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Legal Protection and Liability for Breaches of Confidentiality in Health Insurance Patients' Medical Records

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Abstract: The implementation of procedures for opening medical records of Health Insurance patients, including Health Insurance Patients, requires legal certainty, so that what is done by doctors and health service facilities does not violate existing laws and regulations. Problem Formulation; How is the legal protection for the confidentiality of medical records of Health Insurance patients? 2. How is the legal responsibility for the confidentiality of medical records of Health Insurance patients? 3. What is the ideal legal protection for liability for violations of the confidentiality of patient medical records? The theoretical framework used is the Theory of Law Enforcement, the Theory of Justice, and the Theory of Legal Protection. The research method uses a Normative juridical research approach. The results of the research; Legal Protection for the Confidentiality of Medical Records of Health Insurance Patients, that; Philosophically and legally, medical records constitute medical confidentiality, which is everything that a patient, consciously or unconsciously, conveys to a doctor, or everything that the doctor has learned while providing health services to the patient. In carrying out its business activities, it applies to the principles of Good Governance regarding information confidentiality and information transparency. Health Insurance Services, carry out the claim administration process in accordance with the standards and provisions of the Health Social Security Administration Agency Regulation Number 7 of 2018 concerning Management of Health Facility Claim Administration in the Implementation of Health Insurance. Although in submitting claims to Health Insurance "Y" is guided by the Standard Operating Procedure (SOP) based on Health Insurance Regulation Number 7 of 2018 concerning Management of Health Facility Claim Administration in the Implementation of Health Insurance. Legal Responsibility for Confidentiality of Health Insurance Patient Medical Records, has a legal basis based on Article 46 paragraph (1) of Law Number 29 of 2004 concerning Medical Practice and the provisions of the Minister of Health Regulation Number 269/Menkes/Per/III/2008 concerning Medical Records, that in principle, legally obliged to keep medical secrets related to the implementation of medical records and health information serves to protect hospitals and doctors in terms of law (medico legal). If a doctor discloses the confidentiality of medical records without the patient's consent or written permission from the Health Insurance patient, then the doctor is deemed to have violated or deviated from the provisions of Article 47 paragraph (2) in conjunction with

Article 48 paragraph (1) of Law Number 29 of 2004 concerning Medical Practice and Article 11 paragraph (1) of Regulation of the Minister of Health of the Republic of Indonesia Number 269/Menkes/Per/III/2008 concerning Medical Records, as implementing regulations. Legal protection and legal liability for violations are integrated into Law Number 8 of 1999 concerning Consumer Protection. Furthermore, Article 48 of Law Number 29 of 2004 concerning Medical Practice deals with the preservation and disclosure of medical confidentiality.

Keyword: Legal Protection and Liability, Consequences of Violations of Medical Record Confidentiality.

INTRODUCTION

Health is a fundamental human right that must be guaranteed by the state and realized through a comprehensive health system. In Indonesia, this right is recognized constitutionally in the 1945 Constitution, which affirms that every citizen has the right to receive proper health services. Health is also closely linked to human dignity, and therefore, the state bears the responsibility to ensure that all citizens receive adequate and equitable access to health services. In this context, medical records become an essential component of healthcare administration and legal accountability. They serve not only as a professional record of diagnosis and treatment but also as a key legal document in cases involving medical disputes, insurance claims, and professional responsibility.

Medical records contain highly confidential information about patients, which includes their identity, medical history, diagnosis, and treatment details. Such information is protected under Indonesian law, including the Medical Practice Law, the Health Law, and the Minister of Health Regulation on Medical Records. Confidentiality is a core principle of the medical profession and a manifestation of the patient's right to privacy. However, in practice, there are increasing concerns about the disclosure of medical record data, especially in relation to health insurance claims. The administrative process for insurance reimbursement often requires access to patients' medical information, creating potential conflicts between the need for data disclosure and the obligation to protect confidentiality.

This paper discusses the legal framework and liability issues related to breaches of medical record confidentiality in the context of health insurance claims in Indonesia. The study aims to analyze how existing laws provide legal protection for patients and how responsibilities are distributed among medical practitioners, hospitals, and insurance companies. It also examines the implications of breaches of confidentiality, both from a legal and ethical standpoint, and proposes measures to strengthen patient protection in the health system.

The issue of medical record confidentiality has become more significant with the digitalization of health data and the growing role of insurance systems such as the National Health Insurance (BPJS Kesehatan). Hospitals and doctors are legally obliged to protect patient information; however, the need for data exchange between healthcare facilities and insurers sometimes leads to unauthorized disclosures. Such breaches can have serious consequences, not only for patient privacy but also for the integrity and credibility of the healthcare system. Therefore, legal protection mechanisms must be strengthened to ensure that patient rights are upheld while maintaining administrative efficiency and transparency in health insurance operations.

METHOD

This research adopts a socio-legal (juridical-sociological) approach, combining normative legal analysis with empirical observation. The normative dimension involves an analysis of legal norms and principles governing medical record confidentiality, professional responsibility, and insurance administration. The empirical dimension involves field research, including interviews with hospital administrators, doctors, and health insurance officials, as well as observation of the administrative processes related to health insurance claims.

The study uses both primary and secondary data sources.

1. Primary data were obtained through direct interviews and observations in hospitals and health insurance offices, focusing on the procedures for medical record handling during claim submissions. Respondents included doctors, hospital management officials, BPJS Kesehatan representatives, and private insurance managers.
2. Secondary data consist of statutory regulations, government documents, academic literature, and legal commentaries related to health law, patient rights, and medical confidentiality.

Data were analyzed qualitatively, using a descriptive and analytical approach to identify the relationship between legal norms and practical implementation. The qualitative analysis aimed to determine the extent to which legal rules on medical record confidentiality are effectively enforced in practice and to identify gaps that may lead to breaches of patient privacy. The findings were interpreted within the theoretical framework of legal protection and state responsibility, reflecting Indonesia's commitment as a constitutional state (*rechtstaat*) that upholds the rule of law, justice, and human rights.

The research location was a general hospital in Cikampek, West Java, where several cases of medical record disclosure occurred in the context of health insurance claims. Between 2022 and 2024, a total of 84 patient cases were identified, with varying claim amounts ranging from approximately IDR 1.7 million to IDR 295 million. This data was analyzed to explore the administrative mechanisms involved in medical record disclosure and to evaluate whether they conformed to legal and ethical requirements.

RESULTS AND DISCUSSION

Legal Framework for Medical Record Confidentiality

The protection of medical record confidentiality in Indonesia is established through multiple legal instruments. The foundation lies in the 1945 Constitution, which guarantees the right to privacy and health as part of fundamental human rights. This is further reinforced by the Health Law, the Medical Practice Law, and the Minister of Health Regulation on Medical Records. These regulations mandate that all healthcare providers maintain confidentiality over patients' personal and medical data, allowing disclosure only under specific legal conditions such as for law enforcement, patient consent, or public health interests.

Article 46 of the Medical Practice Law requires every doctor to create and maintain accurate medical records, while Article 47 stipulates that these records are the property of the healthcare institution, but their contents belong to the patient. Article 48 limits disclosure only to certain circumstances — for the benefit of the patient, upon patient request, for law enforcement with judicial approval, or as required by law. Any disclosure beyond these conditions constitutes a legal violation that may trigger administrative, civil, or criminal liability.

Furthermore, the Minister of Health Regulation No. 24 of 2022 on Medical Records provides detailed procedures for maintaining and storing medical records, including digital formats. It emphasizes confidentiality and data protection, requiring that access be restricted to authorized personnel only. This legal structure demonstrates the state's commitment to balancing transparency in healthcare administration with the protection of individual rights.

However, the regulatory framework has yet to comprehensively address scenarios involving third-party insurance claims. Health insurance companies often require access to medical data for reimbursement verification. While the BPJS Health Regulation allows insurers to request summary medical records, it does not mandate patient consent in every case, creating ambiguity and potential for misuse. This legal gap contributes to the risk of unauthorized disclosure and undermines patient trust in the healthcare system.

Legal Protection for Patients

Legal protection for patients encompasses both preventive and repressive dimensions. Preventive protection involves laws and regulations designed to prevent violations of patient rights, such as strict requirements for record-keeping and confidentiality agreements among medical personnel. Repressive protection comes into play when a violation occurs, providing avenues for patients to seek redress through civil, administrative, or criminal proceedings.

In practice, preventive measures are not always effectively implemented. Many healthcare workers lack adequate understanding of confidentiality obligations, and administrative systems in hospitals may not provide sufficient safeguards. In several hospitals, particularly in the context of insurance claims, copies of patient medical records are routinely transmitted to insurance providers without explicit patient consent. Although this may be intended to facilitate reimbursement, it constitutes a breach of the patient's right to confidentiality.

From a legal standpoint, breaches of medical record confidentiality can lead to multiple forms of liability:

1. **Criminal Liability** – Under the Criminal Code, any individual who intentionally discloses a secret obtained through professional duty can be punished with imprisonment.
2. **Civil Liability** – Based on the Civil Code, parties who commit unlawful acts causing harm to others must provide compensation.
3. **Administrative Liability** – Hospitals and doctors may face sanctions such as license suspension or administrative fines for violating health regulations.

Despite these provisions, enforcement remains weak. The absence of a dedicated mechanism to monitor and sanction breaches makes legal protection more theoretical than practical. Moreover, patients rarely pursue legal action due to lack of awareness or fear of confronting medical institutions.

Liability in Health Insurance Claims

The study found that breaches of confidentiality most commonly occur during the health insurance claim process. Hospitals, acting as intermediaries between patients and insurance providers, are required to submit documentation that verifies medical procedures and costs. In practice, however, many institutions provide detailed medical information without written consent from patients. This practice is inconsistent with legal norms and violates the principle of informed consent.

The hospital and its management bear primary responsibility for ensuring that patient data remain confidential. Doctors, as the creators of medical records, are ethically and legally bound to protect patient privacy. Insurance providers, on the other hand, have a secondary responsibility — they must ensure that any medical information received is handled in accordance with privacy standards and used solely for legitimate purposes.

Liability also arises from the concept of vicarious responsibility, where the hospital as an institution can be held accountable for the actions of its staff. Similarly, insurance companies can be held liable if their employees misuse patient data. However, Indonesian law still lacks comprehensive rules on institutional liability in this context, particularly in

cases where data breaches occur through systemic negligence rather than individual misconduct.

The need for harmonization between health laws and insurance regulations is therefore urgent. The principles of *lex specialis derogat legi generali* (specific law overrides general law) and *lex posterior derogat legi priori* (newer law overrides older law) should guide the integration of these frameworks to ensure coherence. Without such harmonization, overlapping authorities and legal loopholes will continue to undermine patient protection.

Ethical and Administrative Implications

From an ethical perspective, confidentiality is not merely a legal requirement, but a moral obligation grounded in professional integrity. The medical profession's ethical codes explicitly prohibit the disclosure of patient information without consent. Violations erode public trust in healthcare institutions and damage the reputation of both doctors and hospitals. Ethically, the breach of confidentiality can be viewed as a betrayal of the doctor-patient relationship, which is built on mutual respect and trust.

Administratively, hospitals must develop standard operating procedures (SOPs) for managing medical record access, particularly in coordination with insurance claims. These SOPs should define clear steps for obtaining patient authorization, document tracking, and data protection. Furthermore, internal audit systems should be established to monitor compliance and identify potential risks of data leakage.

The research also highlights the importance of digital security in the era of electronic medical records. Cybersecurity measures must be implemented to prevent unauthorized access and data theft. The transition to digital health systems should therefore be accompanied by robust legal and technical safeguards to maintain patient confidentiality.

CONCLUSION

Medical record confidentiality is a cornerstone of patient rights and professional ethics in healthcare. The legal framework in Indonesia provides a solid foundation for protecting these rights through various statutes and ministerial regulations. However, the rapid growth of the health insurance system and the administrative requirements for claim processing have created practical challenges that existing laws have not fully anticipated. As a result, breaches of confidentiality continue to occur, often without clear accountability.

This study concludes that while the principle of patient confidentiality is well established, its implementation remains inconsistent. Hospitals, doctors, and insurance companies share responsibility for ensuring that medical data are handled lawfully and ethically. Yet, the absence of explicit regulatory provisions regarding consent in insurance claims, combined with weak enforcement mechanisms, undermines the effectiveness of legal protection.

To strengthen patient protection, several measures are recommended:

1. Legal Harmonization – Integrate health, insurance, and data protection laws to ensure clarity and consistency in regulating medical record confidentiality.
2. Patient Consent Mechanism – Require written consent for any disclosure of medical data to third parties, including insurance institutions.
3. Institutional Accountability – Establish clear frameworks for hospital and insurance liability in cases of data breaches.
4. Ethical and Professional Training – Reinforce education for healthcare personnel on confidentiality principles and data protection.
5. Digital Security Enhancement – Develop and enforce technical standards for secure electronic medical record management.

Ultimately, the protection of medical record confidentiality is not only a matter of law but also of ethics, governance, and human rights. Ensuring that every patient's privacy is respected strengthens public confidence in the healthcare system and reaffirms Indonesia's commitment to the rule of law and the protection of human dignity in health services.

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