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LEGAL REVIEW OF PATIENT MEDICAL RECORD CONFIDENTIALITY IN HOSPITALS

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Abstract

The confidentiality of patient medical records is a fundamental legal and ethical obligation within healthcare systems, serving as the cornerstone of trust between patients and healthcare providers. This study examines the legal framework governing medical record confidentiality in Indonesian hospitals, with a particular focus on statutory provisions, regulatory instruments, and their practical implementation. Utilizing a normative juridical approach supported by comparative analysis, this research explores the adequacy of Indonesian legislation—principally Law No. 29 of 2004 on Medical Practice, Law No. 36 of 2009 on Health, Law No. 44 of 2009 on Hospitals, and Ministry of Health Regulation No. 24 of 2022 on electronic medical records (EMR)—in protecting patient rights. The findings reveal that while Indonesia has established a robust legal foundation, significant challenges persist in practice. These include unclear liability for non-medical staff, weak enforcement mechanisms, and vulnerabilities arising from the adoption of EMR, particularly regarding cybersecurity and unauthorized access. Furthermore, the absence of structured institutional oversight and standardized operating procedures undermines effective compliance. Comparative insights from the United States (HIPAA Privacy Rule) and the United Kingdom (Caldicott Principles) demonstrate that legal provisions must be reinforced by accountability structures, privacy officers, and principles such as minimum necessary disclosure. This study concludes that Indonesia's framework is normatively sufficient but practically inadequate. Strengthening medical record confidentiality requires legislative refinement, institutional oversight, enhanced technological safeguards, continuous professional training, and patient empowerment. Adopting selected international best practices while adapting them to Indonesia's socio-legal context is crucial for ensuring both compliance and public trust.

Keywords: *Medical records, confidentiality, hospital law, electronic medical records, patient rights, Indonesia.*

1. INTRODUCTION

The protection of patient confidentiality, particularly with regard to medical records, constitutes a fundamental pillar of both medical ethics and health law. Confidentiality ensures that sensitive patient information is safeguarded against unauthorized access or disclosure, thereby reinforcing trust in the physician–patient relationship and upholding the integrity of healthcare institutions. Within the hospital setting, where vast amounts of personal health information are collected, stored, and processed, the legal obligation to preserve confidentiality assumes heightened significance. The evolving landscape of healthcare digitization, especially the implementation of electronic medical records (EMR), introduces further complexity, necessitating a robust legal framework that balances individual privacy rights with public interest considerations.

In Indonesia, the principle of medical confidentiality is embedded within the broader constitutional framework of human rights protection. Article 28G of the 1945 Constitution of the Republic of Indonesia guarantees every person the right to protection of their dignity and personal security. Although the Constitution does not explicitly regulate medical

confidentiality, its provisions serve as a normative foundation for subsequent statutory regulation. Law No. 29 of 2004 concerning Medical Practice explicitly obliges physicians and dentists to maintain confidentiality regarding patient health information, with limited exceptions permitted only for law enforcement, judicial processes, or patient consent. Complementary regulations are contained in Law No. 36 of 2009 concerning Health and Law No. 44 of 2009 concerning Hospitals, both of which underscore the duty of healthcare professionals and institutions to preserve the secrecy of medical records (Basani, 2023).

The Minister of Health Regulation No. 269/Menkes/Per/III/2008 defines medical records and stipulates the administrative standards for their management, including confidentiality requirements. More recently, Minister of Health Regulation No. 24 of 2022 on Medical Records introduced comprehensive provisions concerning the implementation of electronic medical records, thereby mandating hospitals to transition to digital systems by the end of 2023. This regulation establishes a framework for safeguarding patient data while simultaneously addressing the growing demand for integrated healthcare information systems (Septina Basani, 2023).

The Indonesian legal system adopts a dual model of confidentiality: disclosure is permissible either with patient consent or under specific statutory exceptions. With consent, medical records may be disclosed for treatment continuity, insurance claims, or administrative purposes. Without consent, disclosure may occur in limited circumstances, including law enforcement requests, ethical or disciplinary proceedings, medical audits, public health emergencies, or scientific research (Ministry of Health Regulation No. 24/2022). While these exceptions aim to balance individual rights and societal interests, they also raise critical questions regarding the adequacy of procedural safeguards and oversight mechanisms.

The shift from paper-based documentation to electronic medical records (EMR) offers significant opportunities for efficiency, accessibility, and quality of care. EMR systems can facilitate real-time data retrieval, enhance continuity of treatment, and improve institutional accountability (Haque et al., 2024). However, digitalization also amplifies risks associated with data breaches, cyberattacks, and unauthorized secondary use of patient information. Studies in Indonesian hospitals reveal persistent deficiencies in the completeness and confidentiality of medical records, including inadequate documentation of informed consent and insufficient compliance with confidentiality protocols (Sari & Indrawati, 2020). These challenges underscore the urgent need for coherent enforcement mechanisms and capacity building to support the regulatory framework.

Internationally, established legal regimes provide useful points of reference. The Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule in the United States, for example, prescribes strict standards governing the collection, use, and disclosure of protected health information (PHI). HIPAA requires the “minimum necessary” standard, grants patients rights to access and amend their records, and mandates covered entities to designate privacy officers and implement compliance training (U.S. Department of Health and Human Services, 2013). Similarly, in the United Kingdom, the Caldicott Report (1997, revised 2013) articulated principles emphasizing justification of data use, limitation to minimum necessary information, strict access controls, legal compliance, and institutional accountability through the appointment of Caldicott Guardians. Both models highlight the importance of a structured governance framework that complements statutory obligations with administrative oversight.

These international experiences provide valuable insights for Indonesia. While Indonesia has enacted substantive regulations, institutional practices often lag behind normative standards, particularly in hospitals lacking robust information security systems. By

examining global best practices, this study aims to identify potential pathways for enhancing the Indonesian regulatory framework.

Despite the existence of statutory provisions and ministerial regulations, challenges remain in the consistent enforcement of medical confidentiality obligations within Indonesian hospitals. The regulatory framework does not always clearly define mechanisms for balancing confidentiality with disclosure exceptions, nor does it fully address the technological vulnerabilities of EMR systems. Moreover, comparative legal analyses of Indonesia's confidentiality regulations with international standards remain limited in existing scholarship.

The preservation of medical confidentiality is not only a legal requirement but also an ethical imperative central to the provision of healthcare services. Breaches of confidentiality may erode patient trust, hinder the disclosure of vital medical information, and compromise the quality of care. By providing a critical analysis of Indonesia's regulatory framework in comparison with international models, this research contributes to the discourse on health law reform, particularly in the digital era. The findings are expected to inform policymakers, hospital administrators, and healthcare professionals in designing and implementing systems that both protect patient rights and enable efficient healthcare delivery.

2. RESEARCH METHODS

Research Design

This study adopts a normative juridical research design, which emphasizes the examination of legal norms, principles, and statutory provisions relevant to patient medical record confidentiality. Normative juridical research is particularly suitable for analyzing how laws and regulations are structured, interpreted, and applied within the healthcare sector. By employing doctrinal analysis, this study evaluates the extent to which Indonesian legal instruments provide adequate protection for the confidentiality of patient medical records, both in paper-based and electronic formats.

Sources of Legal Materials

The research relies on three categories of legal materials:

1. Primary Legal Materials:

   These include statutory instruments and regulations directly governing medical confidentiality in Indonesia, such as:

   - The 1945 Constitution of the Republic of Indonesia;
   - Law No. 29 of 2004 concerning Medical Practice;
   - Law No. 36 of 2009 concerning Health;
   - Law No. 44 of 2009 concerning Hospitals;
   - Minister of Health Regulation No. 269/Menkes/Per/III/2008 on Medical Records;
   - Minister of Health Regulation No. 24 of 2022 on Medical Records.

2. Secondary Legal Materials:

   These encompass scholarly articles, textbooks, and commentaries in the field of health law and bioethics. Relevant academic studies include Basani (2023) on the protection of patient data in electronic medical records, Sari and Indrawati (2020) on patient rights in medical record management, as well as comparative legal analyses of HIPAA and the Caldicott framework.

3. Tertiary Legal Materials:

   Supporting documents such as legal dictionaries, encyclopedias, and guidelines on research methodology are employed to clarify concepts and terminologies used in the study.

Approach and Analytical Framework

This research applies several complementary approaches:

1. Statutory Approach:

   The study systematically examines relevant Indonesian laws and ministerial regulations to determine the scope, obligations, and limitations associated with medical record confidentiality.

2. Conceptual Approach:

   Fundamental legal principles, such as the right to privacy, patient autonomy, and the duty of confidentiality, are explored to establish the normative foundation underlying the statutory framework.

3. Comparative Approach:

   The Indonesian framework is compared with international legal standards, notably the HIPAA Privacy Rule in the United States and the Caldicott Principles in the United Kingdom. This comparative analysis highlights best practices and identifies potential lessons applicable to the Indonesian context.

4. Case and Practice Review:

   Selected case studies, including reported breaches of confidentiality and challenges in electronic medical record implementation, are examined to contextualize legal provisions within practical realities.

Data Collection

The study employs documentary research techniques, focusing on statutory texts, ministerial regulations, and scholarly publications. Data are collected through library research and online legal databases. Emphasis is placed on obtaining authoritative sources, including official government documents, peer-reviewed journal articles, and internationally recognized health law frameworks.

Data Analysis

The analysis is conducted through qualitative normative interpretation, which involves:

- Textual interpretation: examining the literal meaning of statutory provisions related to confidentiality.

- Systematic interpretation: situating confidentiality rules within the broader legal system of healthcare and human rights protection in Indonesia.
- Comparative interpretation: contrasting Indonesian regulations with HIPAA and the Caldicott framework to identify similarities, differences, and gaps.

The study further applies a prescriptive analysis to propose recommendations for strengthening legal protections, addressing regulatory ambiguities, and enhancing institutional enforcement mechanisms.

Validity and Reliability

To ensure validity, the study relies exclusively on authoritative legal texts and peer-reviewed scholarship. Triangulation is achieved by cross-referencing statutory provisions with judicial interpretations, ministerial regulations, and international instruments. Reliability is enhanced through consistent application of the doctrinal method and comparative analysis, thereby ensuring that findings are reproducible within similar legal research frameworks.

Ethical Considerations

Although this study does not involve empirical data collection from patients or healthcare professionals, ethical considerations remain central. The analysis respects the principle of confidentiality by refraining from referencing individual patient cases without anonymization. Furthermore, by advocating for stronger confidentiality protections, the research aligns with ethical commitments to patient autonomy, dignity, and privacy rights.

3. RESULTS AND DISCUSSION

1. Legal Adequacy of Indonesian Framework on Medical Record Confidentiality

The analysis of statutory and regulatory provisions reveals that Indonesia has established a relatively comprehensive framework for medical record confidentiality. Article 48 of Law No. 29 of 2004 concerning Medical Practice explicitly imposes a duty on physicians to preserve confidentiality, subject only to exceptions permitted by law. Similarly, Law No. 36 of 2009 concerning Health and Law No. 44 of 2009 concerning Hospitals reaffirm the obligation of healthcare providers to safeguard patient information.

At the regulatory level, Minister of Health Regulation No. 269/2008 sets administrative standards for managing medical records, while Minister of Health Regulation No. 24 of 2022 introduces provisions on electronic medical records (EMR). Together, these instruments establish confidentiality as a legal imperative in both analog and digital systems.

Nevertheless, several gaps are evident. First, the statutory framework lacks detailed procedural mechanisms to enforce confidentiality obligations consistently across healthcare institutions. For instance, while physicians are bound by confidentiality duties, the accountability of non-medical personnel (e.g., administrative staff handling records) remains ambiguously defined. Second, sanctions for violations of confidentiality are not always proportionate or effectively enforced, leading to limited deterrence (Basani, 2023).

2. Scope of Disclosure: Consent-Based and Non-Consent Exceptions

The Indonesian framework delineates clear distinctions between disclosure with consent and disclosure without consent. Disclosure with patient consent is permissible for

treatment continuity, insurance claims, administrative needs, or financing guarantees. Without consent, disclosure is allowed under specific circumstances, including judicial requests, ethical investigations, medical audits, public health emergencies, or academic research (Ministry of Health Regulation No. 24/2022).

This dual regime reflects a normative balance between individual rights and public interest. However, the practical application of these provisions raises concerns. For instance, during the COVID-19 pandemic, disclosure of patient identity for epidemiological tracking created tension between confidentiality and public safety (Sari & Indrawati, 2020). While emergency exceptions are legally valid, insufficient safeguards to ensure minimal disclosure may result in unnecessary stigmatization of patients. This highlights the need for clearer protocols defining the scope and limits of disclosure in exceptional circumstances.

3. Challenges in the Implementation of Electronic Medical Records

The transition to EMR, mandated under Minister of Health Regulation No. 24/2022, represents both progress and risk. EMR systems enhance accessibility, efficiency, and continuity of care, but they also expose sensitive data to cyber vulnerabilities. Reports of incomplete data entry, inadequate informed consent documentation, and unauthorized access by hospital staff illustrate the ongoing challenges (Haque et al., 2024).

Moreover, many Indonesian hospitals, particularly in rural regions, lack sufficient infrastructure to ensure compliance with EMR security standards. Weak encryption systems, limited cybersecurity expertise, and the absence of designated data protection officers exacerbate the risks of breaches. Unlike HIPAA in the United States, which mandates minimum necessary disclosure and designates privacy officers, Indonesian regulations provide limited institutional guidance on accountability structures. This regulatory gap may hinder the effective implementation of confidentiality protections in digital systems.

4. Comparative Insights from International Models

The comparative review reveals several critical lessons from international frameworks.

- **HIPAA Privacy Rule (United States):** HIPAA introduces the principle of "minimum necessary disclosure," ensuring that only the least amount of data required for a specific purpose is shared. It further mandates covered entities to appoint privacy officers, conduct compliance training, and establish reporting procedures for breaches (U.S. Department of Health and Human Services, 2013). These structural safeguards could be adapted to strengthen Indonesian hospitals' internal governance mechanisms.
- **Caldicott Principles (United Kingdom):** The Caldicott Reports emphasize justification for data use, limiting access to a need-to-know basis, and reinforcing staff accountability. The appointment of Caldicott Guardians in each healthcare institution provides a dedicated oversight mechanism (UK Department of Health, 2013). This model offers a valuable reference for Indonesia in institutionalizing roles specifically responsible for confidentiality.

By comparison, Indonesia's framework remains heavily reliant on statutory obligations without adequate administrative structures. Incorporating elements of HIPAA and the Caldicott Principles could address deficiencies in accountability, oversight, and enforcement.

5. Practical and Ethical Implications

From a practical perspective, maintaining confidentiality is critical to fostering patient trust. Breaches not only expose hospitals to legal liability but also erode patients' willingness to disclose sensitive information, thereby compromising the quality of care. From an ethical standpoint, confidentiality is rooted in respect for patient autonomy and dignity, principles that transcend statutory obligations.

Empirical studies demonstrate that breaches often occur not because of a lack of statutory provisions but due to weak institutional enforcement, limited awareness among hospital staff, and inadequate training (Sari & Indrawati, 2020). This underscores the need for integrative strategies that combine legal reform with organizational culture change.

6. Recommendations for Strengthening Legal and Institutional Mechanisms

Based on the findings, several recommendations emerge:

1. Legislative Clarification: Amend existing regulations to define confidentiality obligations for all hospital staff, not only physicians, and establish proportionate sanctions for violations.
2. Institutional Oversight: Require hospitals to appoint designated privacy officers or "data guardians," similar to HIPAA privacy officers or Caldicott Guardians.
3. Capacity Building: Implement systematic training programs for healthcare professionals and administrative staff on confidentiality obligations and data security.
4. Technological Safeguards: Mandate encryption standards, access control systems, and audit trails for EMR systems.
5. Public Awareness: Educate patients about their rights concerning medical confidentiality, thereby empowering them to exercise informed consent effectively.

Discussion

The findings demonstrate that Indonesia possesses a solid normative foundation for the protection of medical record confidentiality but continues to face challenges in enforcement and adaptation to digital health systems. International models such as HIPAA and the Caldicott framework illustrate the importance of institutional accountability and procedural safeguards. By integrating these insights into Indonesian law and practice, patient confidentiality can be more effectively protected in both traditional and digital healthcare contexts.

5. CONCLUSION AND SUGGESTIONS

Conclusion

The findings of this study highlight that Indonesia has established a substantial legal foundation for the protection of patient medical record confidentiality, but the implementation remains inconsistent and faces critical challenges, particularly in the context of digital transformation. The duty of confidentiality is firmly anchored in statutory law—Law No. 29 of 2004 on Medical Practice, Law No. 36 of 2009 on Health, and Law No. 44 of 2009 on Hospitals—and further elaborated in ministerial regulations, including Regulation No. 269/2008 on medical records and Regulation No. 24/2022 on electronic medical records

(EMR). Collectively, these provisions reflect the recognition of confidentiality as a legal obligation and an ethical imperative within Indonesia's healthcare system.

Despite this normative foundation, several deficiencies persist. First, the scope of confidentiality obligations has not been comprehensively extended to all categories of hospital staff, leaving non-medical personnel in an ambiguous position with respect to liability. Second, enforcement mechanisms remain weak, with limited sanctions and oversight structures in place to deter violations. Third, the transition to EMR introduces new vulnerabilities, particularly concerning cybersecurity threats, unauthorized access, and incomplete record management, issues that current regulations address only partially.

The dual disclosure regime, based on patient consent or statutory exceptions, constitutes a necessary balance between individual privacy rights and societal needs. Nevertheless, in practice, this balance is not always carefully maintained. Public health emergencies, such as the COVID-19 pandemic, exposed the difficulty of reconciling confidentiality with urgent epidemiological demands, often resulting in over-disclosure that risked patient stigmatization. The lack of clear procedural safeguards has further complicated the enforcement of confidentiality protections in such exceptional circumstances.

Comparative analysis provides important lessons. The HIPAA Privacy Rule in the United States emphasizes the principle of minimum necessary disclosure, institutional accountability through privacy officers, and mandatory compliance training, while the Caldicott Principles in the United Kingdom stress the justification of data use, strict access limitation, and oversight by Caldicott Guardians. These models underscore that legal provisions alone are insufficient without structured governance mechanisms within healthcare institutions. Indonesia's framework, while substantively adequate, lacks this complementary institutional architecture.

Ethically, patient confidentiality transcends statutory obligations; it embodies respect for dignity, autonomy, and trust in the physician–patient relationship. Breaches not only invite legal consequences but also undermine public confidence in healthcare services. Thus, confidentiality must be understood not merely as a legal formality but as a foundational principle that sustains the legitimacy of the health system.

In sum, this study concludes that while Indonesia's legal framework on patient medical record confidentiality is robust in principle, it is inadequate in practice due to enforcement gaps, technological vulnerabilities, and the absence of institutionalized oversight mechanisms. Strengthening this framework requires both legislative refinement and systemic reform at the hospital level, informed by international best practices.

Suggestions

Based on the conclusions above, several recommendations can be proposed to strengthen the confidentiality of patient medical records in Indonesian hospitals:

1. Legislative Reform and Clarification

- Extend the scope of confidentiality obligations beyond physicians and nurses to include administrative staff and all personnel with access to patient information.
- Amend existing laws and regulations to provide more detailed guidance on exceptions to confidentiality, particularly in the context of public health emergencies and research.

- Introduce proportionate and enforceable sanctions for breaches, ensuring that penalties serve as both corrective and deterrent measures.

2. Institutional Oversight and Accountability

- Require hospitals to appoint dedicated officers responsible for confidentiality and data protection, modeled after HIPAA Privacy Officers or UK Caldicott Guardians.
- Establish independent oversight bodies within the Ministry of Health to monitor compliance, investigate breaches, and provide regular audits of medical record management.
- Develop clear standard operating procedures (SOPs) for disclosure requests from law enforcement, insurance companies, and research institutions to minimize unnecessary exposure of patient information.

3. Capacity Building and Training

- Implement mandatory and continuous training programs for healthcare professionals and hospital staff on confidentiality obligations, ethical principles, and data protection practices.
- Integrate medical confidentiality modules into medical and nursing education curricula, ensuring that future healthcare professionals are sensitized to confidentiality from the outset of their training.

4. Technological and Security Enhancements

- Mandate the use of encryption, multi-factor authentication, and access control systems in all EMR platforms.
- Require hospitals to maintain audit trails that document every instance of access to medical records, thereby enabling detection and accountability in cases of unauthorized access.
- Invest in cybersecurity infrastructure and establish partnerships with technology providers to strengthen the resilience of hospital information systems against cyber threats.

5. Public Education and Patient Empowerment

- Launch public awareness campaigns to inform patients about their rights to confidentiality and mechanisms for filing complaints in cases of breach.
- Provide patients with transparent access to their medical records and ensure that informed consent processes are clear, accessible, and consistently applied.

6. Adoption of International Best Practices

- Adapt the principle of minimum necessary disclosure from HIPAA into Indonesian regulations to prevent excessive or irrelevant sharing of medical information.
- Introduce institutional guardianship models similar to the Caldicott framework, thereby creating a culture of accountability within hospitals.
- Encourage cross-national collaboration in developing data protection standards for EMR, aligning Indonesian practices with global norms.

Confidentiality in medical records is both a legal requirement and an ethical cornerstone of healthcare practice. In Indonesia, while statutory provisions provide a strong basis, the practical realization of confidentiality remains vulnerable due to enforcement weaknesses and the challenges posed by digitalization. To address these issues, Indonesia must pursue a holistic reform strategy that combines legislative refinement, institutional accountability, technological safeguards, and patient empowerment. By drawing on international best practices and adapting them to local contexts, Indonesia can ensure that its healthcare system not only complies with legal standards but also cultivates trust, integrity, and respect for patient rights.

6. REFERENCES

Basani, C. S. (2023). *Perlindungan Hukum Data Pasien dalam Rekam Medis Elektronik di Indonesia*. Dialogia Iuridica, 15(2), 143–160.

Gostin, L. O., & Hodge, J. G. (2002). *The Right to Know Versus the Right to Privacy: Ethical and Legal Dilemmas in the AIDS Epidemic*. Milbank Quarterly, 80(1), 151–180.

Haque, A., et al. (2024). *Electronic Medical Records and Data Security in Healthcare Systems*. arXiv preprint arXiv:2410.12226.

International Committee of Medical Journal Editors (ICMJE). (2021). *Recommendations for the Protection of Patients' Rights in Medical Research*.

McGraw, D., Dempsey, J. X., Harris, L., & Goldman, J. (2009). *Privacy as an Enabler, Not an Impediment: Building Trust into Health Information Exchange*. Health Affairs, 28(2), 416–427.

Ministry of Health Regulation No. 24 of 2022 concerning Medical Records.

Ministry of Health Regulation No. 269/Menkes/Per/III/2008 concerning Medical Records.

Rodrigues, R. J., & Risk, A. (2003). *eHealth in Latin America and the Caribbean: Development and Policy Issues*. Journal of Medical Internet Research, 5(1), e4.

Rumbold, J. M., & Pierscionek, B. K. (2017). *The Effect of the General Data Protection Regulation on Medical Research*. Journal of Medical Internet Research, 19(2), e47.

Sari, R., & Indrawati, A. (2020). *Legal Protection of Patient Rights to Completeness and Confidentiality in the Management of Medical Record Documents*. Journal of Law and Policy Studies, 12(1), 45–60.

U.S. Department of Health and Human Services. (2013). *Summary of the HIPAA Privacy Rule*. Washington, D.C.

United Kingdom Department of Health. (2013). *Information: To Share or Not to Share? The Information Governance Review (Caldicott 2 Report)*. London: HMSO.

World Health Organization (WHO). (2016). *Global Strategy on Digital Health 2020–2025*. Geneva: WHO.