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Legal Protection For Pharmacists And Consumers In Online Drug Purchase Transactions Through Market Places

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ABSTRACT
The development of digital technology is driving changes in drug distribution patterns through online transactions in marketplaces, which poses challenges in legal protection for pharmacists and consumers. This study aims to examine the forms of legal protection that apply and the effectiveness of existing regulations. Using a normative juridical method with a statutory and conceptual approach, elaborating on primary, secondary, and tertiary legal materials, this study found that although several regulations exist, their implementation has not been optimal in addressing the complexities of online drug transactions. Regulatory updates that are adaptive to technology, strengthened oversight, and consumer and pharmacist protection are needed to create a safe and accountable drug distribution system.

Keywords: Drugs, Marketplace, Consumers, Pharmacists, and Legal Protection

INTRODUCTION
The rapid advancement of information technology has brought about significant transformations in various sectors, including healthcare. One striking innovation is the online sale of medicines, particularly through marketplaces. This trend is gaining popularity globally because it offers easier access to medicines, especially for people living in remote areas or with limited mobility. However, behind these benefits come a number of challenges, particularly regarding legal and safety aspects for pharmacists and consumers.

Over the past decade, online drug sales through marketplaces have surged globally. A report from the World Health Organization (hereinafter referred to as "WHO") indicates that approximately 50% of drugs sold through unofficial websites are counterfeit or do not meet pharmaceutical standards. Statista reports that the pharmaceutical market in the marketplace is expected to exceed USD 150 billion in value by 2024 with a significant

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increase triggered by the COVID-19 pandemic, which has made people increasingly dependent on digital health solutions. Although major marketplaces, such as Amazon and Alibaba, have implemented intensive measures to regulate the marketing of drugs through their platforms, there are still gaps in the screening process for illegal drug sales.

In Southeast Asia, drug purchases through marketplaces have also seen a rapid increase, particularly in countries with limited access to pharmacies. A report from the ASEAN Post indicates that approximately 20–30% of online drug transactions in the region originate from unregistered or illegal sources. The development of marketplaces in countries such as Indonesia, Thailand, and Malaysia has driven the expansion of the online pharmaceutical market, but simultaneously increases the risk of abuse and distribution of drugs that do not meet safety standards.

Several well-known marketplaces in Indonesia, such as Tokopedia, Shopee, and Bukalapak, are the primary channels for online drug sales. Data from the Food and Drug Monitoring Agency (hereinafter referred to as "BPOM") shows that approximately 30% of drugs sold on these marketplaces in 2023 lacked official distribution permits. This situation demonstrates the high demand for digital pharmacy services, but also reflects the weak oversight of the distribution of illegal drugs in these marketplaces. Although several marketplaces have implemented strict regulations requiring drug sellers to be certified, there are still opportunities for unscrupulous parties to exploit illegal drugs.

The real impact of the massive online drug distribution, particularly by irresponsible parties through marketplaces, is directly felt by two main stakeholders: consumers and pharmacists. Consumers are vulnerable because they are at risk of acquiring counterfeit drugs, products without marketing authorization, or drugs with substandard ingredients and dosages. Furthermore, easy access to certain medications without a doctor's prescription through marketplaces also increases the potential threat to public health.

Pharmacists, as licensed professionals, are not only tasked with dispensing medication but also play a role in providing education and consultation to patients regarding the proper use of medications. In carrying out their duties, pharmacists ensure that the pharmaceutical services provided meet safety, quality, and effectiveness standards in accordance with applicable regulations. Along with advances in science and technology at the global level, the world is now entering the era of Sustainable Development Goals (SDGs) 5.0. This era

is marked by various improvements in the quality of human life driven by the process of digitalization and automation based on Artificial Intelligence (AI), which is expected to begin to develop rapidly between 2025 and 2030. One innovation born from this progress is the development of telepharmacy services, which is a form of transformation of healthcare services towards a more modern and efficient direction.

Pharmacists, on the other hand, as healthcare professionals face serious challenges. They must contend with competitive pressure from unlicensed illegal vendors who are able to offer medicines at lower prices. Pharmacists also face legal risks if they do not practice in accordance with applicable regulations, despite their crucial role in ensuring the safety, quality, and effectiveness of medicines. This includes verifying product authenticity, providing accurate consultations to consumers, and educating the public about the circulation of illegal drugs through marketplaces.

Thus, the responsibility for overseeing drug distribution in marketplaces rests not solely with the government, through the Ministry of Health and the Food and Drug Monitoring Agency (BPOM), but also requires active participation from marketplaces and pharmacists themselves. Collaboration between various stakeholders is essential to create a more effective oversight system. To support these efforts, several strategies can be implemented, such as intensifying the enforcement of regulations on online drug sales, utilizing automated verification technology to detect illegal products, and educational campaigns for consumers on how to purchase drugs safely. Therefore, this study is urgently needed to evaluate the extent of legal protection for pharmacists and consumers in online drug purchases through marketplaces and to assist the government in formulating strategic steps that can strengthen oversight and ensure compliance with established regulations.

RESEARCH METHODS

This study uses a normative legal research method with a statutory approach and a conceptual approach. This method aims to analyze applicable laws and regulations related to drug sales in the marketplace and examine the concept of legal protection for pharmacists and consumers. The data sources used include primary, secondary, and tertiary legal materials. The primary legal materials used as references in this study include: 1) Law Number 17 of 2023 concerning Health (hereinafter referred to as the "Health Law"); 2)

Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as the "UUPK"); 3) Regulation of the Food and Drug Supervisory Agency Number 14 of 2024 concerning Supervision of Drugs and Food Distributed Online ("hereinafter referred to as "PERBPOM 14/2024"), etc.

In addition, this study also examined secondary legal materials, such as scientific journals, legal books, and reports from the WHO and BPOM regarding drug sales through marketplaces. Tertiary legal materials, such as legal dictionaries and encyclopedias, were used to strengthen understanding of relevant legal concepts. The analytical method employed was descriptive-qualitative analysis. The data obtained will be systematically analyzed to describe the existing legal situation and provide policy recommendations that can improve the effectiveness of oversight of online drug sales.

RESULTS AND DISCUSSION

Online Drug Sales Through Marketplaces Under Indonesian Positive Law

Advances in information and communication technology have significantly impacted the dynamics of trade transactions in society, including in the pharmaceutical sector. Marketplace platforms such as Shopee, Tokopedia, Bukalapak, and others now serve as intermediaries between sellers and buyers in an electronic trading system. However, this ease of access has also given rise to legal issues, particularly when drugs are freely traded by parties without the qualifications or official permits for pharmaceutical purposes.

In an effort to maintain the safety and quality standards of drugs in circulation, the Food and Drug Monitoring Agency (BPOM) has established Regulation of the Head of the Food and Drug Monitoring Agency Number 24 of 2017 concerning Criteria and Procedures for Drug Registration (hereinafter referred to as "PKBPOM 24/2017"), which stipulates that every drug that will obtain a distribution permit must meet a number of substantive requirements. These requirements include: 1) proof of adequate efficacy and safety through non-clinical and clinical testing stages; 2), fulfillment of quality standards as stipulated in technical regulations; and 3), provision of complete, objective, and non-misleading product information and labels. These provisions are intended as a form of legal protection for consumers in the use of drugs obtained through the marketplace.

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At the level of other legal instruments, regulations regarding drug sales through the marketplace are also explicitly regulated in PERBPOM 14/2024, which stipulates that online drug distribution is only permitted for over-the-counter drugs, limited over-the-counter drugs, and prescription drugs, provided that all products have a distribution permit and are produced and distributed according to standards set by statutory regulations. Based on Article 8 paragraphs (1), (2), and (4) in conjunction with Article 6 paragraph (2) letter f of PERBPOM 14/2024, online distribution of prescription drugs may only be carried out if accompanied by a doctor's prescription, either in electronic form or through an available upload system. It is even expressly stated that pharmacies are prohibited from trading prescription drugs online without fulfilling these provisions. Pharmacists in this case are obliged to ensure that consumers submit an original prescription before the drug is distributed, as a form of professional responsibility and protection for consumer safety in consuming drugs obtained in the marketplace.

Protection of Pharmacists in Online Drug Sales Through Marketplaces Under Indonesian Positive Law

The delivery of pharmaceutical services has undergone a significant shift from conventional systems to electronic systems that are more adaptable to developments in information technology. One concrete form of this digitalization is the Electronic Pharmacy System (hereinafter referred to as "PSEF"), which enables online drug distribution through marketplaces. In the context of PSEF, pharmacists not only act as pharmaceutical technical personnel, but also play a central role as professional supervisors of the electronic-based drug distribution system.

PERBPOM 14/2024 has emphasized that in the process of distributing drugs through marketplaces, pharmacists have a normative responsibility to ensure a legitimate, responsible, and effective partnership between pharmacies and marketplace organizers. Furthermore, pharmacists are obligated to guarantee that the marketplace as a distribution medium has implemented a verified technology system and meets safety standards. This oversight cannot be separated from the principle of pharmacists' professional responsibility as implementers of pharmaceutical practices that are based on patient safety and legal certainty in drug purchase transactions, including online transactions.

Legal protection for pharmacists in the PSEF implementation is not merely repressive but also prioritizes a preventative approach to prevent legal violations that could harm the pharmacy profession. In this regard, preventive protection is realized through a number of obligations that pharmacists must fulfill as part of the implementation of prudential principles. These include the obligation to ensure that partner marketplace platforms comply with all laws and regulations governing drug distribution and pharmaceutical service practices, including the implementation of standardized electronic systems and the establishment of data security and drug quality systems.

Pharmacists are also responsible for assessing the reputation, technical feasibility, and integrity of the systems used by marketplaces to provide telepharmacy services. This verification includes the marketplace's ability to guarantee patient data security, drug information accuracy, and compliance with consumer protection principles and healthcare quality. Accordingly, Article 13 of PERBPOM 14/2024 stipulates that all electronic transaction data related to drug distribution must be archived and traceable for a minimum period of five years. This archiving obligation implicitly provides legal protection for pharmacists by providing digital evidence that can be used in the event of future legal issues arising due to marketplace negligence. Therefore, an online transaction documentation system is a crucial element in creating legal certainty, accountability, and protecting the pharmacist profession in the digital pharmacy ecosystem.

Legal protection for pharmacists also includes repressive aspects, namely protection mechanisms that can be used in the event of legal violations by third parties, particularly marketplaces as providers of electronic pharmaceutical systems. Marketplaces, in carrying out their online drug distribution function, are subject to certain restrictions and prohibitions as stipulated in Chapter V of PERBPOM 14/2024. If a marketplace is proven to have committed an unlawful act, such as misrepresenting drug dosage information, selling drugs without a valid prescription, or violating other technical provisions, pharmacists who suffer losses as a result of these violations have the right to pursue legal action.

One form of legal action that can be taken by pharmacists is through a lawsuit for breach of contract based on a previously agreed cooperation agreement between the pharmacy and the marketplace, or through a lawsuit for unlawful acts in accordance with the provisions

of the Civil Code (hereinafter referred to as the "KUHPer"). PERBPOM 14/2024 provides the basis for imposing administrative sanctions on marketplaces proven to have violated the law, as regulated in Article 27 paragraph (2), which states that:

> "The administrative sanctions as referred to in paragraph (1) are in the form of:
> *a. warning;*
> *b. stern warning;*
> *c. temporary ban on distribution; and/or*
> *d. orders for the recall of drugs and food*."

The a quo provision demonstrates the state's involvement in protecting pharmacists as professionals who legally practice pharmacy. Imposing sanctions on marketplaces is not only a form of law enforcement but also reflects a commitment to professional protection and consumer safety. Therefore, in any partnership with a marketplace, pharmacists must ensure proportional liability arrangements, along with legally enforceable clauses on sanctions and compensation in the event of violations by the marketplace.

Consumer ProtectionPurchasing Medicines Online Through Marketplaces Under Indonesian Positive Law

Legal protection for consumers is an integral part of the state's efforts to guarantee the public's right to obtain safe, beneficial, and high-quality goods and/or services. In the context of online drug procurement, this becomes even more crucial given the high potential risks to consumer safety from the circulation of counterfeit, unregistered, or substandard drugs. The Consumer Protection Law (UUPK) serves as one of the primary normative foundations governing legal protection for consumers, through both preventive and repressive mechanisms.

The preventive approach is implemented through the implementation of supervision of the drug distribution chain by the Food and Drug Authority (BPOM), as well as public education to ensure consumers have sufficient literacy to make decisions about purchasing pharmaceutical products online. This supervision aims to prevent the distribution of drugs that are unfit for consumption. On the other hand, the repressive approach gives consumers the right to seek compensation through legal channels if they suffer losses due to purchasing drugs that do not meet safety and quality standards. Thus, legal protection for

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consumers in drug distribution through marketplaces has two complementary dimensions: preventing losses and guaranteeing restitution if losses have occurred.

Legal protection within the ius constitutum framework emphasizes the existence of positive legal instruments that normatively guarantee consumer rights, particularly in online drug purchases. Several laws and regulations provide preventative legal protection for consumers, including:

1. **UUPK**
   - Article 4 states that every consumer has the right to comfort, security, and safety when using goods and/or services. This provision underpins the obligation of goods providers to ensure that marketed products, including pharmaceuticals, meet minimum quality and safety requirements.
   - Article 7 regulates the obligations of business actors to provide correct, clear and honest information regarding the products being traded, so that consumers can make conscious and responsible decisions.
   - Article 8 prohibits business actors from producing and/or trading goods that do not comply with standards or whose distribution is prohibited by law, including in this case medicines that are not registered with BPOM.
   - Article 19 states that business actors are obliged to provide compensation for consumer losses arising from the use of goods or services that do not meet standards.
2. **Health Law:**
   - Article 138 paragraph (1) emphasizes that pharmaceutical preparations and medical devices must meet the requirements of safety, efficacy, quality, affordability and comply with halal provisions for those who need them.
   - Article 145 emphasizes that pharmaceutical practice may only be carried out by authorized health workers, and includes production, distribution, and comprehensive pharmaceutical services, including within the digital ecosystem.

- Article 421 stipulates that the government has an obligation to supervise health services, including pharmaceutical services, as part of efforts to protect consumers.

3. **PERBPOM 14/2024:**
   - Article 5 requires that all drugs and food marketed online must have a valid distribution permit from BPOM.
   - Article 7 mandates that marketplace platforms actively cooperate with the Food and Drug Authority (BPOM) to oversee online drug distribution. This demonstrates synergy between the private sector and the government in implementing preventative legal protection for consumers.

Overall, these legal instruments reflect a holistic system of preventative legal protection, from production through distribution and service to consumers. If preventative protection is unable to prevent violations or losses to consumers, repressive legal protection instruments are needed that provide consumers with the rights and means to seek justice.

Repressive legal protection emphasizes law enforcement through sanctions against business actors found to have committed violations, as well as restoring the rights of harmed consumers. Relevant positive legal instruments in this context include:

1. **UUPK:**
   - Article 62 provides a legal basis for the application of criminal and/or administrative sanctions to business actors who violate the provisions of the UUPK, including those related to the sale of drugs without a distribution permit or misleading product information.
2. **Health Law:**
   - Article 435 stipulates that anyone who produces or distributes pharmaceutical preparations or medical devices without complying with safety, efficacy, and quality requirements can be subject to a maximum prison sentence of 12 years or a fine of Rp 5 billion. This provision aims to provide a deterrent effect for businesses that fail to comply with pharmaceutical distribution regulations.

- Article 436 paragraph (1) stipulates a criminal fine for anyone who carries out pharmaceutical practice without having official expertise and authority, with a maximum amount of IDR 200 million.

3. **PERBPOM 14/2024:**
   - Article 27 paragraph (2) authorizes the BPOM to impose administrative sanctions on marketplaces found to have violated online drug distribution regulations. These sanctions can include warnings, stern warnings, temporary distribution bans, or orders to withdraw products from circulation.

With the repressive legal instruments mentioned above, consumers are assured that the state provides a firm and measurable law enforcement mechanism to prosecute irresponsible business actors. Therefore, this reflects the state's responsibility to ensure fair and proportional legal protection for every citizen in safely accessing pharmaceutical services in this digital age.

CONCLUSION

Legal protection for pharmacists and consumers in online drug purchases through marketplaces has become a crucial issue with the increasing digitalization of pharmaceutical services. Although regulations governing the oversight and responsibility of marketplaces in marketing drugs online exist, their implementation still leaves loopholes for irresponsible individuals. Pharmacists, as professionals responsible for the quality and safety of drugs, are obligated toensure effective partnerships in the implementation of electronic pharmaceutical systemsOn the other hand, consumers have the right to obtain safe, effective, and high-quality medicines. Legal protection for pharmacists and consumers in the context of online drug transactions through marketplaces can be examined in two ways: preventive and repressive.

SUGGESTION

1. In the process of drafting and updating several laws and regulations related to pharmaceutical services, BPOM must be able to adapt the relevant legal

instruments responsively to the dynamics of digital technology developments in order to accommodate the complexity of drug transactions through the marketplace, especially in terms of legal protection for pharmacists and consumers.

1. The Agency for the Assessment and Application of Technology (BPPT) must collaborate with the BPOM (Indonesian Food and Drug Authority) in innovating artificial intelligence (AI) in the form of blockchain technology to guarantee the authenticity, legality, and transparency of medicinal products traded online through marketplaces.

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