Legal Protection for Patients Utilising Cross-Border Telemedicine

Adib Gemilang Badrani[1*], Mirah Midadan Fahmid[2], Zalzal[3]
[1]Faculty of Law, Universitas Airlangga
[2]Faculty of Engineering, Universitas Indonesia
[3]Independent Researcher
Corresponding Author's e-mail: adib.gemilang.ba2024@fh.unair.ac.id

SEIKAT
Jurnal Ilmu Sosial, Politik dan Hukum

e-ISSN: 2964-0962

SEIKAT: Jurnal Ilmu Sosial, Politik dan Hukum

https://ejournal.45mataram.ac.id/index.php/seikat

Vol. 5, No. 3 Juni 2026

Page: 1235-1246

Available at:

https://ejournal.45mataram.ac.id/index.php/seikat/article/view/2740

DOI:

https://doi.org/10.55681/seikat.v5i3.2740

Article History:

Received: 05-04-2026
Revised: 10-05-2026
Accepted: 20-06-2026

Abstract *: The development of information technology has transformed healthcare services, particularly through telemedicine that enables cross-border access. However, this growth is not accompanied by comprehensive legal framework harmonization, creating gaps in patient protection. This research analyzes two main research questions, how to harmonize Indonesia's national legal framework and international standards to protect patients in cross-border telemedicine, and effective law enforcement and justice access mechanisms when violations occur. Through normative analytical approach with comparative study, this research finds that Indonesia faces significant regulatory gaps regarding foreign practitioner licensing, medical liability standards, and dispute resolution mechanisms. Recommendations include establishing bilateral mutual recognition agreements, unifying ethical standards, and developing online dispute resolution platforms to improve justice access for patients.*

Keywords: *Cross-border Telemedicine; Patient Protection; Regulatory Harmonization; Medical Jurisdiction; Dispute Resolution*

Abstrak : Teknologi informasi telah mengubah layanan kesehatan, terutama melalui telemedisin, yang memungkinkan akses lintas batas. Namun, pertumbuhan ini belum diiringi dengan harmonisasi kerangka hukum yang komprehensif, sehingga menimbulkan celah dalam perlindungan pasien. Penelitian ini membahas dua pertanyaan utama: bagaimana kerangka hukum nasional Indonesia dapat diselaraskan dengan standar internasional untuk melindungi pasien dalam telemedisin lintas batas, dan mekanisme penegakan hukum serta akses ke keadilan apa saja yang tersedia secara efektif ketika terjadi pelanggaran? Dengan menggunakan pendekatan analitis normatif dan studi komparatif, penelitian ini mengungkap adanya celah regulasi yang signifikan di Indonesia terkait perizinan praktisi asing, standar pertanggungjawaban medis, dan mekanisme penyelesaian sengketa. Rekomendasi yang diajukan meliputi pembentukan perjanjian pengakuan timbal balik bilateral, penyatuan standar etika, serta pengembangan platform penyelesaian sengketa daring untuk meningkatkan akses pasien terhadap keadilan.

Kata Kunci: Telemedisin Lintas Batas; Perlindungan Pasien; Harmonisasi Regulasi; Yurisdiksi Medis; Penyelesaian Sengketa

INTRODUCTION

A new paradigm in the delivery of medical services has been brought about by the digital revolution of the healthcare industry. Over the past ten years, telemedicine which is a medical profession that uses information and communication technology to provide distant healthcare medical services has grown significantly (Prasetyo & Prananingrum, 2022). Technological

advancements like telemedicine, which allows for remote consultations and diagnosis, have led to the emergence of health solutions, greatly extending the scope of healthcare services in Indonesia, particularly following the COVID-19 pandemic. Since many distant areas of Indonesia still lack enough medical personnel and healthcare facilities, national scale telemedicine has been highly beneficial in reducing gaps in access to healthcare services and the uneven distribution of doctors in various regions. However, there are significant legal barriers when implementing health innovations, especially telemedicine, in the context of cross-border operations. These barriers include jurisdiction, medical practice license, and relevant clinical authority norms (Budiyanti & Herlambang, 2021).

Today's telemedicine practice is not only a national solution, but it has grown as well into a response to the world's healthcare service needs, with medical services reaching beyond national borders (Rustam & Sidipratomo, 2023). However, a comprehensive regulatory framework has not kept up with this quick progress, and the exponential expansion of telemedicine has led to difficult legal issues. In the end, the cross-border aspect of telemedicine in which medical professionals are in one nation while patients are in another raises important issues regarding which laws and jurisdictions apply, what licensing and competency requirements apply to foreign practitioners, how medical responsibility and liability are handled, and how to set up efficient dispute resolution procedures for legal protection (Alvina et al., 2025). The regulations' lack of readiness in following progress of technology that presents as a health solution will really put patient safety and service quality at risk.

Considering the substantial potential losses that patients may suffer, standard telemedicine services should already have guidelines. The same thing could be detrimental to the standing of medical practitioners, hospitals, and platform providers as well as other healthcare professionals involved in the telemedicine idea. To reduce the dangers of malpractice and other ethical difficulties, the notion of telemedicine itself requires a thorough grasp of the boundaries of medical actions that can be performed electronically. To reduce or perhaps completely eradicate possible threats, regulations are in place (Anwar, 2013).

The Indonesian legal system, which is governed by Law Number 36 of 2009 on Health, continues to employ a traditional territorial approach, presuming that medical procedures take place within the country's borders. The intricacies of international telemedicine are not sufficiently taken into account by this method. There are still legal gaps, especially with regard to technological operating standards, consequences for privacy violations, and cross-regional jurisdiction (Bonsapia & Jumiran, 2025). However, legislation governing telemedicine in Indonesia, such as Minister of Health Regulation Number 20 of 2019, has built a legal framework. Although Article 42 of Law Number 36 of 2009 on Health acknowledges telemedicine as a valid means of providing healthcare services, the lack of specific implementing laws leads to legal uncertainty and unpredictability (Fakih, 2022). A more thorough legal framework is therefore required to address this issue, which includes not controlling the practice requirements for medical professionals or foreign physicians who would be involved in cross-border telemedicine procedures in Indonesia.

The present laws are still failing to provide a complete legal framework for the practice of medicine using telemedicine, especially when the applications utilised are not official healthcare institutions. In the context of medical malpractice and patient data protection on non-facility telemedicine platforms, this presents a regulatory gap that may result in legal difficulties related to liability and accountability. In the field of cross-border telemedicine, where the intricacy of jurisdiction and professional standards raises the risk to patient rights, ensuring patient health is an essential component that necessitates an efficient legal framework (Tajuddin et al., 2022).

Therefore, in order to successfully protect patient rights in cross-border telemedicine operations and establish accountability criteria for service providers, an in-depth review of both national and international legal frameworks is required. The Health Law Number 17 of 2023 and its implementing regulations have given Indonesia a legal framework for the digitalisation of health services, but they haven't fully addressed patient data security and ethical issues, especially when it comes to cross-border telemedicine (Pomantow et al., 2023). In order to close the current legal gaps, it is imperative that more accurate and flexible laws be developed. This is especially true with regard to the legitimacy of electronic medical records in international legal disputes and technical requirements that are aligned with international provisions (Nurhaliza et al., 2025).

Problem Formulation

1. In order to give patients utilising cross-border telemedicine legal protection, how can Indonesia's national legal framework and international norms pertaining to licensing, healthcare practitioner credentials, and medical responsibility be aligned?
2. In cross-border telemedicine, how can the international legal system support law enforcement and patient access to justice?

METHOD

Using a descriptive qualitative methodology, this study examines Indonesia's cross-border telemedicine laws. Law Number 36 of 2023 on Health, Law Number 27 of 2022 on Personal Data Protection, and Minister of Health Regulation Number 20 of 2019 document studies were used to gather data. Academic literature and international standards pertaining to telemedicine practices were also consulted. In order to find regulatory gaps, analyse how well national and international standards correspond, and consider the implications for service providers' legal protection and accountability, the analysis was carried out using content and comparative legal approaches. Triangulation of contemporary literature and legal sources preserves the authenticity of the data. It is anticipated that the study's findings would offer suggestions for standardising laws and law enforcement procedures for patients receiving cross-border telemedicine.

RESULT AND DISCUSSION

Indonesia's National Law and International Guidelines for Telemedicine Regulation and Medical Obligation to Safeguard Patients Through Cross-Border Telemedicine

1. Overview and Definition of Cross-Border Telemedicine

The context of Telemedicine is the delivery of medical services, including diagnosis, treatment, disease prevention, research, evaluation, and continuing education for healthcare providers, over long distances by means of information and communication technology. The idea of "healing at a distance," which originated with the advancement of communication technology in the 19th century, gave rise to the concept of telemedicine itself. Although American physician Thomas Bird first used the term "telemedicine" in the early 1970s, the concept has been around for much longer. Telemedicine was first created to overcome geographical constraints, particularly in isolated locations, ships at sea, and communities that have inadequate access to healthcare. It concentrated on the transmission of basic data, such as radiology diagnostics or voice consultations (Mansoor et al., 2025).

On the basis of the World Health Organization (WHO), telemedicine is the use of information and communication technologies by all medical professionals to provide healthcare services when distance is an important factor (World Health Organization, 2010). This includes research and evaluation, the exchange of reliable information for the diagnosis, treatment, and

prevention of illnesses and injuries, as well as for the ongoing education of healthcare providers. Three key components are highlighted in this definition: the utilisation of information and communication technology, the geographical distance between service providers and recipients, and the interchange of reliable medical data for diagnosis and treatment. Telemedicine's cross-border component brings another level of difficulty. Three models of cross-border telemedicine can be classified as follows: synchronous telemedicine, in which patients and practitioners communicate in real time; asynchronous telemedicine, in which data is exchanged at different times with retrospective analysis; and store-and-forward telemedicine, in which patient health data is stored for practitioners to analyse later (Waschkau et al., 2022).

2. Review of Telemedicine Patient Protection Patients

Three primary legal pillars serve as the foundation for protection in cross-border telemedicine practice: informed consent, medical liability, and data protection and privacy rights. Cross-jurisdictional telemedicine presents unique challenges for informed consent because patients need to be fully informed about the credentials and licenses of foreign practitioners, the relevant medical practice standards, the limitations of telemedicine services in comparison to in-person consultations, and the dispute resolution procedures in the event of infractions (Sharma et al., 2023). Medical responsibility presents significant issues as well, particularly when it comes to determining the appropriate standards of care and whether to adhere to the laws of the patient's home country or the practitioner's home country. In the meantime, disparities in national regulatory frameworks, such as the extremely stringent EU GDPR and Indonesia's still-developing Law No. 27 of 2022 on Personal Data Protection, are making personal data protection more complicated.

The National Law of Indonesia and International Guidelines for Telemedicine Regulation

1. Health Law Number 17 of 2023

The primary piece of legislation governing the practice of medicine in Indonesia and bolstering the legal safeguards for healthcare professionals is Health Law Number 17 of 2023 on Health. Nonetheless, this policy continues to rely on the traditional territorial paradigm, which presumes that medical procedures are carried out physically within Indonesian borders. The dynamics of the quickly expanding cross-border telemedicine practices are not yet fully accommodated by the legislation due to this paradigm.

The 2023 Health Law has a number of regulatory gaps, the first of which is the unclear cross-jurisdiction telemedicine restrictions. The law merely defines telemedicine as "the provision and facilitation of clinical services thru telecommunications and digital communication technology" (Article 1, point 22), and Article 25, paragraph (4) governs its general application. When Indonesian patients get treatments from foreign practitioners via digital platforms, the provision is not backed by clear restrictions addressing the legal standing. Therefore, whether cross-border telemedicine practices can be classified as "medical practice within the territory of Indonesia," which necessitates adherence to national legislation, is a basic jurisdictional question (Dewanti, 2024).

The licensing and registration procedures for foreign healthcare personnel are the subject of the second gap. According to Article 248 of the 2023 Health Law, foreign medical and healthcare professionals are only permitted to practice in Indonesia for specific specialities, for a restricted amount of time, and only after fulfilling the requirements of a Practice License (SIP), Registration Certificate (STR), and Competency Certificate. This clause is obviously intended to be used physically within the nation. As a result, it is still unclear whether foreign professionals who offer remote consultations from outside of Indonesia are regarded as "practicing in Indonesia," which

creates a great deal of legal ambiguity with regard to the implementation of professional obligations and competency standards.

The third gap relates to medical liability and responsibility requirements. While Article 440 and other professional liability rules govern criminal culpability for carelessness, the law's requirements still focused on Indonesian-licensed medical professionals. In the context of cross-border telemedicine, there are no explicit rules governing the assessment of malpractice, liability, choice of law, or competent jurisdiction for foreign practitioners. This regulatory gap could make law enforcement more difficult and decrease Indonesian patients' standard of protection.

2. The Telemedicine Minister's Regulation (Permenkeskes No. 20 of 2019)

As a first step toward domestic telemedicine regulation, the Indonesian government published Minister of Health Regulation Number 20 of 2019 about the Implementation of Telemedicine Services Between Health Service Facilities. As stated in Article 1 number 2 and Article 2, which mandate that services be rendered by medical professionals who hold a Practice License at the hosting fasyankes, this regulation directly restricts its scope to telemedicine services between healthcare facilities (fasyankes) within the nation. Cross-jurisdictional telemedicine practices and business-to-consumer (B2C) systems involving individual patients and foreign practitioners have not yet been accommodated by this rule, despite its progressive nature for the domestic setting.

Legal issues pertaining to license, competency, professional accountability, and law enforcement in the event of malpractice result from the lack of regulations regulating the engagement of foreign practitioners and direct services to patients. As a result, Minister of Health Regulation Number 20 of 2019 is insufficient to regulate cross-jurisdiction telemedicine scenarios that are growing more prevalent with the use of international digital platforms because it still concentrates on the concept of inter-health facilities locally.

3. Regulations for Patient Privacy and Personal Data (Law Number 27 of 2022 on Personal Data Protection)

In terms of international telemedicine, regulations relevant to the security of personal data continue to exhibit inadequacies. As the primary legislative framework for the protection of patient data, including sensitive health data, Indonesia passed Law Number 27 of 2022 on Personal Data Protection, which went into effect in October 2022. The transfer of personal data outside of Indonesia is governed by Article 56 of the PDP Law, which uses a tiered system. Data controllers are required to make sure that the destination country offers adequate and binding protection (paragraph 3) or an equivalent or higher level of protection (paragraph 2), and to obtain the consent of the data subject if both conditions are not met (paragraph 4).

Notwithstanding the fact that this mechanism facilitates cross-border services, the generic and sometimes ambiguous wording of the articles creates practical legal confusion. Inconsistent data protection might result from significant deviations from international standards like the GDPR and the lack of comprehensive implementing rules. This may have an impact on patient trust, telemedicine platform compliance, and the possibility of legal action for breaches of privacy in cross-jurisdiction consultations.

4. The World Health Organization (WHO)

Suggests a number of important guidelines for the regulation of international telemedicine. These principles include the implementation of patient safety standards that guarantee the quality and safety of telemedicine services are on par with traditional medical practices, the mutual recognition of qualifications between nations for health practitioner licenses, and the harmonisation of ethical standards and clinical competencies at both regional and global levels. In order to specify the obligations of all parties involved in the management of cross-jurisdictional

telemedicine, including practitioners, platform providers, and nations, WHO also highlights the significance of having explicit accountability frameworks (Dhingra & Dabas, 2020).

5. Southeast Asia and the ASEAN Model

Significant differences in telemedicine regulation strategies are revealed by a comparison of ASEAN nations. Through the Healthcare Services Act and the Medical Council of Singapore's monitoring, Singapore enforces a stringent territorial control approach that mandates that all virtual consultations be performed by licensed Singaporean physicians. Thailand, on the other hand, takes a more accommodating stance with a reciprocal recognition system through the Medical Council of Thailand, which permits physicians from nearby nations with comparable licenses to offer telemedicine services following special approval. However, regional research highlights that the best approach for cross-border telemedicine regulation is still up for debate at the ASEAN level (Intan Sabrina & Defi, 2021).

6. National and International Organization Practices

Other nations' experiences provide Indonesia with valuable insights for addressing the regulatory gaps in cross-border telemedicine. Referring to the principles of mutual recognition and the freedom of movement of healthcare services, Directive 2011/24/EU on the Application of Patients' Rights in Cross-Border Healthcare is the most structured framework at the European regional level that acknowledges the right of patients to receive healthcare services in other EU member states. While this directive incorporates telemedicine as a component of cross-border healthcare, it still exhibits substantial constraints, particularly in the regulation of solely digital practices conducted by unlicensed practitioners in the destination country. A study published in PubMed Central has confirmed that legal uncertainty regarding telemedicine is still a significant issue, despite the European Union's advanced level of integration (Carradinha et al., 2026).

Through Directive 2011/24/EU, the European Union takes a progressive stance on international telemedicine. According to this directive, patients are entitled to get medical care in another member state without prior authorisation; the "Member State of treatment" is defined as the service provider's home country (Article 3). Physicians who hold a licence in one EU member state are not required to get another licence in order to conduct telemedicine consultations in other member states. Based on the country-of-origin principle outlined in the Commerce Directive 2000/31/EC, the patient is still eligible to reimbursement from their national insurance system, but the doctor's country of origin bears primary legal responsibility (Campiglio, 2024). Regarding the freedom to offer services, this notion is consistent with Articles 56 and 57 of the Treaty on the Functioning of the European Union (TFEU). Additionally, patients are entitled to complete access to their medical records. Although it still presents difficulties in dealing with cross-jurisdictional misconduct, this European Union approach demonstrates how regional regulatory harmonisation can increase access to digital health services while upholding accountability (de Oliveira Andrade et al., 2022).

In the United States, a more decentralised approach is implemented, with each state establishing its own telemedicine regulations. However, efforts to harmonise have been made through the Interstate Medical Licensure Compact (IMLC), which makes it easier and faster for practitioners to get multi-state licenses. This model shows that reducing jurisdictional barriers without sacrificing professional competency standards can be accomplished through the mechanism of mutual recognition of licenses (Deyo et al., 2023).

Dubai has put in place thorough and organised telemedicine laws through the Dubai Health Authority (DHA). Thru the Standards for Telehealth Services, DHA allows DHA-licensed doctors located outside the United Arab Emirates to provide teleconsultations to patients in Dubai, provided

they remain affiliated with DHA-licensed healthcare facilities (Dubai Health Authority, 2023). This strategy is hybrid, which means that although physicians work from outside the physical jurisdiction, DHA standards and oversight must be followed throughout the full consultation, medical record creation, prescription issuance, and data protection procedure. In addition to increasing patient access to uncommon specialisations and follow-up consultations without requiring physical presence, this model guarantees the quality, safety, and accountability of services (Aris Prio Agus Santoso et al., 2024). As a result, Dubai has effectively struck a compromise between stringent patient protection and innovative cross-border telemedicine. This approach is widely utilized to provide rare specialization services or advanced consultations that are not adequately available domestically, while also expanding accessibility to high-quality healthcare services, including access to international specialists without requiring the physical presence of the patient.

Australia implements a strict yet structured approach in regulating cross-border telemedicine practices thru the Guidelines on Telehealth Consultations with Patients issued by the Australian Health Practitioner Regulation Agency (AHPRA) and the Medical Board of Australia based on the Health Practitioner Regulation National Law (Osman et al., 2024). This regulation requires all practitioners providing telemedicine services to patients in Australia to be fully registered with AHPRA and to adhere to the same practice standards as face-to-face services, including informed consent, patient data confidentiality, clinical risk management, as well as service quality and safety. Although foreign doctors are allowed to provide teleconsultations, they are required to undergo a competency assessment and obtain AHPRA registration first. This approach reflects a strong balance between flexible access to healthcare services and high patient protection (Foo et al., 2023).

Identification of Legal Gaps and Their Consequences for Patient Protection

Significant regulatory gaps continue to exist in Indonesia for cross-border telemedicine practices, as a result of Law Number 17 of 2023 concerning Health. The potential for these gaps to present clinical, legal, and ethical dangers necessitates critical attention. First, there is uncertainty about foreign healthcare professionals' ability and licensure. According to Article 248 of the 2023 Health Law, all healthcare professionals who operate within Indonesia's borders are required to possess an official licence and registration (Rayyan & Siregar, 2025). The licensing process for foreign professionals offering online telemedicine services from outside Indonesia is not currently governed by this clause, nevertheless. The lack of legal protection for patients receiving cross-border telemedicine is highlighted by the legal vacuum, which also creates a gap in the way malpractice claims are handled. 62% of telemedicine patients are unable to verify international healthcare providers, according to the Indonesian Digital Health Survey (2024), underscoring the need for more precise standards.

Second, the laws governing medical culpability are inconsistent. The 2023 Health Law generally regulates the obligation of the standard of care; however, it has not yet provided clear guidelines regarding the applicable standards in cross-border telemedicine practices, whether this refers to Indonesian standards, the standards of the practitioner's home country, or international standards. Due to variations in healthcare methods, equipment, and protocols among nations, assessing negligence is made much more difficult. The majority of international jurisdictions still lack thorough legislation pertaining to the application of the standard of care in the context of cross-jurisdictional telemedicine, according to a study published in the Journal of Medical Law and Ethics (2024). Third, the existing safeguards for patient privacy and personal data are insufficient. Despite the existence of a PDP Law, its application to cross-border telemedicine remains uncertain, particularly with regard to the obligations of data processors and the procedures allowing data

transfer overseas (Article 56). The lack of an operational definition for "essentially equivalent protection" makes it challenging to comply with international regulations like the GDPR and raises the possibility of privacy infractions (Fauziah et al., 2026).

Fourth, there is a regulatory void concerning openness and informed consent. Patients are guaranteed the right to receive sufficient information under the 2023 Health Law; however, there is no explicit provision mandating that telemedicine platforms or foreign practitioners provide comprehensive informed consent. This includes an explanation of the practitioner's licence status, the relevant legal jurisdiction, the risks associated with telemedicine vs in-person consultations, and the procedures for filing complaints and resolving disputes. These flaws erode patients' legal protections and raise questions about their rights and hazards (Harinawantara et al., 2025).

International Law's Law Enforcement Mechanisms and Telemedicine Patients' Access to Justice

There are two main ways that patients who suffer from malpractice or rights violations in cross-border telemedicine practices can fight for their rights: the domestic route as a first step and the international legal route as a more effective mechanism when the perpetrator is outside Indonesia's jurisdiction. Patients can report a criminal offence under Article 440 of the Health Law, file a civil lawsuit under Article 1365 of the Civil Code and the provisions on medical responsibility in Law No. 17 of 2023 concerning Health at the local District Court, and file an ethical complaint with the Indonesian Medical Disciplinary Honorary Council (MKDKI) (Sharma et al., 2023). Due to the challenges of summoning and decision implementation, this approach is comparatively more accessible, but its efficacy is severely constrained if the physician or platform works from outside. Due to the challenges of summons, proof, and decision implementation, the domestic path is comparatively more accessible, but its efficacy is severely constrained if the doctor or platform works from overseas. Thus, in accordance with the arbitration clause in the platform's Terms of Service, patients can continue their efforts through international legal channels, particularly by commencing international arbitration under the UNCITRAL Arbitration Rules or the International Chamber of Commerce (ICC). Patients can also file complaints directly with regulatory bodies in the home country of the practitioner, such as the Dubai Health Authority, Singapore Medical Council, or Medical Council of Thailand. They can also encourage the Indonesian government to use the Mutual Legal Assistance Treaty (MLAT) mechanism in cases involving serious data breaches or criminal elements. Currently, the best approach for promoting patient rights in international telemedicine practices is to combine international arbitration with cross-regulator complaints in the country of origin.

The most practical and advised course of action for cross-border telemedicine cases under international law is international arbitration. By using the arbitration clause usually found in the platform's Terms of Service, patients can start arbitration through the International Chamber of Commerce (ICC) or the UNCITRAL Arbitration Rules. The 1958 New York Convention allows Indonesia to enforce the outcome of this process, which typically takes nine to eighteen months and is confidential. Compared to a general judge in a state court, the primary benefit is the ability to choose an arbitrator with experience in medicine and health law, making the evaluation of malpractice more substantive.

Apart from arbitration, patients have the option to directly register complaints with the regulatory organization in the nation where the practitioner resides. For instance, the Medical Council of Thailand, the Singapore Medical Council, or the Dubai Health Authority (DHA) may receive the complaint if the physician is from Thailand, Singapore, or Dubai. Although they don't usually give the patient direct compensation, these regulators have the power to apply disciplinary measures up to the revocation of the doctor's licence (Gritsenko, 2024). This phase can be

completed concurrently with the arbitration process and is reasonably priced. Through the Mutual Legal Assistance Treaty (MLAT), patients can request that the Indonesian government launch a joint investigation with partner nations if the case has significant criminal aspects, such as fraud or widespread data breaches. Indonesia can obtain digital evidence, medical records, and communication logs from other nations through MLAT. Additionally, patients can file a claim directly with the insurance company if the telemedicine provider has an international malpractice insurance policy, which is frequently quicker than going through the legal system (Oparah et al., 2020).

Overall, the most practical approach that Indonesian patients can currently take is the mix of international arbitration, complaints to the home country regulator, and MLAT help, even though the international path is more complicated. In order to maximise its efficacy, patients are urged right away to swiftly consult a lawyer who specialises in health and technology law and to thoroughly record all evidence (such as chat screenshots, video call recordings, electronic prescriptions, and proof of loss).

1. WHO Rules and Conventions

A major driving force for the creation of a worldwide legal framework for telemedicine is the World Health Organization (WHO). Although it was first created for infectious diseases, the International Health Regulations (IHR) 2005 offer a framework for international collaboration on digital health information systems that can be modified for telemedicine. Additionally, the Global Strategy on Digital Health 2020–2025 is now the most comprehensive document that suggests harmonising platform responsibility, data interoperability, patient protection, and practitioner licensure norms. Nevertheless, the WHO has not yet released a legally binding international telemedicine convention. The WHO Convention on Cross-Border Telemedicine, which contains provisions for mutual recognition of qualifications, data protection standards, dispute resolution procedures, and a framework for shared responsibilities among practitioners, platforms, and nations, presents both opportunities and challenges for Indonesia to actively push for its initiation (Gomes et al., 2026).

2. Universal Health Coverage (UHC) and International Covenants

As guaranteed by Article 12 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the Sustainable Development Goals (Universal Health Coverage), Indonesia's commitment to the highest possible standard of health necessitates that the state not only provide domestic health services but also enable fair and equitable cross-border access. When it comes to telemedicine, the UHC principal mandates that national laws shouldn't make it difficult for patients in remote locations to see specialists in other nations. In order to make telemedicine a tool for fair access to healthcare worldwide, this international framework promotes the harmonisation of rules. In order for cross-border telemedicine to serve as both a technology tool and a method of upholding human rights in the field of health, Indonesia's national rules must be in line with these international obligations (Lougarre, 2016).

3. The ASEAN Data Protection Framework and the Mutual Recognition Agreement (MRA) for Healthcare Professionals

Since 2006, ASEAN has effectively negotiated a Mutual Recognition Arrangement (MRA) for the nursing profession; however, the MRA for physicians and other health professionals has not yet been finalised. Because of this, each member nation continues to implement stringent national regulations, which makes it challenging for medical professionals in one nation to simply offer telemedicine services to another. Digital health is now one of the strategic priorities of ASEAN Connectivity 2025 and the ASEAN Digital Economy Framework, although there is still very little

actual implementation in practice. In order to achieve reciprocal recognition of licenses, harmonisation of competency standards, and safe and high-quality cross-border access for healthcare practitioners in the ASEAN region (Intan Sabrina & Defi, 2021), it is imperative that a comprehensive and binding ASEAN Telemedicine Mutual Recognition Framework be established. However, one of ASEAN's primary shortcomings in cross-border telemedicine operations is still the security of patients' private information. While the ASEAN Data Protection Framework (2023) is still in its early phases of implementation, the ASEAN Framework on Personal Data Protection (2016) is a soft legislation that is not legally binding. Significant legal uncertainty arises in health data transfers due to the stark differences in national rules, from Singapore's strict PDPA to the still-weak restrictions in some member countries. Cross-regional data transfers make this discrepancy much more complicated, especially in light of the GDPR being implemented by the European Union. As a result, ASEAN must quickly develop a Binding Protocol on Health Data Protection that specifies minimum requirements for health data transfers, cross-border informed consent processes, and uniform protocols for reporting and managing data breaches (Sharma et al., 2023).

CONCLUSION

There are still several regulatory loopholes pertaining to patient protection in telemedicine practice, especially when it comes to the absence of legal standards designed to safeguard patient interests. The establishment of a legal framework has not kept up with the rapid advancement of technology in the health sector, which has resulted in the law continuously falling behind innovation. Enforcing the legislation addressing patient losses is challenging due to the lack of clarity and comprehensiveness of both national and international legal instruments. In addition to endangering patients, this situation also poses a hazard to healthcare professionals, particularly physicians, who may become involved in legal ambiguities as a result of unclear legislation. As a result, the government must act quickly to expand international collaboration through bilateral and multilateral agreements and to start developing comprehensive national legislation. The safety of patients and legal certainty for healthcare professionals in cross-border telemedicine practices can only be fully achieved with robust harmonisation and legal clarity.

Indonesia must quickly create a Healthcare-Specific MLAT Addendum with important allies like Singapore, Thailand, and Malaysia in order to bolster cross-border law enforcement. The exchange of electronic medical records, witness examinations via video conference, coordination of administrative sanctions, and joint investigations of telemedicine malpractice cases are anticipated to be facilitated by this addendum. In order to improve the way that crimes like fraud, health data breaches, and cybercrimes pertaining to telemedicine are handled, adoption of the Budapest Cybercrime Convention ought to be given top priority. Comprehensive institutional and legal reforms are required at the national level. The Health Law No. 17 of 2023 must be amended to incorporate provisions for cross-border recognition, international arbitration, conflict of laws, and mutual recognition licensing mechanisms. As a focal point for bilateral and multilateral talks, it is now imperative that the Ministry of Health establish the Telemedicine International Coordination Unit. In order to offer legal clarity and improve Indonesia's standing in international telemedicine collaboration, it is also recommended that Indonesia ratify the Budapest Cybercrime Convention and the Hague Convention on Choice of Court Agreements as soon as possible during the 2025–2026 term.

REFERENCES

Alvina, Markoni, Kanthika, I. M., & Asri, D. P. B. (2025). Legal Protection of Patients and Responsibilities of Artificial Intelligence- Based Telemedicine Health Services in Indonesia.

Journal of Universal Studies, *5*(9), 11050–11056.

Anwar, A. (2013). *Aspek Hukum Penggunaan Telemedicine*.

Aris Prio Agus Santoso, Soares, D., Fauzi, F., & Amallia, S. D. (2024). Telemedicine: International Law Comparison. *The Easta Journal Law and Human Rights*, *2*(03), 116–126. https://doi.org/10.58812/eslhr.v2i03.286

Bonsapia, M., & Jumiran. (2025). ASPEK HUKUM TELEMEDICINE DI INDONESIA. *Jurnal Ilmu Hukum "The Juris,"* *9*(1), 259–268.

Budiyanti, R. T., & Herlambang, P. M. (2021). Perlindungan Hukum Pasien dalam Layanan Konsultasi Kesehatan Online. *Jurmal Hukum Kesehatan Indonesia*, *01*(01), 1–10.

Campiglio, C. (2024). EU Cross-border Telemedicine: A Partial Harmonisation of Product and Professional Liability? *European Papers - A Journal on Law and Integration*, *2023 8*(3), 1539–1554. https://doi.org/10.15166/2499-8249/729

Carradinha, M., Mendes, V. I. S., Moura, R. P., Silva, N. P., Rocha, L., Gonçalves, J., Antunes, I., Schiza, E., Pattichis, C. S., Zanini, A., Pajić, V., & Pinto, C. S. (2026). Telemedicine and the European Health Data Space: a new paradigm for healthcare in the EU. *Frontiers in Digital Health*, *7*(January), 1–21. https://doi.org/10.3389/fdgth.2025.1713758

de Oliveira Andrade, A., Soares, A. B., de Andrade Palis, A., Cabral, A. M., Barreto, C. G. L., de Souza, D. B., de Paula Silva, F., Santos, F. P., Silva, G. L., Guimarães, J. F. V., de Araújo, L. A. S., Nóbrega, L. R., Mendes, L. C., Luiz, L. M. D., Brandão, M. R., Milagre, S. T., de Lima Gonçalves, V., de Freitas Morales, V. H., da Conceição Lima, V., & Pereira, A. A. (2022). On the use of telemedicine in the context of COVID-19: legal aspects and a systematic review of technology. *Research on Biomedical Engineering*, *38*(1), 209–227. https://doi.org/10.1007/s42600-021-00133-8

Dewanti, M. A. M. (2024). Legal Protection of Patients in Telemedicine Services in Indonesia. *International Journal of Judicial Law*, *03*(05), 18–22.

Deyo, D., Ghosh, S., & Plemmons, A. (2023). Access to Care and Physician-Practice Growth after the Interstate Medical Licensure Compact. *SSRN Electronic Journal*. https://doi.org/10.2139/ssrn.4629647

Dhingra, D., & Dabas, A. (2020). Global Strategy on Digital Health. In *Indian Pediatrics* (Vol. 57, Issue 4). https://doi.org/10.1007/s13312-020-1789-7

Fakih, M. (2022). *Telemedicine in Indonesia During the Covid-19 Pandemic : Patient ' s Privacy Rights Protection Overview*. *16*(1), 1–17. https://doi.org/10.25041/fiatjustisia.v16no1.2583

Fauziah, Y. A., Susanto, D. A., & Utama, Y. P. (2026). *Perlindungan Hukum Data Kesehatan Pasien di Era Digital*. *6*(27), 1–19.

Foo, D., Spanos, S., Dammery, G., Ellis, L. A., Willcock, S. M., & Braithwaite, J. (2023). The rise of direct-to-consumer telemedicine services in Australia: implications for primary care and future research. *Medical Journal of Australia*, *219*(8), 344–347. https://doi.org/10.5694/mja2.52097

Gomes, R. R., Silva dos Santos, C. A., Duarte, I., & Nunes, R. (2026). Global Mapping of Telemedicine Regulation and Ethical Safeguards: Mixed Methods Exploratory Document Analysis. *JMIR Formative Research*, *10*. https://doi.org/10.2196/86613

Gritsenko, K. (2024). Arbitration as a Dispute Resolution Mechanism for Cross-Border Intellectual Propery Disputes. *Cybaris®*, *15*(3), 4.

Harinawantara, H., Ashihani, N. Z., & Fikri, A. M. (2025). *Assessing the Urgency of Government Regulation Number 28 of 2024 on Telemedicine and Digital Consumer Protection*. *0696*.

Intan Sabrina, M., & Defi, I. R. (2021). Telemedicine Guidelines in South East Asia—A Scoping Review. *Frontiers in Neurology*, *11*(January), 1–13. https://doi.org/10.3389/fneur.2020.581649

Lougarre, C. (2016). *Using the Right to Health to Promote Universal Health Coverage : A Better Tool for Protecting Non-Nationals' Access to Affordable Health Care ? 18*(2), 35–48.

Mansoor, M., Butt, A., Sarfraz, R., Imran, S., Masrur, A., & Khan, M. R. (2025). Telemedicine literacy: an explanatory sequential mixed-method inquiry into awareness and experiences of medical students and clinicians in Islamabad. *BMC Medical Education*, *25*(1). https://doi.org/10.1186/s12909-025-08102-w

Nurhaliza, S., Mustamin, S. B., Saktilawati, W. O., Atnag, M., Fajar, N., & Sari, S. K. (2025). *Transformasi Layanan Kesehatan Melalui Telemedicine dan Telehealth : Tantangan, Peluang , dan Pendekatan Berpusat pada Pasien*. *April*, 74–79.

Oparah, S., Sagay, I., Okoli, A. O., & Ajayi, O. O. (2020). Telemedicine and Medical Jurisdiction: Legal Boundaries and Licensing Conflicts across State Lines. *International Journal of Multidisciplinary Research and Growth Evaluation*, *1*(2), 163–173. https://doi.org/10.54660/.ijmrge.2020.1.2.163-173

Osman, S., Churruca, K., Ellis, L. A., Luo, D., & Braithwaite, J. (2024). The Unintended Consequences of Telehealth in Australia: Critical Interpretive Synthesis. *Journal of Medical Internet Research*, *26*. https://doi.org/10.2196/57848

Pomantow, M. P., Rokhmat, & Retnowati, A. (2023). Perlindungan Hukum Kepada Klinik dan Dokter terhadap Inforamsi Pasien yang Tidak Lengkap. *Jurnal Cahaya Mandalika*, 667–680.

Prasetyo, A., & Prananingrum, D. H. (2022). *DISRUPSI LAYANAN KESEHATAN BERBASIS TELEMEDICINE : HUBUNGAN HUKUM DAN TANGGUNG JAWAB HUKUM PASIEN DAN DOKTER*. *6*(April), 225–246.

Rayyan, R., & Siregar, A. R. M. (2025). Kepastian Hukum dalam Penerapan Teknologi Kesehatan : Perlindungan Data Pasien dan Malpraktik. *Politika Progresif : Jurnal Hukum, Politik, Dan Humaniora*, *2*(1).

Rustam, M. R., & Sidipratomo, P. (2023). *Malpraktik dalam Penerapan Telemedicine dalam Prespektif Hukum Kesehatan*. *2*(2), 138–147.

Sharma, P., Sethi, M. I. S., Liem, A., Bhatti, H. B. S., Pandey, V., & Nair, A. (2023). A Review of Telemedicine Guidelines in the South-East Asia Region. *Telemedicine Reports*, *4*(1), 271–278. https://doi.org/10.1089/tmr.2023.0040

Tajuddin, M. A., Fahmi, M. S., Utami, G. A., & Klau, R. G. (2022). *Indonesian Medical Confidentiality of Telemedicine*. *01024*(36), 1–4.

Waschkau, A., Traulsen, P., & Steinhäuser, J. (2022). Evaluation of Synchronous and Asynchronous Telemedical Applications in Primary Care in Rural Regions of Northern Germany—Results and Lessons Learned from a Pilot Study. *International Journal of Environmental Research and Public Health*, *19*(22). https://doi.org/10.3390/ijerph192214860

World Health Organization. (2010). Telemedicine: Opportunity and developments in Member States / Report on the second global survey on eHealth Global / Global Observatory for eHealth series Vol 2. *World Health Organization*, *2*, 1–96. https://doi.org/https://iris.who.int/handle/10665/44497