

TRANSFORMATION OF THE LEGAL STATUS OF MEDICAL PRACTICE PERMITS AFTER THE 2023 HEALTH LAW: A JURIDICAL ANALYSIS OF THE IMPLEMENTATION OF GOVERNMENT ADMINISTRATION PRINCIPLES

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Abstract

The Medical Practice Permit (Surat Izin Praktik/SIP) is an essential instrument in Indonesian administrative law, functioning as legal legitimacy for doctors and dentists to practice their profession. The enactment of Law Number 17 of 2023 concerning Health (Health Law 2023) and its implementing regulation, Government Regulation Number 28 of 2024, has triggered fundamental changes in the medical practice licensing regime, shifting the paradigm from regulation dominated by professional autonomy (self-regulation) towards state-centralized and integrated regulation. This research aims to examine the public administrative law aspects of the SIP's status as a State Administrative Decree (Keputusan Tata Usaha Negara/KTUN) and analyze the implementation of the General Principles of Good Governance (Asas-Asas Umum Pemerintahan yang Baik/AUPB) amidst the digitalization of licensing. The method used is normative juridical with a statute approach, a conceptual approach, and a case study of administrative court disputes. The findings indicate that the SIP remains a KTUN that is concrete, individual, and final, issued by authorized officials at the regional level, and subject to review in the State Administrative Court (Peradilan Tata Usaha Negara/PTUN). However, the implementation of the SIP now highly depends on the national digital integration system (SATUSEHAT SDM), which poses new challenges in enforcing the AUPB, especially Legal Certainty and Professionalism. This shift in authority demands rapid regulatory harmonization to ensure legal protection for medical personnel and patient safety.

Keywords: *Public Administrative Law, Medical Practice Permit, Licensing, Health Law 2023, AUPB, KTUN.*

INTRODUCTION

1. Background and Urgency of Regulation

Medical practice involves high risks to public safety, making it a sector that requires strict legal and administrative control. The Medical Practice Permit (SIP) serves as the primary instrument for this control, ensuring that every medical professional possesses the necessary competence, ethics, and legal standing to practice. For a long time, the state, through the Ministry of Health, has been fully responsible for ensuring service quality, and the SIP is the manifestation of this accountability.

Before 2023, medical practice licensing was strictly regulated, primarily by Law Number 29 of 2004 concerning Medical Practice and its derivatives. However, the issuance of Law Number 17 of 2023 concerning Health marked a massive shift in the legal paradigm. This Law revoked the old Medical Practice Law and integrated the entire health legal framework into one umbrella regulation. This change is crucial because it affects the mechanism for SIP issuance, supervision, and revocation, which must be re-examined under the new lens of public administrative law. The absence of an SIP, as a form of administrative violation, can have serious legal implications, including potential criminal sanctions.

On-the-ground problems, especially related to the availability and distribution of Health Human Resources (*Sumber Daya Manusia Kesehatan*, SDM), were the main considerations and urgency for the issuance of Law 17/2023, forcing the Government to pursue deregulation of licensing.

Health Human Resources (SDMK) Crisis: Data and Distribution

The SDM crisis in Indonesia is characterized by two main issues: low quantity and uneven distribution.

- **Data on the National Doctor-to-Population Ratio Gap (Quantity Urgency).** Data from the Ministry of Health indicates that Indonesia's doctor-to-population ratio in 2024 is only 0.47 per 1,000 inhabitants. This value is far below the World Health Organization (WHO) ideal standard, which sets a minimum ratio of 1:1,000 inhabitants. This low ratio places Indonesia at the 147th rank globally. This critical data is the primary justification for the Government to prioritize policies focused on accelerating the production and increasing access to SDM. The policy choice to explicitly simplify licensing bureaucracy is a trade-off that prioritizes the quantity and mobilization of human resources as a response to this crisis.
- **Data on Geographical Imbalance (Distribution Urgency).** Besides the shortage in numbers, the uneven distribution of medical personnel is also very significant, especially in the eastern and remote regions of Indonesia. This gap worsens the accessibility of health services for the communities in these areas.

Table 1 : Data on the Doctor Resource Gap in Indonesia (2024)

Indicator	Value	Context of Urgency (Health Law 17/2023)
National Doctor Ratio	0.47 per 1,000 inhabitants	Far below WHO standard (1:1,000); Underpins the policy of accelerating SDM production.
World Ranking for Doctor Ratio	147	Indicates an urgent level of HR crisis.
Example Provinces with Lowest Doctors (Age ≤ 40 Years)	Papua Barat (312), Gorontalo (338), Kaltara (405)	Encourages licensing deregulation for ease of placement and mobilization in remote areas.

The imbalance, as seen from the data of provinces with the fewest doctors aged ≤ 40 years—namely West Papua (312 doctors), Gorontalo (338 doctors), and North Maluku (585 doctors)—shows that rigid practice regulations under Law 29/2004 actually hindered the placement of doctors in locations most in need. This necessitates the simplification of licensing bureaucracy to facilitate SDM mobilization.

Bureaucratic and Administrative Obstacles to Medical Practice

The second urgency is the administrative burden that impedes the movement of medical personnel.

- **Administrative Burden of STR and SIP Renewal under Law 29/2004.** Before Law 17/2023, doctors and health personnel were required to renew their Registration Certificate (*Surat Tanda Registrasi*, STR) and Practice Permit (SIP) every five years. This process involved lengthy bureaucracy, validation, and the requirement for recommendations from Professional Organizations (OP). This complex and repetitive process was deemed burdensome, time-consuming, and triggered potential indirect costs for health personnel. This bureaucratic obstacle was considered a "bottleneck" slowing down the availability and licensing of doctors amidst the SDMK crisis.
- **Issue of Professional Organization Conflict of Interest in College Governance.** The Government identified that a structural problem was the placement of the College (*Kolegium*), responsible for education and competency standards, under the full control of the Professional Organization. According to the Government, this structure created a conflict of interest that hampered the acceleration of specialist doctor production and curriculum adjustments. The HR crisis, especially the ratio of 0.47/1000, urged the Government to seek quick solutions. Thus, the existence of a conflict of interest at the College level was deemed to hinder the state's efforts to increase the specialist doctor ratio. This became the justification for taking over control of the College through redefinition of roles under Law 17/2023.

2. The Shift in the Legal Paradigm in the Health Sector

The SIP has always been recognized as an act of public administrative law issued by authorized officials in the health sector. In the new legal regime, the SIP must be subject to the principle of *lex specialis* established by Law Number 17 of 2023 concerning Health and its implementing regulation, Government Regulation Number 28 of 2024 concerning the Implementing Regulation of Law Number 17 of 2023 concerning Health.

The fundamental shift is the centralization of registration authority and standard setting at the central government level, followed by a strong push for the digitalization of public services. This aligns with the demand for modernizing government administration so that medical practice licensing adheres to the principles of *good governance* and the General Principles of Good Governance (AUPB). This study focuses on the application of AUPB, such as Legal Certainty, Openness, and Professionalism, amidst the reform of the licensing system, which is now electronically integrated.

Problem Formulation

1. How is the legal status of the SIP as a State Administrative Decree (KTUN) maintained and implemented in the new legal regime after Health Law 2023, particularly concerning the accountability of administrative officials?
2. To what extent can the implementation of the digital licensing system (SATUSEHAT SDMK and Digital MPP) guarantee the enforcement of AUPB, especially Legal Certainty and Openness, and the relevance of the **Fictitious Positive** principle in the context of electronic services?
3. What are the juridical implications of the shift in institutional authority, particularly the repositioning of the role of Professional Organizations (OP) and the Indonesian Medical Council (KKI), on the principle of Professionalism in the substance of SIP issuance?

THEORETICAL BASIC : PROFESSIONAL LICENSING AND PRICIPLES OF ADMINISTRATIVE LAW

1. The Concept of Professional Licensing (*Vergunning*) in Administrative Law

In the discipline of Public Administrative Law, a permit (*vergunning*) granted to a professional, such as a doctor, is a form of personal license. This license not only provides legal legitimacy but also serves as an instrument of state supervision over the performance of public functions. Through the SIP, the state exercises preventive control (ensuring initial qualifications) and repressive control (allowing license revocation due to violations).

Due to its nature of regulating the relationship between the government and citizens in executive functions, the issuance of the SIP must be carried out based on the applicable administrative legal framework, including Law Number 30 of 2014 concerning Government Administration and its principles.

2. The Medical Practice Permit (SIP) as a State Administrative Decree (KTUN)

The SIP is strictly categorized as a State Administrative Decree (KTUN). This means the SIP meets the requirements of a decree that is **concrete** (applies to a specific subject), **individual** (not generally applicable), and **final** (creates definitive legal consequences). The authorized official, namely the regional government according to the authority, issues the SIP based on statutory attribution.

The legal status of the SIP as a KTUN guarantees legal protection for medical personnel. If the SIP is rejected or revoked, the decision can be challenged through the State Administrative Court (PTUN). The existence of the PTUN lawsuit mechanism allows for a review of the legality of the administrative decision, including consideration of whether the administrative official has acted in accordance with the AUPB and applicable legal procedures. This confirms that the KTUN, including the SIP, is a valid object of dispute in the public law domain.

3. General Principles of Good Governance (AUPB) and Legal Certainty

The General Principles of Good Governance (AUPB) are ethical and procedural guidelines for public officials. In the issuance of the SIP, principles such as Legal Certainty, Openness, Proportionality, and Professionalism must be applied. Legal Certainty demands procedural and substantial clarity in the licensing process.

To overcome bureaucratic obstacles, Indonesian Public Administrative Law introduced the **Fictitious Positive Principle**. Based on this principle, if the official does not respond to an application within a specified time limit, the application is legally deemed granted. The application of this Fictitious Positive Principle, regulated in the Government Administration Law, is an important mechanism for dealing with administrative obstacles such as slowness and non-transparency. Although the Job Creation Law and regulations related to *Online Single Submission* (OSS) have changed the definition and mechanism for resolving fictitious positive cases, the principle remains relevant as a coercive tool for the state administration to act responsively, especially when facing the dynamics of digital licensing.

RESEARCH METHOD

1. Approach

This research uses a qualitative method with a statute approach, a conceptual approach, and a case study approach.

2. Form

The form of this research is descriptive analytical, focusing on the juridical analysis of the transformation of the legal status of the Medical Practice Permit based on the implementation of government administration principles after the enactment of Health Law Number 17 of 2023.

RESULT AND DISCUSSION

1. SIP Legal Regime After Health Law 2023: Normative Changes

Withdrawal of Authority from the Old Medical Practice Law

The biggest normative implication is the revocation of Law Number 29 of 2004 concerning Medical Practice and its integration into Law Number 17 of 2023 concerning Health. This change eliminates the decades-old legal framework governing the medical profession. Nevertheless, to maintain legal certainty for medical personnel, SIPs issued under the old regime remain valid until their expiration date.

The Central Role of Implementing Regulations (GR 28/2024 and MoH Circular 2024)

Operational details related to registration and licensing after Health Law 2023 are further regulated through Government Regulation Number 28 of 2024. This GR affirms the shift in authority and new procedures.

In addition to the GR, the Ministry of Health (MoH) also issued Circulars (SE) as guidance for the transition and technical implementation. An example is MoH Circular Letter Number HK.02.01/MENKES/6/2024, which regulates the implementation of licensing. These implementing regulations form the legal basis for regional officials and medical personnel in processing SIPs through the Digital Public Service Mall (MPP Digital) and the SATUSEHAT SDMK system.

Table 2: Comparison of the Legal Basis for Medical Practice Licensing
(Pre- and Post-Law 17/2023)

Legal Aspect	Old Regime (Pre-2023)	New Regime (Post-2023)	Key Administrative Implication
Main Legal Basis for SIP	Law No. 29 of 2004 on Medical Practice	Law No. 17 of 2023 on Health	Centralization of the legal framework at the central level, creating a single framework.
STR Issuance	Indonesian Medical Council (KKI)	MoH/Government, STR valid for life.	Shift of registration authority, KKI is repositioned.
SIP Issuance	Regional Government after recommendation from OP/KKI.	Regional Government (DPM-PTSP/Digital MPP), mandatory registration in SATUSEHAT SDMK.	Integrated digital procedure, eliminating mandatory OP recommendations.
Latest Implementing Regulation	MoH Regulation No. 2052/Menkes/Per/X/2011	GR No. 28 of 2024 and MoH Circular 2024	Adjustment of licensing procedures with digital systems and new CPD schemes.

SIP and Continuous Professional Development (CPD/SKP) Requirements

Despite the administrative simplification of the Registration Certificate (STR), which is now valid for life, the obligation to renew the SIP (issued by the Regional Government) still requires the fulfillment of Continuous Professional Development Units (Satuan Kredit Profesi/SKP). The SIP becomes a periodic KTUN, and the SKP is a substantial prerequisite for its extension. The SIP now becomes the only KTUN that binds continuous professional competency (CPD). This indicates a dualism of administrative control: the STR guarantees a permanent registration status, but the SIP guarantees operational permission that requires proof of continuous professionalism. If a doctor fails to meet the SKP, their right to practice can be terminated through SIP rejection or revocation, even if their STR status remains valid. This condition requires a clear legal affirmation of the correlation and impact between the lifetime STR and the temporary SIP.

As a form of applying the principle of proportionality during the transition period, the Ministry of Health issued a policy relaxing the fulfillment of SKP for SIP extension, granting a deadline until December 31, 2024.

2. Critical Analysis of the Shift in Institutional Authority and the Principle of Professionalism

Repositioning of Professional Organizations (OP)

The new regime significantly reduces the role of Professional Organizations (OP) in the licensing process. The OP's authority to provide mandatory recommendations for the issuance of SIP and STR has been abolished. Legally, this eliminates the OP's function as a mandatory administrative filter in the issuance of the SIP KTUN.

The OP's role is now focused on competence development (SKP providers) and the socialization of digital systems. OPs are responsible for ensuring their members utilize official government platforms, such as SKPPlatform and Plataran Sehat (integrated into Satusehat SDMK), to record and report competency activities. This transformation shifts the OP from a regulatory authority to a facilitator, ensuring that digital bureaucratic efficiency does not compromise the strengthening of member competence.

Dynamics of the Indonesian Medical Council (KKI) vs. Ministry of Health

The most controversial shift in institutional authority lies in the setting of competency standards and curriculum. Health Law 2023 facilitates the establishment of the Collegium under the Ministry of Health.

This situation has led to legal disputes as it is feared that it may violate the principle of Professionalism. Some parties state that the Collegium formed by the MoH does not yet have established competency standards and curricula compared to the old Collegium (e.g., IDAI) which has extensive experience and reach. Failure to establish credible standards could damage the integrity of the SIP as a KTUN aimed at ensuring quality. The government's explanation, delivered in the Constitutional Court session, emphasizes that Health Law 2023 aims to ensure the independence of the collegium from certain interventions, although the polemic regarding the function and maturity of the new collegium persists.

This situation illustrates the tension between the attempt to centralize state control for bureaucratic efficiency and the demands of the principle of Professionalism, which requires the independence of experts in setting practice standards. The future legality of the SIP will highly depend on the quality of the competency standards set by the new Collegium regime.

Enforcement of the Principle of Professionalism through Continuous Professional Development Units (SKP)

The SIP requires the fulfillment of SKP, which is a direct implementation of the principle of Professionalism. SKP must be collected through various domains, including Learning, Service, and Dedication. This structure ensures that doctors not only practice (Service) but also continuously update their knowledge (Learning).

However, the need for SKP opens up opportunities for *moral hazard*, such as the practice of "SKP Brokering," which fundamentally damages the integrity of the system and the principle of Professionalism. This brokering is a serious challenge that must be prevented by the digital SKPPlatform system. By integrating SKP reporting into the official digital system, the MoH is

expected to ensure that SKP functions as a tool for genuine competency reinforcement, not merely the fulfillment of administrative formality.

Implementation of Digital Licensing and AUPB Enforcement

1. SIP Integration into the Government Digital Ecosystem

In order to meet the principle of Openness and cut down slow bureaucracy, the issuance of the SIP is now facilitated through the Digital Public Service Mall (MPP Digital). This application process requires the medical personnel data to be fully registered and validated in the Health Human Resources Information System (SATUSEHAT SDMK). SIP validation after submission at the Digital MPP must also go through data confirmation in the SATUSEHAT SDMK system.

This digitalization offers accountability and transparency, allowing applicants to track the status of their permits. To overcome obstacles that may arise during the application, the Government provides a special complaint mechanism through the MoH *helpdesk*.

2. Analysis of the Link with Risk-Based Licensing (RBA/OSS RBA)

Although there is a focus on implementing the *Online Single Submission Risk Based Approach* (OSS RBA) in Indonesia, the activity of doctor practice (KBLI 86201) is specifically excluded from this risk-based business licensing regime. This exclusion is based on the characteristics of the SIP as a personal professional permit related to the government and social activities, not purely a business permit.

Even though it is not under the OSS RBA framework, the philosophy of efficiency, digitalization, and integration carried by the RBA is fully adopted through the Digital MPP and SISDMK ecosystem. This confirms that the SIP remains a sectoral permit subject to health regulation, but its issuance procedure must utilize digital technology to achieve Legal Certainty and bureaucratic efficiency.

3. The Effectiveness of Digitalization in Enforcing AUPB

Digitalization transforms administrative challenges. Instead of facing slow manual bureaucracy, medical personnel now face the risk of automatic rejection based on data inconsistency or system error in the centralized system.

In this context, the enforcement of the **Fictitious Positive Principle** (Law 30/2014) becomes complex. The Fictitious Positive Principle is designed to force officials to act if the bureaucracy is slow. However, if the delay or rejection occurs due to technical data validation issues in SATUSEHAT SDMK (e.g., incomplete medical personnel data), can this system failure be considered the "silence" of the official that triggers the Fictitious Positive? This change demands that disputes in the PTUN shift from focusing on manual procedural negligence to reviewing the legality of the centralized system's data validation results.

Table 3: Analysis of the Implementation of the General Principles of Good Governance (AUPB) in the Digital SIP Process

AUPB Principle	Application in the Digital SIP Process (MPP/SATUSEHAT)	Potential Legal Issues
Legal Certainty	Use of SATUSEHAT SDMK as a single data source, reducing the potential for manual data inconsistency.	Inconsistency of medical personnel data between local and SDMK systems can halt the process, causing administrative uncertainty, and triggering the use of the <i>helpdesk</i> .
Openness (Transparency)	The application process can be tracked electronically through the Digital MPP.	Lack of transparency in the algorithm for determining SKP or technical validation procedures can raise doubts about the objectivity of the administrative decision.
Professionalism	The requirement for sufficient SKP (Learning, Service, Dedication) is guaranteed by the digital reporting system.	The risk of 'SKP Brokering' still exists, requiring strict supervision to ensure the integrity of the reported data and professionalism.
Accountability	The digital trail recorded in the system facilitates the determination of accountability for the SIP-issuing official (DPMPTSP).	System failures or data errors can be used as an excuse by officials to reject applications, so the accountability of officials needs to be clarified in the context of centralized system failures.

4. Administrative Legal Consequences: Revocation Disputes and Legal Protection SIP Revocation Mechanism as a Repressive KTUN Action

The SIP, as a final KTUN, can be revoked by the authorized official if the doctor is proven to have committed a serious ethical, disciplinary, or administrative violation. Examples of administrative violations include the failure to meet continuous SKP requirements or violations of the statement letter signed during the SIP application.

In carrying out the revocation, administrative officials must comply with administrative principles, especially the principle of proportionality, to ensure that the sanction imposed is commensurate with the violation committed. The revocation procedure must be carried out in accordance with administrative law so that the decision is legally valid and not easily overturned in the PTUN.

Lawsuits Against SIP Rejection/Revocation in the PTUN

Medical personnel who feel aggrieved by the decision to reject or revoke the SIP can file a lawsuit with the PTUN. The SIP is a relevant object of PTUN dispute. In the digital regime, this dispute is expected to shift from a dispute over manual procedures to a dispute based on the validity of the digital logs and the interpretation of the SKP requirements.

Future PTUN disputes will focus on whether the rejection decision (which may be based on insufficient SKP or failure of SDMK data validation) has met the elements of legality, including Legal Certainty and Accountability. Legal protection for medical personnel is reflected in the PTUN's ability to cancel illegal KTUNs and require officials to fully implement the court's decision.

Accountability of Administrative Officials (AUPB and Sanctions)

Administrative officials authorized to issue the SIP (Regional Government through DPMPTSP) are legally responsible for every stage of the permit issuance. This responsibility includes potential disputes in the PTUN. The Government Administration Law regulates administrative sanctions for officials who abuse authority or negligence.

Although digital systems such as Digital MPP and SATUSEHAT SDMK are designed to accelerate the process and minimize human error, failures in system integration or slowness in handling technical obstacles (as reported through the *helpdesk*) can be categorized as administrative negligence that triggers official accountability. Therefore, officials must ensure that the digital system runs effectively and does not violate the AUPB, especially the principles of Legal Certainty and Accountability.

CONCLUSION AND RECOMMENDATION

1. Conclusion

The Medical Practice Permit (SIP) remains a valid, concrete, individual, and final State Administrative Decree (KTUN). The legal regime after Health Law 2023 and GR 28/2024 has transformed the permit administration into a state-centralized and digitally integrated system (SATUSEHAT SDMK). This shift effectively eliminates manual bureaucratic obstacles but raises new challenges in enforcing the AUPB.

The main identified challenges are: (1) Fragmentation of professional control, where the lifetime STR shifts the entire burden of continuous competence supervision to the SIP. (2) A threat to the principle of Professionalism due to the polemic of the Collegium under the MoH, which requires strengthening the independence and maturity of standards. (3) The potential weakening of the Legal Certainty Principle and the Fictitious Positive Principle in the digital context, where rejection can occur automatically due to data errors, not official negligence, thus requiring the PTUN to review the legality of the system's validation.

2. Legal Policy Recommendations

To ensure Legal Certainty and professional integrity in the new SIP regime, the following are recommended:

- **Harmonization of Digital Licensing Standards:** The Government must immediately ensure perfect harmonization and synchronization of data between GR 28/2024, the MoH Circulars, and the operational technical standards of SATUSEHAT SDMK. This is important to eliminate data obstacles that can halt the SIP application process and restore

the principle of Legal Certainty.

- **Strengthening Professional Integrity and Authority:** The Ministry of Health must enhance strict supervision over the digital SKP reporting system (SKPPlatform) to prevent 'SKP Brokering' practices. Furthermore, the independence of the Collegium in setting competency standards must be guaranteed to enforce the principles of Professionalism and Accountability.
- **Enhancing Administrative Legal Protection:** Explicit legal guidelines are needed regarding the mechanism for filing objections and PTUN lawsuits for medical personnel whose SIP is rejected or delayed due to technical digital data constraints. This guide must clearly define when the Fictitious Positive Principle can be applied in situations of centralized system failure, to ensure effective legal protection.

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