



## Juridical Analysis of Primary Clinic Permits As Aesthetic Clinics

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### ABSTRACT

The increasing public need for health services in the field of medical aesthetics has led to an increase in the number of aesthetic clinics in Indonesia. The types of aesthetic clinics encountered in licensing can be in the form of primary clinics and primary clinics. Primary care clinics that offer basic health services are operated by doctors, but additional expertise in medical aesthetics for doctors has not been recognized by the government. This study uses a normative legal research method to find out the extent of legal provisions regarding the licensing of primary clinics that operate as aesthetic clinics. This research is expected to be useful for the government, aesthetic primary clinic operators and the community in explaining how the legal aspects of licensing primary clinics as aesthetic clinics.

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### 1. Introduction

Licensing is a very important element before starting any form of activity in the business world today. Permits are also one of the legal protections for the right to own or carry out activities (Anugrah et al., 2021). Without a permit, various kinds of problems will arise that can disrupt the order and regulation of life in society. Licensing can take various forms, including registration, recommendation, certification, quota determination, and permits required to conduct business, which a company or individual typically must obtain before engaging in a particular activity or action. With a permit, a company or a person can carry out the desired actions but still with regard to the public interest and accompanied by supervision (Dinda, 2019).

In administrative law, a permit is a decision issued by the government, which contains a content of concrete, individual, and final matters. A permit is defined as a unilateral act of state administrative law that enforces regulations concretely, following the requirements and procedures outlined in legal provisions and regulations (Putri, 2019). Licensing is a means of implementing regulatory functions and serves as a form of control that the government exerts over activities conducted by the community. Considering that each license is regulated in its own laws and regulations, in the process of determining it, it must pay attention to the laws and regulations on which it is based (Adrian Sutedi, 2015).

In the health sector, health law is a guideline for every service in the health sector. The existence of this law aims to ensure safe, quality, and in accordance with professional standards (Iswandari, 2006). Health law can be defined as a regulatory institution that is directly related to health care and at the same time also with the application of general civil law (civil law, criminal law, and administrative law (Yussy A Mannas, 2022).

In the field of health administration law, licensing is very important to maintain the quality of business activities in the health sector that meet service standards and health requirements so as to provide protection guarantees to the public when accessing health services. Licensing in the health sector is an activity related to the government's authority in granting permits, registration certificates and certifications in the health sector (Agustina, 2016).

Health services are the core of activities in the health sector. Health services are delivered by healthcare professionals, comprising medical personnel, healthcare workers, and support staff.. In carrying out health practices, all health human resources must be in accordance with ethics, morals, expertise and authority in accordance with the standards and procedures that have been regulated in the applicable laws and regulations (Indonesia, 2006). This is intended to prevent disciplinary violations, administrative violations or criminal acts (Hidayat et al., 2023).

The public can access health services at health care facilities. Health service facilities refer to places and/or equipment used to provide healthcare services to individuals or communities through promotive, preventive, curative, rehabilitative, and/or palliative methods. These services are administered by the central government, local governments, and/or community organizations (Nafilatul Fitri & Rizki Mustika Riswari, 2022). Health service facilities consist of first-level, advanced and supporting health services. First-level health service facilities provide primary health services, consisting of health centers, primary clinics, and independent practices of medical personnel or health workers. Meanwhile, advanced health service facilities provide advanced health services which include specialist services and/or subspecialty services. Every health service facility is obliged to provide quality health services and prioritize patient safety. To maintain this quality, licensing and supervision by the government are needed in accordance with its authority according to laws and regulations (Susetiyo & Iftitah, 2021).

Clinics, as one of the health service facilities, must obtain proper licensing before offering health services. There are two types of clinics: primary clinics and main clinics. A primary clinic provides basic medical services, whereas a main clinic offers specialized medical services or a combination of basic and specialized services. Health services in primary clinics are provided by general practitioners, while in main clinics, they are provided by specialists or subspecialists. (Gusman, 2018). A doctor in providing health services must be in accordance with his or her competence (Hidayat et al., 2023). The competency standards for each medical profession are established by the Indonesian medical colleges and approved by the Indonesian medical council.

The growing public need for aesthetic services today has an impact on the increasing number of aesthetic clinics. Aesthetic clinics that can be found in licensing can be in the form of primary clinics or main clinics that provide aesthetic services as their superior services. However, with its rapid development, there has been no special regulation regarding the field of medical aesthetics in Indonesia, so there is no clarity regarding the status of medical aesthetic services in health efforts (Rina, 2018). In 2007, the Ministry of Health of the Republic of Indonesia once issued guidelines for the implementation of aesthetic beauty clinics, which subsequently became no longer valid with the issuance of the latest health law and followed by several other regulations. There are also several regional regulations that contain requirements related to aesthetic beauty clinics which are currently being reviewed a lot. Regulations related to clinics have been regulated in the Regulation of the Minister of Health Number 9 of 2014 concerning Clinics and about the standards for the implementation of clinic business have been regulated in the Regulation of the Minister of Health Number 14 of 2021 concerning Standards for Business Activities and Products in the Implementation of Risk-Based Business Licensing in the Health Sector.

The debate about aesthetic services in the medical community is still happening related to determining whether aesthetic services are the competence of doctors or only the competence of specialist doctors. Many doctors are found who take part in aesthetic training with the aim of being able to practice medical aesthetics. However, the Indonesian medical council has not regulated the existence of additional competency certificates for doctors, what has been regulated is an additional competency certificate for specialist doctors (Ricky, 2020). Thus, there is no clarity regarding the authority of doctors to provide medical aesthetic services, so this will certainly also have an impact on medical aesthetic services in primary clinics carried out by the doctor (Erni Yati, 2020). From this background description, it is very important to know what are the legal aspects of licensing primary clinics as aesthetic clinics.

This study will specifically analyze legally how the licensing aspects of primary clinics operating as aesthetic clinics, and will be linked to the competence of doctors who perform aesthetic services in the primary clinics. This research is expected to provide knowledge for legal experts in the health sector as well as for doctors as health practitioners so that they can practice safely according to applicable regulations.

## **2. Method**

The study employs the normative legal research method. This method examines the law as it is written in laws and regulations (law in books), or conceptualizes law as rules or norms that serve as benchmarks for appropriate human behavior. As such, normative legal research relies solely on secondary legal data, which includes primary legal materials, secondary legal materials, or tertiary data (Amiruddin & Zainal Asikin, 2021).

Primary legal materials are authoritative legal sources with inherent legal authority. They include laws and regulations, official records or minutes documenting the legislative process, and judicial decisions (Irwansyah & Ahsan Yunus, 2023).

Secondary legal materials encompass publications about the law that are not official documents. These include textbooks, legal dictionaries, legal journals, and commentaries on court decisions. In this study, secondary legal materials provide interpretations and analyses of primary legal materials. They include expert opinions relevant to the research topic, readings related to the research title, research findings, and other pertinent literature elements.

Tertiary legal materials are resources that provide references and explanations about primary and secondary legal materials. Examples include legal dictionaries, encyclopedias, cumulative indexes, magazines, newspapers, and online sources such as the internet.

Once all legal materials are collected, they undergo management, editing, and analysis. The management involves summarizing and reviewing these materials. The analysis of collected materials is conducted using qualitative methods, focusing on general principles underlying the manifestation of symptoms in human life. This qualitative approach is employed to draw conclusions, aiming to assess the extent to which primary clinics operating as aesthetic clinics obtain licensing.

### **3. Analysis and Results**

#### **3.1 Primary Clinic Licensing**

Regulations pertaining to clinics are governed by the Regulation of the Minister of Health of the Republic of Indonesia Number 9 of 2014 concerning Clinics. According to this regulation, all clinics must obtain an operational permit from the Regency/City Health Office before conducting health service activities (Peraturan Menteri Kesehatan Republik Indonesia Nomor 9 Tahun 2014 Tentang Klinik, 2014). This permit encompasses several requirements such as facility standards, qualifications of medical personnel, and clinic management protocols (Gischa Ayu Mandira, 2021).

A clinic is a health service facility that provides health services that provide basic medical services and/or specialized medical services comprehensively. Clinics are classified as business activities with medium to high levels of risk. Therefore, business operators must obtain business licensing legality, which includes business identification numbers and standard certificates. These can be obtained through an electronically integrated business licensing system known as the online single submission, in accordance with the provisions of laws and regulations (Simanjuntak & Hermana, 2023).

The classification of Clinic businesses based on their service capabilities consists of 2 (two) types, namely: (a) A primary clinic is a clinic that provides basic medical services; and (b) A main clinic is a healthcare facility that offers specialized medical services or a combination of basic and specialized medical services. It may provide specialized medical care focusing on specific organ systems and/or branches/disciplines within one or multiple areas of specialty.

The standards for the implementation of clinic business have been regulated in the Regulation of the Minister of Health Number 14 of 2021 concerning Standards for Business Activities and Products in the Implementation of Risk-Based Business Licensing in the Health Sector. In the Permenkes regulation, the scope of health services carried out by clinics has been regulated: (a) Primary clinic. Primary clinics only provide basic medical services, in accordance with the competence of doctors or dentists. Health service efforts at the primary clinic include aspects of outpatient and inpatient basic medical services. Primary care clinics can only perform minor surgeries without general and/or spinal anesthesia. Primary clinics that provide aesthetic medicine services are held in accordance with the regulations of the Indonesian medical council regarding the competency standards of Indonesian doctors. (b) Main clinic. The main clinic provides specialized medical services, or basic and specialized medical services. Health service efforts in the main clinic include aspects of specialized medical services, or basic and specialized services. The main clinic can provide outpatient and inpatient services. Primary clinics may perform surgical procedures except for surgical procedures that use general anesthesia with inhalation and/or spinal, high-risk moderate surgery, or major surgery. The classification of minor, medium, and major surgeries is determined by the professional organization concerned. Health services provided in clinics must be in accordance with service standards and professional standards of health workers set/approved by the Minister (Peraturan Menteri Kesehatan RI Nomor 14 Tahun 2021 Tentang Standar Kegiatan Usaha Dan Produk Pada Penyelenggaraan Perizinan Berusaha Berbasis Risiko Sektor Kesehatan, 2021).

### 3.2 Indonesian Doctor Competency Standards

In Law Number 29 of 2004 concerning Medical Practice, what is meant by the medical profession is "a medical or dental work that is carried out based on a science, competencies obtained through tiered education, and a code of ethics that serves the community". There are three points of emphasis, namely: (a) Based on a science; (b) Competencies obtained through multi-level education; (c) Code of Ethics.

Moreover, according to Article 51 of the law, every doctor is required to deliver medical services adhering to professional standards and operational procedure standards. Professional standards are developed by professional organizations, encompassing competency standards and codes of ethics, whereas operational procedure standards are formulated by healthcare facilities. Every doctor will receive legal protection if they comply with these standards.

The Indonesian Physician Competency Standard (SKDI) is a guideline used to determine the minimum competencies that a doctor must have in Indonesia. In the competency standards there are 4 levels of ability, namely: (a) Ability level 1: recognize and explain. Graduates of doctors are able to recognize and explain the clinical picture of the disease, and know the most appropriate way to get more information about the disease, then determine the most appropriate referral for the patient. Doctor graduates are also able to follow up after returning from referrals. (b) Ability level 2: diagnose and refer. Doctor graduates are able to make a clinical diagnosis of the disease and determine the most appropriate referral for the next treatment of patients. Doctor graduates are also able to follow up after returning from referrals. (c) Ability level 3: diagnose, perform initial management, and referral. Ability level 3 is divided into ability levels 3A and 3B. At the 3A capability level, it is categorized as a non-emergency case. In this case, doctor graduates are able to make clinical diagnoses and provide preliminary therapy in non-emergency situations, are able to determine the most appropriate referral for further patient treatment, and are also able to follow up after returning from a referral. Meanwhile, the 3B capability level is categorized in emergency cases. In this case, medical graduates are able to make clinical diagnoses and provide preliminary therapy in emergency situations to save lives or prevent severity and/or disability in patients, are able to determine the most appropriate referral for further patient treatment, and are also able to follow up after returning from a referral. (d) Ability Level 4: diagnose, carry out management independently and completely. Doctor graduates are able to make clinical diagnoses and manage the disease independently and completely. Competency 4A is a competency achieved at the time of graduating from doctorhood, while competency 4B is achieved after completing internship and/or Continuing Medical Education (PKB). Thus, the highest level of competence is 4, where a doctor is expected to be able to conduct examinations until the management is independent and complete (Konsil Kedokteran Indonesia, 2012).

When it comes to aesthetics, in the 2012 Indonesian Physician Competency Standards (SKDI) there is no mention of the word aesthetics. Aesthetics comes from the Greek word "aestheticus" which is closely related to beauty. Then developed the term medical aesthetics which is a branch of medicine related to beauty care that aims to improve physical appearance (Mahesa Paranadipa Maikel, 2019). Regarding skin problems, in the 2012 SKDI there are several problems in the integument system, including itchy skin, painful skin, numb skin, discolored skin, dry skin, blistered skin, and so on. Then in the list of integument diseases, there are several diseases that are included in the category of ability level 4, namely *veruca vulgaris*, *molluscum contagiosum*, uncomplicated *zoster herpes*, uncomplicated *morbili*, uncomplicated *varicella*, uncomplicated *herpes simplex*, *impetigo*, *ulcerative impetigo (ectima)*, *superficial folliculitis*, *furunkel*, *carbunkel*, *erythritus*, *erysipelas*, *scrophuloderma*, *leprosy*, *syphilis stages 1 and 2*, *tinea*, *versicolor pityriasis*, *mild mukokutan candidosis*, *cutaneous of migrant larvae*, *filiariasis*,

pediculosis capitis and pubis, scabies, allergic reactions of insect bites, irritant contact dermatitis, Atopic dermatitis, numular dermatitis, napkin eczema, seborrheic dermatitis, pityriasis rosea, mild acne vulgaris, suppurative hidradenitis, perioral dermatitis, miliaria, acute urticaria, fix drug eruption, vulnus laseratum, punctum, and burns of the 1st and 2nd degree. As for therapeutic skills, which are included in the competencies of 4 doctors, namely selection of topical drugs, incision and drainage of abscesses, excision of benign tumors of the skin, blackhead extraction, wound care, compressions, compression bandages on varicosum veins and nail rozerplasty.

If you remember the meaning of the 4 ability levels above, then these diseases can be managed by a doctor without the need for a referral. As for some integument diseases that are categorized as ability level 3, these diseases must be referred to a dermatologist and venereologist (dermato venerology).

The problem is what about other aesthetic services carried out by doctors that are not yet available at SKDI, such as the use of laser tools, performing botox injections, or the use of other invasive or non-invasive tools. If referring to the discussion above, this action has not become the competence of the doctor, so it should not be done.

Furthermore, in the Decree of the Minister of Health Number 1186 Tahun 2022 concerning Clinical Practice Guidelines for Doctors in First-Level Health Service Facilities, it is stated that there are referral criteria for all cases or diseases encountered in first-level services. If you look carefully in the Ministry of Health, this only mentions the word aesthetic in the discussion of mild acne vulgaris, where aesthetic problems are the main complaints mentioned by patients during anamnesis. Treatments that can be done by doctors include pharmacotherapy, both topical and systemic. In cases of mild to moderate acne vulgaris, the doctor must make a referral to an advanced health facility (Konsil Kedokteran Indonesia, 2016).

Regarding aesthetic training that doctors participate in, until now there is no regulation regulating the existence of additional competency certificates for doctors. Reporting from the KKI website, what is meant by an additional competency certificate is a statement that has passed additional education which is held based on educational standards and competency standards issued by the relevant collegium and ratified by KKI. The Certificate of Registration of Additional Qualifications (STR KT) is given by KKI to specialist doctors and specialist dentists who already have additional competency certificates (Veronica Komalawati & Dhani Kurniawan, 2018).

### **3.3 Juridical Analysis of Primary Clinic Permits as Aesthetic Clinics**

Although there are no regulations that explicitly regulate aesthetic clinics in Indonesia, some regulations on medical practice and health services generally also apply to aesthetic clinics. Primary care clinic licenses in Indonesia include requirements related to facilities, medicines, medical devices, qualified medical personnel and health workers, as well as operational procedures that must be met by clinics, including aesthetic clinics.

The most important problem in health services in the field of medical aesthetics is about competence related to the authority to provide services. In the licensing requirements for primary clinics, it is stated that primary clinics only provide basic medical services, in accordance with the competence of doctors or dentists. Furthermore, primary clinics that provide *aesthetic medicine services* are held in accordance with the regulations of the Indonesian medical council regarding the competency standards of Indonesian doctors.

It has been explained previously that in the Indonesian Physician Competency Standards (SKDI) in 2012 there is no mention of the word aesthetics. The competence of doctors with skill level 4 is only mentioned in the treatment of certain diseases and therapeutic skills, so

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other diseases must be referred to the appropriate specialists in advanced health facilities. Meanwhile, when viewed from the health services provided by primary clinics that provide health services in the field of medical aesthetics such as botox injections, thread implants, laser treatments, *dermabrasion*, and even *blepharoplasty*, and other aesthetic treatments that are not the competence of a doctor.

#### 4. Conclusion

The licensing of primary clinics as aesthetic clinics issued by the city/district government must be reviewed. This is because medical aesthetic competence has not been recognized as an additional competency for doctors, so it will affect the authority of doctors to provide aesthetic services in primary clinics. Clear laws and regulations related to the competence in the field of medical aesthetics for doctors are urgently needed to ensure that the practice carried out is in accordance with the set standards. It also aims to protect the interests and safety of patients receiving health services. The government has a responsibility to protect the public, including aesthetic clinic patients, from potentially harmful practices. Licensing and supervision of clinic operations, as well as strict law enforcement in the event of violations.

In the future, efforts are needed to develop adequate and supportive regulations in the field of medical aesthetics, including discussions on physician competence, operational standards, and patient protection. This will be a strong foundation for the development of responsible and trusted medical aesthetic services in Indonesia. It is essential that all procedures are performed by trained and accredited medical personnel, using equipment that meets standards, and adhering to established operating procedures. Regular government supervision is necessary to ensure that clinics consistently meet legal requirements and maintain expected service quality.

The results of this study are expected to contribute to the government as a regulator of licensing regulations in the health sector so that in the future the issuance of primary clinic licenses as aesthetic clinics can be carried out in accordance with applicable regulations. Furthermore, this research is also expected to provide knowledge for legal experts in the health sector as well as for doctors as health practitioners so that they can practice safely in accordance with applicable regulations. All of this will result in providing safe and quality medical practices for patients.

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