

Legal Implication and Challenge of Using Medical Record as Evidence in the Indonesia's Justice System

Titik Ustani, Yeni Vitrianingsih, Rahayu Mardikaningsih

Universitas Sunan Giri Surabaya

Email: rahayumardikaningsih@gmail.com

ABSTRACT – Medical records have a strategic role as legal evidence in the justice system in Indonesia. This document had governed by various regulations, as Law Number 29 Year 2004 on Medical Practice, emphasizes the importance of maintaining the confidentiality of medical records. However, the implementation of using medical records as evidence faces various challenges if medical personnel haven't legal understanding and the lack of adequate management infrastructure. This study found that violations of medical record confidentiality can be subject to criminal sanctions based on Statute 322 of the KUHP dan administrative sanctions by MKDKI. In the digital era, medical record security is becoming an increasingly complex issue that requires adaptive regulations and strengthened security systems. Legal education for medical personnels and the development of technology to support medical record management are indispensable. This research contributes to identifying challenges and opportunities in the utilization of medical records as legal evidence and promoting the protection of patient rights.

Keywords: medical record, confidentiality, legal evidence, criminal sanctions, regulations of health, data security, digital era.

A. INTRODUCTION

A medical record is an important document that records a patient's personal information, including the examination, treatment, and other medical actions has received. This document had regulated in Regulation of the Minister of Health Number 269/MENKES/PER/III/2008 on Medical Records, emphasizes that medical records are not only important in health services but also as evidence in legal cases. The existence of medical records in the legal systems provides a strategic role in proving legal cases, even criminal or civil, as explained in Statute 79 of Law Number 29 Year 2004 on Medical Practice.

The confidentiality of medical records is important issue. These cases of breach of confidentiality often occur due to negligence of not understanding of medical personnels of their obligations. Statute 51 letter c on the Law Number 29 Year 2004 on Medical Practice regulate the doctor's obligation to keep medical secrets, even the patient's died. Violation of this obligation may be subject to criminal sanctions, as stipulated in Statute 322 of the KUHP and Statute 13 of the code of ethics, which regulates the ethical obligations of doctors.

Violation of the confidentiality of medical records not only affects the rights of patients, but create legal problems for medical personnel and health care institution. For example, violation of confidentiality of HIV/AIDS information often raise confusing ethic. Doctor has a difficult situation when they have to decide about reporting a particular case to protect the public at large without violating the patient's privacy (Issalillah & Hardyansah, 2024).

From a legal standpoint, violation of medical record confidentiality also involved administrative implications. Statute 4 of Government Regulation Number 10/1996 explain that violation of medical confidentiality obligations may be subject to administrative action by the Minister of Health even if there is no formal complaint from the patient or their family. These sanctions aim to uphold trust between doctor and patient also maintain the dignity of the medical profession (Vitrianingsih *et al.*, 2023).

The patient's right to confidentiality of medical records also has limitations as mentioned in Statute 13 of Regulation of the Minister of Health on Medical Record. This document may be accessed for the benefit of the patient's health, law enforcement, or at the patient's own request. However, without clear regulation, have a great risk of misuse of patient data for unethical purposes, as described by Adji (1991).

Uncertainty in the implementation of regulations related to medical record made confusing among medical personnel. In the case of legal disputes, medical record become crucial evidence that can be used by both of patient and doctor (Amir *et al.*, 2024). The lack of complete and accurate documentation can result in huge losses for the medical personnel or institution involved.

The existence of medical record as written evidence had regulated in Statute 187 letter a of the KUHAP from a legal system perspective. However, its implementation is often contrained by medical personnel's lack of understanding of legal procedures (Wijaya, 2017). This point gave an information to provide legal training for medical personnel to better understand their legal responsibilities.

This regulation uncertainty is also exacerbated by the development of digital technology. The transformation towards digitalization of medical record brings new challenges in term of data security. Violation of cybersecurity about medical data can undermine patient trust in the healthcare system, as described by Issalillah *et al.* (2021). Therefore, the protection of medical data required to more adaptive legal approach to deal with the digital era (Lethy *et al.*, 2023).

Various partners such as government, health institution, and educational institution will need a collaborating to create more affective medical record management system. Dewi (2014) has a state that coordination gap between various partner is one of the main obstacles in creating a responsive legal system.

Althought many studies have made medical record as legal evidence, in-depth studies on violation of confidentiality of medical records within the Indonesia regulatory framework are limited. Literature discussing the implication of digitalization on the protection of medical data confidentiality is also rare.

This research offers a new analysis of violation of medical record confidentiality from criminal law and administrative law perspective in Indonesia with focuse on the implementation of recent regulation and the challenge of digitalization.

This study aims to analyze the role of medical record as legal evidence in Indonesia and explore about criminal law and administrative sanction for violation of medical record confidentiality based on applicable regulations.

B. METHOD

This research uses a descriptive qualitative approach with a normative juridical basis, which focuses on analyzing laws and regulations, legal literature, and policy documents related to medical records. This approach is relevant to explore legal issues in the context of violations of the confidentiality of medical records and their use as legal evidence in Indonesia. As stated by Issalillah *et al.* (2023), the normative juridical approach aims to analyze applicable legal norms in order to provide an in-depth understanding of their implications.

The data usede in this research includes laws and regulations such as Law Number 29 Year 2004 on Medical Practice, the Criminal Code, and Minister of Health Regulation Number 269/MENKES/PER/III/2008 on Medical Record.

Data collection was conducted through a literature study, by reviewing relevant regulations and legal documents as well as references from credible literature. As stated by Darmawan (2009), this method is affective for understanding complex legal issues systematically.

Data validity was ensured through document traingulation. Data obtained from laws and regulations were compored with legal literature to ensure the appropriateness of interpretation and analysis. This technique aims to reduce bias and ensure data accuracy (Yulianis *et al.*, 2024).

Data analysis was conducted using a qualitative descriptive approach. The collected data were classified based on themes, namely violations of medical record confidentiality, legal sanctions, and their use as evidence. After that, the data was analyzed to find patterns and relationships between existing regulations and their implications for the health legal system. This technique follows the guidelines provided by Bryman (2016), who mentions that qualitative descriptive data analysis enables in-depth and targeted exploration of legal issues.

This research adheres to the applicable legal framework in Indonesia and used regulatory guidance such as Law Number 14/2008 on Public Information Disclosure and Law Number 36/2009 on Health to support a more comprehensive legal analysis.

C. RESULTS AND DISCUSSION

Medical Record as Legal Evidence in Indonesia's Justice System

Medical record had an important role in the justice system as legal evidence that can determine direction of a case, especially in cases involving health aspects. The use of medical record in the Indonesia's legal system has a clear legal basis, but that implementation is facing various challenges at both in term of regulation and practice.

According to Law Number 19 Year 2004 on Medical Practice, medical record are documents that contain record and report on patient identity, examination, treatment, action, and other service provide to patient by medical personnel. However, Statute 46 of this law show that medical record be confidential and can only be used for certain purposes with the patient's permission or based on a court order. This problem made confuse when medical record needed as legal evidence, but must still maintain their confidentiality (Republik Indonesia, 2004).

Ratman (2014) explain that the confidentiality of medical record often conflicts with legal need in proving a case. For example, in medical malpractice cases, medical record is the main evidence to assess whether the action taken by medical personnel in accordance with professional standards. However, the process of disclosing medical record is often constrained by objections from patient or their family who consider that the disclosure of medical record violate privacy right.

Dewi (2014) added that in practice many legal cases involving the use of medical record as evidence are constrained by a lack of legal awareness on the part of hospital or medical personnel. They tend to be reluctant to provide access to medical record, despite court mandates. This attitude reflects a lack of understanding of the role of medical record as legal document.

In addition, Law Number 36 Year 2009 on Health regulated that medical record must be properly stored by health care facilities and only can be accessed by authorized various. However, this arrangement is not accompanied by adequate technical mechanism to ensure that data in medical record remain protected from misuse while being accessible when needed in legal process (Republik Indonesia, 2009).

Hapsari (2024) in her research has underlined that the lack of detailed arrangements on the procedures of using medical record as legal evidence has created ambiguity in implementation. This leads to legal uncertainty that disadvantages patient, medical personnel, and other various involved in legal cases.

The KUHP also provides a legal basis for the use of document in evidence including medical record. However, the KUHP doesn't specifically regulate medical record as legal evidence and interpretation by judge still required. Adji (1991) has noted that this unspecific legal framework made it difficult for law enforcers to ensure the use of medical record in accordance with the principle of justice.

Huda (2006) has highlight that another challenge in the use of medical record as legal evidence is the difference in understanding between medical personnel, lawyer, and magistrate about the content and interpretation of medical record. This difference is often the cause of the slow process of case settlement. In case involving serious crimes, such as insurance fraud or domestic violence, medical record is often the decisive evidence. However, Lesmonoaji (2020) emphasized that the legal framework in Indonesia has not fully supported the protection of medical record in this context. As a result, there is a risk that data in medical record may be manipulated or misused by irresponsible various.

In Lubis' (2019) view, the solution to this challenge required a revised regulation not only guarantees the confidentiality of medical record but also provide clear technical guidelines for their use in legal process. Without this revision, medical record as legal evidence will continue to face various obstacles in its implementation. Although medical record has a great potential as legal evidence, challenge in regulation, data protection, and legal understanding among relevant various are still major obstacles to their application in Indonesia's justice system.

Criminal and Administrative Sanctions for Violation of Confidentiality of Medical Record in Indonesia

Violation of record confidentiality can lead to serious legal consequences, including criminal and administrative sanctions. Law No. 29/2004 on Medical Practice mandates confidentiality, protecting patient privacy, with penalties for non-compliance.

Statute 322 of the KUHP states that a person who intentionally divulges a secret entrusted to him in his position is liable to a maximum imprisonment of nine months. In the context of medical record, medical personnel who divulge information without a valid reason or patient consent may be subject to this sanction. Lubis (2019) emphasized that criminal sanction aimed to protect patient's privacy right while maintaining trust in the health system.

Ratman (2014) explain that the confidentiality of medical record is an important foundation in the relationship between doctor and patient. This violation of confidentiality can create mistrust that ends to legal conflict. For example, in a malpractice case, medical record opened without the patient's permission can be used by the opposing party to file a lawsuit.

Hatta (2013) added that in certain situation, violation of medical record confidentiality can occur due to pressure from outside various, like insurance company or law enforcement. This causes bring a legal confuse for medical personnel who must balance between maintaining confidentiality and fulfilling the request of others.

Administrative sanction has regulated in Statute 79 of Law Number 29 Year 2004, which authorizes the Indonesia's Medical Discipline Honor Council to impose sanction on medical personnel who violate the confidentiality of medical record. This sanction included with written of warning, administrative penalty, and temporary or permanent revocation of practice license. Lesmonojaati (2020) has noted that this administrative sanction is a preventive function to prevent further violation.

However, according to Ohoiwutun (2007), the application of administrative sanction is often constrained by the lack of an effective monitoring system. Many cases of violation are undetected or unreported due to the lack of legal awareness on the part of patient and health facility.

Zaeni (2017) has highlighted that in addition to sanction against individual, health institution can also be subject to administrative sanction if proven to have failed to protect the confidentiality of medical record. For example, if a health facility doesn't have an adequate data security system, it can be sanctioned by revoking operational license.

Mubarak and Chayatin (2009) mentioned that the main challenge in law enforcement related to the confidentiality of medical record is the

lack of legal literacy among medical personnel. Many medical personnel do not understand the legal implication of violating the confidentiality of medical record, so violation often occur due to negligence or ignorance.

Praptianingsih (2006) also has highlighted the lack of coordination between health facility, government, and law enforcement agency in enforcing criminal and administrative sanction. This has led to many cases of violation not being resolved.

Syah (2019) has underlined that in the digital era, the protection of medical record is increasingly complex. Electronic medical record is vulnerable to cybersecurity threat, such as hacking or data misuse. Therefore, more specific regulation has needed to deal with offense involving digital medical record.

In Law Number 19 Year 2016 on Electronic Information and Transaction, violation of the confidentiality of electronic data, including medical record can be subject to criminal sanction in the form of penalty of up to billion of rupiah or imprisonment for a maximum of six years. Pohan (2007) has emphasized that this regulation is an important step to protect medical data in the digital era, but its implementation still needs strengthened.

Tueno (2014) added that in addition to sanction, education, and training for medical personnel are strategic steps to prevent violation. This training should include an understanding of regulation, professional ethic, and the use of technology in medical record management.

The existence of criminal and administrative sanction, violation of medical record, confidentiality have a strong legal foundation in Indonesia. However, to improve the effectiveness of law enforcement, it is necessary to strengthen regulation, educate medical personnel, and improve the supervision system. This step will not only protect patient's right, but maintain public confidence in the healthcare system.

D. CONCLUSIONS

This study concludes that medical record has an important role as legal evidence in Indonesia's justice system, but their implementation faces various challenges. As a confidential document regulated in Law Number 29 Year 2004 on Medical Practice, medical record can be used for legal purpose, but the implementation must meet formal and material requirement. In legal

cases, medical record become the main evidence to determine whether medical action have been performed in accordance with professional standard. The main obstacle in the medical personnel's lack of understanding of the legal aspect of medical record and the lack of adequate management infrastructure.

Criminal and administrative sanction for violating the confidentiality of medical record is clearly regulated in various regulation, such as Statute 322 of KUHP and Statute 79 of Law Number 29 Year 2004. Criminal sanction includes imprisonment or penalty, while administrative sanction includes revocation of license to practice and administrative penalty. Challenges in law enforcement include lack of legal literacy among medical personnel, lack of supervision, and the complexity of managing medical record in the digital era.

To improve the effectiveness of using medical record as legal evidence and prevent violation of confidentiality, several steps need to be taken. First, there is a need for legal education and training for medical personnel on the obligation and legal implication related to medical record. Second, the government must strengthen regulation governing data security, especially in the context of medical record digitalization. Third, the supervision system for medical record management in health facility need to be improved to ensure compliance with regulation. Fourth, the development of data security technology, such as encryption and digital auditing can be a solution to protect electronic medical record from the threat of hacking or misuse.

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