's commitments to patients in wellbeing administrations. Doctors as professional practitioners, the implementation of the principle of good faith will be reflected in the attitude of respect for patient rights and the implementation of medical practices that always comply with and obey professional standards. This obligation to do good is certainly not without limits, because doing good must not cause harm to oneself.

### **Principle of Honesty**

Honesty is one of the important principles to be able to grow patient trust in doctors in health services. Based on this principle of honesty, doctors are obliged to supply health services concurring to the requirements of patients, to be specific concurring to their proficient guidelines. The use of various facilities available at health service institutions is only carried out according to the needs of the patient concerned. In expansion, the application of this guideline is additionally the premise for the usage of the conveyance of redress data, both from patients and specialists in communicating.

Trustworthiness in passing on data will certainly be exceptionally supportive within the patient's recuperation. The truth of this information is closely related to the correct of each human being to know the truth.

### **Principle of Precaution**

The position of doctors as professionals in the health sector, the doctor's activities must be based on meticulousness in carrying out their capacities and duties in wellbeing administrations. Since carelessness in acting that comes about within the danger to the patient's life, can result in the doctor being subject to criminal charges. This principle of caution is legally implied in Article 276 letter g of Law Number 17 of 2023 concerning Wellbeing which stipulates that:

“Patients have rights:

g. obtain other rights in accordance with the provisions of laws and regulations.”

Article 310 of Law Number 17 of 2023 concerning Wellbeing states:

“In the event that Medical Personnel or Health Personnel are suspected of making an error in carrying out their profession which causes harm to the Patient, the dispute arising from the error must first be resolved through alternative dispute resolution outside the courts.”

In carrying out the doctor's obligations, this principle of caution is applied by complying with professional standards and respecting patient rights, especially the right to data and the proper to deliver assent, which is closely related to informed consent in therapeutic transactions.

### **Principle of Transparency**

One of the principles stipulated in Article 2 letter h of Law Number 17 of 2023 concerning Wellbeing is the principle of respect for rights and obligations, which implicitly contains the principle of openness. This can be interpreted from the Explanation of Article 2 letter h of Law Number 17 of 2023 concerning Wellbeing which reads; "What is meant by "the principle of respect for rights and obligations" is that health development must be carried out by respecting the rights and obligations of the community as a form of equal legal standing”.

Based on this, in theory, the implementation of Health Efforts that utilize data and communication technology such as *telemedicine* can be carried out, however, in practice, even though there are already telemedicine services such as HALodokter and HALodokter, however, because the Government Regulation regarding the legality of the implementation of *telemedicine* as regulated in Article 25 section (5) of Law Number 17 of 2023 concerning Wellbeing has not been issued, this will certainly give rise to legal problems in the future.

The author believes that it is necessary to immediately issue a Government Regulation on the implementation of Health Efforts that utilize information and communication technology as mandated in Article 25 section (5) of Law Number 17 of 2023 concerning Wellbeing (Luzak, 2023). The Government Regulation certainly contains matters regarding business licensing. Another thing is about the use of electronic signatures that must be verified and must also use a PIN or Password as a doctor's identity that functions as an electronic signature (Arifin, 2023).

PIN or Password functions as a digital signature. This is as explained in Article 1 number 12 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, namely "Electronic Signature is a signature consisting of Electronic Information that is attached, associated or related to other Electronic Information used as a means of verification and authentication.”

Electronic signature in the form of PIN or Password provides confirmation of who the doctor is on the Alodokter and HALodokter platforms (Aashima, 2021). Digital signature in *telemedicine* is also a way to guarantee the authenticity of a prescription or medical consultation result and ensure that the prescriber or medical consultation result cannot deny at any time that he/she has made the prescription report or medical consultation result (Gomez, 2021).

Based on this, when a patient's medical diagnosis is spread and used by an unauthorized party, but the prescription or consultation results do not have an electronic signature from the doctor (Helim, 2023). The legal consequence is that the patient cannot sue the doctor either administratively, civilly or criminally (Apeldoorn, 2021).

Another provision is the existence of a letter of agreement in the form of an *informed consent* that regulates the rights and obligations of the doctor and the patient regarding the use of data via *telemedicine* (Sari, 2022). If the patient and the doctor agree to the statement, a legal relationship arises between the doctor and the patient due to medical factors which then gives birth to an agreement called a digital data usage agreement (Carlsson, 2023).

The telemedicine data usage agreement occurs between a doctor and a patient which results in the emergence of rights and obligations for both parties. In the *telemedicine* data usage agreement,

the doctor and the patient have formed a relationship in the form of non-medical actions which automatically also result in the formation of a legal relationship (Widiyono, 2023). The *telemedicine* data usage agreement implemented in the form of an *informed consent* format involves medical personnel (doctors) and patients. In implementing the *telemedicine* data usage agreement, both parties must be responsible and carry out their respective obligations. However, on the one hand, both parties are also given rights by law, so that both parties also obtain legal protection (Suwadi, 2023).

## CONCLUSION

The legal certainty of the implementation of telemedicine in technology-based health services in Indonesia has not been fully realized. This is because in theory the implementation of Health Efforts that utilize data and communication technology such as telemedicine can be done. However, in practice, even though there are telemedicine services such as Alodokter and HALodokter, their perfect legality has not been realized, because the Government Regulation on the legality of the implementation of telemedicine as regulated in Article 25 section (5) of Law Number 17 of 2023 concerning Wellbeing has not been issued. Therefore, it is necessary to immediately issue a Government Regulation on the implementation of Health Efforts that utilize information and communication technology which contains business licensing; the use of electronic signatures that must be verified and must also use a PIN or Password as a doctor's identity; to the rights and obligations of doctors and patients which are stated in the form of a telemedicine data usage agreement.

## AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; In-vestigation.

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