

LEGAL IMPLICATIONS OF THE REGULATION OF THE MINISTER OF HEALTH'S AUTHORITY IN MINISTER OF HEALTH REGULATION NUMBER 3 OF 2025 THAT EXCEEDS THE PRINCIPLE OF ULTRA VIRES

Nina Ayu Wandira¹, Fatma Ulfatun Najicha²

Program Studi Magister Ilmu Hukum, Fakultas Hukum, Universitas Sebelas Maret Surakarta

E-mail: ninaayuwandira0505@gmail.com¹, fatmanajicha_law@staff.uns.ac.id²

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Abstract

This study examines the legal implications of Minister of Health Regulation Number 3 of 2025 in relation to the principles of legal certainty and the hierarchy of laws and regulations in Indonesia. The analysis focuses on provisions regulating professional disciplinary violations, particularly Article 4 paragraph (2), which grants the Minister of Health broad discretion to determine or add categories of disciplinary violations without clear limitations or explicit delegation from higher legal instruments, namely Law Number 17 of 2023 on Health and Government Regulation Number 28 of 2024. Such regulatory construction indicates an exercise of authority that exceeds delegated technical-operational functions and introduces new substantive norms, thereby constituting an ultra vires act within the framework of authority theory and normative hierarchy. Drawing on Hans Kelsen's theory of the hierarchy of norms, the study argues that the validity of ministerial regulations depends on their conformity with higher norms. Moreover, from Gustav Radbruch's perspective on legal certainty, norms that confer unlimited authority create ambiguity and unpredictability for medical professionals as subjects of law, undermining the law's function as a clear and reliable guideline. The study concludes that regulatory provisions exceeding delegated authority pose serious risks to legal certainty and the coherence of the legal system, and therefore require revision to restore normative consistency and protect professional discipline within a rule-of-law framework.

Keywords: Legal Certainty; Hierarchy of Norms; Ultra Vires; Ministerial Regulation; Professional Discipline; Health Law.

INTRODUCTION

The development of law in Indonesia demonstrates the close interconnection of statutory regulations through a hierarchical structure of norms, which has been systematically arranged under Law of the Republic of Indonesia Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 on the Formation of Laws and Regulations, hereinafter referred to as the Law on the Formation of Laws and Regulations. This hierarchy not only illustrates the tiered structure from statutes to technical regulations but also entails the consequence that every regulatory formulation must comply with the limits established by higher-level norms. The fact that a regulation occupies a lower hierarchical position requires its drafters to exercise greater caution, as even minor deviations or expansions of authority may disrupt the overall coherence of the legal system¹.

In the field of health in Indonesia, laws and regulations hold a crucial position due to their direct relevance to public health. The Government has undertaken legal reform in the health sector through Law Number 17 of 2023 on Health, hereinafter referred to as Law 17/2023, which is further regulated by Government Regulation Number 28 of 2024 on the Implementing Regulation of Law Number 17 of 2023 on Health, hereinafter referred to as GR 28/2024. These two regulations are designed as part of a comprehensive reform of the health system, governing not only the health system and public health services but also restructuring the mechanisms for supervision and the enforcement of discipline among medical and health professionals².

¹ Tanti Kirana Utami et al., "The Influence of Legislation Theory on the Dynamics of Legal Norms in the Indonesian Legal System," *Ius Publicum Law Journal* 5, no. 2 (2024): 265–293.

² Satria Indra Kesuma, "Socialization of the Review of Law No. 17 of 2023 concerning Health," *Birokrasi: Journal of Law and Constitutional Studies* 1, no. 4 (2023): 143–156, <https://doi.org/10.55606/birokrasi.v1i4.731>

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As a follow-up to the mandate of the Government Regulation, the Minister of Health issued Minister of Health Regulation Number 3 of 2025 on the Enforcement of Professional Discipline for Medical and Health Personnel, hereinafter referred to as MoHR 3/2025. Explicitly, this regulation is intended to safeguard professional quality, ensure the integrity of medical personnel, and provide legal protection for the public against potentially harmful practices. Its preamble even refers to Articles 713 and 718 of GR 28/2024 as the legal basis for its enactment. However, a more in-depth analysis reveals the emergence of several new norms within this Ministerial Regulation that do not receive explicit delegation of authority from either GR 28/2024 or Law 17/2023³. The problematic provision is Article 4 paragraph (2) of MoHR 3/2025, which grants the Minister the authority to determine additional types of violations without a clear delegative basis. Such a provision is not found in GR 28/2024, nor is it stipulated in Law 17/2023. When a ministerial regulation assumes competencies that should properly reside at a higher normative level, it signifies an expansion of authority that exceeds the boundaries of legality. In administrative law theory, this phenomenon is known as *ultra vires*, referring to actions by public officials that go beyond the authority granted by statutory regulations⁴.

Such an excess of authority not only creates issues regarding the clarity of its legal basis but also generates vulnerabilities in the governance of health regulations. In regulatory governance studies, this vulnerability is referred to as *regulatory fragility*, a term that describes the fragility of the regulatory drafting process due to unclear boundaries of authority, normative inconsistency, and weak control mechanisms over rule-making. In the health sector, regulatory fragility is not merely a technical issue but poses serious implications for the professionalism of medical personnel and the legal certainty governing their practice. When regulations are unstable, unharmonized, or hastily formulated without due regard to the hierarchical structure of norms, medical professionals are the group most directly affected⁵. This regulatory vulnerability may manifest in various forms, such as the frequent use of ministerial regulations as quick solutions to fill legal vacuums despite the absence of adequate delegative authority, or the rapid and frequent changes in health regulations that make it difficult for medical professionals to keep pace with applicable disciplinary standards and enforcement mechanisms. From the perspective of Gustav Radbruch's theory, such conditions are inconsistent with the concept of legal certainty.

Radbruch emphasized that law must not only function as formally valid rules but must also provide certainty that enables citizens, including medical professionals, to understand their rights and obligations in a measurable manner. When regulations are inconsistent, uncoordinated, or contain provisions that exceed the limits of authority, the function of legal certainty is weakened. Law becomes unpredictable, and such uncertainty opens space for actions that may undermine justice⁶. Accordingly, the study entitled The Legal Implications of Regulating the Authority of the Minister of Health in Minister of Health Regulation Number 3 of 2025 Exceeding the Ultra Vires Principle aims to identify instances of excessive authority. Through an in-depth analysis of the hierarchical structure of norms and the principle of legality, this study is expected to provide recommendations for improving the regulatory drafting process within the Ministry of Health and for strengthening legal protection for medical professionals in Indonesia.

METHOD

Type of Research

This research is normative legal research, namely legal research conducted by examining library materials or secondary data. Normative legal research analyzes various aspects such as legal theories and reviews prevailing laws and regulations in Indonesia that are relevant to addressing the research problem⁷. According to Peter Mahmud Marzuki, normative legal research is a process of discovering legal rules, legal principles, and legal doctrines in order to resolve the legal issues encountered⁸. Based on this definition, the type of research employed in this thesis is normative legal research, as the researcher uses library materials as the primary data for case analysis and does not conduct field research.

³ Putro Sucy Rezky Mz, Redyanto Sidi, and Marice Simarmata, "Implementation of Doctors' Professional Ethics in Healthcare Services for Patients," *Journal of Science and Social Research* 8, no. 3 (August 2025): 3968–3973.

⁴ A'an Efendi and Sudarsono Sudarsono, "Ultra Vires Actions of Government Organs and Their Legal Consequences," *Legal Issues* 53, no. 2 (2024): 145–154, <https://doi.org/10.14710/mmh.53.2.2024.145-154>

⁵ *Ibid.*, 147.

⁶ Timbo Mangaranap Sirait, Khalimi, and Ignatius Bambang Sukarno Hatta, "Analysis of PTUN Decision No. 403/G/2024/PTUN.JKT: Discrepancy between Formal Legality and Substantive Justice," *Collegium Studiosum Journal* 8, no. 1 (June 2025): 83–89, <https://doi.org/10.56301/csj.v8i1.1625>

⁷ Soerjono Soekanto and Sri Mamudji, *Normative Legal Research: A Brief Review* (Jakarta: RajaGrafindo Persada, 2003), 13.

⁸ Peter Mahmud Marzuki, *Legal Research* (Jakarta: Kencana Prenada Media Group, 2007), 35.

Research Approaches

Legal research recognizes several approaches. Through these approaches, researchers can obtain information from various perspectives regarding the issues being examined. According to Peter Mahmud Marzuki, legal research approaches include the statutory approach, case approach, historical approach, comparative approach, and conceptual approach⁹. The approaches applied in this legal research are as follows:

1. Statutory Approach

Based on the research problem under examination, this study employs the statutory approach¹⁰. This approach means that the researcher uses laws and regulations as the primary basis for conducting the analysis. In this research, the statutory approach is applied to examine legal issues concerning the *ultra vires* excess of authority in the formation of Minister of Health Regulation Number 3 of 2025 in relation to Government Regulation Number 28 of 2024 and Law Number 17 of 2023 on Health.

2. Conceptual Approach

The conceptual approach is carried out by examining doctrines and perspectives that have developed in legal science, which serve as the foundation for constructing legal arguments to address the research problems. These doctrines and perspectives clarify ideas by providing legal definitions, legal concepts, and legal principles relevant to the issues examined in legal research¹¹.

The author employs the conceptual approach because this research not only examines applicable regulations but also seeks to understand the legal concepts and principles underlying the formation of such regulations. Through this approach, the author analyzes various expert opinions and legal doctrines relevant to Minister of Health Regulation Number 3 of 2025. This approach is chosen to ensure that the analysis is grounded in strong theoretical foundations and capable of providing an in-depth explanation of the limits of authority and legal certainty in the formation of ministerial regulations.

Types and Sources of Legal Materials

The sources of data required in this normative legal research consist of **secondary data**, namely data obtained from library materials, including:

a. Primary Legal Materials

1. The 1945 Constitution of the Republic of Indonesia;
2. Law Number 12 of 2011 in conjunction with Law Number 13 of 2022 on the Formation of Laws and Regulations;
3. Law Number 17 of 2023 on Health;
4. Government Regulation Number 28 of 2024 on the Implementing Regulation of Law Number 17 of 2023 on Health;
5. Minister of Health Regulation Number 3 of 2025 on the Enforcement of Professional Discipline for Medical and Health Personnel.

b. Secondary Legal Materials

Secondary legal materials refer to publications related to law that are not official legal documents¹². The secondary legal materials used in this research include:

1. Books in the field of legal studies;
2. Official documents and data;
3. Legal articles;
4. Internet media and other relevant, credible, and valid sources related to this legal research.

Techniques for Collecting Legal Materials

The method used to collect data in this research is library research. According to Nazir, library research is a data collection technique conducted by reviewing books, literature, and notes related to the issues being examined.

⁹ Amiruddin and H. Zainal Asikin, *Introduction to Legal Research Methods* (Jakarta: PT RajaGrafindo Persada, 2006), 118.

¹⁰ Mukti Fajar ND and Yulianto Achmad, *Dualism of Normative and Empirical Legal Research* (Yogyakarta: Pustaka Pelajar, 2010), 22–24.

¹¹ Peter Mahmud Marzuki, *op. cit.*, 135

¹² Muhammin, *Legal Research Methods* (Mataram: Mataram University Press, 2020), 41.

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This technique is used to obtain written foundations and opinions by studying various sources relevant to the research problem¹³.

Analysis of Legal Materials

The processing of legal materials in this research employs qualitative analysis, as the study analyzes data based on legal norms, legal principles, and legal concepts. Qualitative legal analysis involves discussing the collected legal materials by referring to existing theoretical frameworks¹⁴.

RESULTS AND DISCUSSION

Minister of Health Regulation Number 3 of 2025 on the Enforcement of Professional Discipline for Medical and Health Personnel

Within Indonesia's constitutional framework, state ministries operate as part of the executive branch under the President, as stipulated in Article 17 paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Their authority and position are further regulated by Law Number 39 of 2008 on State Ministries, which emphasizes that ministries carry out specific governmental functions as delegated by the President. Consequently, ministries function as extensions of the central executive power in administering governmental affairs to achieve state objectives¹⁵. In the hierarchy of Indonesian laws and regulations, ministerial regulations are subject to the principle of *lex superior derogat legi inferiori*, meaning lower-level norms must conform to higher-level ones. Accordingly, the authority of ministerial regulations is limited to technical and operational matters derived from or delegated by higher regulations, such as statutes or government regulations. This principle ensures legal consistency and prevents ministerial regulations from creating new norms beyond their mandate¹⁶.

In the health sector, the Minister of Health holds the authority to formulate, determine, and implement policies as provided under Article 8 of Law Number 39 of 2008. These functions include disease control, development of health human resources, and supervision of service quality, all aimed at fulfilling the constitutional obligation to protect public health. However, such authority is not autonomous and remains constrained by higher-level laws to maintain normative hierarchy and inter-institutional coordination¹⁷. Essentially, the Minister of Health's authority originates from the President's constitutional powers under the 1945 Constitution and is normatively delegated through laws and implementing regulations. As a presidential assistant, the minister acts as a technical executor and must not exceed the delegated mandate in order to avoid *ultra vires* violations. This hierarchical structure reinforces the rule of law by requiring ministerial regulations to adhere strictly to their legal basis¹⁸. Minister of Health Regulation Number 3 of 2025 was drafted as an implementing regulation to strengthen oversight of medical practice. However, Article 4 paragraph (1) introduces classifications of "types of professional disciplinary violations" that are not explicitly regulated in Articles 713 or 718 of Government Regulation Number 28 of 2024 on the Implementation of Law Number 17 of 2023 on Health. This raises substantive legal doubts as to whether the regulation remains within the scope of legitimate delegated authority or instead creates new norms beyond the mandate of higher legislation, contrary to the proper function of a ministerial regulation¹⁹.

Forms of Excess of Authority in the Substance of Minister of Health Regulation Number 3 of 2025

Within the framework of statutory law-making, authority functions as a legal mechanism that enables administrative officials to formulate technical regulations for the implementation of statutes. The scope of such authority is limited to operational matters and does not extend to the creation of new norms that alter or supplement legislative substance. When a ministerial regulation fails to observe these limits, issues of legality arise. In the context of Minister of Health Regulation Number 3 of 2025, provisions governing the classification of professional

¹³ Peter Mahmud Marzuki, *op. cit.*, 135

¹⁴ Ibid

¹⁵ Roziqin and Ibnu Sofyan, "The Institutional Position of State Ministries in the Indonesian Constitutional System," *Jurnal de Jure* 15, no. 1 (April 2023): 33–45.

¹⁶ Sri Wijayanti et al., "Norm Clash in Lex Superior Derogate Legi Inferiori Principle's Implementation on Circular Letters and Laws," *Legal Reform* 28, no. 3 (2024): 234–250, <https://doi.org/10.46257/jrh.v28i3.732>

¹⁷ Roziqin, *Op.Cit.*, 46

¹⁸ Rizal Irvan Amin, "Unraveling the Problems of Legislation in Indonesia," *Res Publica: Journal of Public Policy Law* 4, no. 2 (2020): 205–220

¹⁹ Mastorat, "Perspectives on the Formation of Regulations and Legislation in Indonesia," *Fundamental: Scientific Journal of Law* 9, no. 2 (2020): 147–168, <https://doi.org/10.34304/fundamental.v9i2.24>

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disciplinary violations reflect the establishment of new normative standards, despite the absence of an explicit mandate from Law Number 17 of 2023 or Government Regulation Number 28 of 2024. Hans Kelsen's *Stufenbau des Recht* theory conceptualizes the legal system as a hierarchical structure in which each norm derives its validity from a higher norm, with the 1945 Constitution of the Republic of Indonesia serving as the *Grundnorm*. Within this hierarchy, ministerial regulations occupy a subordinate position and must strictly adhere to the authority delegated by higher-level legislation. Consequently, any provision within a ministerial regulation that lacks a clear legal basis or expands authority independently may be classified as *ultra vires*²⁰. The findings of this study indicate potential excess of authority in Article 4 paragraphs (1) and (2) of Permenkes Number 3 of 2025. These provisions grant broad discretion to the Minister of Health to determine and add new categories of professional disciplinary violations without clear substantive limitations or explicit delegation from higher regulations. Such open-ended authority enables the Minister to alter the scope of disciplinary norms unilaterally, transforming a technical implementing regulation into a source of primary norms. From the perspective of the principle of legality, disciplinary regulations directly affect the rights and professional freedoms of medical and health personnel and therefore should be regulated through higher-level legislation with clearly defined criteria²¹.

Moreover, this regulatory construction conflicts with the principles of good governance, including legal certainty, transparency, and fairness. Ministerial authority is inherently conditional and operates on the basis of delegation rather than attribution. Article 4 paragraph (2) effectively allows the Minister to delegate authority to himself (*self-delegation*), which contradicts the hierarchical principles of legislation (*lex superior derogat legi inferiori*) and violates the requirements of clarity of formulation and conformity between regulatory type and material content as stipulated in Law Number 12 of 2011 on the Formation of Laws and Regulations²². From the perspective of Gustav Radbruch's legal philosophy, legal certainty constitutes a fundamental value of the rule of law. Law must provide clear, predictable, and stable standards to prevent arbitrary exercise of power. The open-ended nature of Article 4 undermines legal certainty by allowing disciplinary categories to be modified at any time through administrative discretion, thereby creating regulatory instability and uncertainty for medical and health professionals. This condition weakens the coherence of the legal system and raises doubts regarding the validity and enforceability of the regulation. Consequently, the provisions of Permenkes Number 3 of 2025 not only demonstrate characteristics of *ultra vires* authority but also pose a serious challenge to the principles of legal certainty and normative hierarchy within Indonesia's health law framework. From Gustav Radbruch's perspective, vague and unclear laws pose a serious threat to justice because they open space for inconsistent interpretation and arbitrary application. When new norms introduced in a ministerial regulation are not aligned with the Health Law, their implementation may vary across institutions, undermining legal coherence. Such inconsistency weakens public confidence in the law's ability to deliver justice. In the context of the medical profession, the erosion of trust in the disciplinary system can directly disrupt the daily practice of medical personnel. Legal uncertainty also creates opportunities for abuse of authority, as unclear norms allow sanctioning bodies to interpret rules according to their own discretion²³.

In the case of Minister of Health Regulation Number 3 of 2025, this risk becomes apparent when types of disciplinary violations are determined unilaterally by the Ministry without explicit delegation. In the absence of a clear legal mandate, such provisions may be imposed on medical professionals despite conflicting with the authority structure established by statute. This condition generates legal uncertainty and heightens the risk of arbitrariness. Radbruch's principle of legal certainty requires that every norm remain subordinate to higher-level rules. If Permenkes No. 3 of 2025 is maintained without revision, its structural inconsistency with the Health Law will continue to create tension within the legal system and hinder the development of a stable and effective disciplinary enforcement framework²⁴. In practice, health professionals become particularly vulnerable legal subjects, as they may at any time be subjected to newly defined categories of violations that have not undergone a transparent legislative process. Article 4 paragraph (2) of Permenkes No. 3 of 2025 illustrates a fundamental problem of administrative authority, as it goes beyond technical implementation and enables the Minister to establish new

²⁰ Muhammad Suhenriko, "Implementation of Hans Kelsen's Hierarchy Theory to Policy Formulation in Indonesia," *Multidisciplinary Scientific Journal* 1, no. 2 (2023): 64–69.

²¹ *Ibid*

²² Sofyan Apendi, "The Absence of Ministerial Regulations in the Hierarchy of National Legislation and Its Implications for Regulatory Arrangement in the National Legal System," *PALAR (Pakuan Law Review)* 7, no. 1 (2021): 111–126.

²³ Ricca Anggraeni and Indah Mutiara Sari, "Examining the Legal Order of Government Regulations in Lieu of Laws through the Validity of a Legal Norm," *CREPIDO* 2, no. 1 (2020): 35–45, <https://doi.org/10.14710/crerido.2.1.35-45>

²⁴ Irfan Ardyan Nusanto, "An Analysis of the Duality of Ministerial Regulations in the Indonesian Legislative System," *Volksgeist: Journal of Law and Constitutional Studies* 4, no. 1 (2021): 53–68, <https://doi.org/10.24090/volksgeist.v4i1.4245>

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disciplinary categories unknown to higher-level legal instruments. Such regulatory space is widely regarded as sensitive because it blurs the boundary between technical regulation and substantive legal norm-making²⁵. This provision suffers from a defect of legality due to the absence of clear limitations. Sound legal norms require explicit parameters defining what regulators may and may not do. However, Article 4 paragraph (2) grants excessive discretion to the Minister to independently determine what conduct constitutes a disciplinary violation. This ambiguity generates uncertainty for both medical professionals and disciplinary authorities. When a subordinate regulation exceeds its superior norm, the hierarchical structure of law becomes distorted. Ministerial regulations must not function as quasi-legislation capable of creating new substantive norms. In this regard, Article 4 paragraph (2) clearly reflects a deviation from its proper hierarchical role²⁶. In substance, this provision shifts the Minister's position from norm executor to norm creator. Such repositioning is theoretically unsound and undermines the integrity of a governance system based on the rule of law. Administrative regulations should fill technical gaps, not establish new legal categories absent from statutory law. The legal defect is therefore not merely conceptual but has direct implications for disciplinary enforcement. Medical professionals cannot reasonably be expected to comply with standards that may be altered at any time through ministerial discretion, contrary to the fundamental principle that prohibited conduct must be clearly defined in advance²⁷.

Allowing new norms to be introduced through ministerial decisions jeopardizes regulatory stability and consistency. Substantive changes should be enacted through legislation or, at minimum, government regulations—not unilateral ministerial action. From the standpoint of citizens' rights protection, uncertainty regarding disciplinary categories undermines the right of medical professionals to clear legal standards prior to the imposition of sanctions. In a rule-of-law state, sanctions imposed without legal certainty constitute injustice. Excessive discretionary authority also weakens objective oversight and checks-and-balances mechanisms, which are core principles of administrative law. The *ultra vires* character of Article 4 paragraph (2) becomes even clearer when assessed against the proper function of implementing regulations. A norm that authorizes the addition of substantive content exceeds its hierarchical position and risks invalidation. Such violations are not merely technical drafting errors but carry tangible legal consequences, including the possibility of annulment through judicial review by the Supreme Court. For the medical profession, legal uncertainty presents a serious risk, as professional practice depends on stable and predictable disciplinary standards²⁸.

Therefore, corrective action is essential—not only to refine the wording of the regulation but to restore the Minister's authority to its proper administrative function. Revision is necessary to ensure alignment with rule-of-law principles emphasizing legal certainty, clarity, and normative order. Moreover, revision would allow meaningful public participation, particularly from professional organizations directly affected by disciplinary regulation. Ultimately, correcting Article 4 paragraph (2) is not merely a textual adjustment but a reaffirmation of the foundational principles of administrative law and the hierarchical integrity of the legal system²⁹.

Legal Implications of Ministerial Regulations Containing New Norms on Legal Certainty and the Hierarchy of Laws and Regulations

In the Indonesian legal system, the hierarchy of norms is designed to ensure that ministerial regulations function strictly as implementing rules rather than as instruments for creating substantive legal norms. When a ministerial regulation, such as Minister of Health Regulation Number 3 of 2025, contains provisions that exceed delegated authority, it directly conflicts with the normative hierarchy above it. Under this system, ministerial regulations must fully conform to statutes and government regulations. Any material content that is not clearly derived from legislative delegation violates the fundamental principle of *lex superior derogat legi inferiori*, rendering such provisions vulnerable to legal challenge³⁰.

²⁵ Mario Julyano dan Aditya Yuli Sulistyawan, "Pemahaman terhadap Asas Kepastian Hukum melalui Konstruksi Penalaran Positivisme Hukum," *CREPIDO* 1, no. 1 (2019): 13–22, <https://doi.org/10.14710/crerido.1.1.13-22>

²⁶ Ibid

²⁷ Keysha Nashwa Aulia et al., "Kepastian Hukum dan Keadilan Hukum dalam Pandangan Ilmu Komunikasi," *Kampus Akademik Publishing* 2, no. 1 (2024): 713–724.

²⁸ Gunawan Widjaja et al., "Health Workers' Compliance with the Professional Code of Ethics," *Journal of Health and Medical Research* 5, no. 2 (2025): 55–67.

²⁹ Abdul Rahman Prakoso, "The Influence of Social and Political Powers in the Formation of Legislation in Indonesia," *Jurnal Al-Hakim* 4, no. 2 (2022), <https://doi.org/10.22515/jurnalalhakim.v4i2.5939>

³⁰ Otong Syuhada, "Reconstruction of Positivism in the Hierarchy of Legislation in Indonesia," *Journal of Presumption of Law* 2, no. 2 (2020): 1–23, <https://doi.org/10.31949/jpl.v2i2.796>

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Ministerial regulations are required to contain clear, technical, and operational norms derived from higher legislation. They lack legitimacy to introduce independent or additional norms. When a minister is granted discretion to independently determine categories of professional violations, this misplacement of authority causes the regulation to be hierarchically defective from its inception. Such defects open the door to judicial review by the Supreme Court (Mahkamah Agung), as provided under Article 24A paragraph (1) of the 1945 Constitution. If it is established that a regulation exceeds its delegated mandate, the Court may annul it³¹. Once annulled, the invalid norm loses its binding force. Supreme Court jurisprudence consistently affirms that annulled regulations cannot be applied, either retroactively or prospectively. This has significant practical consequences, particularly for the enforcement of professional discipline in the medical sector. More critically, such regulatory defects generate legal uncertainty. Medical professionals may lack clarity regarding which actions are subject to sanctions, especially if categories of violations can be unilaterally expanded by ministerial policy. This condition fundamentally contradicts the rule of law³².

According to Gustav Radbruch, legal certainty constitutes one of the core values of law, alongside justice and utility. Norms that are vague or overly open to interpretation undermine this certainty, depriving individuals of the ability to predict legal consequences. From this perspective, ambiguous ministerial norms risk transforming law from a guiding framework into an arbitrary instrument of control. Excessive discretionary power, unanchored to clear legal delegation, erodes accountability and threatens the integrity of the legal system³³. The implications extend beyond administrative error and affect the structural coherence of the legal hierarchy itself. If ministries are permitted to establish substantive norms without statutory authorization, the hierarchical system loses its meaning and becomes fragile. Such non-compliance also produces regulatory disharmony, forcing law enforcers to choose between conflicting norms and potentially resulting in injustice for regulated professionals³⁴.

If problematic norms are allowed to persist, cumulative normative conflicts may arise. Medical professionals could be sanctioned under ministerial provisions that are unknown to higher legislation, creating fear and excessive caution rather than constructive professional development. This uncertainty is incompatible with the objective of professional discipline, which should provide clear and stable standards³⁵. From an administrative law perspective, norms created without proper delegation may be classified as *ultra vires*. The *ultra vires* doctrine signals not only invalidity but also a fundamental misunderstanding of authority by the issuing body. Annulment by the Supreme Court thus serves both a corrective and constitutional function, reaffirming legislative supremacy and restoring the integrity of the hierarchical legal order³⁶. In line with Hans Kelsen's *Stufenbau* theory, each norm must derive its validity from a higher norm. Regulatory reconstruction—through revision and realignment with statutory authority—is therefore necessary to restore consistency and prevent further legal uncertainty. Such reconstruction aligns with Radbruch's conception of law, as it seeks to rebalance legal certainty and justice. By harmonizing definitions of professional violations with the Health Law, regulatory reform strengthens accountability, enhances public trust, and ensures that disciplinary enforcement rests on legitimate and transparent legal foundations³⁷.

CONCLUSION

Conclusion

1. Based on the analysis of Minister of Health Regulation Number 3 of 2025, it can be concluded that the regulation contains provisions that exceed the authority of the Minister of Health. This excess of authority appears in the regulation of types of professional disciplinary violations, particularly Article 4 paragraph (2), which grants the

³¹ Ahmad Heru Romadhon et al., "The Binding Power of Constitutional Court Decisions," *Anima Legis* 1, no. 1 (2022): 1–13, <https://doi.org/10.55840/al.v1i1.8>

³² Dino Rizka Afdhali and Taufiqurrohman Syahuri, "The Ideality of Law Enforcement," *Collegium Studiosum Journal* 6, no. 2 (2023): 555–561, <https://doi.org/10.56301/csj.v6i2.1078>

³³ Nur Kemala Putri et al., "Disharmonization of Legislation in Indonesia...," *Wathan* 1, no. 1 (2024): 55–63, <https://doi.org/10.71153/wathan.v1i1.17>

³⁴ Hasjad, Legal Analysis of the Authority of the Minister of Home Affairs in Cancelling Regional Regulations," *Jurnal Akrab Juaraa* 4, no. 3 (2019): 204–210.

³⁵ Muhammad Islahuddin, "Mechanism for the Cancellation of Regional Regulations by the Supreme Court," *Legal Studies Journal* 4, no. 1 (2024): 12–26, <https://doi.org/10.33650/lst.v4i1.9443>

³⁶ Zaka Firma Aditya and Muhammad Reza Winata, "Reconstruction of the Hierarchy of Legislation in Indonesia," *State of Law* 9, no. 1 (2018), <https://doi.org/10.22212/jnh.v9i1.976>

³⁷ Ida Yusnani, "Directions of Judicial Reform in Indonesia," *Yudhistira* 1, no. 3 (2023): 75–82, <https://doi.org/10.59966/yudhistira.v1i3.1689>

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Minister discretion to determine or add categories of disciplinary violations without clear limitations and without explicit delegation from Law Number 17 of 2023 on Health or Government Regulation Number 28 of 2024. Such provisions go beyond the scope of the delegated technical-operational regulation and introduce new substantive norms, which, within the framework of the theory of authority and the hierarchy of laws and regulations, indicates an ultra vires exercise of power.

2. The existence of norms that exceed delegated authority gives rise to implications for legal certainty and the hierarchy of laws and regulations. According to Hans Kelsen's theory of the hierarchy of norms, a ministerial regulation is valid only if it derives its legitimacy from higher norms. When a Ministerial Regulation contains norms that do not flow from a law or a government regulation, its validity becomes problematic. Furthermore, from the perspective of Gustav Radbruch's theory of legal certainty, norms that confer unlimited authority generate ambiguity and uncertainty for medical professionals as subjects of law, thereby undermining the function of law as a clear and reliable guideline.

Recommendations

Regulators and the Ministry of Health need to clearly define and strictly limit the scope of delegated authority in Government Regulations so that Ministerial Regulations continue to function as instruments of technical-operational regulation and do not create new substantive norms. In the context of enforcing professional discipline, regulations concerning the types and qualifications of disciplinary violations should be formulated in a clear, objective, and measurable manner in order to ensure legal certainty, prevent arbitrary imposition of sanctions, and protect the professionalism of medical personnel.

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LEGAL IMPLICATIONS OF THE REGULATION OF THE MINISTER OF HEALTH'S AUTHORITY IN MINISTER OF HEALTH REGULATION NUMBER 3 OF 2025 THAT EXCEEDS THE PRINCIPLE OF ULTRA VIRES

Nina Ayu Wandira and Fatma Ulfatun Najicha

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