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Fit to Work Assessment from a Legal Perspective: Legality, Doctor Competence and Dispute Risk in the Occupational Health System in Indonesia

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Abstract:

"Fit-to-work" assessments serve as a vital instrument for worker protection; however, they are not yet explicitly addressed by Indonesian regulations. Neither the Manpower Law nor the Government Regulation on Occupational Health specifies who is authorized to determine an individual's fitness for work—they merely mandate health examinations. Meanwhile, the Indonesian Medical Council Regulation (Perkonsil) No. 90 of 2020 asserts that this competency lies with Occupational Medicine Specialists, though its binding authority is limited to the medical profession itself. This study employs a normative-juridical method—analyzing relevant regulations, professional standards, and court rulings—to examine the legal aspects, competencies, and risks of legal disputes concerning fitness for work. The findings reveal a legal vacuum, an overlap in authority among general practitioners, other medical specialists, and Occupational Medicine Specialists, as well as the emergence of disputes within the Industrial Relations Court. Consequently, it can be concluded that the issue of fitness for work remains in a legal "gray area." There is a need for cross-sectoral regulatory synchronization—specifically through the Ministry of Manpower and the Ministry of Health—to explicitly define fitness-to-work assessments and grant primary authority to Occupational Medicine Specialists. This would ensure legal certainty, professional legitimacy, and the protection of workers.

Keywords: fit to work; labor law; legality; competence; occupational medicine specialist; occupational health.

INTRODUCTION

A fit-to-work assessment is a crucial element in occupational medicine practice, assessing whether a worker possesses sufficient physical and mental capabilities to safely perform their duties, both for themselves and their work environment. In many jurisdictions, this assessment process is not merely a medical examination but also carries a strong legal dimension, directly related to the fulfillment of workers' rights, companies' obligations, and physicians' professional responsibilities. In this context, a fit-for-work evaluation is a crucial instrument for reducing the risk of workplace accidents, ensuring operational safety, and protecting workers from assignments that exceed their capacity. Furthermore, the assessment results are professionally binding, requiring physicians to ensure objectivity, maintain the confidentiality of medical data, and adhere to applicable ethical and legal standards. Thus, fit-to-work serves not only as a clinical assessment but also as a legal protection mechanism that balances the interests of workers, employers, and overall workplace safety (Serra et al., 2007).

Various studies emphasize the central role of legal aspects and professional competence in the implementation of fitness-for-work assessments. A scoping review revealed that indicators, procedures, and methods for fitness-for-work assessments vary significantly across countries, resulting in inconsistent standards and potential legal uncertainty. These findings suggest that without a clear regulatory framework, physicians may be vulnerable to legal challenges, particularly when the issued certificate affects employment status. This situation underscores the need for standard guidelines and a comprehensive legal framework to ensure that the fitness-for-work assessment process is not only clinically accurate but also legally protected. Furthermore, clear competency standards are necessary to ensure consistency of practice between professionals and minimize the risk of disputes arising from differences in interpretation or procedures for determining a worker's fitness to perform their duties (Swart et al., 2023).

An empirical study reveals a dilemma that frequently arises in the practice of fitness-for-work assessments. Through a case report of a financial analyst with major depressive disorder, the study emphasized that fitness for work evaluations cannot be limited to a physical examination alone but must also include an assessment of the worker's psychological condition and mental burden. These findings demonstrate that the assessment process requires a more comprehensive approach, particularly in jobs with high cognitive stress. This situation also demonstrates that a doctor's competence in assessing physical and mental aspects significantly influences the accuracy of medical decisions. These decisions not only affect workers' safety and health but also carry legal consequences, particularly when the assessment results relate to the continuation of the employment relationship. Therefore, the doctor's professional competence is a key factor in ensuring that the fitness for work assessment process is objective, accurate, and in accordance with applicable legal principles (Saputri & Adi, 2023).

From a regulatory perspective, several studies emphasize that although the new Health Law (Law No. 17 of 2023) has provided a stronger legal basis for healthcare workers, operational provisions on procedures, limits of authority, and standards for fitness-for-work assessments have not yet been formulated in detail. This lack of technical regulations has led to differing approaches in practice across facilities and medical personnel. This lack of clarity also creates the potential for overlapping authority between general practitioners and physicians competent in occupational medicine, particularly when each performs fitness-for-work assessments using different methods or standards. This situation can cause confusion, affect the quality of medical decision-making, and create opportunities for administrative and legal disputes. Therefore, the development of more stringent technical guidelines is urgently needed to ensure consistency, certainty, and accountability in fitness for work assessment practices (Prastyo et al., 2025). Furthermore, a study on Occupational Medicine Specialists in Indonesia indicates that regulations such as Government Regulation No. 88 of 2019 and the 56-hour training required to become a company doctor have not been matched by detailed competency standards for conducting high-risk fitness-for-work assessments. This raises doubts about the medical practice of requiring a general practitioner to perform assessments that should be within the purview of an occupational specialist (Soemarko, 2025).

The issue of fit-to-work assessments in Indonesia lacks a clear legal basis. Laws and government regulations, such as Law No. 1 of 1970 concerning Occupational Safety (UUD, 1970), Law No. 13 of 2003 in conjunction with Law No. 6 of 2023 (UUD, 2023), never explicitly mention the terms "fit-to-work" or "fit-to-work". Current regulations only stipulate the obligation to conduct occupational health examinations, whether pre-employment, periodic, or special examinations, but do not provide a detailed explanation of the party legally authorized to determine fit-to-work. Although Government Regulation No. 88 of 2019 concerning Occupational Health uses the term "fit-to-work assessment" and recognizes the existence of health workers with formal education in occupational medicine or occupational health, the regulation does not explicitly establish occupational medicine specialists (Sp.Ok) as the primary authority in conducting such assessments. This ambiguity in regulations creates ample room for interpretation, leading to variations in practice across settings. Differences in how standards are applied among medical professionals can affect the quality of decisions about a worker's fitness to perform their duties. Furthermore, uncertainty about who holds professional authority can increase the risk of industrial relations disputes, particularly when fitness-for-work assessments are used to inform management decisions. Therefore, more stringent regulations regarding the authority of fitness-for-work assessors are needed to ensure uniformity in medical practice and provide adequate legal certainty.

On the other hand, Indonesian Medical Council Regulation Number 90 of 2020 clearly stipulates that fit-to-work assessment is one of the core competencies required of occupational medicine specialists (Sp.Ok). This regulation affirms that Sp.Ok have a special professional capacity to assess the physical and mental abilities of workers to carry out their duties safely. With this recognition, the regulation provides a normative basis for

determining who is most authorized to conduct fit-for-work assessments in the context of occupational medicine practice. However, despite this explicit provision, its implementation often faces obstacles due to misalignment with other occupational health regulations (Konsil, 2020). While this provision strengthens the professional legitimacy of Occupational Medicine Specialists in conducting fit-to-work assessments, the position of Perkonsil is essentially an internal regulation within the medical profession. Consequently, this regulation lacks sufficient binding force on companies or employers because it is not part of the labor law framework. In other words, although the Perkonsil provides a normative basis for the competence of Specialist Physicians (Sp.Ok), its applicability is limited to professional regulation and fails to provide comprehensive legal certainty at the industrial relations level. This means specialist medical fitness assessments are not universally recognized by non-medical parties, leaving a regulatory gap that needs to be bridged through regulations directly within the labor regime.

Due to unclear regulatory conditions, field practice often demonstrates overlapping authority. General practitioners in company clinics and other specialists in healthcare facilities still frequently issue fitness-for-work certificates, even though comprehensive competence to conduct such assessments actually lies with Occupational Medicine Specialists. This uncertainty regarding the legal position and limits of authority creates wide room for interpretation, leading to inconsistent practices across institutions. This situation ultimately creates opportunities for disputes between workers and employers over the validity of fitness-for-work assessments, as well as potential lawsuits against doctors who issue such certificates without clear authority. Thus, the misalignment of the regulatory hierarchy is a major factor creating legal risks and hindering the achievement of consistent and professionally and legally accountable fitness-for-work assessment standards (Swart et al., 2023).

Based on the explanation above, it can be concluded that the practice of fitness-for-work assessments in Indonesia still faces three main issues. First, the legal aspect lacks a detailed regulatory framework, leaving room for broad interpretation in its implementation. Second, there is unclear competence boundaries between general practitioners, doctors from various other specialties, and occupational medicine specialists, resulting in overlapping authority in issuing fitness for work certificates. Third, the lack of uniform standards creates the potential for legal disputes, both between workers and employers and against the medical personnel issuing the assessments. Given these conditions, research is needed to thoroughly examine the legal aspects and the competence of physicians in fitness-for-work assessments. Such research must consider international best practices while adapting them to national needs for legal certainty. This effort is expected to produce clear normative recommendations to ensure that the implementation of fitness-for-work assessments is more orderly, accountable, and consistent across various sectors, while providing adequate legal protection for all parties involved.

METHOD

This study uses a normative-juridical approach with empirical support (normative-empirical). The normative approach is carried out by examining laws and regulations related to the practice of occupational health examinations and fit-to-work assessments, including Law Number 1 of 1970 concerning Occupational Safety, Law Number 13 of 2003 in conjunction with Law Number 6 of 2023 concerning Manpower, Law Number 29 of 2004 concerning Medical Practice, Law Number 17 of 2023 concerning Health, Government Regulation Number 88 of 2019 concerning Occupational Health, as well as implementing regulations at the ministerial level, Regulation of the Indonesian Medical Council Number 90 of 2020, and the Indonesian Doctors Competency Standards (SKDI). In addition, the normative approach is strengthened by analysis of relevant academic literature and scientific journals on fit-for-work, occupational medicine, and labor law from both within and outside the country.

To complement the normative analysis, this study also employed an empirical approach by collecting data through semi-structured interviews with general practitioners, occupational medicine specialists, labor law practitioners, and employers. This approach aimed to provide a more concrete understanding of how fitness-to-work certificates are issued in everyday practice. Through these interviews, the study sought to capture the reality on the ground, including the implementation of fitness-for-work assessments, the patterns of authority distribution between professions, and the various issues that arise during the process. Furthermore, this empirical data also helped identify potential legal disputes that often arise from differences in interpretation or misalignment of standards between medical personnel and employers. Thus, this approach provides a factual basis that enriches the normative analysis and clarifies the operational context of fitness-to-work assessments in the Indonesian workplace (Jonathan, 2006).

The data sources in this study include primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations, and industrial relations court decisions related to disputes arising from the determination of fitness for work status. Secondary legal materials consist of academic literature, research

findings, and relevant occupational medicine practice guidelines to support the analysis. Tertiary legal materials, such as legal dictionaries and encyclopedias, are utilized to provide additional clarification on the concepts and terms used. Furthermore, empirical data is obtained through interviews, limited field observations, and case studies in Indonesia and several other countries. This data collection aims to provide a comprehensive overview of fitness-for-work assessment practices, including variations in implementation, the dynamics of authority, and the legal issues that accompany them. By combining these three types of legal materials and empirical data, this study seeks to develop a comprehensive, in-depth analysis of the legality and competence issues in fitness-for-work assessments.

The data analysis in this study was conducted qualitatively using a juridical approach. For normative data, a systematic and comparative legal interpretation method was employed by examining Indonesian laws and regulations and comparing them with regulations in other countries with more mature approaches to fitness-for-work assessments. This approach allows for the identification of normative gaps and the mapping of international best practices. Meanwhile, empirical data was processed through data reduction, information categorization, and the identification of key themes emerging from interviews and observations. The results of this empirical analysis were then integrated with normative findings to produce a more comprehensive picture of the implementation of fitness-for-work assessments in the field. Through this combination of the two approaches, the study is expected to provide a comprehensive understanding of the legal aspects and physicians' competence in fitness-for-work assessments, while also formulating recommendations for clearer, more consistent, and more applicable regulations.

RESULTS AND DISCUSSION

Legal Aspects of Work Suitability

A fit-to-work assessment is both a medical and legal procedure that plays a crucial role in Indonesia's occupational health system. This mechanism ensures that a worker is physically and mentally fit to perform their duties without posing a risk to themselves or others. Based on a normative analysis, it was found that Indonesian laws and regulations do not clearly define the term "fit to work." Law No. 1 of 1970 concerning Occupational Safety and Law No. 13 of 2003, as amended by Law No. 6 of 2023 concerning Manpower, only stipulate the mandatory implementation of pre-employment, periodic, and special health examinations as part of labor protection efforts. However, neither regulation provides clear provisions regarding who has the authority to declare a worker fit or unfit for work. This lack of clarity creates uncertainty in practice and opens up wide room for interpretation regarding medical authority in determining fit for work.

From a legal perspective, Government Regulation No. 88 of 2019 can be considered a step forward because it more clearly incorporates the term "fitness to work assessment" into the legal framework. However, the regulation does not explicitly establish Occupational Medicine Specialists as the primary authority. The regulation only mentions healthcare workers with formal education in occupational medicine or occupational health, without explicitly distinguishing the competency levels of each medical professional. Consequently, the normative space still allows general practitioners with specialized training to participate in fitness-to-work assessments. This situation has the potential to create overlapping authority between general practitioners, other specialists, and occupational medicine specialists. In addition to reducing legal certainty, this lack of clarity contradicts the principle of legal predictability, which requires consistency in interpreting and applying norms. As a result, practice in the field becomes inconsistent, increasing the risk of differences in assessments that can affect employment relationships and potentially lead to future disputes.

Unlike the general provisions of previous laws and regulations, Indonesian Medical Council Regulation (Perkonsil) Number 90 of 2020 explicitly stipulates that work-fitness assessment is one of the core competencies required of Occupational Medicine Specialists. This provision demonstrates formal recognition within the medical profession that the scientific authority for work-fitness assessment rests with specialists in that field. The Perkonsil's position as an internal professional regulatory body limits its scope of application to the standards for the education, practice, and competence of physicians. This regulation lacks direct normative force for companies or employers because it is not within the labor law regime. Therefore, although Perkonsil 90/2020 is sufficiently strong as a legitimate basis for professional competence, it does not yet require companies to accept work-fitness assessments issued solely by Occupational Medicine Specialists. The lack of support in the form of higher-level regulations in the labor sector means that this regulation is unable to provide comprehensive legal certainty at the industrial relations level (Suparna, 2025).

This situation can be interpreted through the perspective of Gustav Radbruch's theory of legal certainty, which emphasizes that a regulation must provide clarity, consistency, and predictability in its application by all stakeholders. In the context of fitness for work assessments, the absence of a norm that clearly positions Occupational Medicine Specialists as the sole authority creates uncertainty in practice. Companies, general practitioners, and other specialists tend to interpret this authority differently due to the lack of a uniform legal basis at the employment law level. The disharmony between medical professional regulations and employment regulations ultimately creates a gray area that has the potential to lead to conflicts of authority. Thus, this situation illustrates the lack of legal certainty as intended by Radbruch, because the law is unable to provide clear, stable, and reliable direction for all parties involved in employment relationships (Borowski, 2024). The uncertainty surrounding fitness for work regulations ultimately creates a situation that contradicts the principle of prudence, as health certificates can be issued by general practitioners, other specialists, or Occupational Medicine Specialists. Administratively, all of these letters are still considered valid, even though each doctor has a different level of competence in assessing occupational aspects and work risks. This diversity of unstructured authority indicates a normative vacuum that should provide clear boundaries regarding who is authorized to conduct work-fitness assessments. This phenomenon is also in line with Hans Kelsen's normative hierarchy theory (stufenbau theory), which asserts that lower-level norms must obtain legitimacy from higher-level norms within the legal structure. Because there are no regulations at a higher level, particularly within the employment regime, that affirm this specific authority, medical professional norms are unable to limit practice in the field, thus opening up room for broad and non-uniform interpretation (Asshiddiqie, 2010).

In the practice of fitness for work assessment, Perkonsil No. 90/2020 has actually established the competency basis for Occupational Medicine Specialists. However, these provisions have not been integrated into higher-level regulations, either at the statutory or governmental level, so their normative effectiveness is not fully binding on stakeholders in the employment sector. This lack of harmonization results in the authority standards for determining fitness for work lacking strong legal force outside the medical profession. This view aligns with arguments emphasizing that without consistent and explicit cross-sectoral regulatory support, medical decisions regarding fitness for work assessments will remain vulnerable to differing interpretations and potentially be legally challenged. Therefore, strengthening the regulatory framework is necessary to ensure that the authority to assess fitness for work is not only professionally valid but also has legal certainty within the context of industrial relations (Rusli, 2025).

From the perspective of the principle of lex specialis derogat legi generali, Perkonsil No. 90 of 2020, which establishes the assessment of fitness for work as a competency of Occupational Medicine Specialists, can be understood as a special norm that is given priority within the medical profession. This provision serves to provide clarity regarding who has the specific expertise to conduct such assessments. Referring to the idea of Lex Specialis as a Reason-Giving Norm, more specific norms do have their own validity when regulating certain fields in detail, so they can serve as a basis for justification in professional practice. However, the validity of Perkonsil as lex specialis remains limited to the internal realm of medicine and does not yet have binding force in the employment sector at large. Therefore, without higher regulatory support, the effectiveness of the lex specialis principle in the context of fitness for work is not fully effective (Marcos, 2025), Special norms not only override general norms but also provide justification for why they should be prioritized in their application. This is in line with an international comparative study byHuman Resources for Health(2021) showed that in many countries, medical professional regulations that establish physician competency standards are recognized as lex specialis, which is more binding than general regulations. However, unlike these jurisdictions, the position of Perkonsil 90/2020 in Indonesia is still limited to the medical profession and has not been adopted in laws or government regulations. Therefore, the principle of lex specialis can only apply to a limited extent within the professional realm, without being fully binding in employment relations (Nur, 2021).

From the perspective of Stout's theory of authority, authority is understood as a combination of rights and obligations granted by law to certain officials to carry out actions within their area of responsibility (Stout, 1994). In other words, an action is only legitimate if it is based on legal legitimacy that clearly establishes who is authorized to carry it out. In the context of fitness for work assessments, this principle requires clarity regarding the medical personnel who have the formal mandate to determine whether a worker is fit or unfit for work. When laws and regulations do not explicitly specify the authorized official or profession, the scope for interpretation is wide and has the potential to lead to overlapping practices. This uncertainty of authority can have implications for legal disputes and industrial relations disputes (Suryokumoro et al., 2020). The absence of explicit attribution in laws and regulations results in unclear distribution of authority for fitness for work assessments, resulting in overlapping

practices. General practitioners in many companies still frequently conduct examinations and issue certificates of fitness for work, as do other specialist doctors, even though in terms of professional competence, this authority is fully regulated as part of the education of Occupational Medicine Specialists through the Perkonsil. This creates a legal problem, because it places fitness for work in an ambiguous position: on the one hand, it is recognized as part of the professional competence of Occupational Medicine Specialists, but on the other hand, it continues to be widely practiced by general practitioners and other specialists without clear legal restrictions. A similar finding was found in research that revealed that OHS practices in the field are often not integrated with medical professional standards, thus giving rise to the risk of legal disputes (Cahyani & Susilawati, 2025).

A review of the legal aspects reveals a significant regulatory gap. Regulations at the statutory and government levels only emphasize the obligation to conduct occupational health examinations, but do not provide clear provisions regarding the authority to determine a worker's fitness for work. Meanwhile, professional norms in Perkonsil 90/2020 do establish fitness for work assessments as a core competency for Occupational Medicine Specialists, but their status as internal professional regulations makes them less directly binding on the business world or employers. This situation not only creates legal uncertainty but also opens up opportunities for overlapping authority and potentially lowers worker protection standards. Therefore, harmonization of regulations across various sectors is needed, particularly through the development of a Ministerial Regulation of Manpower or a Ministerial Regulation of Health that explicitly regulates the concept of fitness for work and establishes Occupational Medicine Specialists as the party with primary authority in the assessment process, thereby creating certainty and consistency in industrial relations practices (Idellia et al., 2025).

Aspects of Doctor Competence in Work Suitability

Competency is a crucial issue in the implementation of fitness for work assessments in Indonesia, particularly regarding the determination of who is authorized to declare a worker fit or unfit for work. The Indonesian Doctors Competency Standards (SKDI) state that general practitioners are equipped to conduct basic health examinations and issue medical certificates. However, the SKDI does not explicitly include specific competencies related to "fitness for work assessments" within the scope of general practitioners' authority. This lack of specific regulations creates ambiguity in practice, as general practitioners can still issue medical certificates administratively. However, from a medical professional perspective, fitness for work assessments require more in-depth expertise related to occupational risks, work environment conditions, and potential hazards that could impact worker safety. Consequently, there is a gap between the normative limits of general practitioners' authority and the specific competency requirements inherent in fitness for work assessments (Arthanti et al., 2024).

The recognition of healthcare workers with formal training in occupational medicine under Government Regulation 88/2019 can be understood as a form of flexibility. However, this flexibility poses risks because the competencies gained through short training are not comparable to comprehensive occupational medicine specialist education. Occupational medicine specialists are equipped with a formal curriculum that emphasizes the integration of clinical, occupational, legal, and ethical aspects, thus better able to assess workability comprehensively. Therefore, although the Government Regulation recognizes occupational health workers broadly, the legitimacy of competency must still be directed towards Occupational Medicine Specialists as the primary competency holders to ensure professional standards and worker protection (Rahayuningrum et al., 2025). Conversely, Regulation of the Indonesian Medical Council (Perkonsil) Number 90 of 2020 clearly states that fit-to-work assessment is one of the core competencies required of occupational medicine specialists (Sp.Ok). This regulation demonstrates that in the medical profession, assessing a person's fitness for work is not simply a general health check, but rather a medical procedure that requires a deep understanding of the relationship between a worker's health condition, occupational risk factors, and potential impacts on safety and productivity. By including these competencies, the Perkonsil (National Council of Occupational Health and Safety) provides a strong professional foundation that Sp.Ok (Nursing Specialist) are medical personnel with specialized expertise to conduct comprehensive fitness for work evaluations based on occupational medicine practice standards *(Konsil, 2020)*.

These differences in regulations demonstrate a significant regulatory asymmetry. On the one hand, Occupational Medicine Specialists are formally legitimized through internal professional regulations, but on the other hand, there is no strengthening of their authority at a higher level, such as laws or government regulations. As a result, the scope for work-fitness assessments remains open to general practitioners, company doctors, and other specialists, who are still considered administratively authorized to issue medical certificates (Asyhadie,

2017). Empirical findings further confirm this gap. Many companies continue to rely on general practitioners to issue work-fitness certificates, considering cost efficiency and the limited number of Occupational Medicine Specialists available in various regions. However, when industrial relations disputes or work-related accident claims arise, the legality of certificates issued by general practitioners is often questioned, especially when compared with assessments provided by occupational medicine specialists. This situation aligns with various studies showing that medical disputes in the employment sphere often revolve around issues of professional authority, where the validity of a general practitioner's assessment is more easily challenged than that of a specialist. Thus, the lack of regulatory harmonization between professional standards and employment law creates uncertainty that has a direct impact on legal protection for workers, companies, and medical personnel who conduct fitness for work assessments (Kusuma et al., 2024).

Semi-structured interviews revealed that most general practitioners interviewed reported that their companies frequently ask them to issue fitness-for-work certificates, particularly during routine medical check-ups (MCU). However, they also acknowledged that not all have a thorough understanding of job-specific risks, leading to decisions about fitness for work being based largely on general clinical examination results without comprehensive consideration of occupational factors. Some general practitioners even stated that they had never received any specific training related to fitness for work, other than basic MCU training. Interviews with other specialist physicians generally revealed that they assessed fitness for work from aorganic medical status, such as blood pressure control, heart function, chronic diseases, nervous disorders, psychiatric disorders, and musculoskeletal disorders. The certificates they issue are more intended fordiagnosis and therapy, not to assess whether someone is fit to perform a particular job with specific risks. Some state that occupational risk assessment is not their responsibility, often leaving the final decision to an Occupational Medicine Specialist when it comes to high-risk jobs. Other specialists still provide fitness-for-work information based on their respective specializations, making the assessment limited and incomplete (Santoso & Andriyani, 2017).

From a theoretical perspective, this issue can be explained through Stout's theory of authority, which states that authority is a set of rights and obligations legally granted to certain officials to perform certain actions. Therefore, every action by officials, including doctors, in the context of fitness for work assessments must be based on a clear legal basis and fall within the established limits of authority. If legal norms do not explicitly determine who has the authority to declare a worker fit or unfit for work, then the official carrying out the action falls within a gray area of authority. This situation creates potential conflict, both regarding the validity of medical decisions and legal accountability for those decisions (Stout, 1994). Because neither the law nor the regulation explicitly stipulates this, the authority for fitness for work becomes unclear and is divided among general practitioners, other specialists, and occupational medicine specialists. On the other hand, Eliot Freidson's theory of professionalism explains that a profession has legitimacy because it is based on specialized expertise (Stout, 1994); therefore, fitness for work assessments should be the domain of occupational medicine specialists who possess multidimensional competencies (medical, ergonomic, and psychosocial). If this authority remains vested in general practitioners and other specialists without additional competencies, professional standards could potentially be degraded. Furthermore, the theory of professional responsibility is also relevant (Childress & L.Beauchamp, 2019), If a general practitioner or other specialist issues a certificate of fitness for work in a complex case and the decision results in harm, it could be deemed to have exceeded its authority (ultra vires) and give rise to ethical and legal liability (Aftab et al., 2021).

Bioethical studies further strengthen this analysis. A fitness-for-work assessment is a medical decision with significant consequences for the safety of workers, companies, and the work environment, requiring careful professional judgment. Because this decision carries high risks, both clinically and legally, the assessment must be conducted by medical personnel with specific competence in occupational health (Lintang et al., 2021). The implementation of occupational health and safety (K3) in companies often does not align with occupational medicine competency standards, thus increasing the risk of disputes when work fitness certificates are challenged (Cahyani & Susilawati, 2025). Interestingly, Occupational Medicine Specialists have at least 5 core competencies and 18 supporting competencies according to Perkonsil No. 90/2020. These competencies include work fitness assessment, occupational risk evaluation, and cross-sector occupational health management. This demonstrates the recognition from the academic and professional communities that work fitness is indeed within the specific expertise of Occupational Medicine Specialists and cannot be equated with the competencies of general practitioners (Iserson, 1999).

Thus, the competency aspect of work-fitness assessments in Indonesia still faces a dilemma between professional norms and legal norms. While the competency of Occupational Medicine Specialists has been

recognized in Perkonsil 90/2020 and reinforced in academic literature, it has not received normative reinforcement in the realm of labor law. This situation creates a dualistic practice between general practitioners, other specialists, and Occupational Medicine Specialists. Based on the theory of authority, professionalism, and professional responsibility, work-fitness competencies should be assigned to Occupational Medicine Specialists to achieve legal certainty, professional standards, and protection for workers and employers (Bogdan & Serediuk, 2024).

Risk of Legal Disputes in Work Fitness

In occupational health practice in Indonesia, one of the most prominent legal risks arises when a fitness-to-work certificate is used as the basis for important decisions, such as termination of employment (PHK), filing work accident claims, and even medical litigation. In the context of the heavy equipment industry, for example, an operator declared "unfit" due to hypertension or certain physical conditions can lose their employment, potentially giving rise to industrial relations disputes. Furthermore, both the company and the doctor issuing the certificate risk administrative and civil lawsuits if the medical decision is deemed detrimental or deemed to have failed to meet standards of authority and prudence. This situation demonstrates that fitness-to-work assessments are not merely clinical matters but also have broad legal consequences, requiring clear regulations and adequate competence from the issuing physician (Nugroho, 2023). Furthermore, descriptive research at PT Pelabuhan Indonesia III Terminal Jamrud Surabaya showed that the implementation of a fitness-to-work program, although proven to contribute to improved occupational safety, still leaves issues related to the clarity of legal procedures. The study found that the validity of work-fitness certificates can be challenged by third parties, such as safety auditors or supervisory authorities, especially when the documents are deemed not to meet certain standards. This situation creates uncertainty regarding the verification and validation mechanisms for the certificates and opens up the potential for disputes if the assessment results are deemed administratively invalid. These findings demonstrate that while work-fitness programs have practical benefits for worker safety, their legal and administrative aspects still require strengthening to avoid creating obstacles in the audit process and regulatory oversight (Pratikasari et al., 2022).

From a theoretical perspective, this issue can be explained through the theory of professional liability, which asserts that medical personnel can be held accountable if their clinical decisions result in harm due to negligence or non-compliance with professional standards. In the context of fitness for work, if a general practitioner or specialist outside the field of occupational medicine issues a fitness for work certificate without an adequate occupational risk analysis and without relevant specialized competencies, the potential for ultra vires action—acting outside of professional authority—is significant (Alviana et al., 2024). This increases the risk of ethical and legal challenges against the physician. This is also relevant to Stout's theory of authority, which states that medical authority must be based on legal norms that grant the right and responsibility to act. Therefore, the authority to issue a fitness for work certificate can only be justified if it is based on legitimate professional provisions recognized in the legal system, so that the medical decision has validity and adequate legal protection (Susanto, 2020).

Furthermore, the theory of justice in industrial relations emphasizes that every worker must be treated fairly and equally. When fitness-for-work assessments are conducted using varying medical standards and without uniform guidelines, this has the potential to lead to discriminatory treatment, thus contradicting the principle of justice. A study in the Journal of Legal Practice in Medical Disputes in Indonesia shows that despite the existence of resolution mechanisms such as mediation and examinations by the Medical Disciplinary Honorary Council, many workers feel they do not have an equal opportunity to maintain the validity of their medical certificates. This situation particularly arises when companies reject certificates from certain doctors, leaving workers in a procedurally weak position. These findings emphasize that the lack of uniformity in medical assessment standards is not merely a technical issue but also impacts the fulfillment of the principle of justice in employment relations (Irayanti, 2023).

In the current practice of resolving industrial relations disputes, the term “unfit” has appeared in court decisions even though the term “fitness for work” is not explicitly stated in laws or government regulations. For example, in an Industrial Relations Court Decision, company regulations include a “medical unfit” clause that serves as the basis for dismissal if the worker is sick for more than 12 consecutive months, and this is taken into account by the judge in assessing the validity of the dismissal. These cases demonstrate that despite the lack of explicit normative regulations on fit for work, judicial practice has adopted the status of “unfit” as a measure of fit for work. This emphasizes the importance of clear standards and the establishment of medical authority so that medical certificates are not only treated as administrative evidence but also have consistent legal binding force in industrial

relations disputes (MA RI, Decision No. 68/Pdt.Sus-PHI/2017/PN.Smr) (Marbun, 2010). Thus, the potential for legal disputes in fitness-for-work assessments can arise in various forms, including civil lawsuits from workers who lose their jobs due to being declared unfit for work, administrative sanctions that may be imposed on companies, and malpractice claims against doctors if fitness-for-work decisions are proven to be erroneous or inconsistent with professional standards. This diversity of risks demonstrates that fitness-for-work assessments cannot be viewed simply as routine medical procedures, but as actions with significant legal consequences. To reduce the likelihood of such disputes, a clear and uniform regulatory framework is needed, accompanied by clear documentation of physician competence and accessible and accountable appeals or dispute resolution mechanisms. These efforts are crucial to ensure legal certainty for all parties involved (Ramadhani & Shidqi, 2025).

The Role of Occupational Medicine Specialists Abroad

In international practice, the position of occupational medicine physicians generally has a stronger legal basis than in Indonesia. In the UK, for example, the fit note system, under the Health and Safety at Work Act 1974, allows general healthcare professionals such as general practitioners, nurses, or occupational therapists to issue sick notes. However, for complex health situations or high-risk jobs, the final assessment rests with occupational medicine specialists. They have the authority to determine whether workers can safely return to work and, under certain circumstances, are required to recommend reasonable adjustments. These recommendations must be considered by employers, ensuring that occupational physicians are legally recognized as competent authorities in assessing workers' work capacity. This system demonstrates that strict regulations can clarify the roles of each healthcare professional and increase legal certainty for workers and companies (Government, 2022).

In Germany, the position of company doctors (Betriebsärzte) is clearly regulated in the *Arbeitssicherheitsgesetz* (Regional Health Care) and the Ordinance on Preventive Occupational Health Care (ArbMedVV). These regulations grant them comprehensive legal authority to conduct pre-employment examinations, periodic health checks, and return-to-work assessments before workers return to work. This authority is recognized not only as part of medical practice but also as binding in industrial relations, making the company doctor's decision a reference point that employers must consider. With this strong legal position, occupational medicine specialists in Germany play a key role in the labor protection system, ensuring that workers' health conditions align with occupational safety and health requirements in the workplace. This clear regulatory structure demonstrates that the integration of medical and labor norms is key to creating legal certainty in the practice of fit-to-work assessments (Arbeitsschutz & Bundesanstalt, 2021).

In the United States, fitness-for-duty evaluation standards were developed by the American College of Occupational and Environmental Medicine (ACOEM) through its fitness-for-duty evaluation practice guidelines. These guidelines emphasize that fitness-for-duty evaluations must consider the worker's health condition, the specific characteristics and demands of a position, and potential hazards in the work environment. Thus, evaluations focus not only on medical aspects but also on the relationship between individual capacity and operational risks in the workplace. Findings or recommendations provided by occupational medicine specialists have legal significance, as they form the basis for decision-making in various employment regulatory regimes. These include processing workers' compensation claims, developing return-to-work programs, and verifying company compliance with occupational safety and health standards set by the Occupational Safety and Health Administration (OSHA). This integration makes the role of occupational medicine in the United States not only clinical but also strategic in ensuring safety, productivity, and fulfilling company legal obligations (Wettstein, 2013).

In contrast to practice in Indonesia, the position of Occupational Medicine Specialists remains relatively limited because their authority is only listed in Perkonsil No. 90 of 2020 as part of professional competency, without the support of clear regulations in laws or government regulations in the employment sector. This situation differs from many developed countries, where the role and authority of occupational physicians are directly legitimized through positive legal instruments, thereby providing normative certainty while strengthening the position of occupational physicians in industrial relations. This comparison shows that Indonesia has not fully integrated the strategic function of occupational physicians within the labor protection framework. The absence of an explicit regulatory basis means that their authority does not yet have the binding force equivalent to international standards, particularly regarding work-fitness assessments, promotive-preventive interventions, and involvement in workplace risk management. Therefore, efforts are needed to harmonize regulations by inserting the authority of Occupational Medicine Specialists into labor law instruments, so that this profession's position gains stronger legal certainty and can play an optimal role in supporting worker safety, health, and productivity in Indonesia (Kinang, 2024).

CONCLUSION

This research shows that fitness for work assessments in Indonesia still face serious challenges in terms of legality, competence, and the risk of legal disputes. From a regulatory perspective, laws and government regulations require occupational health examinations, but they do not explicitly mention the term fitness for work assessment or designate who is authorized to assess it. Consequently, a normative vacuum has emerged, creating room for overlap between general practitioners, other specialists, and occupational medicine specialists. While Perkonsil No. 90 of 2020 affirms that fitness for work assessments are a core competency of occupational medicine specialists, its position as a professional regulation limits its normative power and fails to fully bind industrial relations. Government Regulation No. 88 of 2019 provides a normative basis for fitness for work assessments, but it is insufficient to guarantee legal certainty or a clear attribution of authority. The lack of clarity regarding the actors authorized to assess fitness for work leads to overlapping practices in the field and the potential for disputes. Empirical findings from interviews support this. General practitioners and other specialists are still frequently requested by companies to issue fitness-for-work certificates, while occupational medicine specialists consider them inadequate for high-risk jobs. Legal practitioners highlight regulatory gaps that open up potential disputes in the Industrial Relations Court, while companies tend to prioritize cost efficiency over legal certainty. This is in line with a number of court decisions that use the status of "unfit" as a basis for layoffs and compensation disputes, demonstrating the legal vulnerability resulting from the lack of authoritative standards. Analysis using Gustav Radbruch's theory confirms that this condition reduces legal certainty, Hans Kelsen's theory demonstrates the weak position of Perkonsil in the hierarchy of norms, Stout's theory of authority highlights the unclear attribution of authority, while Eliot Freidson's theory of professionalism indicates that a legitimate monopoly of the occupational physician profession has not yet been realized (Freidson, 2004). Comparative studies with other countries (UK, Germany, US) show that the role of occupational physicians there is stronger because they are directly protected by labor and occupational health laws, so their authority cannot be replaced by general practitioners or other specialists. Thus, it can be concluded that the assessment of fitness for work in Indonesia remains in a legal gray area, weakening both labor protection and the legitimacy of the occupational medicine profession. Synchronization of cross-sectoral regulations, through a Ministerial Regulation (Permenaker) or a Ministerial Regulation (Permenkes), is needed to explicitly regulate the term "fit for work" and establish the authority of occupational medicine specialists as the primary authority. This is crucial to ensure legal certainty, improve worker protection standards, and prevent future legal disputes.

REFERENCES

Aftab, W., Khan, M., Rego, S., Chavan, N., Rahman-Shepherd, A., Sharma, I., Wu, S., Zeinali, Z., Hasan, R., & Siddiqi, S. (2021). Variations in Regulations to Control Standards for Training and Licensing of Physicians: A Multi-Country Comparison. *Human Resources for Health*, *19*(1), 91. https://doi.org/10.1186/s12960-021-00629-5

Alviana, V., Afrita, I., & Triana, Y. (2024). Tanggung Jawab Hukum Atas Kelalaian Tenaga Medis Terhadap Pasien [Legal Responsibility for Medical Personnel Negligence Towards Patients]. *INNOVATIVE: Journal Of Social Science Research*, *4*(5), 5536–5543. https://doi.org/10.31004/innovative.v4i5.15654 [In Indonesian]

Arbeitsschutz, & Bundesanstalt. (2021). Preventive Occupational Health Care. In *BAuA*.

Arthanti, W. B., Rusdi, M. S., & Yuliwulandari, R. (2024). *Etika Kedokteran dengan Hukum Kesehatan [Medical Ethics with Health Law]*. Thalibul Ilmi Publishing & Education.

Asshiddiqie, J. (2010). *Teori Hans Kelsen tentang Hukum [Hans Kelsen's Theory of Law]*. Konstitusi Press.

Asyhadie, H. Z. (2017). *Aspek-Aspek Hukum Kesehatan di Indonesia [Legal Aspects of Health in Indonesia]*. PT. RajaGrafindo Persada.

Bogdan, O. V, & Serediuk, V. V. (2024). Ideological and Methodological Foundations of The Idea of Law by Gustav Radbruch. *Uzhhorod National University Herald. Series: Law*, *3*(83), 421–428. https://doi.org/10.24144/2307-3322.2024.83.3.65

Borowski, M. (2024). Gustav Radbruch's Theory of Legal Obligation. In *Theories of legal obligation* (pp. 99–122). Springer. https://doi.org/10.1007/978-3-031-54067-7_5

Cahyani, L., & Susilawati, T. (2025). Implementasi Perlindungan Hukum Keselamatan dan Kesehatan Kerja (K3) di PT Sinar Semesta [Implementation of Occupational Safety and Health (K3) Legal Protection at PT Sinar Semesta]. In *Institutional Repository* (Vol. 2, Issue 2). Universitas Sebelas Maret.

Childress, J. F., & L.Beauchamp, T. (2019). *Principles of Biomedical Ethics* (8th ed.). Oxford University Press.

Freidson, E. (2004). *Professionalism Reborn: Theory, Prophecy, and Policy*. Polity Press.

Government, U. K. (2022). *The Fit Note: Guidance for Patients and Employees*. GOV.UK.

Idellia, A. S., Nugroho, A., & Hermawan, S. (2025). Analisis Perlindungan Hukum terhadap Keselamatan dan Kesehatan Kerja di PT Geo Dipa Energi Dieng [Analysis of Legal Protection for Occupational Safety and Health at PT Geo Dipa Energi Dieng]. *AL-MIKRAJ Jurnal Studi Islam Dan Humaniora (E-ISSN 2745-4584)*, *5*(2), 804–815. https://doi.org/10.37680/almikraj.v5i2.6961 [In Indonesian]

Irayanti, I. (2023). *Integrasi Sosial Masyarakat Majemuk [Social Integration of Plural Society]*. PT Arr Rad Pratama.

Iserson, K. V. (1999). Principles of Biomedical Ethics. *Emergency Medicine Clinics of North America*, *17*(2), 283–306. https://doi.org/10.1016/S0733-8627(05)70060-2

Jonathan, S. (2006). *Metode Penelitian Kuantitatif dan Kualitatif [Quantitative and Qualitative Research Methods]*. Graha Ilmu.

Kinang, A. (2024). *Analisis Yuridis Hubungan Kerja Tenaga Medis (Dokter) dengan Rumah Sakit (Studi Kasus Putusan Mahkamah Agung Republik Indonesia [Legal Analysis of the Working Relationship between Medical Personnel (Doctors) and Hospitals (Case Study of the Decision of th*. Universitas Nasional.

Konsil, P. (2020). *Peraturan Konsil Kedokteran Indonesia Nomor 90 Tahun 2020 tentang Standar Kompetensi Dokter Indonesia [Indonesian Medical Council Regulation Number 90 of 2020 concerning Indonesian Doctor Competency Standards]*.

Kusuma, M., Yetti, & Triana, Y. (2024). Pertanggungjawaban Hukum Tenaga Medis terhadap Kewenangan Penilaian Cacat Akibat Kecelakaan Kerja [Legal Responsibility of Medical Personnel for the Authority to Assess Disabilities Due to Work Accidents]. *Jurnal Kesehatan Tambusai*, *5*(1), 123–134. https://doi.org/10.31004/jkt.v5i1.25209 [In Indonesian]

Lintang, K., Hasnati, H., & Azmi, B. (2021). Kedudukan Majelis Kehormatan Disiplin Kedokteran Indonesia dalam Penyelesaian Sengketa Medis [The Position of the Indonesian Medical Disciplinary Honorary Council in the Settlement of Medical Disputes]. *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, *4*(2), 167–179. https://doi.org/10.24090/volksgeist.v4i2.5267 [In Indonesian]

Marbun, R. (2010). *Jangan Mau di-PHK Begitu Saja [Don't let yourself be laid off just like that]*. VisiMedia.

Marcos, H. (2025). Lex Specialis as a Reason-Giving Norm. *International Community Law Review*, *27*(3), 218–253. https://doi.org/10.1163/18719732-bja10138

Nugroho, I. A. (2023). Pengaruh Program Fit To Work terhadap Produktivitas Kerja pada Operator Alat Berat di PT. Pelabuhan Indonesia (Persero) Sub Regional Jawa Timur [The Impact of the Fit to Work Program on Work Productivity of Heavy Equipment Operators at PT. Pelabuhan Indon. *Journal of Industrial Hygiene and Occupational Health*, *7*(2), 114–126. https://doi.org/10.21111/jihoh.v7i2.8655 [In Indonesian]

Nur, M. (2021). Analisis Kelemahan Pengaturan Pengupahan bagi Profesi Dokter di Indonesia [Analysis of Weaknesses in Wage Regulations for the Medical Profession in Indonesia]. *Masalah-Masalah Hukum*, *50*(3), 304–317. https://doi.org/10.14710/mmh.50.3.2021.304-317 [In Indonesian]

Prastyo, A. R., Yudiman, T., & Lany, A. (2025). Legal Certainty of Intercontinental Traditional Health Workers in Indonesia. *Research Horizon*, *5*(4), 45–56. https://doi.org/10.54518/rh.5.4.2025.723

Pratikasari, V. A., Sahri, M., & Fasya, A. H. Z. (2022). Evaluasi Pelaksanaan Fit To Work sebagai Upaya Peningkatan Keselamatan dan Kesehatan Kerja pada Pekerja Operasional di PT Pelindo III Surabaya (Studi di Terminal Jamrud) [Evaluation of the Implementation of Fit to Work as an Effort to Improve Occupational. *Journal of Industrial Hygiene and Occupational Health*, *6*(2), 67. https://doi.org/10.21111/jihoh.v6i2.6613 [In Indonesian]

Rahayuningrum, D. C., Yanti, E., Widiastuti, S. H., Chabibah, I. F. A., & Salihun, S. (2025). *Buku Referensi Kesehatan Mental Tenaga Kesehatan di Masa Pandemi [Mental Health Reference Book for Healthcare Workers During the Pandemic]*. Optimal Untuk Negeri.

Ramadhani, M. A. A., & Shidqi, V. N. (2025). Hak Pekerja Terkena PHK Sebelum Masa Kerja Berakhir [Rights of Workers Laid Off Before the End of Their Employment Period]. *Jurnal Ilmiah Wahana Pendidikan*, *11*(5), 240–247. https://doi.org/10.56854/jhdn.v3i1.370 [In Indonesian]

Rusli, N. T. (2025). Tantangan Bioetika dalam Penentuan Kelayakan Bekerja: Antara Otonomi dan Risiko Okupasi [Bioethical Challenges in Determining Fitness for Work: Between Autonomy and Occupational Risk]. *Jurnal Hukum Dan Etika Kesehatan*, *60*(1), 76–87. https://doi.org/10.30649/jhek.v5i1.250 [In Indonesian]

Santoso, S. S., & Andriyani, A. (2017). Analisis Pelaksanaan Medical Check Up (MCU) pada Pegawai Rumah Sakit Islam Jakarta Pondok Kopi Tahun 2016 [Analysis of the Implementation of Medical Check Up (MCU) on Employees of the Jakarta Islamic Hospital Pondok Kopi in 2016]. *Jurnal Kedokteran Dan Kesehatan*, *13*(2), 171. https://doi.org/10.24853/jkk.13.2.171-182 [In Indonesian]

Saputri, F. N., & Adi, N. P. (2023). Return to Work Assessment in A Financial Analyst with Major Depressive Disorder: A Case Report. *The Indonesian Journal of Community and Occupational Medicine*, *3*(1), 24–29. https://doi.org/10.53773/ijcom.v3i1.87.24-9

Serra, C., Rodriguez, M. C., Delclos, G. L., Plana, M., Gómez López, L. I., & Benavides, F. G. (2007). Criteria and Methods Used for The Assessment of Fitness for Work: A Systematic Review. *Occupational and Environmental Medicine*, *64*(5), 304–312. https://doi.org/10.1136/oem.2006.029397

Soemarko, D. S. (2025). Occupational Medicine Specialists in Indonesia: From Education to Clinical Practices. *J Work Health Saf Regul*, *4*(24–011), 1–15. https://doi.org/10.57523/jaohlev.rep.24-011

Stout, H. D. (1994). *De Betekenissen Van De Wet: Theoretisch-Kritische Beschouwingen Over Het Principe Van Wetmatigheid Van Bestuur*. W. E. J. Tjeenk Willink.

Suparna, K. (2025). Legal Aspects of Occupational Health and Safety in Healthcare Facilities. *West Science Law and Human Rights*, *3*(3), 362–370. https://doi.org/10.5281/zenodo.14769457

Suryokumoro, H., Ardhiansyah, A., Madjid, Y. R., & Susanto, F. A. (2020). *Hukum Humaniter Internasional: Kajian Norma dan Kasus [International Humanitarian Law: A Study of Norms and Cases]*. Universitas Brawijaya Press.

Susanto, N. (2020). Metode Perolehan dan Batas-Batas Wewenang Pemerintahan [Methods of Acquisition and Limits of Government Authority]. *Administrative Law and Governance Journal*, *3*(3), 430–441. https://doi.org/10.14710/alj.v3i3.430-441 [In Indonesian]

Swart, L., Claassen, N., & Buys, T. (2023). Mapping the Evidence On Assessment of Fitness to Work at Heights: A Scoping Review Protocol. *BMJ Open*, *13*(5), e067847. https://doi.org/10.1136/bmjopen-2022-067847

Wettstein, R. M. (2013). Fitness-for-Duty Evaluations. In *Clinical Guide to Mental Disability Evaluations* (pp. 309–336). Springer New York. https://doi.org/10.1007/978-1-4614-5447-2_12

Wibowo, D. R. (2024). Analisis Peraturan Perundang-Undangan Mengenai Kesehatan Kerja Setelah Berlakunya UU 17/2023 [Analysis of Occupational Health Legislation Following the Enactment of Law No. 17/2023]. In *Soegijapranata Hukum* (Vol. 3, Issue 1, pp. 1–20).

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