



**TELEMEDICINE PRACTICES ON DOCTORS' RESPONSIBILITIES IN HEALTH SERVICE FACILITIES (FASYANKES) FROM CIVIL LAW: A NORMATIVE JURIDICAL STUDY**

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**ABSTRACT**

The development of information technology has driven the transformation of healthcare services through telemedicine, offering ease of access, time efficiency, and expanded reach of medical services. However, the implementation of telemedicine also raises various legal issues, particularly regarding the civil liability of physicians and legal protection for patients. The differences in the characteristics of conventional medical services and digital-based healthcare services require clear legal regulations to create legal certainty and justice for all parties. This study aims to analyze the form of legal relations between doctors and patients in telemedicine services and examine the basis for civil liability of physicians for losses experienced by patients. The research method used is normative legal research with a statutory, conceptual, and comparative approach. The legal materials analyzed include laws and regulations in the fields of health and telemedicine, civil law doctrine, and the latest scientific articles indexed by Scopus and Web of Science. The results of the study indicate that the legal relationship in telemedicine remains based on a therapeutic agreement that gives rise to the rights and obligations of the parties. Physicians can be held civilly liable for both breach of contract and unlawful acts if they are proven to have violated professional standards, the principle of prudence, or the rights of patients. However, this study also found regulatory gaps and disharmony, which have weakened legal certainty and legal protection mechanisms for patients. This study's conclusions emphasize the need to strengthen and harmonize telemedicine regulations to ensure legal protection for patients and provide legal certainty for doctors in conducting digital-based medical practices.

Keywords: civil liability of doctors; health law; legal protection of patients; telemedicine; therapeutic agreement

**How to Cite (in APA Style)**

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**INTRODUCTION**

The development of information technology has driven a significant transformation in the delivery of healthcare services worldwide. One rapidly growing form of digital healthcare innovation is telemedicine, a method of providing medical services through telecommunications and digital technology, without the need for a direct physical meeting between a doctor and a patient (Pasban & Gholami, 2025). Telemedicine provides easy access, time efficiency, and equitable distribution of healthcare services, especially for patients in remote areas or with limited mobility. However, it also presents complex legal challenges, particularly regarding the legal responsibilities of doctors in their practice.

In the context of civil law, the doctor-patient relationship via telemedicine still gives rise to the same professional obligations as face-to-face services, even though the mechanism is conducted online. Physicians providing telemedicine services are still required to comply with applicable medical practice standards; any negligence or professional error can result in legal liability (Firmansyah & Afladhanti, 2025). However, there remains a regulatory gap or unclear norms specifically governing the civil liability of physicians in telemedicine practice in many jurisdictions, including Indonesia. Legal research from various countries indicates that telemedicine carries the same or even greater risk of malpractice compared to conventional services due to limitations in physical examinations, the potential for misdiagnosis, and challenges in doctor-patient communication (Geny et al., 2024). Regulators in many countries are still working to adapt existing

legal frameworks to the realities of these new digital services, particularly to ensure that patients retain their legal rights and that doctors understand the limits of their professional obligations in a digital context.

In Indonesia, the implementation of telemedicine is regulated by several laws, such as Law Number 17 of 2023 concerning Health and Minister of Health Regulation Number 20 of 2019 concerning the provision of telemedicine services between healthcare facilities. However, these regulations are considered incomplete in addressing the scope of physicians' civil liability in telemedicine, particularly regarding professional standards, digital informed consent, and civil dispute resolution in the event of harm to patients (Fauzullail & Irfan, 2025). This lack of specific regulations creates legal uncertainty for both doctors and patients in the event of legal disputes arising from malpractice in telemedicine. Normative legal studies on telemedicine also show that the legal relationship between doctors and patients in telemedicine is essentially formed through a therapeutic agreement that creates rights and obligations for both parties. When a doctor fails to meet professional standards, civil aspects such as breach of contract and unlawful acts can be used as a basis for liability (Firmansyah & Afladhanti, 2025). Other aspects such as data protection and medical confidentiality are also crucial because doctors must ensure the security of digitally transmitted patient data and ensure that patient privacy is not violated. Furthermore, the increasing integration of new technologies such as artificial intelligence (AI) and sensors into telemedicine services adds to the complexity of doctors' legal responsibilities. The risk of misdiagnosis arises not only from doctors but also from the technology used to support digital medical practices (Geny et al., 2024; Jubaidi & Khoirunnisa, 2025). This requires clearer legal certainty regarding the division of responsibility between doctors and other parties, such as telemedicine platform providers, particularly in the context of civil litigation. Several comparative studies have highlighted how legal systems in different countries regulate physicians' civil liability in telemedicine. For example, many Western jurisdictions have developed more comprehensive legal frameworks for telemedicine, recognizing that professional standards are identical for virtual and in-person services, and providing clearer malpractice handling practices (Orsayeva et al., 2025). On the other hand, in Indonesia and several other developing countries, there remains a gap between digital healthcare technology and adaptive regulatory development.

These challenges underscore the urgency of normative legal research focusing on the civil liability of physicians in telemedicine practice within the Indonesian national legal system. This study is crucial for developing a conceptual and normative understanding of the rights, obligations, and regulatory gaps that need to be filled to ensure legal certainty for patients and physicians. Furthermore, the increasing litigation involving telehealth practices in various countries—for example, lawsuits against telemedicine physicians in the United States—where civil lawsuits are part of the legal strategy for seeking compensation (shield law cases related to prescriptions via telemedicine) indicates that the framework for physician liability needs to be thoroughly understood. This also demonstrates that discussions of legal liability in telemedicine are no longer theoretical but have become a very current legal issue. Thus, this study aims to examine, from a juridical and normative perspective, how telemedicine practices impact the scope and form of physicians' civil liability in healthcare facilities, and how current legal provisions create or leave certain legal loopholes. The study's findings are expected to provide normative recommendations for policymakers to strengthen the legal protection framework for telemedicine practices in Indonesia. The purpose of this study is to analyze, from a juridical and normative perspective, the impact of telemedicine practices on physicians' civil liability in healthcare facilities, in order to provide legal certainty and legal protection for both physicians and patients in the provision of digital-based healthcare services.

## **METHOD**

This research is a normative juridical legal study (legal dogmatics) that positions law as a prescriptive and systematic norm or rule. The main focus of this research is to analyze positive legal regulations related to telemedicine practices and their implications for the civil liability of

physicians in healthcare facilities. This normative-dogmatic study was chosen because the issues studied relate to the validity of norms, legal gaps, and the consistency of regulations on physician responsibilities in digital-based healthcare services, rather than the empirical behavior of legal subjects (Firmansyah & Afladhanti, 2025).

**Types of research**

This type of research is **doctrinal legal research**, which aims to examine, interpret, and systematize the legal norms governing telemedicine and physicians' civil liability. This research seeks to identify *the ratio legis* and legal principles underlying the regulation of the legal relationship between doctors and patients in telemedicine practice, particularly in the context of breach of contract and unlawful acts. Therefore, this research is oriented towards seeking clarity of norms and legal certainty (Pasban & Gholami, 2025). The approaches used in this research include:

1. Statute approach, namely by systematically reviewing laws and regulations relevant to telemedicine and the responsibilities of doctors, both in the fields of health law and civil law, in order to assess the suitability and adequacy of applicable norms.
2. The conceptual approach, which is used to examine fundamental legal concepts such as the civil liability of doctors, therapeutic relationships, medical professional standards, breach of contract, and unlawful acts in the context of digital health services (Geny et al., 2024).
3. A limited comparative approach was conducted to compare the regulation of doctors' responsibilities in telemedicine practice in Indonesia with regulations in several other countries that have developed a more established telemedicine legal framework, in order to obtain a normative perspective and enrich legal arguments (Orsayeva et al., 2025).

The legal materials used in this research consist of:

1. Primary legal materials, in the form of laws and regulations in the fields of health, telemedicine, and civil law that regulate the legal relationship between doctors and patients.
2. Secondary legal materials, in the form of legal doctrine, research results, and internationally reputable scientific journal articles indexed by Scopus and Web of Science in the last five years, which discuss telemedicine, doctors' civil liability, and patient legal protection (Kristianti et al., 2024; Jubaidi & Khoirunnisa, 2025).
3. Tertiary legal materials, in the form of legal dictionaries and legal encyclopedias to strengthen understanding of legal terminology and concepts.

Table 1.

Norm Mapping (*Civil Law vs. Health Regulation in Telemedicine Practice*)

Legal Aspects	Civil Law (KUHPerdata)	Health Regulation & Telemedicine	Normative Implications
Legal relationship between doctor and patient	Article 1320, 1338 of the Civil Code (agreements)	Health Law & Minister of Health Regulation on Telemedicine	Therapeutic agreements remain valid even if they are conducted digitally.
Doctor's obligations	Contractual performance	Professional standards & medical SOPs	Medical standards become the benchmark for fulfilling performance
Form of violation	Default (Article 1239 of the Civil Code)	Violation of service standards	Breach of contract is relevant when a contractual obligation is breached
Act against the law	Article 1365 of the Civil Code	Violation of patient rights	PMH is relevant if it violates the patient's general rights
Informed consent	Principle of agreement	Medical informed consent (including digital)	The validity of digital consent is still weak normatively
Medical data protection	The right to privacy as a civil right	Obligation of medical confidentiality	Potential PMH if a data leak occurs
Proof	Burden of proof on the plaintiff	Electronic medical records	Digital medical records become the main evidence
Legal certainty	General and abstract	Specific but limited	There is disharmony and a lack of norms

The legal materials were analyzed in a normative-prescriptive manner using legal interpretation methods, encompassing systematic and conceptual interpretation. All legal materials were analyzed to assess the coherence between norms, identify gaps or regulatory conflicts, and determine the ideal form of civil liability for physicians in telemedicine practice. The results of the analysis were then compiled into prescriptive legal arguments to formulate recommendations for strengthening legal norms to ensure legal certainty and legal protection for physicians and patients in healthcare facilities (Fauzullail & Irfan, 2025; Satriawan et al., 2025).

## RESULT

### **The Position of Telemedicine as a Civil Law Event**

The results of the normative analysis indicate that telemedicine practice should be legally positioned as a civil law event that creates a legal relationship between doctors and patients. Even though it is conducted through digital media, telemedicine still fulfills the elements of establishing a contractual relationship as stipulated in civil law, namely an agreement, the capacity of the parties, a specific object, and a lawful cause. Thus, telemedicine cannot be viewed simply as a health technology service, but rather as a form of medical service that remains subject to the civil law regime (Pasban & Gholami, 2025). Therapeutic agreements in telemedicine are implicit and based on professional trust, where doctors are obligated to provide their best efforts (*in spanning verbinten*) in accordance with medical professional standards, not to guarantee healing outcomes. However, the digital nature of telemedicine has changed the mechanisms for implementing these obligations, particularly in the areas of clinical examination, medical communication, and electronic medical record keeping. These changes have a direct impact on physicians' civil liability patterns in the event of harm to patients (Firmansyah & Afladhanti, 2025).

### **Default as the Basis for Civil Liability of Doctors in Telemedicine**

Based on an analysis of the elements of breach of contract, it can be concluded that physicians practicing telemedicine can be held civilly liable if proven to have failed to fulfill their professional obligations as agreed upon in the therapeutic relationship. Breach of contract in the context of telemedicine generally occurs in the form of providing medical consultations that do not meet professional standards, negligence in following up on a patient's condition, or failure to provide adequate medical information digitally. This study found that professional standards and medical standard operating procedures serve as the primary normative parameters in assessing physicians' performance. If a physician provides telemedicine services without adequate care—for example, by ignoring the limitations of remote physical examinations—then the physician may be deemed to have breached their contractual obligations (Geny et al., 2024). Thus, breach of contract in telemedicine is not measured by medical outcomes, but by non-compliance with professional standards. However, positive law in Indonesia does not explicitly regulate the mechanism for proving breach of contract in telemedicine, particularly regarding the validity of digital informed consent and electronic medical records as evidence in civil cases. This situation has the potential to weaken the legal standing of both patients and doctors in civil disputes (Kristianti et al., 2024).

### **Unlawful Acts (PMH) in Telemedicine Practice**

In addition to breach of contract, the analysis shows that unlawful acts (ILO) are a relevant basis for liability in telemedicine practice, particularly when patient harm does not directly stem from a breach of contractual obligations. ILO can occur when a physician's actions or omissions violate a general legal duty, the principle of due care, or the patient's subjective rights.

In the context of telemedicine, PMH often involves violations of patients' rights to safety, privacy, and confidentiality of medical data. Leakage of health data or the use of unsecured telemedicine platforms can qualify as legal violations that give rise to civil liability, regardless of the existence of a clear therapeutic agreement (Jubaidi & Khoirunnisa, 2025). This emphasizes that physicians' responsibilities in telemedicine are not only contractual but also delictual.

Comparative analysis shows that some jurisdictions have expanded the concept of PMH in telemedicine by linking it to data protection obligations and digital patient safety. Meanwhile, regulations in Indonesia still tend to place telemedicine issues within the administrative and ethical

realm, resulting in PMH aspects not being adequately formulated in health regulations (Orsayeva et al., 2025).

### **1) Disharmony and Normative Voids in Telemedicine Regulations**

This study identifies a normative disharmony between civil law and health regulations in governing physicians' responsibilities in telemedicine practice. Health regulations in Indonesia place greater emphasis on licensing, service standards, and administrative oversight, while civil liability mechanisms are not explicitly and systematically regulated (Fauzullail & Irfan, 2025).

The absence of clear norms regarding the limits of physician liability in telemedicine has the potential to create legal uncertainty for both patients and medical personnel. Under certain circumstances, physicians may face the risk of multiple responsibilities—administrative, ethical, and civil—without clarity regarding the legal basis and limits of such liability. This highlights the need for a more integrative normative approach between civil law and health law.

### **2) Normative Implications for Strengthening the Legal Framework**

Based on the analysis, this study confirms that telemedicine practice requires a normative reconstruction of the concept of physician civil liability. This reconstruction needs to emphasize a clear distinction between breach of contract and PMH, and accommodate the characteristics of digital medical services, including the use of technology and electronic systems in the healthcare process (Satriawan et al., 2025). Prescriptively, this study recommends strengthening regulations that explicitly address physicians' civil liability in telemedicine, including legal recognition of digital informed consent and electronic medical records as civil evidence. Thus, positive law is expected to provide legal certainty and balanced protection for both doctors and patients in the era of digital transformation in healthcare.

## **DISCUSSION**

This research discussion aims to connect the results of the normative analysis with the theoretical framework and empirical findings of recent relevant scientific studies in the realm of health law, specifically telemedicine and physicians' civil liability. This paper seeks to clarify the position of telemedicine within the civil law structure, evaluate how the concept of physicians' liability is normatively structured, and compare it with previous research findings to demonstrate argumentative continuities and differences.

### **Telemedicine as a Legal Relationship in Civil Law**

As found in this study, telemedicine operates as a civil legal relationship between doctors and patients through a valid therapeutic agreement, albeit facilitated digitally. This approach aligns with the findings of Jubaidi and Khoirunnisa (2025), who asserted that telemedicine should be understood as a medical practice subject to professional standards and physician responsibilities equivalent to face-to-face services. Their study noted that while telemedicine increases access to medical services, normative ambiguity creates legal risks for medical personnel due to diagnostic negligence and the use of technology (Nasution and Ibrahim, 2024). In this context, legal literature suggests that telemedicine therapeutic agreements should be treated as contracts that embody the same rights and obligations as conventional medical service contracts. This finding is also supported by a study on consumer protection in health teleconsultation services, which assessed that consumers/patients have equal rights in digital service contracts with telemedicine providers (Apriana & Husni, 2025). This similarity of approach emphasizes that civil law does not differentiate between the medium of service: virtual or physical—what is differentiated is the quality of fulfillment of professional standards.

### **Standard of Care and Principles of Accountability in Telemedicine**

One of the central issues in this research is how the principles of breach of professional duty and unlawful acts (PMH) are applied in telemedicine. The analysis of the research results indicates that physicians can be held civilly liable for breaches of professional obligations, including failure to meet professional standards or miscommunication of diagnosis. This aligns with the standard of care approach in the telemedicine context as outlined in contemporary international literature: physicians must provide care equivalent to applicable medical standards, even if delivered virtually

(Rinna, 2025). This literature emphasizes that the standard of care in telemedicine remains high: the medical profession cannot diminish its duty of care simply because healthcare services are delivered digitally (Rinna, 2025). The findings of this study corroborate this claim and demonstrate that breaches of contract primarily arise when physicians ignore the limitations of remote diagnosis, including the obligation to refer patients face- to-face when necessary. This reflects the classical conception of civil liability, where physicians' actions are judged based on professional norms and contractual obligations (Ridawati, 2024). This argument reinforces the position that conventional civil law remains relevant in regulating telemedicine but needs to be expanded to accommodate digital realities.

### **Unlawful Acts (PMH) and the Term Negligence in Telemedicine**

Beyond breach of contract, this study demonstrates that PMH plays a crucial role when violations impact broader patient legal rights, such as data privacy, medical confidentiality, and patient safety. In many telemedicine cases, these issues can arise due to the transmission of sensitive data through digital platforms without adequate security guarantees. This aligns with subsequent research findings that emphasize the need for a legal framework that addresses patient data protection and medical information confidentiality in telehealth (Orsayeva et al., 2025). In a study of consumer law and telemedicine, Seliana and Anggriawan (2025) noted that consumer protection law and health law in Indonesia are currently fragmentary and not yet harmonious in resolving data privacy conflicts and the lack of responsibility due to digital malpractice (Orsayeva et al., 2025). This is in line with the findings of this study that PMH plays an important role when there is a violation of patient rights which is not only caused by contractual violations but also by violations of general obligations.

### **Unclear Legal Framework and Its Impact on Legal Certainty**

One significant finding of the study is the disharmony of norms and legal gaps in telemedicine regulations in Indonesia. Analysis of the research findings identified that current telemedicine regulations tend to focus on administrative aspects and basic service standards, while civil dispute resolution mechanisms and physician liability are not explicitly regulated. A review of contemporary literature found a similar consensus: the lack of a comprehensive legal framework creates legal uncertainty for both patients and physicians. For example, a study by Nasution and Ibrahim (2024) stated that regulations in Indonesia are inadequate to comprehensively address the risks of telemedicine malpractice, leaving the boundaries of legal liability unclear (Seliana & Anggriawan, 2025; Triana et al., 2025). This issue is also supported by research by Ian Nofianto (2024), which underlines the lack of legal certainty regarding the protection of the rights of patients who are victims of telemedicine malpractice, including the right to effective remediation (Sudradjat, 2025). These findings strengthen the argument that harmonization of legal norms, between civil law, consumer law, and digital health law, is needed to ensure legal certainty in the telemedicine era.

### **Perspective of Patient Legal Protection: Institutions and Mechanisms of Remedies**

The findings of this study indicate that legal protection for patients is often limited to administrative and ethical aspects, while civil aspects such as compensation, proof of negligence, and recovery of damages are not clearly structured. This aligns with international literature that maps similar policy challenges in many jurisdictions, where the boundaries of physician liability in telehealth remain a "grey area" in many legal systems (Orsayeva et al., 2025). Egun Nofianto's (2024) research shows that patients who are victims of telemedicine malpractice have the legal right to claim compensation under civil law, but the lack of telemedicine regulations at the implementation level is a real obstacle to achieving effective remediation (Sudradjat, 2025). Another review emphasized that patient legal protection should also involve specific dispute resolution mechanisms, independent supervisory authorities, and easy access to digital evidence, which are often not yet available in many developing countries (Seliana & Anggriawan, 2025).

## **Theoretical and Practical Contributions**

This discussion links the research findings to studies of contract law and civil crime theory, demonstrating that telemedicine is not a new legal phenomenon, but rather a modification of the service delivery medium that requires updating legal norms. This analysis emphasizes the need for a more advanced legal framework that not only clarifies the concept of responsibility but also accommodates the complex characteristics of telemedicine, including the use of digital technology, telemedicine standards of care, and dispute resolution mechanisms responsive to current needs.

## **CONCLUSION**

The conclusion of this study confirms that telemedicine practice legally still creates a civil legal relationship between doctors and patients based on a therapeutic agreement. Even though it is carried out digitally, doctors remain bound by professional obligations to act in accordance with professional standards and the principle of prudence. Doctors' civil liability in telemedicine can be based on breach of contract or unlawful acts if there is evidence of a violation of contractual obligations or patient rights. However, regulatory gaps and disharmony remain, potentially leading to legal uncertainty. Therefore, harmonization and strengthening of telemedicine regulations are needed to ensure balanced legal protection for doctors and patients.

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