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The Invisible Therapist: How Malaysia's Mobile Wellness Sector Operates Beyond Act 775 and the 2021 Regulations

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Abstract

When the Traditional and Complementary Medicine Act 2016 (Act 775) came into force, it aimed to medicalize and standardize traditional wellness practices in Malaysia by bringing centuries-old healing traditions to a statutorily governed healthcare profession. However, the rapid expansion of the digital gig economy has fundamentally undermined this statutory framework. Recently, unregistered mobile therapists have marketed their services through social media platforms such as Telegram channels, Threads, and Facebook posts, booking clients for private “incall” or “outcall” sessions at homes and hotels and bypassing Act 775 and its by-laws. Mobile massage therapy currently operates in a regulatory grey zone, producing inconsistent service quality and serious consumer risks. This paper thoroughly analyzes the statutory limitations of Act 775 and the Traditional and Complementary Medicine Regulations 2021 (Regulation 2021) as they apply to gig-economy wellness practitioners and evaluates the resulting consumer protection gaps. Adopting a doctrinal legal research methodology and supported by secondary socio-legal literature, this paper primarily examines Act 775 and Regulation 2021, supported by relevant tortious case law. The central findings indicate that the diffuse nature of gig work paralyzes current enforcement strategies. Furthermore, stringent education-based entry barriers in subsidiary legislation economically drive at-risk workers into the informal economic sector. At the same time, consumers assume significant medical risks because intermediary platforms lack liability. This study stresses the vital need to update healthcare statutes to regulate online wellness platforms operating outside current regulatory regimes.

Keywords: Act 775, Gig Economy, Traditional Medicine, Regulatory Loopholes, Consumer Protection

Introduction

The gig economy has fundamentally transformed the service delivery landscape in Malaysia. While regulatory discourse has largely focused on the transport and food delivery sectors, the wellness and traditional medicine industries are undergoing an equally significant digital transformation. Recently, traditional massage (*urut*) and complementary therapy services are being aggressively marketed on social media platforms such as Threads and Telegram, enabling users to instantly book freelance therapists for private sessions at their preferred locations.

In tandem with this digital shift, the Malaysian government enforced the Traditional and Complementary Medicine Act 2016 (Act 775). The Act was enacted to transform traditional practice; originally an informal occupation rooted in cultural heritage into a strictly regulated healthcare profession. However, a critical twofold gap currently exists in the governance of mobile wellness therapies: a substantive legal gap and a practical enforcement gap. Legally, Act 775 and its subsidiary regulations are entirely silent on the classification and regulation of digitally mediated, independent outcall practitioners, creating a severe regulatory vacuum regarding platform liability and professional standards. Practically, the Act's administrative mechanisms rely heavily on physical clinical premises. For instance, statutory mandates require practitioners to register a fixed practice address (Section 23) and conspicuously display physical certificates (Section 26). When transactions are entirely decentralized and executed within transient, private residential spaces, this premise-centric design creates an enforcement gap that effectively paralyzes standard administrative action.

This paper primarily evaluates the legislative adequacy of Act 775 and its subsidiary legislation in regulating mobile gig economy practitioners. Consequently, the research aims to clearly distinguish the legislative and practical limitations by addressing the following questions:
1. What is the substantive legal gap within Act 775 regarding the statutory classification of digital matchmaking platforms and mobile outcall practitioners?
2. How does the statutory framework's reliance on physical premises create a practical enforcement gap that paralyzes standard administrative action?

The scope of this study is specifically limited to the intersection of Act 775, the 2021 Regulations, and the operational nature of the gig economy in Malaysia. This research is original in that it applies the workforce challenges of the gig economy to the specialized and under-explored field of traditional healthcare, thereby bridging the gap between rigid legal texts and dynamic digital realities.

Literature Review and Legal Framework

The Historical Evolution of Traditional Massage (Urut) in Malaysia

To understand the current regulatory gap in the wellness sector, one must first examine the historical setting of traditional medicine in Malaysia. Traditional medicine is firmly embedded in the nation's multi-ethnic cultural heritage (Ministry of Health Malaysia, 2018). Historically, traditional Malay massage (*urut Melayu*) and traditional midwifery (*bidan kampung*) served as the primary, and often only, healthcare system for rural communities long before the advent of modern allopathic medicine (Abuduli & Aljunid, 2011; Mohd Riji, 2005).

Historically, these practices were decentralized, informal, and transmitted through generational apprenticeships rather than formal educational institutions (Anuar et al., 2012; Mohd Riji, 2005). The *tukang urut* (massage therapist) held immense cultural respect and trust within the *kampung* (village) ecosystem (Nourse, 2013). Transactions were rarely commercialized in the modern sense; rather, they were based on community reciprocity, barter, and localized trust networks. The practitioner knew the patient's family history, and accountability was strictly governed by social reputation rather than statutory law (Farrer, 2008).

As Malaysia underwent rapid urbanization and modernization in the late 20th century, a dual healthcare system arose (Suhami et al., 2015). The state heavily regulated allopathic (Western) medicine, while traditional practices remained largely in the self-regulated, informal sector (Mohd Riji, 2005). However, the commercialization of *urut* transitioned the practice from village homes to urban commercial spas. Considering the high utilization of traditional therapies by the urban public and the likely risks of unregulated commercial malpractice, the Ministry of Health established the Traditional and Complementary Medicine (T&CM) Division in 2004, denoting a paradigm shift from cultural tolerance to active institutionalization (Goh, 2021; Ministry of Health Malaysia, 2018).

This institutionalization process culminated in the gazetting of the Traditional and Complementary Medicine Act 2016 (Act 775). Under Section 21 of the Act, practicing in a recognized field without proper registration constitutes an offense under the law. Section 25 classifies practicing without registration as a criminal offense, punishable by a fine of up to RM30,000 or imprisonment for two years for a first offense. The legislative intent is clear: to mitigate the risk of harm to the public, standardize competency levels through formal education, and professionalize the industry to ensure accountability within physical commercial clinic settings.

The reality of these penalties has recently become highly visible through media reports and active state interventions. On August 1, 2024, the Ministry of Health officially initiated Phase 3 of the Act's enforcement, activating Part IX to begin strict legal actions and physical raids against non-compliant practices (Ministry of Health Malaysia, 2024). Concurrent crackdowns on the shadow wellness economy have made national headlines, with the Pharmacy Enforcement Division reporting the seizure of over RM30 million worth of unregistered traditional medicines across 4,035 nationwide raids between 2023 and 2025 (The Star, 2026). However, this strict enforcement has generated significant public pushback; news outlets report that practitioner associations are urging the government to rethink immediate facility-based regulations, warning that such actions unfairly penalize traditional therapists who operate informally from their homes or part-time (The Star, 2025).

This aggressive enforcement disproportionately influences B40 communities and part-time practitioners who are structurally forced into this digital underground. Amidst a high cost of living, part-time massage therapy provides vital auxiliary income for many marginalized families. However, the expensive tuition fees required to obtain formal Level 4 T&CM certificates act as an insurmountable socio-economic barrier. Consequently, these practitioners cannot afford compliance and are pushed into informal outcall networks. At the same time, ordinary Malaysians confronting similar economic constraints increasingly favor

the convenience and lower cost of outcall *urut* over traveling to expensive, licensed hospital facilities, driving solid consumer demand for this shadow economy.

Origins and Mechanisms of the Gig Economy

While the Malaysian government took over a decade to draft and implement Act 775 to regulate physical Traditional and Complementary Medicine (T&CM) premises, a simultaneous global socio-economic phenomenon profoundly transformed the labor market landscape: the emergence of the digital gig economy. The gig economy, which gained significant global momentum following the 2008 financial crisis, was driven by the widespread adoption of smartphones and high-speed internet.

In simple terms, the gig economy replaces the traditional "9-to-5" employment structure with on-demand, task-based freelance work (Toor et al., 2023). Instead of reporting to a physical office under a permanent manager, workers log onto a digital matchmaking platform, complete a specific service, receive payment, and log off. In Malaysia, gig workers are estimated to number over 1.16 million individuals, and they legally operate as independent contractors (Mohd Hed & Rosli, 2025). Because they lack a traditional "contract of service," they fall outside the definition of standard employment under the Employment Act 1955 and the Industrial Relations Act 1967. Historically, this classification denied them basic labor rights, minimum wage guarantees, and standard employer vicarious liability protections.

Initially, legal debate on the Malaysian gig economy focused mainly on the transportation (e-hailing) and food delivery (p-hailing) sectors. Labor law scholars identified the main legal dilemma as workers' severe vulnerability along with the shifting of operational risks from the corporation to the individual (Human Resources Online, 2026). Digital services positioned themselves not as employers or service providers, but merely as "technology companies" supplying a digital noticeboard.

Legal Evolution: How Formal Gig Workers Gained Protection

To address these severe vulnerabilities, the Malaysian legal sphere recently underwent a major transformation. Recognizing that gig work is no longer only a "side hustle" but a core pillar of the national economy, the government enacted the Gig Workers Act 2025 (Act 872), which officially came into force on March 31, 2026 (The Vibes, 2026).

This legislation introduced a specific legal framework to protect workers for recognized digital platform providers. Under Act 872, formal gig workers now enjoy clear statutory protections, including transparent service agreements, payment certainty, and protection against unjust termination without cause (Human Resources Online, 2026). Furthermore, Act 872 established a structured dispute resolution mechanism through the Gig Workers Tribunal, ensuring grievances against platform companies are resolved professionally. Crucially, the government also intervened to guarantee medical and financial safety nets. The law now requires formal platform providers to register their gig workers with the Social Security Organization (SOCSO/PERKESO) and make mandatory social security contributions (The Vibes, 2026). By switching from a voluntary scheme to a mandatory system, the state ensured that e-hailing drivers and delivery riders are officially protected against occupational injuries and diseases (Mohd Hed & Rosli, 2025).

The "Uberization" of Wellness: Falling Through Both Cracks

The critical "eye-opening" phenomenon that this paper discusses is the strong contrast between the newly protected e-hailing sector and the "Uberization" of the traditional wellness sector.

Unlike delivery riders who use regulated digital intermediaries governed by Act 872, mobile massage therapists increasingly utilize unregulated, text-based social media networks (such as Threads) and encrypted messaging applications (such as Telegram) to offer direct-to-consumer "outcall" services to residential homes and hotels. Because these therapists operate informally and do not sign service agreements with registered "platform providers" as strictly defined by Act 872, they remain entirely invisible to the new safety nets. They do not receive mandatory SOCSO coverage, and they cannot bring grievances to the Gig Workers Tribunal (Human Resources Online, 2026).

This modification has radically changed the medium of trust and created a severe information asymmetry. Consumers rely on these encrypted platforms for service delivery, often totally unaware of the practitioner's legal standing or educational background. Consequently, the intersection of the gig economy and traditional healthcare creates a dual-layer regulatory failure. These "invisible therapists" fall perfectly between the cracks of two major statutes: they bypass the strict "brick-and-mortar" clinic requirements of Act 775, and they are entirely excluded from the digital labor protections of Act 872.

Methodology

This study adopts a qualitative, doctrinal legal research methodology to examine the regulatory vacuum surrounding gig-economy wellness services. Doctrinal legal research, often referred to as "black-letter law" research, is the most appropriate approach for this study as it includes the systematic exposition, analysis, and detailed evaluation of statutory rules and their application to real-life operational models.

The research relies heavily on primary legal sources. The doctrinal analysis focuses on the Traditional and Complementary Medicine Act 2016 (Act 775) and its subsidiary legislation, the Traditional and Complementary Medicine Regulations 2021. This analysis dissects these primary statutes to evaluate their semantic structure, legislative intent, and practical enforceability.

To place statutory interpretation within the appropriate context, this study utilizes secondary sources, including a review of recent peer-reviewed literature. This evidence base spans the fields of law, public health, and socio-economics, while focusing on Malaysia's unique regulatory and cultural context regarding the gig economy. This library-based research approach critically evaluates how existing laws (based on legislative texts) apply to the novel operating models of digital well-being platforms, specifically by identifying gaps where the law lacks clear provisions.

Analysis and Discussion

Because Act 775 was conceptually designed for a traditional clinical setting, it contains important legal blind spots. Below is an extensive doctrinal analysis of the specific statutory

loopholes and tortious liabilities that emerge when unregistered mobile massage therapists operate with impunity within the digital gig economy.

Constitutional Legitimacy and the "Brick-and-Mortar" Paradox

Before investigating the certain operational loopholes of the digital wellness economy, the overarching statutory authority of Act 775 must be established. The Federal Court resoundingly affirmed the constitutional validity of this severe regulatory framework in *Ramli Ghani v Kementerian Kesihatan Malaysia & Anor [2022] 5 MLRA 1*. In this issue, the applicant challenged the federal government's authority to medicalize and regulate traditional Malay and Islamic medicine, arguing it fell under state jurisdiction. The Federal Court dismissed the application, ruling that Parliament is fully empowered under the Federal Constitution to regulate alternative medicine for the public good, secure public safety, and standardize healthcare.

While the constitutional legitimacy of Act 775 is absolute, its practical enforcement is paralyzed by an inherent statutory assumption that a practitioner operates from a static, physical clinic. Section 23(6) of Act 775 mandates that a registered practitioner must notify the Registrar of the "address... of his current practice". This is operationalized by Regulation 9(2)(d) of the T&CM Regulations 2021, which specifies that the official Register must contain the "name and address of the place of practice". Furthermore, Section 26(7) of the Act requires that all practicing certificates shall be displayed in a prescribed manner at the practitioner's place of practice, a rule strictly enforced by Regulation 8(1), which requires a practitioner to conspicuously display their valid practicing certificate at their "principal place of practice" and a certified true copy at "every other place of practice". Additionally, the statutory forms in the First Schedule of the 2021 Regulations, specifically Form H (Temporary Practicing Certificate) and Form K (Registered Practitioner's Practicing Certificate) require an explicit declaration of a physical address "being the principal place of practice".

Mobile gig-economy therapists operate out of backpacks, match with clients dynamically via encrypted chat apps, and treat them in private residential rooms or temporary hotel spaces. For a transient outcall therapist, complying with these strict physical-address and certificate-display requirements is a logistical impossibility. The law demands a permanent physical anchor in reality, yet the work is entirely mobile and digital.

Premises-Based Enforcement Paralysis:

Because the legislation assumes a traditional clinic setting, its enforcement systems are entirely unequipped to police decentralized and transient gig workers. The enforcement powers granted to the state under Part IX of Act 775 are fundamentally bound by geography. The relevant provisions are as follows:

- Section 51 Stop Orders: Section 51(5) allows an authorized officer to enter any "premise, building or facility" to discharge a stop order. In contrast, Section 51(6) grants the power to enter and search such physical locations to seize equipment.
- Section 52 Closure Orders: Section 52(1) explicitly restricts the Director General's power to issue a closure order to "any premises, building or facility that is used for the provision of traditional and complementary medicine services".
- Sections 53 and 54 Entry Powers: Section 53(1) provides that a Magistrate may only issue a search and seizure warrant upon reasonable cause to believe that "any premises has

been used for or is about to be used for" an offense. In contrast, Section 54 allows an authorized officer to enter "any premises" for inspection and sample collection.

The loophole manifests in the fluid functional processes of the outcall wellness sector. Authorized health inspectors and enforcement officers cannot realistically obtain warrants to raid random private residential condominiums where brief outcall sessions occur. Furthermore, they cannot intercept "hit-and-run" outcall services frequently operated by foreign nationals exploiting short-term social visits in hotels. This geographic fluidity effectively renders premises-centric enforcement provisions obsolete. The state cannot close down or search for a "premise" if the practitioner's only place of business is an encrypted mobile application.

Digital Matchmaking and the Lack of Platform Liability

Act 775 attempts to tightly regulate how practitioners attract clients, but its provisions are completely bypassed by the architecture of modern social media. For example, Section 33(1) of Act 775 strictly prohibits registered practitioners or any person engaging them from making "any spurious claim in any advertisement, journal, article, pamphlet, website or media commercial". Section 33(2) further prohibits false or misleading representations inducing a patient into a contract.

Unregistered practitioners completely evade this formal advertisement scrutiny by soliciting clients in location-based groups via platforms such as Telegram and Threads. To show how these transactions work, a typical "Telegram Wellness Group" functions as a localized, decentralized online marketplace. Platform algorithms organically push these groups to users based on geographic proximity. Within the group, therapists advertise their services via text and images, but deliberately hide their pricing by instructing consumers to "PM (Private Message) for price." This text-based culture successfully circumvents formal pricing transparency regulations. Crucially, intermediary platforms face no liability. Section 40(6) attempts to impose joint liability on any person "engaging or employing" the practitioner, but anonymous group administrators act as unregulated gatekeepers, matching consumers with illegal healthcare services without bearing any vicarious liability or duty of care. Because these administrators hide behind untraceable digital avatars, holding them accountable is impossible under current laws, meaning the law punishes the individual practitioner but remains silent on the digital infrastructure facilitating trade.

Disciplinary Failures and the Consumer Recourse Vacuum

Act 775 aims to protect public health by ensuring minimum competency standards and providing a recourse avenue. However, the law does not account for the hyper-convenience-driven consumer patterns of younger generations in the digital space. The disciplinary mechanisms outlined in Part IV of the 2021 Regulations create a highly formal administrative process. Specifically, Regulation 15(1) strictly requires that any complaint or information against a registered practitioner "shall be made in writing and shall be submitted to the Council". The Investigation Committee then forwards copies of the complaint to the registered practitioner under Regulation 17(1).

When a consumer bypass licensed clinics to book a session through a digital "whisper network," they enter a high-risk legal vacuum. Filing a formal written complaint with

identifiable details against an anonymous gig-worker utilizing Telegram is virtually impossible, rendering the Council's disciplinary authority completely useless. Beyond administrative disciplinary measures, this creates severe tortious liabilities when injuries occur. In the persuasive common law case of *Shakoor v Situ [2000] 1 WLR 410*, the court established that alternative medicine practitioners are subject to an objective standard of care within their specific art. They hold a fundamental legal duty to ensure their treatments do not pose an active danger to the patient. Traditional massage involves deep physical manipulation, yet unregistered gig therapists performing aggressive manipulation routinely violate this standard without professional indemnity insurance.

Algorithmic Evasion of Informed Consent A further layer of tortious liability arises regarding the doctrine of informed consent. Under Section 40(2) of Act 775, practitioners are statutorily obligated to "properly notify and inform the patient of any harmful, unsafe or other effects" before administering treatment. This codifies the common law shift away from medical paternalism established by the Malaysian Federal Court in *Foo Fio Na v Dr Soo Fook Mun & Anor [2007] 1 MLJ 593*, which ruled that a practitioner has an absolute duty to warn a patient of the material risks inherent in a proposed procedure.

In the digital wellness underground, this duty is entirely evaded. In a registered clinic setting, patients undergo preliminary health screenings and sign strict consent forms accepting the risks of treatment. In sharp contrast, gig-economy transactions operate purely on "blind trust." Consumers book unregulated therapists without verifying if the individual possesses the physiological knowledge required for safe practice. The physical dangers here are severe; aggressive deep-tissue massage administered by an unverified therapist onto a consumer with existing health problems (such as hypertension or spinal injuries) creates extreme medical risk. Unregistered mobile therapists prioritizing rapid, transactional financial gain over clinical safety procedures routinely fail to conduct preliminary health screenings or warn clients of these physical risks. While an independent gig worker might attempt to raise the tortious defense of *volenti non fit injuria* (voluntary assumption of risk), arguing that the client assumed the risk by booking an informal outcall session, *Foo Fio Na's* case dictates that a patient cannot legally consent to a risk that they have not given their informed consent. Driven by a culture of hyper-convenience, consumers enter a high-risk transaction completely blinded by information asymmetry, leaving them legally exposed and physically vulnerable to malpractice.

High Barriers to Entry Driving the Underground Economy

Rather than encouraging compliance, the rigid administrative requirements of the subsidiary legislation inadvertently act as a spur for the expansion of the wellness shadow economy. It is seen in the Third Schedule of the 2021 Regulations as it mandates that to qualify for registration under the recognized practice area of traditional Malay massage (*urut Melayu*), a practitioner must possess a "Malaysian Skills Diploma (Level 4): Therapeutic Massage and Care". The Fourth Schedule further stipulates that those holding only a Level 3 Certificate must provide proof of experience of "at least 5 years and up to 10 years" to be eligible for registration.

These high educational, temporal, and fiscal barriers to entry economically disincentivize informal gig-workers from entering the formal registry. For people seeking supplementary

income to survive, the cost and time required to acquire a Level 4 Diploma are highly prohibitive. Rather than navigate lengthy certification protocols, these practitioners bypass the statute entirely and move into the lucrative, unregulated digital underground. Consequently, the law inadvertently criminalizes the vulnerable demographics it should be integrating into the formal economy, expanding the gap between statutorily recognized elite practitioners and the shadow gig-workforce.

Ultimately, these connected statutory gaps confirm that while Act 775 is conceptually robust for a brick-and-mortar era, its structural reliance on physical space renders it functionally obsolete against the borderless, anonymous, and hyper-convenient sphere of the digital wellness economy.

Conclusion

The enforcement of Act 775 and the 2021 Regulations represent a necessary and vital advancement for Malaysian public health. By standardizing competencies and establishing disciplinary mechanisms, the state has significantly elevated the professionalism of traditional and complementary medicine. However, this doctrinal analysis finds that the digital gig economy currently outpaces the legislation. Treating traditional wellness purely as a brick-and-mortar medical practice leaves a massive regulatory vacuum. Statutory reliance on physical addresses, displayed certificates, and premise-based enforcement strategies inadvertently drive vulnerable practitioners toward unregulated internet platforms like Telegram and Threads.

To remedy these legal lacunae, legislators must urgently modernize domestic frameworks to reflect the realities of the gig economy. The Ministry of Health should draft new subsidiary guidelines customized for mobile and independent practitioners, moving away from rigid physical display and static premise requirements. Modernizing traditional medicine must include the growing gig-economy workforce, integrating robust, flexible policies to ensure genuine consumer safety, professional legitimacy, and practical enforceability in the digital age.

References

Abuduli, M., & Aljunid, S. M. (2011). Role of traditional and complementary medicine in universal coverage. *Malaysian Journal of Public Health Medicine, 11*(2), 1-5.

Anuar, H. M. (2012). The use of traditional Malay massage (urut Melayu) for post-stroke patients. *International Journal of Public Health and Clinical Sciences*.

Farrer, D. S. (2008). Healing and martial arts in Malay mysticism. *Journal of Asian Martial Arts, 17*(3), 8-39.

Goh, C. S. (2021). Regulatory challenges in uplifting traditional Malay medicine in Malaysia. *International Journal of Allied Health Sciences, 5*(3), 2095-2101.

Human Resources Online. (2026, March). Gig Workers Act 2025: What employers must get right as enforcement kicks in on 31 March.

Industrial Relations Act 1967 (Act 177).

Ministry of Health Malaysia. (2018). *National T&CM Blueprint 2018-2027 (Health Care)*. Traditional and Complementary Medicine Division, Putrajaya.

Mohd Hed, N., & Rosli, N. (2025). The gig economy and social security in Malaysia: A contemporary review. *International Journal of Research and Innovation in Social Science*.

Mohd Riji, H. (2005). *Cultural factors in health and illness*. University of Malaya Press.

Nourse, J. W. (2013). Bomoh, dukun, and pawang: Traditional healers and the state in Malaysia. *Journal of Southeast Asian Studies, 44*(3), 441-460.

The Vibes. (2026, May 16). SOCSO enforces mandatory social protection for gig workers under new law.

Toor, A. S.(2023). Employment status and the gig economy in Malaysia. *Industrial Law Journal*.

Traditional and Complementary Medicine Act 2016 (Act 775).

Traditional and Complementary Medicine Regulations 2021 (P.U. (A) 69).