ABSTRAK

PERLINDUNGAN HUKUM TERHADAP DOKTER DALAM PELAYANAN TELEFARMASI SEBAGAI BAGIAN DARI EKOSISTEM TELEMEDISIN DI INDONESIA

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Penelitian ini membahas perlindungan hukum terhadap dokter dalam pelayanan telefarmasi sebagai bagian dari ekosistem telemedisin di Indonesia. Transformasi digital kesehatan memperluas akses pasien terhadap konsultasi medis, verifikasi resep elektronik, pelayanan informasi obat, pemantauan terapi, dan distribusi obat jarak jauh. Namun, perkembangan tersebut belum diikuti pengaturan hukum yang khusus dan komprehensif. Dokter sebagai Dokter Penanggung Jawab Pasien memiliki peran utama dalam anamnesis, penegakan diagnosis, penentuan terapi, dan penerbitan resep elektronik. Setelah resep dikirim melalui sistem digital, pelayanan melibatkan apoteker, fasilitas pelayanan kesehatan, apotek, penyelenggara sistem elektronik, platform digital, dan penyedia logistik. Keterlibatan banyak aktor menimbulkan persoalan mengenai batas kewenangan, standar kehati-hatian, validitas informed consent elektronik, keabsahan rekam medis elektronik, keamanan data pasien, serta distribusi pertanggungjawaban apabila terjadi medication error, kegagalan sistem, kebocoran data, atau kesalahan pengiriman obat. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan teori hukum. Bahan hukum primer meliputi UUD NRI Tahun 1945, UU Nomor 17 Tahun 2023 tentang Kesehatan, UU Nomor 1 Tahun 2024 tentang Informasi dan Transaksi Elektronik, KUHP Tahun 2023, PP Nomor 28 Tahun 2024, dan regulasi teknis terkait. Bahan hukum sekunder berupa buku, jurnal, laporan organisasi internasional, dan doktrin hukum kesehatan digital. Hasil penelitian menunjukkan bahwa hukum positif Indonesia telah mengakui telekesehatan dan telemedisin, tetapi belum mengatur secara tegas perlindungan dokter dalam telefarmasi. Regulasi yang ada masih sektoral dan belum menentukan kapan tanggung jawab profesional dokter berakhir serta kapan tanggung jawab beralih kepada apoteker, fasilitas pelayanan kefarmasian, platform, atau penyelenggara sistem elektronik. Kondisi ini membuka risiko kriminalisasi, gugatan perdata, sanksi administratif, dan penegakan disiplin yang tidak proporsional. Penelitian ini menawarkan Tiered and Distributed Causal Liability Model sebagai model pertanggungjawaban kausal berjenjang dan terdistribusi. Model ini membebankan tanggung jawab berdasarkan fungsi, kewenangan, tingkat kontrol, dan kontribusi kausal setiap aktor. Penelitian merekomendasikan pembentukan regulasi khusus telefarmasi, standar operasional digital, audit teknologi, penguatan keamanan data, serta mekanisme pembuktian yang mampu membedakan kesalahan profesional dokter dari kegagalan sistem elektronik secara adil dan terukur. Dengan rumusan tersebut, penelitian ini memperkuat keseimbangan antara keselamatan pasien, akuntabilitas layanan digital, dan kepastian hukum profesi dokter dalam penyelenggaraan pelayanan kesehatan berbasis teknologi informasi di Indonesia secara aman, rasional, proporsional, dan berkelanjutan.

Kata Kunci: telefarmasi, perlindungan hukum, pelayanan kesehatan digital, pertanggungjawaban kausal terdistribusi

ABSTRACT

LEGAL PROTECTION FOR DOCTORS IN TELEPHARMACY SERVICES AS PART OF THE TELEMEDICINE ECOSYSTEM IN INDONESIA

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This study examines the legal protection of doctors in telepharmacy services as part of the telemedicine ecosystem in Indonesia. Digital health transformation expands patient access to medical consultations, electronic prescription verification, drug information services, therapy monitoring, and remote drug distribution. However, this development has not been accompanied by specific and comprehensive legal regulation. Doctors, as physicians in charge of patients, play a central role in anamnesis, diagnosis, therapeutic decision-making, and the issuance of electronic prescriptions. Once a prescription is transmitted through a digital system, the service involves pharmacists, healthcare facilities, pharmacies, electronic system providers, digital platforms, and logistics providers. The involvement of multiple actors creates legal issues concerning the limits of authority, standards of prudence, validity of electronic informed consent, legality of electronic medical records, patient data security, and the distribution of liability in cases of medication error, system failure, data leakage, or errors in drug delivery. This study uses a normative juridical method with statutory, conceptual, and legal theory approaches. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2023 concerning Health, Law Number 1 of 2024 concerning Electronic Information and Transactions, the 2023 Criminal Code, Government Regulation Number 28 of 2024, and relevant technical regulations. Secondary legal materials consist of books, journal articles, reports from international organizations, and legal doctrines on digital health law. The findings show that Indonesian positive law has recognized telehealth and telemedicine, but it has not explicitly regulated the legal protection of doctors in telepharmacy. Existing regulations remain sectoral and do not clearly determine when a doctor's professional responsibility ends and when responsibility shifts to pharmacists, pharmaceutical service facilities, platforms, or electronic system providers. This condition creates risks of criminalization, civil lawsuits, administrative sanctions, and disproportionate disciplinary enforcement. This study proposes the Tiered and Distributed Causal Liability Model as a model of tiered and distributed causal liability. This model allocates responsibility based on the function, authority, level of control, and causal contribution of each actor. The study recommends the establishment of specific telepharmacy regulations, digital standard operating procedures, technology audits, stronger data security, and evidentiary mechanisms capable of distinguishing doctors' professional errors from electronic system failures in a fair and measurable manner. Through this formulation, the study strengthens the balance between patient safety, digital service accountability, and legal certainty for the medical profession in the provision of information technology-based healthcare services in Indonesia in a safe, rational, proportional, and sustainable manner.

Keywords: *telepharmacy, legal protection, digital healthcare services, distributed causal liability*