

# Right to Privacy and Confidentiality of Diseases on Patient Medical Data during a Pandemic Based on the Perspective of the Health Law of the Republic of Indonesia

Risa Handayani<sup>1</sup>, St.Muhamad Arafah Sinjar<sup>2</sup>

<sup>1,2</sup> Postgraduate Program, Faculty of Law Universitas Pembangunan Nasional Veteran Jakarta  
Jl. RS. Fatmawati Raya, Pd. Labu, Kec. Cilandak, Jakarta 12450

**Abstract:-** Patient services in hospitals during the current covid-19 pandemic require special handling because it has caused a national and even global health emergency. Management of data and information related to the privacy of Covid patient data must also be carried out properly because the patient data is regulated by law. This study aims to find out how the application of the right to privacy and confidentiality of the disease to the medical data of hospital patients during the Covid-19 pandemic according to the Health Law and how the sanctions are given to hospitals if they do not fulfill the confidentiality of the patient's medical data as a form of legal protection for patients . The results showed that to open the data recorded in the patient's medical record, the patient's consent had to be obtained . Potential protective laws against patients according to Article 56 and 57 carried out preventively to maximize the implementation of inform consent and medical records to prevent violations of the law. While repressive legal protection is in accordance with Article 58, the health service provider implements it in accordance with the applicable legislation, namely through mediation and if it is proven that medical action is not in accordance with Standard Operating Procedures, compensation will be procured.

**Keywords:** *Patient Rights, Patient Medical Records, Patient Legal Protection, Data Covid-19 Handling*

## I. INTRODUCTION

The *World Health Organization* (WHO) has designated Covid-19 as a worldwide health threat and has declared it a pandemic. This has been officially conveyed by the Director General of WHO, Tedros Adhanom Ghebreyesus in his press release on March 11, 2020 (WHO Briefing, 2020) .

In Indonesia, the Covid-19 pandemic has had a very significant change effect in health services. The government has issued a Decree of the Minister of Health number HK.01.07/MENKES/275/2020 dated April 23, 2020 regarding the establishment of a referral hospital for handling certain emerging infectious diseases to ensure

continuity of health services in the context of controlling certain emerging infectious diseases.

Stated in the Decree of the Minister of Health mentioned that the hospital that leads into the prevention of infectious diseases in emerging particular have a duty to carry out the management of suspected cases of the potentially extraordinary occurrence or an outbreak of infectious diseases in emerging particular including *Coronavirus Disease 2019* (COVID-19) and provides referral health services patients and referral of quality specimens according to standards. The government has also issued a technical guide pocket book for the Covid-19 service protocol so that it is hoped that the procedures for handling patients, especially positive confirmed patients in health care facilities, have uniformity in their handling.

In providing services for Covid-19 patients, hospitals also have guidelines based on the Decree of the Minister of Health number HK.01.07/Menkes/413/2020 regarding guidelines for preventing and controlling Corona Virus Disease 2019 (Covid-19). Given that Covid-19 is a type of infectious disease that causes public health emergencies as well as non-natural disasters that not only cause death but also cause substantial economic losses, these Covid-19 patients are treated specifically when the patient is admitted, treated or even treated. died. This guideline applies to all hospitals in Indonesia, both government-owned, local government and private- owned hospitals.

In the National Standard for Hospital Accreditation (SNARS), it has been determined that in maintaining the quality and safety of patients, every hospital must always pay attention to the rights of patients in service. Information related the patient's rights is carried out since admission until the patient finishes treatment and is allowed to go home. In Article 32 of Law No. 44 of 2009 concerning Hospitals, there are 18 patient rights, including the right to privacy and confidentiality of the illness they suffer, including their medical data. Whereas in article 2 of the Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2018 concerning hospital obligations, there are 22 hospital obligations that must be fulfilled by hospitals to patients, such as providing correct

information about hospital services to the public; provide safe, quality, anti-discriminatory, and effective health services by prioritizing the interests of patients in accordance with hospital service standards; create, implement, and maintain quality standards of health services in hospitals as a reference in serving patients; maintain medical records; provide true, clear and honest information regarding the rights and obligations of patients; respect and protect patient rights; and also the safety of patients, visitors, and staff at the hospital.

Legal protection of confidentiality and the patient's right to privacy regarding information about his illness in health services is an inseparable part of the patient's personal rights, therefore disseminating information about the patient's illness / patient's medical data without the patient's knowledge is against the law, in this case the patient can sue and demand compensation, even those who spread it can be prosecuted by criminal law ( Adzanri, 2019 ) . In Law Number 44/2009 concerning hospitals in article 29 paragraph 1 letter (m) " hospitals are obliged to protect and respect the rights of patients." In article 32 concerning the rights of the patient, letter (i) it is written "the right to privacy and confidentiality of the disease suffered, including medical data." Information disease patients that exist in the records of the medical contents are belong to the patient by reason that the release of medical data in the medical record must be with the consent of the patient, which is its essential purpose to cure the patient, in addition to the health interests of the patient to read patient records can be referred to violate the privacy rights of patients. Confidentiality of medical data is generally recognized that information obtained from medical records is confidential and has legal force. Medical data information is confidential because it describes a special relationship between patients and doctors, which must be protected in accordance with the medical code of ethics and applicable laws and regulations. Confidentiality of medical record documents is an important factor in the hospital health care system, because medical record documents are a medium of communication between doctors and patients about the history of the disease they are suffering from. Confidentiality of medical information is very important because if any patient's medical information reaches the public or other people without the patient's permission, then that right is a violation of human rights. We often hear news in print and electronic media, there are victims or patients who complain about the disclosure of medical secrets (Raharjo, 2019).

During the current Covid-19 pandemic, the patient's right to confidentiality of medical data cannot be exercised in relation to controlling/preventing the transmission and spread of disease so that the patient does not multiply and the epidemic does not spread, in accordance with what is stated in Law number 4 of 1984 concerning outbreaks of Infectious diseases Article 5 Paragraph 1, which explains the objectives Epidemic goals, that are try to reduce mortality due to an outbreak with treatment , Limiting the transmission and spread of the disease so that patients do not multiply, and the plague has not spread to the other.

So that, based on the description of the background of the above, the researchers wanted to examine whether patients' rights as set out in the Law of Health of the Hospital could be met in the current pandemic *Covid-19* ongoing today. How to apply the right to privacy and confidentiality of the illness suffered including medical data of hospital patients during the *Covid-19* pandemic according to the Health Law and how are the sanctions given to hospitals if they do not fulfill the confidentiality of patient medical data during the pandemic according to the Health Act.

## II. LITERATURE REVIEW

### A. Overview of HealthLaw

Health based on Law Number 36 of 2009 concerning Health in Article 1 number 1 is a healthy condition, both physically, mentally, spiritually and socially that allows everyone to live socially and economically productive. Health Law, as written by CST.Kansil in his book Introduction to Indonesian Health Law, is a series of laws and regulations in the health sector that regulate medical services and medical facilities (Kansil, 1991) . In the Articles of Association of the Indonesian Health Law Association (PERHUKI), health law is also defined in Article 1 of the Articles of Association, which states that Health Law is all legal provisions that are directly related to health care/services and their application as well as the rights and obligations of both individuals and all levels of society as recipients of health services as well as from health services as well as from health service providers in all aspects of organization, facilities, national and international medical guidelines, law in the health sector, jurisprudence and medical/health science (Hendrik ,2016) . Furthermore, the notion of Health Law was also formulated by the Medical Law Study Team of the National Legal Development Agency, health law is a legal provision that regulates the rights and obligations of both health workers in carrying out these health efforts in all its aspects, namely promotive aspects, preventive, curative, rehabilitative, in addition to organizational aspects and facilities that must be considered: medical guidelines, international law, customary law, and autonomous law in the health sector. Science and medical literature are also sources of health law (Kansil, 1991) . Health Law is a set of regulations that regulate the rights and obligations of patients and medical personnel in carrying out health activities.

### B. Overview of Medical Records

Medical Records are defined in the Minister of Health Regulation No. 269/MENKES/PER/2008 in Article 1 number 1, namely files containing records and documents regarding patient identity, examination, treatment and other service actions that have been provided to patients. The same explanation is also found in Law No. 29 of 2004 on Medical Practice, specifically in Article 46 paragraph (1). Medical records are also explained in the book *Health Information Management of a Strategic Resource* which defines medical records as follows " *The patient health record is the primary legal record documenting the health care services provided to a person in any aspect of the health care system.*" (Abdelhak, 2001)

In addition, according to Huffman, the main purpose of medical records is to accurately and completely document the patient's past and present medical history, as well as the treatment given to the patient (Alvinta, 2017). Notes are writings made by doctors or dentists regarding actions taken to patients in the context of health services (Siswati, 2015), while documents are notes from doctors, dentists, and/or certain health workers, reports on the results of supporting examinations, daily observation and treatment records and all records in the form of radiology photos, imaging images and electro diagnostic recordings. According to Bambang Poernomo, a medical record is a record that reflects all information concerning a patient that will be used as the basis for determining further actions in medical service efforts and other medical actions given to a patient.

Seeing this, it means that the physical file on the Medical Record is the right of the Health Service Facility, while the patient has the right to the contents of the Medical Record. It is given not in the form of a physical file from his medical record, but as explained in paragraph (3), that what is given to the patient is only a summary form of his medical record. However, the content of the summary should include everything the patient needs to know. From the article, it can also be seen that the only patient who has the right to the contents of the medical record is the patient. This implies that the Medical Record is confidential, and should only be known with the patient's consent.

Regarding the existence of medical records in the medical world, it is closely related to medical secrets, because medical records are one of the medical secrets that must be kept confidential by medical personnel. Medical Secrets is one of the rights of the patient which is also an obligation as a health worker.

The medical record is a record of the identity and history of a person's illness, including diagnoses and medical actions that have been received by the patient. The contents of this medical record are owned by the patient, while the file is owned by the health facility provider. Health workers have an obligation to maintain the confidentiality of the medical record document, so that it is not known by third parties or other parties.

### C. Overview of the Patient

The term patient is already known in Indonesian legislation. Although the term patient is used in Law Number 36 of 2009 concerning Health, the General Provisions of the Act do not provide a definition of patient. If we look at Law Number 29 of 2004 concerning Medical Practice in Article 1 number 10 it is explained that a patient is anyone who consults on his health problems to obtain health services needed either directly or indirectly by a doctor or dentist. It is also explained in Law Number 44 of 2009 concerning Hospitals in Article 1 point 4 that a patient is anyone who consults on his health problems to obtain the health services needed either directly or indirectly at the hospital. Based on this, it means that the patient is not only someone who gets treatment, but everyone who does the

consultation is said to be a patient. Patients play a role that is very dependent on doctors or dentists who are considered to have certain powers, both in the field of knowledge and in the field of skills (Soekanto, 1987). This theory is supported by the fact that the relationship between doctor and patient is based on a therapeutic agreement. Therapeutic agreements are essentially no different from agreements in general (Ohoiwutun, 2007). The rights of a patient are regulated in several laws and regulations, one of which is in Law Number 44 of 2009 concerning Hospitals Article 32. It is stated that the patient has the right to agree or refuse the medical treatment that will be carried out on him. This opinion is also in accordance with the patient rights described by Cardozo, a United States Supreme Court justice who once stated that "... every human being of adult years and sound mind has a right to determine what shall be done with his own body." Adults have the right to decide what to do with themselves. Patients also have the right to be kept confidential forever about their health conditions, including their medical data. The medical data in question includes medical records.

### D. Overview Legal Protection

According to Soedjono Dirdjosisworo that the meaning of law can be seen from eight meanings, namely law in the sense of rulers, law in the sense of officers, law in the sense of attitude of action, law in the sense of a system of rules, law in the sense of values, law in the sense of legal order, law in terms of the meaning of legal science, law in the sense of legal discipline. Several meanings of the law from various points of view put forward by Soedjono Dirdjosisworo illustrate that the law is not merely written legislation and law enforcement officers as so far understood by the general public who do not know about the law. who actually already live in the community (Dirdjosisworo, 2008).

Linguistically, the word protection in English is called *protection*. The term protection according to the Indonesian dictionary (KBBI) can be equated with the term protection, which means the process or *act of protecting*, while according to *Black's Law Dictionary*, *protection* is *the act of protecting* (Garner, 2009). Legal protection is an effort to protect a person's interests by allocating a human right, the power to him to act in the context of his interests (Rahardjo, 2003). Legal protection is an action or effort to protect the community from arbitrary actions by the authorities that are not in accordance with the rule of law, to create order and peace so as to allow humans to enjoy their dignity as human beings (Setiono, 2004).

Legal protection is all efforts that can guarantee legal certainty, so that it can provide legal protection to the parties concerned or who take legal action (Hasanah, 2015). According to Philipus M. Hadjon that legal protection for the people is a preventive and repressive government action. Preventive legal protection aims to prevent disputes from occurring, which directs government actions to be careful in making decisions based on discretion. Repressive protection aims to prevent disputes, including their handling in the judiciary.

Legal protection according to Soerjono Soekanto is all efforts to fulfill rights and provide assistance to provide a sense of security to witnesses and/or victims, legal protection of crime victims as part of community protection, can be realized in various forms, such as through the provision of restitution, compensation, medical services, and legal aid (Soekanto, 2007).

According to Soerjono Soekanto, the law itself can be interpreted as a series of rules regarding the behavior of people as members of society, while the sole purpose of law is to ensure happiness and order in society.

### III. RESEARCH METHOD

The type of research used in this research is normative legal research, namely research that examines document studies using various secondary data such as laws and regulations, court decisions, legal theories or expert opinions. Normative legal research examines law from an internal perspective with the object of research being legal norms (Diantha, 2017). approach methods in this study is the method of Act Approach (*Statute Approach*), that is to examine all laws and regulations related to the Rights of Patients in Health Care at Home Hospital (Peter, 2016). The *Conceptual Approach* is by examining the views or doctrines that develop in the science of law to become an understanding of the views / doctrines that develop and can be the basis for building legal arguments when solving legal issues at hand.

Materials collection techniques are carried out by searching and tracing primary legal materials in the form of laws and regulations regarding or relating to legal issues to be solved. Analysis Techniques Material Law deductively do that is by drawing conclusions from a problem that is common to the problems faced concrete.

### IV. ANALYSIS AND DISCUSSION

Corona Virus Disease (Covid-19) is a new type of corona virus that attacks the human respiratory system which has a mild impact that can cause death for the sufferer. The spread of the Covid-19 virus is rapidly spreading in the community due to the pattern of transmission between one human to another, WHO (World Health Organization) as a world health organization as stated in the Presidential Decree of the Republic of Indonesia Number 12 of 2020 concerning Determination of Non-natural Disasters for the Spread of Corona Virus Disease 2019 (*Covid-19*) As a National Disaster dated March 11, 2020 stated that the Covid-19 virus was a pandemic because almost all countries in the world were affected by the Covid-19 virus. The area most affected is the health sector. Health in accordance with the ideals of the 1945 Constitution of the Republic of Indonesia states that health is a human right which is one of the elements of welfare that must be fulfilled by the state, in its implementation it is carried out as a fulfillment of efforts to maintain and improve the highest public health status based on Non-discriminatory, participatory, and sustainable

principles aim to plan the formation of human resources in Indonesia in the context of increasing resilience because if there is a disturbance in the health sector, it will have an impact on the economy which will cause enormous losses (Notoatmodjo, 2010). Based on the importance of the health sector for the life of the state, it became the origin of the formation of regulations in the field of health law regulated in Law Number 36 of 2009 concerning Health in conjunction with Law Number 23 of 1992. Implementation in the health sector, the central government is assisted by the responsible regional government. and supervise the health services assisted by the community.

During the Covid-19 pandemic that hit Indonesia where it had spread to various regions, the Government in the implementation of health services included having Puskesmas and Hospitals which in their implementation were responsible for the regional government, while the regional government in its implementation had to be in accordance with the government above it, namely the central government, in dealing with the Covid-19 pandemic, the central government issued Presidential Decree of the Republic of Indonesia Number 12 of 2020 concerning the Determination of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (*Covid-19*) as a National Disaster and Presidential Instruction Number 6 of 2020 concerning Improvement of Discipline and Law Enforcement Health Protocol. In the Prevention and Control of Corona Virus Disease 2019 (*Covid-19*) regarding the Implementation of Discipline and Law Enforcement of Health Protocols as an Effort for Prevention and Control of Corona Virus Disease 2019 (*Covid-19*), Public Health Centers and Hospitals as providers of health care facilities must comply with these regulations. The implementation of these health services involves patients as parties who need health services and health workers as parties who provide their services in the context of healing patients. During the Covid-19 pandemic, the situation was different from the period before Covid-19, some non-Covid-19 patients were affected by the new system during the pandemic to protect the interests of patients from the impact on health services of health care providers during the Covid-19 pandemic, by referring to Law Number 36 of 2009 concerning Health which regulates legal protection as a protector or human rights, rights and obligations are regulated in Articles 4,5,6,7 and 8 while obligations are regulated in Articles 9,10,11, 12 and 13. During the Covid-19 pandemic season, every patient's right to a healthy environment is required as stated in Article 6 of Law Number 36 of 2009 concerning Health, namely an environment filled with people who obey health protocols to avoid the spread of the Covid-19 virus chain. . Meanwhile, of the 9 sources interviewed by the author, most of them thought that there were still many patients or visitors who did not comply with health protocols. So that the existing obligations automatically need to be increased, namely the obligation of every patient and health service provider to comply with health protocols. In general, in Law Number 36 of 2009 concerning Health in 3 articles, namely articles 56, 57 and 58, it regulates legal protection for patients. Legal protection according to Philipus M. Hadjon is grouped into 2 parts, namely

preventive legal protection including legal protection from the government for prevention before a violation occurs and repressive legal protection, namely final protection in the form of sanctions given to violators when there has been a violation or dispute in the form of fines, imprisonment and additional penalties (Rani, 2015).

Legal protection for patients in Article 56 of Law Number 36 of 2009 concerning Health can be categorized as preventive legal protection or in the form of prevention for before there is a violation of the law, legal protection for the patient is carried out in the form of providing informed consent. Informed consent comes from two words "informed" and "consent". "Informed" which means information about something (Cambridge.org, 2021), while "consent" has the meaning of consent so that the notion of *informed consent* is an agreement from the patient's side or can be represented by the patient's family for medical actions carried out by doctors as health workers who have science in healing the patient's condition in relation to carrying out a medical action to the patient, this is where after the doctor provides an explanation of the health problems experienced by the patient and how to handle these problems in the form of medical actions aimed at providing healing for the patient, but before carrying out the medical action, the patient or can be represented by his family has the right to have the choice of accepting or rejecting, this right can be applied to every patient, except for patients who have infectious diseases to broad parties, patients who are unconscious or patients who have mental disorders. enthal level is heavy. The detailed implementation of *informed consent* is regulated in Law Number 29 of 2004 concerning Medical Practice in Article 45 paragraph (4) where the consent made by the patient can be done either orally or in writing. Informed consent is stated by the patient orally if the risks arising from medical action by the doctor do not have a major impact on the patient, such as periodic medical examinations or administration of drugs for therapy and others, and vice versa, written consent is carried out due to medical actions taken by the doctor. the patient poses a sufficiently large risk that it requires written evidence ending with a signature of consent by the patient if he agrees to it as stated in Article 45 paragraph (5) of Law Number 29 of 2004 concerning Medical Practice. At the Primary health care (*Puskesmas*), the legal protection of the article is carried out with informed consent either directly or in writing. If the patient needs to receive health services that are at high risk, then as a form of legal protection for the patient, if the patient agrees then the patient is required to sign the written *informed consent* form, but if the patient does not wish to receive it, a separate form will be provided (Results of interview with, Head of *Puskesmas*, 3 June 2021).

Likewise, *informed consent* in hospitals is also carried out in the context of legal protection for patients, as the Head of Hospital Medical Services, he stated that for cases of non-communicable diseases or Covid-19 the hospital would respond as desired by the patient and strengthened by informed consent (Results of interview with, Head of Hospital Medical Services, 3 June 2021). A total of 4

resource persons who were non-Covid-19 patients received health services at the *Puskesmas* where health services were available in the form of outpatient health services and generally non-Covid-19 patients received verbal informed consent because the health services obtained were not at great risk to patients, so doctors using verbal *informed consent* in the form of a doctor in charge of directly asking the patient whether the patient agrees to take medical action. In health care hospitals in the form of outpatient, inpatient, central surgery and medical support, so that there is also written *informed consent*, especially for patients who will undergo surgery at the central surgical health service. From the acknowledgment of 2 informants, *informed consent* in the hospital has been carried out well, by providing choices and explanations to patients and their families being given the freedom between carrying out surgery or not with all the risks that exist and then stated in writing because the patient requires health services in the form of surgery, where these health services can provide great risk so that the *informed consent* used is written *informed consent* in the form of a written form regarding the approval of health services to be carried out, as well as verbal *informed consent* 3 sources of non-Covid-19 patients at the hospital admitted that the consent has been carried out well.

In this article it is associated with preventive legal protection or prevention of violations of the law and that patients have the right to medical secrets (Maolinda, 2015). The statement was also approved by the Head of Hospital Medical Services, he stated that by applying guidelines for health workers in order to minimize the risk of both the risk of disease transmission and legal risk, namely medical records (Results of interview with Head of Hospital Medical Services, June 3, 2021).

Medical records are documents belonging to patients, health workers, especially doctors, are only entrusted by patients in using their medical records as medical needs only, so that the medical record document is owned by health service providers, both *puskesmas* and hospitals and is not allowed by any party to store the document personally. Article 57 of Law Number 36 of 2009 concerning Health relates to the realization of medical records as a form of legal protection for patients. According to Article 1 of the Regulation of the Minister of Health Number 269/Menkes/Per/III/2008 concerning Medical Records, medical records are files containing notes or documents regarding patient identity, examination, treatment, actions and other services that have been provided to patients. In practice, the hospital states that the hospital has implemented arrangements regarding medical records where every patient who comes, the hospital will make a medical record, if the patient has previously made the medical record document, then it will be sent to the intended patient poly, the hospital with Strictly not issuing medical record documents in accordance with statutory regulations if there are patients who need temporary needs on condition that they must be returned back to the hospital and if for post-mortem needs for certain parties, a letter from the police must still be attached, then the health center makes proof of the loan by making a visit letter that has

been recorded at the secretariat (Results of interview with Head of medical record, division on June 4, 2021). Meanwhile, in the Hospital regarding the arrangement of medical records according to the Statement of the Head of the Hospital Medical Services Division, namely keeping personal data and disease data secret by not informing or giving it to others except for legal purposes based on applicable regulations, there is a therapeutic agreement that will be mutually agreed upon between doctors and patients, convey their rights regarding their illness and what actions or therapy the doctor does to their body to help themselves and any risks that may arise later (Results of interview with Head of Hospital Medical Services, June 4, 2021). Based on the statement of the Health Center and Hospital during the Covid-19 pandemic, the procurement of medical records or maintaining the confidentiality of patient documents is entirely for the benefit of the patient as a form of preventive legal protection which is in accordance with the applicable law. Medical records are devoted to the benefit of patients and not for the public interest. If the public needs information about the patient's medical record, it is required to obtain approval from the patient or if there are parties who need it as evidence of the post-mortem, it must be accompanied by a police letter which will be recorded at the secretariat or in accordance with applicable laws and regulations. Including opinions from 9 non-patient sources Covid-19 stated that there were no complaints or violations of the medical record system both at the Puskesmas and Hospitals, so that the legal protection of Article 57 of Law Number 36 concerning Health had been implemented.

The main function and purpose is to provide facilities, a high level of health services, health records can also be used as educational materials, research and evidence in court. A well-maintained medical record will be very important for the health care system as well as for the benefit of the patient.

J. Guwandi cites the opinion or expression of the Joint Commission On Accreditation of Hospitals (JCAH) in 1984, “ *It is generally the responsibility of the individual practitioner and the hospital's medical staff organization to ensure that patient's discharge from the hospital* ” (Guwandi, 2004). It is not uncommon for a lawsuit or criminal complaint to be filed after several years after the occurrence of an alleged medical malpractice, therefore this medical record has a very important role in proving *whether* there is a *medical malpractice*, therefore, the practice of a doctor either personally or in a hospital must maintain the existence of this medical record properly. As a means of proof in court, the medical record can be used as a defense material that the medical action that has been carried out has met professional standards, on the contrary for the public prosecutor if it turns out that the medical record shows a doctor's lack of professionalism, the medical record can be used as evidence that unprofessional conduct has occurred from a doctor. In the Criminal Procedure Code, medical record evidence is valuable as letter evidence. Thus the role of this medical record in the medical world is very vital.

Soerjono Soekanto stated how important the medical record function is for doctors from a legal aspect, as he said “In the legal process, the absence of a health record will always corner or harm health workers (doctors) and hospitals, this is because if there are no records in the medical record, it is considered that there is no evidence of such a health service.” The importance of this medical record is expressed by Gemala that “Many court cases related to patient/family claims have caused the court to pay attention to the contents of the complete medical record file. By itself, failure or imperfection in filling out medical record files can be fatal for hospitals, medical staff and health experts as well as for patients.

In Law No. 29 of 2004 concerning Medical Practices, medical record issues are still subject to regulation as stated in Article 46 paragraphs (1-3) and Article 47 paragraphs (1-3). Because the law has a higher legal basis than the Decree of the Minister of Health, the meaning of medical records must refer to the law on medical practice. Article 46 paragraph (1) states that every doctor or dentist in carrying out his practice is obliged to make a medical record. In the explanation of paragraph (1) it is stated that what is meant by a medical record is a file containing notes and documents regarding the patient's identity, examination, treatment, actions and other services that have been provided to the patient.

Article 46 paragraph (2) states that the medical record as referred to in paragraph (1) must be completed immediately after the patient receives health services. The explanation of paragraph (2) reads, in the event of an error in recording the medical record, files and records may not be deleted or deleted in any way. Changes in notes or errors in the medical record can only be made by deleting and affixing the initials of the officer concerned.

Article 46 paragraph (3) states that every medical record must be affixed with the name, time and signature of the officer providing the service or action. The explanation of this article states that what is meant by officers are doctors or dentists or other health workers who provide direct services to patients. If in recording medical records using electronic information technology, the obligation to sign can be replaced by using personal identification number.

Article 47 paragraph (1) states that the medical record document as referred to in Article 46 belongs to the doctor, dentist, or health service facility, while the contents of the medical record belong to the patient, then Article 47 (2) states that the medical record as referred to in Article 47 paragraph (1) Paragraph (1) must be kept and kept confidential by the doctor or dentist and the head of the health service facility.

So in terms of ownership it is quite clear what the rights of the patient are, namely only the contents of the medical record, for the medical record file to belong to the health service facility, If the public needs information about the patient's medical record, it is required to obtain approval

from the patient or if there are parties who need it as Visum evidence must be accompanied by a police letter which will be recorded at the secretariat or in accordance with the applicable laws and regulations.

If there is a deviation in the provisions of health services, patients or recipients of health services can claim their rights, which are violated by the health service providers, in this case hospitals and doctors/health workers.

Article 58 of Law Number 36 of 2009 concerning Health states that everyone has the right to claim compensation for a person, health worker, and/or health provider who causes losses due to errors or omissions in the health services he receives and also claims for compensation as referred to in Article 58 of Law Number 36 Year 2009 concerning Health. Paragraph (1) does not apply to health workers who take action to save a person's life or prevent disability in an emergency.

The article above is included in the form of repressive legal protection, namely legal protection that applies after a violation of the law occurs. Repressive legal protection at the Puskesmas, so far there have been no cases of violation of the law against patients or so on, even if the Puskesmas still refers to documentary evidence in the form of complete signatures and complete informed consent or if there is a refusal, then the complete refusal documents are there and so on. etc., this is evidence that an agreement has been reached between the two parties (Results of interview with Head of UPTD, 4 June 2021 ). The same thing is also expected in the Hospital environment with the Head of Hospital Medical Services as a resource person stating that the hope is that there will be no violation of the law in the Hospital if there is a case, the Hospital prioritizes evidence in the form of informed consent and medical records as well as communication between the two parties by minimizing settlement disputes in court (interview with Head of medical Services hospital , June 3, 2021 ), the statement written by the Head of medical Services hospital to learn any form of complaints and demands of patients directed to the hospital if the medical treatment provided is in accordance with the Standard Operating Procedures that exist or are not appropriate, carry out mediation efforts to patients. Based on his statement, it is known that if at any time there is a violation of the law by the hospital, repressive legal protection is carried out by holding mediation against the patient by discussing all complaints or demands by taking into account the existing Standard Operating Procedures. When the hospital is proven to have violated the law, the hospital coordinates with the legal section of the regional secretariat, the police and the prosecutor's office to carry out compensation for patients.

So regarding legal protection for patients, legal protection is divided into 2, namely preventive and repressive. In Articles 56 and 57 legal protection is carried out preventively by maximizing the implementation of informed consent and medical records as a sign of legal protection for patients to prevent violations of the law. Meanwhile, regarding repressive legal protection in Article

58, the health service provider implements it in accordance with the applicable legislation, namely through mediation and if it is proven that medical action is not in accordance with Standard Operating Procedures, compensation will be implemented.

## V. CONCLUSIONS AND SUGGESTIONS

In terms of ownership, it is quite clear what the rights of the patient are, namely only the contents of the medical record, for the medical record file to become the property of the health service facility, If the public needs information about the patient's medical record, it is required to obtain approval from the patient or if there are parties who need it as the proof of visa must be accompanied by a police letter which will be recorded in accordance with the applicable laws and regulations. In accordance with Articles 56 and 57, legal protection is carried out preventively by maximizing the implementation of informed consent and medical records as a sign of legal protection for patients to prevent violations of the law. Meanwhile, for repressive legal protection in Article 58, the health service provider implements it in accordance with the applicable legislation, namely through mediation and if it is proven that medical action is not in accordance with Standard Operating Procedures, compensation will be procured.

For health service regulations in accordance with applicable laws, it would be nice if parties such as health service providers (Hospitals), health workers (Doctors, Nurses), and also patients to be more aware and comply with applicable regulations so that they are carried out properly.

## REFERENCES

- [1]. Adzanri, May 2019, Legal Protection of Confidentiality and Privacy Rights of Patient Disease Information in Health Services.
- [2]. Aprilla Adha Alvinta, Final Project: "Analysis of Medical Record Completeness in Improving Service Quality and Safety of Mental Patients at RSJD Dr. RM. Soedjawadi Central Java Province", Yogyakarta: Gadjah Mada University Vocational School, 2017, p. 13
- [3]. Bhder Johan Nasution, Legal Research Methods, (Bandung: CV Mandar Maju, 2008), p. 92
- [4]. Bryan A. Garner, Black's Law Dictionary, ninth edition, (St. paul: West, 2009), p. 1343.
- [5]. CST.Kansil, 1991, Introduction to Indonesian Health Law, PT. Melton Putra, Jakarta, p. 1
- [6]. Diantha, I Made Pasek, Normative Legal Research Methodology in Legal Theory Justification (Jakarta: Prenada Media Group, 2017), p. 12.
- [7]. Friedrich, Carl Joachim, 2004, Philosophy of Law from a Historical Perspective, Bandung: Nuansa and Nusamedia.
- [8]. Gemala R. Hatta, 1986, The Role of Medical/Health Records in Medical Law, Papers, p.
- [9]. Hendrik, 2016, Health Ethics & Law, EGC Medical Book Publisher, Jakarta, p. 25

- [10]. Hetty Hasanah, "Consumer Protection in Consumer Financing Agreements for Motor Vehicles with Fiduciaries", article accessed on June 1, 2015 from <http://jurnal.unikom.ac.id/vol3/perlindungan.html>.
- [11]. Indonesia, Presidential Decree 2020, Presidential Decree of the Republic of Indonesia number 12 of 2020 concerning the Designation of Non-Natural Disasters for the Spread of Corona Virus Disease 2019 (Covid-19) as a National Disaster, Jakarta Indonesia, Decree of the Minister of Health 2020, Decree of the Minister of Health of the Republic of Indonesia number 169 year 2020 regarding the Designation of Referral Hospital
- [12]. Indonesia, Regulation of the Minister of Health 2011, Regulation of the Minister of Health of the Republic of Indonesia number 1691 of 2011 concerning Hospital Patient Safety, National Standard for Hospital Accreditation, 1st edition, KARS, Jakarta
- [13]. Indonesia, Regulation of the Minister of Health 2020, Regulation of the Minister of Health of the Republic of Indonesia number 413 of 2020 concerning Guidelines for the Prevention and Control of Corona Virus Disease 2019 (COVID-19), Jakarta
- [14]. Indonesia, Regulation of the Minister of Health of the Republic of Indonesia number 4 of 2018 concerning Patient Rights and Obligations, Jakarta
- [15]. Indonesia, Government Regulation 1991, Government Regulation of the Republic of Indonesia number 40 of 1991 concerning Control of Infectious Disease Outbreaks, Jakarta
- [16]. Indonesia, Law 1984, Law of the Republic of Indonesia number 4 of 1984 concerning Outbreaks of Infectious Diseases, Jakarta
- [17]. Indonesia, Act 2004, Law of the Republic of Indonesia number 29 of 2004 concerning Medical Practice, Jakarta
- [18]. Indonesia, 2009 Law, Law of the Republic of Indonesia number 36 of 2009 concerning Health, Jakarta
- [19]. Indonesia, Act 2009, Law of the Republic of Indonesia number 44 of 2009 concerning Hospitals, Jakarta
- [20]. Indonesia, Act 2014, Law of the Republic of Indonesia number 36 of 2014 concerning Health Workers, Jakarta
- [21]. Indonesia, Act 2014, Law of the Republic of Indonesia number 38 of 2014 concerning Nursing, Jakarta
- [22]. Indonesia, Act 2018, Law of the Republic of Indonesia number 6 of 2018 concerning Health Quarantine, Jakarta
- [23]. J. Guwandi, 2004, Medical Law, 1st Issue, Faculty of Medicine Indonesia, Jakarta, p.229
- [24]. John Rawls, A Theory of Justice, London: Oxford University press, 1973, which has been translated into Indonesian by Uzair Fauzan and Heru Prasetyo, Theory of Justice, Yogyakarta, Pustaka Pelajar, 2006.
- [25]. Johnny Ibrahim, Theory and Methodology of Normative Legal Research (Malang: Bayumedia Publishing, 2006), p. 392.
- [26]. Johnny Ibrahim, Normative Research Theory and Methodology (Malang: Banyumedia Publicizing, 2007) p 299
- [27]. Ministry of Health of the Republic of Indonesia, 2017, Regulation of the Minister of Health of the Republic of Indonesia Number 1691/MENKES/PER/VIII/2011 concerning Hospital Patient Safety, National Standard for Hospital Accreditation, 1st edition, KARS.
- [28]. Maolinda, W., Salmarini, DD, & Mariani, 2015, The relationship between surgical delivery and the incidence of asphyxia neonatorum in RSUD Dr. H. Moch. Ansari Saleh Banjarmasin. Journal of Health Dynamics, 13(15), 146-151
- [29]. Marzuki, Mahmud Peter, Legal Research, Kencana Prenada Media Group, Jakarta, 2016.
- [30]. Mervat Abdelhak, PhD, RHIA, Sara Grostick, MA, RHIA, Mary Alice Hanken, PhD, RHIA, Ellen Jacobs, Med, RHIA, 2001, Health Information: Management of a Strategic Resource, Saunders, Philadelphia, p. 77
- [31]. Management of Certain Emerging Infectious Diseases, Jakarta
- [32]. Phillipus M. Hadjon, 1987, Legal Protection for the Indonesian People, Surabaya, PT. Science Building. Thing. 20
- [33]. Rahardjo Budhi, 2019, Implementation of Confidentiality of Medical Information in Patient Medical Records.
- [34]. Rahardjo, Satjipto, Legal Studies, PT. Citra Aditya Bakti, September 2006
- [35]. Reza, Muhammad, Legal Benefits, November 20, 2017
- [36]. Salim HS, Application of Legal Theory in Thesis and Dissertation Research (Jakarta: Rajawali Pers, 2016), p. 259
- [37]. Satjipto Rahardjo, Other Sides of Law in Indonesia, (Jakarta: Kompas, 2003), p. 121.
- [38]. Setiono, "Rule of Law", (Surakarta: Master's Degree Dissertation, Faculty of Law, Sebelas Maret University, 2004), p.3.
- [39]. Soedjono Dirdjosisworo, Introduction to Legal Studies, (Jakarta: PT. Raja Grafindo Persada, 2008), p. 25-43
- [40]. Soekanto, Soerjono, Mamudji Sri, Normative Legal Research, (Depok : Rajagrafindo Perkasa, June 2019), p.15
- [41]. Soerjono Soekanto and Herkutanto, 1987, Introduction to Health Law, Remadja Karya, Bandung, p. 146
- [42]. Soerjono Soekanto, 1987, Introduction to Health Law, Remadja Karya CV, Bandung, Cet. 1, Pg. 117
- [43]. Soerjono Soekanto, 1996, Crime and Law Enforcement in Indonesia, Rineka Cipta, Jakarta,
- [44]. Soerjono Soekanto, 2007, The Foundations of Law and Legal Administration, Bandung, Alumni, (2007: 38-39).
- [45]. Sri Siswati, 2015, Ethics and Health Law in the Perspective of Health Law, Rajawali Pers, Jakarta, p. 110
- [46]. Suratman and Philips Dilah, Legal Research Methods, (Bandung: Alfabeta, 2015), p. 66
- [47]. Syahrani, Riduan, 1999, p.23, Summary of the Essence of Legal Studies, Bandung.
- [48]. Triana Ohiowutun, 2007, Anthology of Medical Law, Bayumedia Publishing, Malang, p. 15
- [49]. Triana Ohiowutun, 2007, Anthology of Medical Law, Bayumedia Publishing, Malang, Hlm. 12.



- [50]. Wuragil, Sarno, 11 November 2019, Understanding Legal Theory according to Experts.
- [51]. Zainuddin Ali, Legal Research Methods (Jakarta: Sinar Graphic, 2010), page 31
- [52]. Health.detik.com, the beginning of the covid-19 outbreak in wuhan, Nafilah Sri Sagita
- [53]. Kompas.com, it was announced in early March that the corona virus had entered Indonesia, Ellyvon Pranita
- [54]. World Health Organization, <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19>, 11 -march-2020
- [55]. [www.kemkes.go.id](http://www.kemkes.go.id), Dashboard of the Covid-19 situation on April 12, 2021