

Health Facility Licensing Dispute

Delfina Gusman, Marryo Borry

Cite this article as:

Gusman, D., & Borry, M. (2020). Health Facility Licensing Dispute. *Unnes Law Journal*, 6(1), 97-118. <https://doi.org/10.15294/ulj.v5i2.27707>.

TABLE OF CONTENTS

Abstract	98
Introduction	99
Method	101
Licensing: Definition, Elements and Contemporary Developments	103
Permit in the Context of Licensing Dispute	107
Types of Permits for Primary Clinic Permits	109
Analysis of Clinical Licensing in Padang City	112
Conclusion	115
References	115

Health Facility Licensing Dispute

Delfina Gusman, Marryo Borry

ABSTRACT. Clinic is a health service facility that organizes individual health services that provide basic and/or specialist medical services. Primary Clinic (*Klinik Pratama*) is a Clinic that organizes basic medical services both general and specific. To establish a *Klinik Pratama* so that it can operate through a series of licensing processes namely Nuisance/Hinder Ordonnantie Permit (HO), Establishment Permit Clinic (IMK) and Clinical Operating Permit (IOK). The results of this process are overlapping or repetitive requirements, making the process ineffective and inefficient. This research is intended to analyze the dispute on health facility licensing in Padang City, West Sumatra. This paper analyzes overlapping of clinical licensing. The main problems that analyzed in this paper concerning to analyze and review clinical licensing, analyze licensing regulations at the Padang City level as a basis for recommendations on simplification, deletion and merging of licenses by the Padang City Government.

KEYWORDS. Licensing; Licensing Dispute; Clinic Establishment Permit; Clinical Operational Permit; Health Facility

Health Facility Licensing Dispute

Delfina Gusman*, Marryo Borry†

Introduction

According to Permenkes Number 9 of 2014, the Clinic is defined as a health service facility that provides individual health services that provide basic and/or specialist medical services. The clinic is divided into two, namely Pratama Clinic and Futama Clinic. Pratama Clinic is a clinic that organizes basic medical services both general and specific. While the main clinic is a clinic that provides specialist medical services or basic and specialist medical services. Pratama Clinic carries out basic medical services namely general practitioner, general dentist, medical services, simple laboratory services.

In terms of completeness of facilities and infrastructure as well as human resources in accordance with Permenkes Number 9 of 2014 concerning clinics. The outpatient clinic consists of medical staff, nursing staff, other health workers, and non-health workers as needed. For medical practitioners pratama clinics at Pratama Clinic which provides medical services consisting of at least 2 (two) doctors and / or dentists as service providers. The type, qualifications, and number of other Health Workers and non-health workers are adjusted to the needs and types of services provided by the Clinic. Every medical person practicing at the Clinic must have a

* Faculty of Law Universitas Andalas, Padang, Indonesia. Corresponding email: vivin_nisa@yahoo.co.id.

† National Narcotic Board of West Sumatra, Indonesia. Professional Doctor at National Narcotic Board. Email: marryoborry@gmail.com

Registration Certificate (STR) and a Practice License (SIP) in accordance with statutory provisions. The clinic must be equipped with adequate medical and non-medical equipment according to the type of service provided. Medical and non-medical equipment must meet quality and safety standards.

The clinic building must be permanent and not physically join the building with an individual residence. Housing conditions do not include apartments, shop houses, office houses, flats, and similar buildings. The clinic building must pay attention to the function, security, comfort, and convenience in the provision of services as well as the protection of safety and health for all people including those with disabilities, children, and the elderly.³

The clinic building consists of at least a registration room/waiting room, a consultation room, an administration room, a medicine room and consumables for clinics that carry out pharmaceutical services, an action

³ Health is a human right and one of the elements of well-being that must be realized in accordance with the ideals of the Indonesian people as referred to in the Pancasila and the Preamble of the 1945 Constitution. non-discriminatory, participatory, protection and sustainable which are very important for the formation of Indonesian human resources, enhancing the resilience and competitiveness of the nation, and national development. Article 35 paragraph (1) of the Health Law regulates authority Regional Government in the matter of one of them is related to the granting of licenses for health service facilities operating in their regions, with the following complete provisions "Regional governments can determine the number and type of health service facilities as well as the granting of operating permits in their regions. Whereas in Article 19 Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services (PP OSS). See Pudjiastuti, Lilik. *Prinsip Hukum Pengaturan Perizinan Kefarmasian*. Diss. Universitas Airlangga, 2013. Gunawan, Yongki Sidharta. *Penerbitan Izin Berusaha Melalui Pelayanan Perizinan Terintegrasi Secara Elektronik (Online Single Submission) Dalam Rangka Investasi*. Diss. Universitas Airlangga, 2019. Nuryana, I. Kadek Dwi, and Serly Oki Kurniasari. "Sistem Informasi Tenaga Medis Studi Kasus Di Dinas Kesehatan Kabupaten Sidoarjo." *Inovate: Jurnal Ilmiah Inovasi Teknologi Informasi* 1.1 (2016); World Health Organization. *State of health inequality: Indonesia*. World Health Organization, 2017; Gusman, Delfina, and Marryo Borry WD. "Tumpah Tindih dalam Proses Perizinan Klinik Pratama di Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu Kota Padang." *UNES Law Review* 1.2 (2018): 148-156; Rachmad, R. Arif, Endang Wahyati Yustina, and Edward Kurnia. "Implementasi Peraturan Menteri Kesehatan Nomor 9 Tahun 2014 Tentang Klinik Pada Penyelenggaraan Poliklinik Kesehatan Desa Di Kabupaten Batang." *SOEPRA: Jurnal Hukum Kesehatan* 1.1 (2018): 14-26; Afifah, Listia Ayuni Nur, Septo Pawelas Arso, and Eka Yunila Fatmasari. "Analisis Mekanisme Pengelolaan Dana Kapitasi Pada Klinik Pratama di Kecamatan Pedurungan Kota Semarang." *Jurnal Kesehatan Masyarakat (e-Journal)* 7.4 (2019): 683-694; Enggarani, Nuria Siswi. "Kualitas Pelayanan Publik dalam Perizinan di Pelayanan Terpadu Satu Pintu (PTSP) Kantor Badan Penanaman Modal dan Pelayanan Perizinan Terpadu (BPMP2T) Kabupaten Boyolali." *Law and Justice* 1.1 (2016): 16-29; Bramantoro, Taufan, ed. *Pengantar Klasifikasi dan Akreditasi Pelayanan Kesehatan: Penjelasan Praktis dari Undang-Undang dan Peraturan Menteri Kesehatan*. Airlangga University Press, 2017. Wahidin, Mugi, Syarifah Nuraini, and Ady Iswady Thomas. "Kesiapan Fasilitas Pelayanan Kesehatan Indonesia Dalam Perdagangan Bebas Masyarakat Ekonomi ASEAN." *Buletin Penelitian Sistem Kesehatan* 22.2 (2019): 117-125.

HEALTH FACILITY LICENSING DISPUTE

room, an ASI room/corner, a bathroom/toilet, other rooms according to service requirements.

To get permission, a clinic must go through a series of licensing processes. The process is a disturbance permit, a building permit, and an operational permit. All permits are made at the One-Stop Integrated Investment and Services Office. In the city of Padang, all licenses have been carried out at the One-Stop Integrated Investment and Services Office.⁴ However, in the permit, several requirements overlap / overlap which causes repetition of every permit. For this reason, the author wants to discuss the overlapping of clinical licensing. Purpose This study aims to analyze and review clinical licensing, analyze licensing regulations at the Padang City level as a basis for recommendations on simplification, deletion and merging of licenses by the Padang City Government.

Method

To answer the problem as described above, in conducting research that serves as a reference, so that the results of the study can meet the target and

⁴ Furthermore, it is also emphasized that The Monitoring Committee of the Implementation of Regional Autonomy (KPPOD) still found number of problems with the Integrated Single-Based Online Licensing System (OSS) in several regions and centers. From the results of the study, there are three aspects that play a role in the success or failure of OSS implementation, namely regulation, system, and governance. For example, on the central regulatory aspects, Norms, Standards, Procedures, and Criteria or sectoral NSPKs which ideally serve as technical guidelines for permit services, do not concretely translate PP Number 24 of 2018 on OSS into procedures that are easy to follow. For example, to get an Industrial Business License (IUI), business actors are required to re-register for the application. Even though PP 24 of 2018 clearly does not require this. The implication is that there are variations in the SOP for permit services in various regions. In addition to NSPK, OSS errors are also illustrated in the disharmony issue of PP 24 of 2018 with Law Number 15 of 2017 concerning Investment and Law Number 23 of 2014 concerning regional governments. Where, disharmony here concerns the authority to give permits that were previously in the hands of regional heads now to move to OSS institutions. See Dwi Aditya Putra, Komite Pemantau Temukan Banyak Masalah di Sistem Pelayanan Terpadu, *Liputan 6*, 11 September 2019, <https://www.liputan6.com/bisnis/read/4059902/komite-pemantau-temukan-banyak-masalah-di-sistem-pelayanan-terpadu>; Lorenzo Anugrah Mahardhika, Implementasi Sistem OSS Masih Hadapi Sejumlah Kendala, *Bisnis Indonesia*, 11 September 2019, <https://ekonomi.bisnis.com/read/20190911/9/1147045/implementasi-sistem-oss-masih-hadapi-sejumlah-kendala>; Dwi Aditya Putra, Peneliti Temukan 3 Hambatan Pelaksanaan Online Single Submission, *Merdeka News*, 11 September 2019, <https://www.merdeka.com/uang/peneliti-temukan-3-hambatan-pelaksanaan-online-single-submission.html>, Ihya Ulum Aldin, "Kepala BKPM Akui Sistem Izin OSS Terkendala Software dan Konektivitas, *Katadata*, 6 February 2019, <https://katadata.co.id/berita/2019/02/06/kepala-bkpm-akui-sistem-izin-oss-terkendala-software-dan-konektivitas>.

can be accounted for. This research is an analytical descriptive study, a research that clearly and accurately illustrates the data, and then the data is analyzed with existing problems and the solution is sought based on laws and other regulations that have relevance to the research. The main approach used in this study is the normative juridical approach. According to Ronny Hanitijo Soemitro the normative legal research approach is carried out by means of research on a positive legal inventory, research on legal principles, research on systematic law⁵ and research on the level of synchronization of laws and regulations, both vertically and horizontally. While as a supporter of the main approach an empirical juridical approach is used, which is a study that conceptualizes the law as an empirical phenomenon that can be observed in life. What is done by collecting all data obtained from the field that is closely related to the research problem. The data used in this study consists of primary data and secondary data sourced from primary legal materials, secondary legal materials and tertiary legal materials.⁶

To obtain secondary data, collected by conducting library research. Whereas to obtain primary data, collected by doing field research. Data obtained from the results of the study were analyzed qualitatively, namely by providing comments and not using numbers. Qualitative analysis according to Lexy J. Moleong, is an effort made by working with data, organizing data, sorting it out into something that can be managed, synthesizing it, searching and finding patterns, finding what is important and what is learned, and deciding what is can be told to others.⁴ Data that have been analyzed qualitatively, then presented in the form of analytical descriptive, which will only describe only the results of the research clearly and thoroughly, which relate to the main problem of research.

Data obtained from the results of the study were analyzed qualitatively, namely by providing comments and not using numbers. Qualitative analysis according to Lexy J. Moleong, is an effort made by working with data, organizing data, sorting it out into something that can be managed, synthesizing it, searching and finding patterns, finding what is important and what is learned, and deciding what is can be told to others.⁴ Data that have been analyzed qualitatively, then presented in the form of analytical descriptive, which will only describe only the results of the research clearly and thoroughly, which relate to the main problem of

⁵ Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, 1998, pp.11-33

⁶ Bambang Sunggono, *Metodologi Penelitian Hukum*, Rajawali Pers, Jakarta, 2003, p.27

HEALTH FACILITY LICENSING DISPUTE

research⁷. Data obtained from the results of the study were analyzed qualitatively, namely by providing comments and not using numbers. Qualitative analysis according to Lexy J. Moleong, is an effort made by working with data, organizing data, sorting it out into something that can be managed, synthesizing it, searching and finding patterns, finding what is important and what is learned, and deciding what is can be told to others.⁸ Data that have been analyzed qualitatively, then presented in the form of analytical descriptive, which will only describe only the results of the research clearly and thoroughly, which relate to the main problem of research.

Licensing: Definition, Elements and Contemporary Developments

Permission is an agreement from the authorities based on laws or government regulations in certain circumstances deviating from the provisions,⁹ statutory prohibition (permit in the strict sense).

In the legal dictionary, permission (*vergunning*) is defined as; “*Overheidstoestemming door wet of vereening vereist gasteld voor tal van handeling waarop in het algemeen striped special toezicht vereist is, maar die, in het algemeen, niet als onwenselijk worden beschouwd*” (permission/permit originating from the government based on laws or regulations) which is indicated for actions which generally require special supervision, but which in general are not considered to be undesirable things.¹⁰

According to E. Utrecht, it says that when the general rule maker does not prohibit an act, it still allows it to be provided it is done in a way determined for each concrete matter, then the decision of the state administration that permits such actions is a permit (*vergunning*).¹¹ According to N. M. Spelt and J. N.J.M. ten Berge, a permit is an agreement and authority based on a law or government regulation to in certain

⁷ Soerjono Soekanto, *Pengantar Penelitian Hukum*, UI Press, Jakarta, 1986, pp. 51-52

⁸ Lexy J. Moleong, *Metodologi Penelitian Kualitatif*, Remaja Rosdakarya, Bandung, 2005, pp. 248.

⁹ *Ibid.*

¹⁰ Ridwan HR, *Op.Cit*, p.54

¹¹ E. Utrecht, *Pengantar Hukum Administrasi Negara Indonesia*, Pustaka Tinta Mas, Surabaya, 1988, p.187; Much Nurachmad, *Pedoman Mengurus Segala Macam Surat Perizinan & Dokumen Secara Legal Formal*, Jakarta, Media Pressindo, 2018, pp. 57-60.

circumstances deviate from the statutory prohibition (permit in the strict sense).¹²

Bagir Manan defines permission in the broadest sense, which means an agreement from the authorities based on statutory regulations to allow certain actions or actions that are generally prohibited.¹³ Ateng Syarifudin said that the permit aims and means to remove obstacles, things that are prohibited from being permissible, or *Als opheffing van een algemene verbodsregel in het concrete geval*, (as an abolition of general prohibition provisions in concrete events).¹⁴ By granting permits, the government permits the applicant to carry out acts. which is actually prohibited. Permission allows for an action that is in the public interest to have special supervision over it.

According to Permendagri No.20 of 2008 concerning Organizational Guidelines and Work Procedures for Integrated Licensing Services in Regions, permits are interpreted as documents issued by regional governments based on local regulations or other regulations that constitute proof of legality, certifying the legality or permissibility of a person or legal entity to do business or certain activities.

Based on the understanding of licensing, there are several elements in licensing, such as: first, a juridical instrument; second, laws and regulations; third, government organs; fourth, concrete events; fifth, procedures and requirements.¹⁵

a. *Juridical Instrument*

The task of the government in the modern rule of law is not only to maintain security and maintain order but also to seek public welfare (*bestuurzorg*). Maintaining security and order has become a basic and general task for the government to date, and to carry out this task the government is equipped with authority in the field of regulation which gives birth to juridical instruments in the form of decisions. In accordance with the nature of the decision, namely individual concrete, so that it is the spearhead of the legal instruments in the administration of government or as a closing norm in

¹² N.M. Spelt and J.BJ.M.ten Berge, *Pengantar Hukum Perizinan*, Philipus M. Hadjon, ed, Yuridika, Surabaya, 1993, pp.2-3.

¹³ Bagir Manan, *Ketentuan-Ketentuan Mengenai Pengaturan Penyelenggaraan Hak Kemerdekaan Berkumpul Ditinjau Dari Perspektif UUD 1945*, Unpublished Paper, Jakarta, 1995, p.8.

¹⁴ *Ibid.*

¹⁵ Ridwan HR, *Op.Cit*, pp.201-202

HEALTH FACILITY LICENSING DISPUTE

a series of legal norms.¹⁶ The form of a decision is a permit based on the types of decisions, the permit is a type of decision that is constitutive, which means the decision gives rise to new rights that were not previously available to the person whose name was included in the decision said, or “*beschikkingen welke iets toestaan wat tevoren niet geoorloofd was*”,¹⁷ (a decision that allows something that was not previously permitted). constitutive, which is used by the government to determine concrete events.

b. Laws and regulations

The principle of the rule of law is that *wetmatigheid van bestuur* or the government must be based on statutory regulations, which means that the government in carrying out its regulatory functions and service functions must be based on the authority granted by statutory regulations. Government legal actions, such as making and issuing permit decisions, must be based on the authority granted by legislation or based on the principle of legality. In issuing permits must be based on the authority given by the legislation, without the existence of such authority the issuance of the permit is invalid.

According to Marcus Lukman, government authority in the area of permits is discretionary power or in the form of free authority¹⁸, so that the government is given the authority to consider on the basis of its own initiative matters related to permits, these considerations are about:

- 1) What conditions allow a permit to be given to the applicant.
- 2) How to consider these conditions.
- 3) Juridical consequences that may arise from the granting or refusal of a permit are related to the limitations of applicable laws and regulations.
- 4) What procedures must be followed or prepared for when and after the decision is given, both the acceptance and refusal of the permit

c. Government Organs

According to Sjachran Basah, based on various searches of government administration it can be seen that from the highest state administration, namely the president to the lowest state administration such

¹⁶ Philipus M. Hadjon, et.al., *Pengantar Hukum Administrasi Indonesia*, Gadjah Mada University Press, Yogyakarta, 1993, p.125

¹⁷ C.J.N. Versteden, *Inleiding Algemeen Bestuursrecht*. Samsom H.D. Tjeenk Willink, Alphen aan den Rijn, 1984, p.69; Marcus Lukman, *Eksistensi Peraturan Kebijaksanaan dalam Bidang Perencanaan dan Pelaksanaan Rencana Pembangunan di Daerah serta Dampaknya terhadap Pembangunan Materi Hukum Tertulis Nasional*, *Dissertation*, Universitas Padjadjaran, Bandung, 1996, p.189.

¹⁸ Ridwan HR, *Op.Cit*, p.202.

as the lurah, has the right to grant permits, so that there is diversity in granting permits in accordance with the positions he holds both at the central and regional government levels.¹⁹ According to NM Spelt and JBJM ten Berge, the decision that grants permission must be given by the competent organ, and almost always the related organ is the state or state administration organ. Organs at the level of the national authority are the minister or the level of regional authorities.²⁰ In issuing permits, the competent authority often takes a long time, the business world for speed in issuing permits.²¹

To overcome this, deregulation is often done, namely the elimination of various laws and regulations that are considered excessive. The elimination of excessive legislations means reducing government interference in certain community activities, especially in the economic field, so that deregulation can also be interpreted as bureaucratization.²²

The implementation of deregulation is very often found in the implementation of licensing, but there must be limitations or rules set by law. Regulation in the policy regulations carried out by the government to simplify and speed up the licensing process must be done with the limits determined in accordance with the rule of law. The implementation of deregulation and debureaucratization in licensing must pay attention to the following matters:

- 1) Do not lose the essence of the licensing system itself, especially in its function as a director of certain activities.
- 2) Deregulation is only applied to technical and administrative matters.
- 3) Deregulation and bureaucratization do not eliminate the principle matters in the laws and regulations which form the basis of licensing.
- 4) Deregulation and bureaucratization must pay attention to general principles good governance (*algemene beginselen van behoorlijk bestuur*).²³

d. Concrete Events

Permits are juridical instruments in the form of decisions, which are used by governments to determine concrete and individual events. Concrete

¹⁹ Sjachran Basah, *Sister Perizinan Sebagai Instrumen Pengendali Lingkungan*, Paper presented on Environmental Law Seminar, held by Oleh KLH and Legal Mandate Compliance and Enforcement Program from BAPEDAL, Jakarta, 1996, p.189.

²⁰ N.M. Spelt and J.B.J.M. ten Berge, *Op.Cit*, p.11.

²¹ Soehardjo, *Hukum Administrasi Negara Pokok-Pokok Pengertian Serta Perkembangannya di Indonesia*, Badan Penerbit Universitas Diponegoro, Semarang, 1991, p.25.

²² *Ibid.*

²³ Ridwan HR, *Op.Cit*, p.206.

HEALTH FACILITY LICENSING DISPUTE

events are events that occur at a certain time, a certain place, a certain person, and certain legal facts. Various concrete events are in line with the various developments in the community, so that the permit also has a variety of diversity. licenses that have various types made in the process are influenced by the authority of the licensor, types of permits and the organizational structure of the agency that issued them. Various types of permits and licensing agencies may change according to the laws and regulations that apply to the permit, but although they can change the permit will still exist and be used in every government and community administration.

e. Procedure and Requirements

In obtaining a permit, certain procedures must be determined by the licensor, in this case the government. In addition to fulfilling certain procedures, the applicant must also fulfill certain requirements which vary depending on the type of permit, the purpose of the permit, and the licensing agency that has been unilaterally determined by the government.

According to Soehino, the conditions in the permit are constitutive and conditional. Are constitutive, because the determination of an act or certain behavior that must (first) be fulfilled, it means that in granting a permit a concrete act is determined, and if it is not fulfilled it will be subject to sanctions. Conditional, because of the assessment can only be assessed after the deed or behavior required requires it to happen.²⁴

The determination of licensing procedures and requirements is determined by the government unilaterally, but the government cannot determine it arbitrarily, but it must be in accordance with the laws and regulations that form the basis of the permit. the government in determining licensing procedures and requirements cannot exceed the objectives to be achieved by the legal regulations which form the basis of the permit.²⁵

Permit in the Context of Licensing Dispute

Considering that permits are a juridical instrument of the government to direct its citizens, permits are not only seen as an agreement. More broadly, the permit also includes the process of control and supervision. The following are the motives for using the permit system,²⁶ in the form of:

²⁴ Soehino, *Asas-Asas Hukum Tata Pemerintahan*, Liberty, Yogyakarta, 1984, p. 97.

²⁵ *Ibid.*, p.98.

²⁶ Y. Sri Pudyatmoko, *Perizinan: Problem dan Upaya Pembenahan*, Jakarta, Grasindo, pp. 23-27

- 1) Desire to direct certain activities. The government directs permit instruments to direct certain activities carried out by the community.
- 2) Prevent danger from the environment. Permits also prevent environmental hazards posed by certain activities. For this reason, activities that are likely to have a significant and significant impact on the environment must meet the requirements of an Environmental Impact Assessment (AMDAL). In this case the AMDAL is not a permit instrument, but is a study that produces recommendations that must be met before a business actor submits a business license application.
- 3) The desire to protect certain objects. The government has an interest so that certain objects that are useful for the community are maintained²⁷protected. The object needs to get protection for various reasons, for example historical reasons, the object is indispensable for educational, scientific and so on.
- 4) Will divide small objects. The government considers it necessary to finance the limited number of resources it has. This is intended so that every community that needs it is given the opportunity to use it.
- 5) Directing by selecting people and activities. Permission can be aimed at directing by selecting people and certain activities carried out by community members.

Permission has important meaning for the holder (activity agent) in conducting legal relations, both with government and with other parties.²⁸ Some of the urgency of the permit as follows:

- 1) As a legal basis. Permission said to be a legal basis can be interpreted that certain activities cannot indeed be carried out by citizens without permission from an authorized government organization.
- 2) As an instrument to guarantee legal certainty. Permission is generally made by various things, both subjective and objective. For example, in a permit, there is an identity of the permit holder who is given the right to be able to carry out activities by stating what activities are permitted, what are the limits regarding time, location, volume, or other descriptive matters concerning something that is objective.

²⁸ *Ibid.*

HEALTH FACILITY LICENSING DISPUTE

- 3) As an instrument to protect interests. Permission as an instrument a decision can be used for be an instrument of protecting interests, be it the interests of the applicant, the interests of the government, or other interests.
- 4) As evidence in terms of claims.
- 5) Permits can also be used as evidence that the person concerned has obtained government funding. When a dispute occurs, the existing permit can be used as evidence for dispute resolution.

Simplification of licenses Simplification of licensing involves four interrelated aspects of one another. These four aspects include simplifying the type of permit, simplifying the requirements for obtaining a permit, simplifying the process of issuing permits and controlling the costs of obtaining a permit. Seeing the focus of research that focuses on licensing regulations, the final purpose of this study lies in the process of simplifying the type of permit. Simplification of the intended permit is the steps taken to reduce the type of permit that is the authority of the local government while still referring to the applicable laws and regulations. Simplification of the type of permit can be done through the removal and/or merging of several types of permits.

Types of Permits for Primary Clinic Permits

Primary clinics must follow a series of processes, namely the maintenance of a nuisance permit/Hinder Ordonnantie (HO), a clinical license (IMK) and a clinical operational permit (IOK).

a. Disturbance Permit / Hinder Ordonnantie (HO)

Based on Perwako Number 9 of 2016 concerning procedures for granting, fostering, and controlling Disturbances/Hinder Ordonnant (HO) Permit is the granting of a place of business/activity permit to individuals or business entities in certain locations that can cause danger, loss, and disturbance not included place of business/activity that has been determined by the central government, regional government, or Padang city government in accordance with statutory regulations. To submit an application, the applicant must submit a written request to the Mayor of Padang by completing the form that has been provided at the Investment and One Stop

Integrated Services Office completely and correctly by completing the following requirements:

- 1) Photocopy of ownership or control of land and / or building.
- 2) Photocopy of building permit or certificate of building permit which is legalized, is excluded for business premises in open spaces (no buildings), cultural heritage buildings, and buildings that are 25 (twenty-five) years old.
- 3) For rental status where points a and b cannot be attached, a contract agreement is required between the owner of the building and the tenant with a stamp duty 6000.- or with a self-hire certificate which is known by the notary and is legalized.
- 4) Photocopy of resident card or other valid identification card.
- 5) Copy of deed of establishment of legalized business / institution.
- 6) Attach a business entity ratification decree from the authorized agency for the legalized business entity.
- 7) Attach registered evidence from the authorized agency that is legalized.
- 8) Two (3) pieces of 3x4 photographs.
- 9) Environmental feasibility document in accordance with statutory regulations.
- 10) Schema / floor plan of business location photos of business places and buildings from 3 (three) different sides.
- 11) A neighbor's approval letter attached with a photocopy of the resident's identification card known to the local RT / RW / lurah,

b. Permission to establish a clinic (IMK)

Application for permission to establish a clinic (IMK) was made by the Department of Investment and One-Stop Integrated Service based on Permenkes Number 9 of 2014 with the following requirements:

- 1) Applicant's complete identity.
- 2) Copies/photocopies of the establishment of a legal entity or business entity, except for individual ownership.
- 3) Legalized copy/photocopy of land certificate, other proof of ownership that is validated by a notary, or proof of a minimum contract for 5 (five) years SPPL documents for outpatient clinics, or UKL-UPL documents for inpatient clinics in accordance with statutory provisions.

HEALTH FACILITY LICENSING DISPUTE

- 4) The clinical profile that will be established includes the organization, location, building, infrastructure, personnel, equipment, pharmacy, laboratory, and services provided.
- 5) Other requirements are in accordance with local regulations
- 6) Additional requirements made by the Padang City Government are:
- 7) Recommendation from the Padang City Health Office. To obtain a recommendation, the applicant attaches a Clinical Profile that will be established including organization, location, building, infrastructure, personnel, equipment, pharmacy, laboratory, and services provided.
- 8) Principle permission (from Bappeda).
- 9) Disturbance Permit.
- 10) Building construction permit (IMB)
- 11) Document validity requirements (stamped 6000, -)

c. *Clinical operating license (IOK)*

An application for a clinical operating permit (IOK) was made by the Office of Investment and One-Stop Integrated Service based on Permenkes Number 9 of 2014 with the following requirements:

- 1) Technical requirements include location, building, infrastructure, energy, equipment, pharmaceutical and laboratory requirements.
- 2) Administrative requirements include permission to establish and recommendations from district / city health offices
- 3) Additional requirements from Padang City Government:
- 4) Recommendation from the Padang City Health Office.
- 5) Photocopy of disturbance permit.
- 6) SPPL documents for pratama clinics.
- 7) Curriculum Vitae in charge / leader.
- 8) Data on the completeness of medical and non-medical equipment.
- 9) List of personnel and service organizational structure described in the division of tasks and included with photocopies of STR, SIP, STRA, SIPA, SIK, and diplomas (Doctors min. 2 people, nurses min 2 people).
- 10) Location and Room Plan.
- 11) Declaration of person in charge for making the report.
- 12) Clean water inspection results for at least 6 months
- 13) MOU of medical waste disposal.
- 14) 3x4 size photographs of 3 sheets.
- 15) 1 piece of 6000 stamp.
- 16) Types of services and service schedules.

- 17) MUO for labor inspection.
- 18) Type of service provided.
- 19) Copy of Applicant's ID card and NPWP.
- 20) Declaration of validity of documents (stamped 6000)

Analysis of Clinical Licensing in Padang City

Of the types of licensing required by the Office of Investment and Integrated Services of One Door Padang City are Disturbance Licenses, Permits for Establishing Clinics and Licensing for Clinical Operations.

a. Completeness of Disturbanc /Hinder Permit Document (HO)

Based on Perwako Number 9 of 2016 concerning the procedure for granting, guiding and supervising disturbances/Hinder Ordonnantie (HO) permits

- 1) Photocopy of ownership or control of land and / or building.
- 2) Photocopy of building permit or certificate of permission to build a legalized building
- 3) For rental status where points a and b cannot be attached, a contract agreement letter is required.
- 4) Photocopy of resident card or other valid identification card.
- 5) Copy of deed of establishment of legalized business / institution.
- 6) Decree of endorsement of a business entity from an authorized agency for a legalized business entity.
- 7) Registered evidence from the authorized agency.
- 8) Two (3) pieces of 3x4 photographs.
- 9) Environmental feasibility document in accordance with statutory regulations.
- 10) Schema / floor plan of business location photos of business places and buildings from 3 (three) different sides.
- 11) The neighbor's approval letter attached with a photocopy of the resident card is known to the local RT / RW / lurah.

b. Completeness of the Clinic Permit Document (IMK)

- 1) Applicant's complete identity.
- 2) Copies / photocopies of the establishment of a legal entity or business entity, except for individual ownership.

HEALTH FACILITY LICENSING DISPUTE

- 3) Legalized copy / photocopy of land certificate, other proof of ownership that is validated by a notary, or proof of a minimum contract for a period of 5 (five) years.
- 4) SPPL documents for outpatient clinics, or UKL-UPL documents for inpatient clinics in accordance with statutory provisions.
- 5) The clinical profile that will be established includes the organization, location, building, infrastructure, personnel, equipment, pharmacy, laboratory, and services provided.
- 6) Other requirements are in accordance with local regulations

Additional requirements made by the Padang City Government are:

- 1) Recommendation from the Padang City Health Office. To obtain a recommendation, the applicant attaches a Clinical Profile that will be established including organization, location, building, infrastructure, personnel, equipment, pharmacy, laboratory, and services provided.
- 2) Principle permission (from Bappeda).
- 3) Disturbance Permit.
- 4) Building construction permit (IMB).
- 5) Document validity requirements (stamped 6000, -)

c. Completeness of clinical operational permit documents (IOK)

- 1) Technical requirements include location, building, infrastructure, energy, equipment, pharmaceutical and laboratory requirements
- 2) Administrative requirements include permission to establish and recommendations from district / city health offices

Additional requirements from Padang City Government:

- 1) Recommendation from the Padang City Health Office.
- 2) Copy of permission.
- 3) SPPL documents for pratama clinics.
- 4) Curriculum Vitae in charge / leader.
- 5) Data on the completeness of medical and non-medical equipment.
- 6) List of personnel and service organizational structure described in the division of tasks and included with photocopies of STR, SIP, STRA, SIPA, SIK, and diplomas (Doctors min. 2 people, nurses min 2 people).
- 7) Location and Room Plan.
- 8) Declaration of person in charge for making the report.
- 9) Clean water inspection results for at least 6 months.
- 10) MOU of medical waste disposal.

- 11) 3x4 size photographs of 3 sheets.
- 12) 1 piece of 6000 stamp.
- 13) Types of services and service schedules.
- 14) MUO for labor inspection.
- 15) Type of service provided.
- 16) Copy of Applicant's ID card and NPWP.
- 17) Declaration of validity of documents (stamped 6000)

d. Incision / overlap of the pratama clinic licensing process

Referring to Permenkes number 9 of 2014 concerning clinics which regulates permission to establish clinics and clinical operational licenses and Perwako number 9 of 2016 Perwako number 9 of 2016 concerning procedures for granting, fostering, and supervising disturbances / Hinder Ordonnantie (HO) permits and additional rules made by the Government of the City of Padang there are several irizan / overlaps in the process

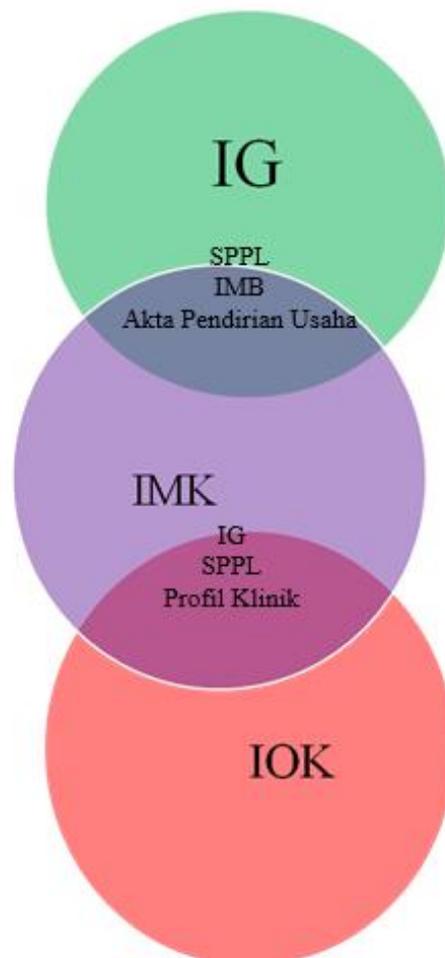


Fig. 1 Overlapping description of *Klinik Pratama* licensing

HEALTH FACILITY LICENSING DISPUTE

From the chart (Fig. 1) it can be seen that there are repetitions of the requirements that must be completed by the applicant to the Padang City Investment and Integrated Services Office. When the applicant submits an application for a permit to establish a clinic, the applicant must complete a nuisance permit, permit to construct a building, and SPPL. Even though the requirements for making disturbances licenses must have SPPL and building permits. There is an overlap in licensing made by the government.

In arranging clinical operational licenses, the applicant must complete a nuisance permit, SPPL, Deed of establishment, clinical profile. These conditions have been requested when arranging permission to establish a clinic. Even in this arrangement there was an overlap in terms of requirements made by the Government.

Conclusion

Creating a Primary clinic is not easy, it must follow a series of processes that must be passed by the government. The process is the making of a distraction permit, permission to establish a clinic, a clinical operation permit. However, the process has become inefficient and ineffective due to repetition of conditions made by the government. Though these conditions have been included in the previous permit. For this reason, there needs to be deregulation from regulations made by the Padang City government for licensing Primary clinics. A review needs to be made so that licensing services become more effective and efficient. Revised requirements made by the Padang City government through the One Door Integrated Investment and Services Office and in collaboration with the Health Office and related Services.

References

- Afifah, L. A. N., Arso, S. P., & Fatmasari, E. Y. (2019). Analisis Mekanisme Pengelolaan Dana Kapitasi Pada Klinik Pratama di Kecamatan Pedurungan Kota Semarang. *Jurnal Kesehatan Masyarakat* 7(4), 683-694.
- Aldin, I. U. (2019). “Kepala BKPM Akui Sistem Izin OSS Terkendala Software dan Konektivitas”, *Katadata*, 6 February 2019,

- <https://katadata.co.id/berita/2019/02/06/kepala-bkpm-akui-sistem-izin-oss-terkendala-software-dan-konektivitas>.
- Basah, S. (1996). *Sister Perizinan Sebagai Instrumen Pengendali Lingkungan*, Paper presented on Environmental Law Seminar, held by Oleh KLH and Legal Mandate Compliance and Enforcement Program from BAPEDAL, Jakarta.
- Bramantoro, T., ed. (2017). *Pengantar Klasifikasi dan Akreditasi Pelayanan Kesehatan: Penjelasan Praktis dari Undang-Undang dan Peraturan Menteri Kesehatan*. Surabaya: Airlangga University Press.
- Enggarani, N. S. (2016). Kualitas Pelayanan Publik dalam Perizinan di Pelayanan Terpadu Satu Pintu (PTSP) Kantor Badan Penanaman Modal dan Pelayanan Perizinan Terpadu (BPMP2T) Kabupaten Boyolali. *Law and Justice* 1(1), 16-29.
- Gunawan, Y. S. (2019). Penerbitan Izin Berusaha Melalui Pelayanan Perizinan Terintegrasi Secara Elektronik (Online Single Submission) dalam Rangka Investasi. *Dissertation*. Surabaya: Universitas Airlangga.
- Gusman, D., & Borry, M. (2018). Tumpah Tindih dalam Proses Perizinan Klinik Pratama di Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu Kota Padang. *UNES Law Review* 1(2), 148-156.
- Hadjon, P. M. et.al. (1993). *Pengantar Hukum Administrasi Indonesia*. Yogyakarta: Gadjah Mada University Press.
- Lukman, M. (1996). Eksistensi Peraturan Kebijaksanaan dalam Bidang Perencanaan dan Pelaksanaan Rencana Pembangunan di Daerah serta Dampaknya terhadap Pembangunan Materi Hukum Tertulis Nasional. *Dissertation*. Bandung: Universitas Padjadjaran.
- Mahardhika, L. A. (2019). "Implementasi Sistem OSS Masih Hadapi Sejumlah Kendala", *Bisnis Indonesia*, 11 September 2019, <https://ekonomi.bisnis.com/read/20190911/9/1147045/implementasi-sistem-oss-masih-hadapi-sejumlah-kendala>.
- Manan, B. (1995). "Ketentuan-Ketentuan Mengenai Pengaturan Penyelenggaraan Hak Kemerdekaan Berkumpul Ditinjau Dari Perspektif UUD 1945", *Unpublished Paper*, Jakarta.
- Moleong, L. J. (2005). *Metodologi Penelitian Kualitatif*. Bandung: Remaja Rosdakarya.
- Nurachmad, M. (2018). *Pedoman Mengurus Segala Macam Surat Perizinan & Dokumen Secara Legal Formal*. Jakarta, Media Pressindo.
- Nuryana, I. K. D., & Kurniasari, S. O. (2016). Sistem Informasi Tenaga Medis Studi Kasus Di Dinas Kesehatan Kabupaten Sidoarjo. *Inovate: Jurnal Ilmiah Inovasi Teknologi Informasi* 1(1), 15-32.
- Pudjiastuti, L. (2013). Prinsip Hukum Pengaturan Perizinan Kefarmasian. *Dissertation*. Surabaya: Universitas Airlangga.

HEALTH FACILITY LICENSING DISPUTE

- Putra, D. A. (2019). "Komite Pemantau Temukan Banyak Masalah di Sistem Pelayanan Terpadu", *Liputan 6*, 11 September 2019, <https://www.liputan6.com/bisnis/read/4059902/komite-pemantau-temukan-banyak-masalah-di-sistem-pelayanan-terpadu>.
- Putra, D. A. (2019). "Peneliti Temukan 3 Hambatan Pelaksanaan Online Single Submission", *Merdeka News*, 11 September 2019, <https://www.merdeka.com/uang/peneliti-temukan-3-hambatan-pelaksanaan-online-single-submission.html>.
- Pudyatmoko, Y. S. (2009). *Perizinan: Problem dan Upaya Pembenahan*. Jakarta: Grasindo.
- Rachmad, R. A., Yustina, E. W., & Kurnia, E. (2018). Implementasi Peraturan Menteri Kesehatan Nomor 9 Tahun 2014 Tentang Klinik Pada Penyelenggaraan Poliklinik Kesehatan Desa Di Kabupaten Batang. *SOEPRA: Jurnal Hukum Kesehatan* 1(1), 14-26.
- Republic of Indonesia. (1945). The 1945 Constitution [Undang-Undang Dasar Tahun 1945].
- Republic of Indonesia. (2014). Minister of Health Regulation No. 9 of 2014 concerning Clinics [Permenkes Nomor 9 Tahun 2014 Tentang Klinik].
- Republic of Indonesia. (2008). Minister of Home Affairs Regulation No.20 of 2008 concerning Organizational Guidelines and Work Procedures for Integrated Licensing Services in Regions [Permendagri No.20 Tahun 2008 tentang Pedoman Organisasi dan Tata Kerja Unit Pelayanan Perizinan Terpadu di Daerah].
- Republic of Indonesia. (2016). Padang Mayor Regulation Number 9 of 2016 concerning Procedures for Granting, Guiding and Supervising Disturbance Permits [Peraturan Walikota Padang Nomor 9 Tahun 2016 Tentang Tata Cara Pemberian, Pembinaan, dan Pengawasan Izin Gangguan].
- Republic of Indonesia. (2016). Padang City Regulation Number 5 of 2016 Regarding Nuisance Permit [Peraturan Daerah Kota Padang Nomor 5 Tahun 2016 Tentang Izin Gangguan].
- Republic of Indonesia. (2016). Padang Mayor Regulation Number 107 of 2016 Regarding Regulations for Implementing Regional Regulation Padang City Number 5 of 2016 Regarding Nuisance Permit [Peraturan Walikota Padang Nomor 107 Tahun 2016 Tentang Peraturan Pelaksanaan Peraturan Daerah Kota Padang Nomor 5 Tahun 2016 Tentang Izin Gangguan].
- Soehardjo, S. (1991). *Hukum Administrasi Negara Pokok-Pokok Pengertian Serta Perkembangannya di Indonesia*. Semarang: Badan Penerbit Universitas Diponegoro.
- Soehino, S. (1984). *Asas-Asas Hukum Tata Pemerintahan*. Yogyakarta: Liberty.
- Soekanto, S. (1986). *Pengantar Penelitian Hukum*. Jakarta: UI Press.

- Soemitro, R. H. (1998). *Metodologi Penelitian Hukum dan Jurimetri*. Jakarta: Ghalia Indonesia.
- Spelt, N. M., & ten Berge, J. B. J. M. (1993). *Pengantar Hukum Perizinan*, Philipus M. Hadjon, ed. Surabaya: Yuridika.
- Sunggono, B. (2003). *Metodologi Penelitian Hukum*. Jakarta: Rajawali Pers.
- Utrecht, E. (1988). *Pengantar Hukum Administrasi Negara Indonesia*. Surabaya: Pustaka Tinta Mas.
- Versteden, C. J. N. (1984). *Inleiding Algemeen Bestuursrecht*. Samsom H.D. Tjeenk Willink, Alphen aan den Rijn.
- Wahidin, M., Nuraini, S., & Thomas, A. I. (2019). Kesiapan Fasilitas Pelayanan Kesehatan Indonesia dalam Perdagangan Bebas Masyarakat Ekonomi ASEAN. *Buletin Penelitian Sistem Kesehatan* 22(2), 117-125.
- World Health Organization. (2017). *State of Health Inequality: Indonesia*. World Health Organization.