

Hospital Patients' Rights and Privacy in The Era of Digitalization

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Abstract

The development of medical services in Indonesia is still in a transition period from conventional medical services to digitalization. The digitalization of health services in Indonesia is still at a transition stage, as evidenced by the emergence of informal health organizations or facilities, changes in patient service models in hospitals, as well as changes in communication patterns between patients and doctors. Apart from having a positive impact on society, the use of *online platforms* makes it easier for people to diagnose their illnesses, there are also negative impacts from *online platforms*. Problems or negative impacts of health service applications include potential problems related to the legality of professional permits, certification, and therapeutic transactions as well as problems related to insurance, confidentiality of patient medical records. The research approach used is normative juridical, where the researcher reviews the literature and analyzes several documents related to the laws and regulations that have been implemented. The focus of the discussion of this research is Law Number 17 of 2023 concerning Health which states that medical records and/or patient data must be kept and kept confidential and Government Regulation number 47 of 2021 concerning the Implementation of the Hospital Sector states that hospitals are obliged to protect the rights and obligations of patients, so Every patient has the right to the confidentiality of his personal health condition which has been disclosed to the health service provider. Online health facilities provided by the government have a very important role in speeding up action on patients, but it does not rule out the possibility that there are positive and negative things from providing these online health facilities. So the government has provided a form of legal protection for medical services at RSUs for patients, medical services related to medical procedures and health workers as well as the quality of health services provided.

Keywords: Health Law, Digitalization Era, Confidentiality of Patient Data.

1. INTRODUCTION

Health is a fundamental right (*Fundamental Right*) given to every human being as regulated in Article 28 H Paragraph (1) of the 1945 Constitution, and every human being has the right to live with sufficient physical and spiritual well-being, they have a place to live and have the right to a good and healthy living environment. and access to health services. Health is very important, it is often said that health is everything, and without health everything is meaningless. The guarantee of the right to optimal health is also contained in Article 9 of the Human Rights Law Number 39 of 1999 which states that everyone has the right to a good and healthy living environment. Health is a human right and achieving an internationally recognized standard of living. The definition of health given by the international world is: *A state of complete physical, mental and social well being and not merely the absence of disease or infirmity*. The right to health includes the right to adequate health services, necessary health services and social services, as well as the right to personal safety and healthy work. Article 25 of the Declaration of Human Rights (UDHR) states: "Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including the right to food, clothing, housing and health services, necessary social services, and the right to security in the event of unemployment, illness, disability, widowhood/ being widowed, reaching old age or other circumstances that result in a lack of support, which occurs beyond his control." The central government and regional governments have the obligation to ensure planning, regulation, implementation, guidance and supervision of all aspects of fair health services to

achieve the highest health standards, as confirmed in Chapter III, Article 6 paragraph 1 of Law of the Republic of Indonesia Number 17 of 2023 concerning Health. Over time, globalization has had an impact on the whole world, including Indonesia. Digital Industrial Revolution 4.0, technological advances have an impact on every aspect of life in all fields. Every aspect of life is closely related to the use of technology, including the health sector. This can be seen from the emergence of online health service platforms, which are a form of technological innovation that aims to increase the efficiency and effectiveness of access to health services without limits of distance, space and time.

The development of medical services in Indonesia is still in a transition period from conventional medical services to digitalization. The digitalization of health services in Indonesia is still at a transition stage, as evidenced by the emergence of informal health organizations or facilities, changes in patient service models in hospitals, as well as changes in communication patterns between patients and doctors. This particular *ehealth* service model means that doctors and patients do not meet face to face but are connected using information and communication technology called *telemedicine*. There are several examples of *telemedicine* service providers such as *Good Doctor*, *Alodokter*, *GetWell*, *KlikDokter*, *Halodoc*, *GrabHealth* and many others which are very easily accessible to the public with only internet access. This e-health service model has a number of superior features such as online consultations with general practitioners and specialist doctors, buying and selling medicines, appointments with doctors, choosing a hospital, and managing medical records. The online consultation function is one of the most used features in healthcare applications. This feature helps connect patients with doctors online so they can complete consultations without having to meet in person. The Ministry of Health of the Republic of Indonesia (Kemenkes RI) has participated in improving health services by launching 4 health applications, namely Sehat Pedia, Indonesia *Health Search Facility* (IHeFF), *esign* and PKRT e-postBorder Health Tools. These four applications are a form of medical innovation driven by the rise of the digital era which is expected to provide easy access to health services for the Indonesian people. *Deloitte* Indonesia together with Bahar and the Indonesian *Center for Healthcare Policy and Reform Studies* (Chapters) conducted a survey which showed that 15.6% of users still felt dissatisfied with health service applications. This dissatisfaction arises because people are still worried about the security of data that has been entered into health services. The facts found are that around 10% of the Indonesian population has used health-based digital applications. The Indonesian Internet Service Providers Association said in 2017 that around 51% of people used it only to search for health information. There are also 14.05% who use it to consult with medical experts. Around 61.2% of people do not use it because they have special concerns (*trust*), in this case a lack of trust in health information, personal information, *missed communications*, accuracy of disease diagnosis, and the user's legal protection that will be given to the party concerned.

In addition, since Covid-19, the number of telemedicine users has increased by 60% during the Covid-19 pandemic, according to Katadata research. The Ministry of Information and Communication said that some people have started to take advantage of telemedicine services through the online consultation services provided. As many as 44% of respondents said they switched to telemedicine services after direct consultation at the clinic. The use of *online platforms* makes it easier for people to diagnose their illnesses, there are also negative impacts from *online platforms*. Problems or negative impacts of health service applications include potential problems related to the legality of professional permits, certification, and therapeutic transactions as well as problems related to insurance, confidentiality of patient medical records. Leaked 6 (six) million medical records of Covid-19 patients belonging to the Ministry of Health (Kemenkes) were leaked and freely exchanged on the illegal site *RaidForum* by a user with the username *Astarte*. This personal data includes patient identity data (home address, date of birth, cellphone number, NIK) and medical records containing the patient's medical history or history, diagnosis with ICD 10 code or international diagnostic code, clinical examination, reference identification number, supporting examinations. and treatment plan. 12 documents belonging to the Ministry of Health were found for sale, including 6 million patient data with a file capacity of 7.20 GB with the document description "Centralized server of the Indonesian Ministry of Health". Article 177 paragraph (1) of Law Number 17 of 2023 concerning every health facility emphasizes that medical records or patient data must be kept and kept confidential and Article 4 Paragraph (1) Letter (i) of Law Number 17 of 2023 concerning Health is stated that every patient has the right to the confidentiality of his personal health condition which has been disclosed to the health service provider. consistent with the basic rights of patients regarding the right to keep their illness confidential or have their confidentiality protected. Regarding the confidentiality of a person's health data, this is information that is "excluded" from the category of public information, only disclosed in the interests of the health of health service recipients and in the interests of society in accordance with applicable laws and regulations. This author's research focuses on the legal confidentiality of medical confidentiality regulations in

the form of telemedicine carried out by medical platforms. Based on the explanation and problems that have been explained, these factors become the main objective and context for the author to analyze these problems.

2. METHODOLOGY

The research entitled "Rights and Privacy of Hospital Patients in the Era of Digitalization" is research that examines legal matters using normative juridical methods. Research using normative juridical methods is research that focuses on the study of statutory regulations, official documents, and sources related to the research subject with the aim that the research conducted can be analyzed and can describe how hospital law is studied in the current era of digitalization. Especially in the patient data section. This research has primary legal sources that will be studied, namely:

1. Law Number 17 of 2023 concerning Health.
2. Government Regulation number 47 of 2021 concerning the Implementation of the Hospital Sector.

This research was conducted using secondary legal sources, in this case legal sources found in relevant literature, journals and previous research to support the research to be carried out by the researcher.

3. RESULTS AND DISCUSSION

Law Number 17 of 2023 concerning Health.

As stated in Article 173 Paragraph (1) Letter (c) and Article 189 Paragraph (1) Letter (g) it is stated that health facilities are obliged to maintain medical records. The statement mentioned means that every hospital must have a medical record to make it easier to input data from patients. However, this is still a concern for patients who have a history of serious illness and do not want their medical records to be disclosed. So the confidentiality of medical records is also regulated in Article 297 Paragraph (3) which states that health workers have an obligation to maintain the security, integrity, confidentiality and integrity of patient medical records. A medical record is a document owned by a hospital which contains data from each patient who has received treatment or is currently undergoing treatment. More specifically regarding the confidentiality of patient data, it is explained in Article 301 Paragraph (1) that every medical worker and health worker in the implementation of services is required to strictly maintain the confidentiality of the patient's personal health data. Looking at the description above, the author can confirm that patient confidentiality will be strictly protected because it is regulated in the law. Every widespread patient confidentiality is the government's responsibility and must be followed up appropriately and in accordance with the laws that have been implemented. This law is also regulated in government regulations, so that all violations that occur must be resolved in accordance with government regulations in the next point.

Government Regulation number 47 of 2021 concerning the Implementation of the Hospital Sector

Government Regulation in Article 44 Paragraph (1) regarding patient rights, Letter (i), explains that patients have the right to privacy and confidentiality of their personal data, including medical records they have suffered. This is in line with Law No. 17 which has been explained. So in terms of data and medical records, patients no longer need to worry about data leaks. It is also regulated in article 27 where it is said that medical personnel must respect and protect the rights of patients.

Hospital Law in the Digital Era

The era of digitalization makes everything more practical and easier to reach. One of the digital tools that is often used in the health sector is medical records which have been carried out using digital medical record input. In a journal there are several advantages of digital medical records so that hospitals are required to use digital medical records. The following are the advantages of medical records:

- a. Patient care becomes more complete and sustainable. With medical records and health applications that contain the patient's medical history, doctors can control the patient's health more easily, especially because the medical history and previous consultation sessions can be a reference for appropriate diagnosis and treatment
- b. Patient service becomes faster. Every hospital wants to provide patient health services more quickly but still accurately, so that it can treat more patients with the best treatment. One of them is the service to redeem medicines at the hospital pharmacy. The role of medical records here is to confirm the patient's previous health history, so that the pharmacy can prepare more quickly
- c. There is data transparency for patients and families. Medical records are managed by the hospital, but patients and families also have the right to know the information contained in the medical records.

Therefore, electronically integrated medical records have an important role in providing medical history information to the person concerned. Apart from the advantages described, there are also several disadvantages of digital medical records that have been implemented, including:

- a. The connection between health facilities means that patient medical record data may be known by unauthorized parties, so that the confidentiality of patient data can be compromised. Therefore, hospitals, doctors, dentists and other health workers must be able to maintain the confidentiality of medical record data
- b. Health facilities must prepare sufficient data back-up to ensure the security of patient medical record data
- c. The readiness of human resources to serve electronic medical records is not evenly distributed in various health facilities. Likewise, the ability to provide facilities and infrastructure to support electronic medical record services
- d. Differences in regional conditions and internet network facilities in each region may vary. Therefore, the implementation of mandatory medical records simultaneously in Indonesia no later than the end of December 2023 needs to be reviewed.

For example, a case that has occurred is the leak of 6 (six) million medical records of Covid-19 patients belonging to the Ministry of Health (Kemenkes) which were leaked and freely exchanged on the illegal site RaidForum by a user with the username Astarte. This personal data includes patient identity data (home address, date of birth, cellphone number, NIK) and medical records containing the patient's medical history or history, diagnosis with ICD 10 code or international diagnostic code, clinical examination, reference identification number, supporting examinations, and treatment plan. 12 documents belonging to the Ministry of Health were found for sale, including 6 million patient data with a file capacity of 7.20 GB with document descriptions. "Indonesian Ministry of Health's centralized server". The data disseminator has violated the law that has been explained and violated government regulations, so action needs to be taken in accordance with the ITE Law. In handling it, it needs to be reviewed in accordance with government regulations that have been stated in the patient data protection law, so that irresponsible parties can be followed up in accordance with applicable law.

4. CONCLUSION

From the description above it can be concluded that: Online health facilities provided by the government have a very important role in speeding up action on patients, but it does not rule out the possibility that there are positive and negative things from providing these online health facilities. So the government has provided a form of legal protection for medical services at RSUs for patients, medical services related to medical procedures and health workers as well as the quality of health services provided. The hospital will check whether medical personnel, especially doctors, have deviated from the SOP (Standard Operating Procedure), or whether it was an unintentional mistake. Every deviation committed by a medical practitioner or by a doctor results in consequences in the form of legal sanctions, including civil, criminal and administrative sanctions as a form of legal protection for the patient who has been harmed.

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