



LEGAL CONSEQUENCES FOR FOREIGN MEDICAL PERSONNEL PROVIDING HEALTH SERVICES IN INDONESIA WITHOUT A PRACTICE LICENSE

Haekal Fahmi*, Anak Agung Gede Duwira Hadi Santosa, I Gde Sastra Winata

School of Nursing, University of Master of Health Law, Universitas Udayana, Jln P.B. Sudirman, Dangin Puri Klod, Denpasar Barat, Denpasar, Bali 80234, Indonesia

*haekalfahmi12@gmail.com

ABSTRACT

The utilization of foreign health workers in Indonesia has become an increasingly common phenomenon in line with the development of globalization and cross-border mobility. The purpose of this study is to identify and analyze the legal consequences of foreign medical personnel providing health services in Indonesia without a practice license. This study uses a normative research design, and the method of collecting legal sources in this study is document study. Documentary study can be described as a method of collecting several documents related to the issue being studied, both from primary and secondary legal materials. Collection of Normative Legal Materials The main methods used to collect normative legal materials are Library Research and Documentary Research. The legal materials sought are classified into three types: Primary Legal Materials (in the form of legislation), secondary legal materials (law books/literature, legal research journals), and tertiary legal materials (law dictionaries, law encyclopedias). After all the data has been collected, it is then reviewed and interpreted in relation to legal principles and theories The results of this study are that foreign medical personnel must fulfill several requirements before practicing in Indonesia, such as licensing, certification and registration, competency tests, areas of foreign medical personnel and accompanying personnel, time restrictions, and compensation. Based on the Health Law as stipulated in Article 442, sanctions are imposed on any foreign medical personnel who intentionally practice in Indonesia without a SIP, which can result in the medical or health personnel being punished with a maximum imprisonment of 5 (five) years or a maximum fine of Rp. 500,000,000.00 Efforts to take action against foreign medical personnel by the Ministry of Health and Professional Organizations include guidance and mediation by professional organizations, internal guidance by health agencies, verbal and written warnings by health agencies, guidance, supervision, and control by health agency personnel, revocation of licenses, and revocation of practice.

Keywords: foreign medical personnel; legal consequences; practice license

How to cite (in APA style)

Fahmi, H., Santosa, A. A. G. D. H., & Winata, I. G. S. (2026). Legal Consequences for Foreign Medical Personnel Providing Health Services in Indonesia without A Practice License. *Indonesian Journal of Global Health Research*, 8(1), 921–926. <https://doi.org/10.37287/ijghr.v8i1.559>.

INTRODUCTION

The welfare of all Indonesian citizens is the goal of the Indonesian State as enshrined in the 1945 Constitution and Pancasila. Welfare has a broad meaning, especially in the field of health. Health is something that is highly desired by all living creatures on earth, and this service is generally obtained by humans from health workers, one of which is doctors. The utilization of foreign healthcare workers in Indonesia has become an increasingly common phenomenon in line with the development of globalization and cross-border mobility. Foreign doctors play an important role in filling the shortage of medical personnel in many countries, especially in areas that require additional healthcare. They help improve the accessibility and quality of healthcare for populations in need. Foreign doctors often bring unique experiences and knowledge from their home cultures and healthcare systems, which can contribute to diversity and innovation in treatment approaches.

One of the main benefits of foreign doctor participation is the diversification of medical experience in the area. They bring with them a variety of treatment methods and approaches that can provide new alternatives in patient care. This can enrich the local medical knowledge base and improve the overall quality of healthcare services. Foreign doctors also bring different cultural perspectives, which can be crucial in understanding and responding to the needs of patients from diverse ethnic or

social backgrounds. Foreign doctors can also help fill gaps in certain medical specialties. Many countries face shortages of specialists in various fields such as cardiology, oncology, or neurology.

According to the Minister of Health, foreign nationals who wish to enter and work in Indonesia must go through several licensing channels, including the Ministry of Manpower and Transmigration, the Ministry of Education and Culture, local governments, and other central government agencies. In relation to immigration, foreign doctors working in Indonesia are required to have a limited stay visa as stipulated in Article 39 of Government Regulation in Lieu of Law Number 20 of 2022 concerning Job Creation, namely that a limited stay visa is granted to foreign nationals: a) As clergy, experts, workers, researchers, students, investors, second homes, and their families, as well as foreigners who are legally married to Indonesian citizens, who will travel to the Indonesian territory to reside for a limited period of time; or b) In order to join work on ships, floating vessels, or installations operating in the archipelagic waters, territorial seas, continental shelves, and/or the Exclusive Economic Zone of Indonesia.

Based on these regulations, foreign doctors can obtain permanent residence permits, as stipulated in Article 54 (1) of Perppu Number 20 of 2022 concerning Job Creation. Permanent residence permits may be granted to foreign nationals holding limited residence permits as clergy, workers, investors, and second homes, families due to mixed marriages, husbands, wives, and/or children of foreign nationals holding permanent residence permits; and foreign nationals who are former Indonesian citizens and former subjects of dual citizenship of the Republic of Indonesia.

Article 63 paragraph (1) of Perppu Number 20 of 2022 concerning Job Creation stipulates that certain foreigners who are in Indonesian territory are required to have a guarantor who guarantees their presence. However, several exceptions apply, such as foreign nationals who are legally married to Indonesian citizens, foreign business actors who invest capital in Indonesia in accordance with regulations on investment, and citizens of a country that provides reciprocal exemption from the guarantor requirement.

In order to provide legal protection and certainty to health workers, both those who provide direct services to the community and those who do not, as well as to the community receiving these services, a strong legal basis is needed that is in line with developments in science and technology in the fields of health, socio-economics, and culture. 5 In 2023, the Indonesian government issued Minister of Health Regulation No. 6 of 2023 concerning the Utilization of Foreign Health Workers, which provides clearer guidelines on the utilization of foreign health workers in Indonesia. Based on the above explanation, this study aims to further discuss the utilization of foreign medical personnel in Indonesia, particularly in an article entitled "Legal Consequences for Foreign Medical Personnel Providing Health Services in Indonesia Without a Practice License.

METHOD

This study uses normative research, document collection methods. The source of legal material in this study is document study. Document study can be described as a method of collecting several documents related to the issue being studied, both from primary and secondary legal materials. Legal materials relevant to the issue in this report are then processed and analyzed systematically using methods of legal interpretation and argumentation. After obtaining the analysis results, they will be explained descriptively, so that the expected results can explain the Legal Consequences of Foreign Medical Personnel Providing Health Services in Indonesia Without a Practice License, thereby obtaining a comprehensive picture of the issues being studied. The collection of normative legal materials consists of Library Research and Document Research. The legal materials sought are classified into three types: Primary Legal Materials (in the form of legislation), secondary legal materials (law books/literature, legal research journals), and tertiary legal materials (legal dictionaries, legal encyclopedias).

RESULT

Legality of Foreign Medical Personnel Practicing in Indonesia Based on Health Law

Various policies have been adopted by the Indonesian government in anticipating or regulating the entry of Foreign Health Personnel (TKWNA) into Indonesia, including those outlined in several pieces of legislation, namely:

- a. Law Number 13 of 2003 concerning Manpower (State Gazette of the Republic of Indonesia of 2003 Number 39, Supplement to State Gazette of the Republic of Indonesia Number 4279).
- b. Law No. 29 of 2004 concerning Medical Practice (State Gazette of the Republic of Indonesia of 2004 No. 116, Supplement to the State Gazette of the Republic of Indonesia No. 4431).
- c. Law Number 44 of 2009 concerning Hospitals (State Gazette of the Republic of Indonesia of 2009 Number 153, Supplement to the State Gazette of the Republic of Indonesia Number 5072).
- d. Law Number 6 of 2011 concerning Immigration (State Gazette of the Republic of Indonesia of 2011 Number 52, Supplement to the State Gazette of the Republic of Indonesia Number 5216).
- e. Law Number 17 of 2023 concerning Health (State Gazette of the Republic of Indonesia of 2023 Number 105, Supplement to the State Gazette of the Republic of Indonesia Number 6887).

Legal Consequences for Foreign Medical Personnel Providing Health Services in Indonesia Without a Practice License

The impact of doctors practicing without a Registration Certificate (STR) or Practice License (SIP) results in legal consequences that are detrimental to the physical or mental health or life of the patient, which constitutes medical malpractice.⁹ Health workers are people who devote themselves to the field of health services with the aim of promoting the welfare of the general public and who have knowledge and skills in the field of health. Health workers or medical personnel in carrying out their practice must meet several requirements, one of which is a Practice License or (SIP) issued by the relevant health office, which is in the case of obtaining a Practice License (SIP). According to Article 264 paragraph (1) of Law No. 17 of 2023 on Health, there are only two requirements for obtaining an SIP: possessing a Registration Certificate and a practice location. The Practice License remains valid as long as the practice location remains consistent with the address listed in the SIP, according to Article 264(3). (3) of the Health Law, the validity period of the Practice License is 5 (five) years and can be renewed. The SIP itself is a written document issued by the government — in this case, the city/regency health office — to health workers who will provide health services after meeting certain requirements. The purpose of the Practice License for health workers is as follows:

- a. Protection for the community and health workers, if such medical practices result in physical, mental, or life-threatening harm to patients.
- b. Guidelines for health workers in providing health services Health workers must have the necessary qualifications, competencies, and licenses.
- c. Empowerment of the community, professional organizations, and existing institutions.

DISCUSSION

Legality of Foreign Medical Personnel Practicing in Indonesia Based on Health Law

Foreign medical personnel must have a visa, residence permit, and work permit. Employers must have a permit from the minister/designated official. This regulation is stipulated in Law No. 13 of 2003, Article 1, which states that foreign workers are foreign nationals who hold visas for the purpose of working in Indonesia, and Article 42, paragraph 1, states that every employer who employs foreign workers must have written permission from the Minister or designated official. The requirement for such a permit is intended to ensure that the use of foreign workers is carried out selectively in order to optimize the utilization of Indonesian workers.

Article 43 paragraphs 1 and 2 stipulate that employers must prepare a plan for the use of foreign workers (RPTKA), which is a requirement for obtaining a work permit for foreign workers (IKTA). The RPTKA must include the reasons for using foreign workers, their positions, the duration of employment, and the appointment of a mentor for the foreign workers to be employed. Article 3 is an exception to Article 1 in that it does not apply to government agencies or international agencies under the United Nations (UN), including the ILO, WHO, UNICEF, and so on. Law Number 29 of

2004 concerning Medical Practice, Article 30 paragraph 3 states that medical personnel, namely doctors and dentists, must complete a work permit in accordance with the provisions of laws and regulations and their ability to speak Indonesian.

Furthermore, foreign nationals are also regulated in Law Number 6 of 2011 concerning immigration. Article 1 paragraph (1) explains that immigration refers to the movement of people entering or leaving the territory of the Republic of Indonesia and its supervision in order to maintain the sovereignty of the state. This is done to provide legal certainty to foreign nationals regarding restrictions, differences between citizens and foreign nationals, and residence permits for foreign nationals. Regulations concerning immigration, which include the entry and exit of foreign nationals into Indonesian territory, are the responsibility of the Unitary State of the Republic of Indonesia as a manifestation of its sovereignty as a state based on the principles of Pancasila and the 1945 Constitution of the Republic of Indonesia.

Based on Article 246 of Law Number 17 of 2023, it is stated that:

- 1) Foreign medical and health personnel who graduated in Indonesia and practice in Indonesia must:
 - a. have an STR; and
 - b. have a SIPin accordance with the provisions of laws and regulations.
- 2) Foreign medical personnel and health workers who are graduates from domestic institutions as referred to in paragraph (1) may only practice at the request of the user Health Service Facility for a limited period of time.

According to its nature, there are two bases for a doctor's authority to practice medicine, namely that a doctor must first have authority regarding his expertise. Doctors and dentists who have a Registration Certificate (STR) have the authority to practice medicine in accordance with their education and competence. However, it is not enough to be a medical school graduate, even though specialists, even as doctors who have the authority to practice medicine without having legal or formal authority. Every health worker who practices in the field of health services must have a Practice License (SIP). The SIP in question is issued by the district/city government based on the recommendation of the authorized health official in the district/city where the health worker practices.

Based on the provisions of Article 246 paragraph (2) of the Health Law, foreign medical and health personnel who are domestic graduates may only practice at the request of a user Health Care Facility for a limited period of time. Meanwhile, Article 248 of Law Number 17 of 2023 concerning Health stipulates that foreign medical personnel and health workers who are graduates of foreign universities who can practice in Indonesia are limited to medical specialists and subspecialists as well as health workers with a certain level of competence after undergoing a competency evaluation. Among other things, competency evaluations are conducted by the Minister in collaboration with the ministers responsible for government affairs in the fields of education, councils, and colleges. Competency evaluations include assessments of administrative completeness and practical skills.

Legal Consequences for Foreign Medical Personnel Providing Health Services in Indonesia Without a Practice License

Every health worker who wants to obtain a practice license must first have a Registration Certificate, which is issued by the Indonesian Health Workers Council and given by the respective council for each health worker. Without a Registration Certificate (STR), the competence of foreign health workers and Indonesian health workers is not recognized. Therefore, they will not be able to obtain a Practice License (SIP) and therefore cannot practice in Indonesia. If this is violated, the health worker will receive sanctions as stipulated in Article 442 of Law Number 17 of 2023 concerning Health, which stipulates sanctions for any medical or health worker, whether a foreign national or a Indonesian citizens who intentionally practice in Indonesia without a SIP may be

subject to criminal penalties of up to 5 (five) years in prison or a maximum fine of Rp.500,000,000.00 (five hundred million rupiah). Therefore, if foreign healthcare workers or Indonesian healthcare workers practice in clinics or hospitals, it can be concluded that these healthcare workers are practicing illegally and have violated the applicable legal provisions.

The presence of foreign or Indonesian health workers who do not have a Practice License (SIP) results in administrative violations for users of health services. Efforts to take action against foreign health workers who do not have a SIP, according to Article 47 paragraph (3) of Minister of Health Regulation Number 6 of 2023, are as follows:

- a. Written warning
- b. Recommendation for revocation of Temporary Registration Certificate (STR)
- c. Recommendation for revocation of approval
- d. Recommendation for termination of employment of foreign health workers (TKWNA) in the field of health education to the Minister responsible for government affairs in the field of education.
- e. Revocation of Practice License (SIP) Proposal for immigration administrative action to the Minister who administers government affairs in the field of law and human rights.

CONCLUSION

Foreign medical personnel must fulfill several requirements before practicing in Indonesia, such as licensing, certification and registration, competency testing, areas of practice for foreign medical personnel and accompanying personnel, time restrictions, and compensation. Based on the Health Law as stipulated in Article 442, sanctions are imposed on any foreign medical personnel who deliberately practice in Indonesia without a SIP, resulting in the medical or health personnel being punished with a maximum imprisonment of 5 (five) years or a maximum fine of Rp. 500,000,000.00 Enforcement measures against foreign medical personnel by the Ministry of Health and professional organizations include guidance and mediation by professional organizations, internal guidance by health agencies, verbal and written warnings by health agencies, guidance, supervision, and control by health agency personnel, revocation of licenses, and revocation of practice.

REFERENCES

- Adami Chazawi. (2007). *Malpraktik Kedokteran*. Malang: Bayunedia, hal 154
- Fatmasari, *Proses Penyelesaian Kasus Pelanggaran Izin Praktik Oleh Dokter*, Fakultas Ilmu Sosial dan Hukum, Universitas Negeri Surabaya
- Jazim Hamidi dan Charles Christian. (2015). *Hukum Keimigrasian bagi orang asing di Indonesia*. Jakarta: Sinar Grafika, hal 8
- Johar Nasution. (2005). *Hukum Kesehatan Pertanggung Jawaban Dokter*. Jakarta: PT. Rineka Cipta, hal 119
- Y.A. Trianan Ohoiwuntu. (2007). *Bunga Rumpai Hukum Kedokteran*. Malang: Bayumedia, hal 87
- Mohd. Yusuf DM, dkk. (2022). Analisis Hukum Pidana Dengan Sengaja Mempekerjakan Dokter Asing Yang Tidak Memiliki Izin Praktik Yang Dilakukan Oleh Klinik Kesehatan. *Jurnal Pendidikan dan Konseling*, 4(6), 7078.
- Nadisa Tiofunda Budiman. (2024). Isu Etika dalam Pemanfaatan Tenaga Kesehatan Warga Negara Asing di Indonesia: Perspektif Keberlanjutan Pelayanan Kesehatan. *Referendum : Jurnal Hukum Perdata dan Pidana*, 1 (2), 52.
- Nurchaya, Mila Andriani dan Dinie Anggraeni Dewi. (2021). Implementasi Nilai Dasar Pancasila Dalam Upaya Mewujudkan Tujuan Negara di Kehidupan Sehari-hari. *Jurnal Ilmu Pendidikan*, 3(3), 631-639.
- Purnomo, A. D., Hurit, H. E., & Amir, M. (2023). Analisa Penolakan Organisasi Profesi Ikatan Apoteker Indonesia (IAI) Terhadap Pengesahan Rancangan Undang-Undang Omnibus Law Kesehatan. *Jurnal Pendidikan Tambusai*, 7(3), 21067–21075

- Reynaldi Pesak. (2018). Pemberlakuan Ketentuan Pidana Denda Bagi Tenaga Kesehatan Atas Pelanggaran Undang-Undang Nomor 36 Tahun 2014 Tentang Tenaga Kesehatan. *Lex Crimen* 7(6), 136.
- Zami, A. Z., Mardialina, M., & Munir, A. M. (2020). Peluang Indonesia dalam Kerangka Kerjasama ASEAN di Bidang Kesehatan melalui ASEAN Framework Agreement on Services Paket 10. *Indonesian Journal of Global Discourse*, 2(1), 85–98. <https://sehatnegeriku.kemkes.go.id/baca/rilis-media/20130614/418050/pendayagunaan-tenaga-kesehatan-warga-negara-asing-di-indonesia/> diakses pada 8 Juli 2024, pukul 15.00 Wita.