

Reviewing the Medical Record Confidentiality of Covid-19 Patient

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Abstract

The Government has done several efforts in order to handling the Covid-19 virus, such as through an appeal to maintain personal hygiene, keep a safe distance, and do not come in direct contact with others. The spread of this appeal was carried out on various platforms, ranging from advertisements on television nor social media. The coverage through the media includes which areas have been exposed by Covid-19, the number of people who have been considered infected, recovered, and the number of people who have died from the virus. Oftentimes, the news is followed by the dissemination of the people's identity, on the grounds that the public should be more careful, whereas the patient's identity is strictly protected based on the patient's right to privacy or medical confidentiality. This writing uses a normative juridical research method. The issues raised were related to the privacy rights and medical confidentiality in the handling of Covid-19. Article 51 of Law Number 29/2004 concerning Medical Practice stated that a doctor is obliged to keep all the information about the patient, even after the patient died. This uphold the fact that a medical confidentiality is closely related to human rights.

Keywords: Covid-19; medical confidentiality; patient

Abstrak

Penanganan Virus Covid-19 dilakukan oleh Pemerintah dengan berbagai upaya. Upaya yang dilakukan pemerintah diantaranya melalui imbauan untuk menjaga kebersihan diri, menjaga jarak dan tidak berkontak langsung dengan orang lain. Penyebaran imbauan ini dilakukan di berbagai macam platform, mulai dari iklan di televisi maupun sosial media. Pemberitaan melalui media mencakup daerah mana saja yang sudah terinfeksi Covid-19, jumlah orang yang sudah terinfeksi, jumlah orang yang sudah sembuh, dan jumlah orang yang telah meninggal. Tak jarang, pemberitaan ini diikutsertakan dengan penyebaran identitas orang-orang yang terinfeksi dengan alasan agar masyarakat lebih berhati-hati. Padahal, identitas pasien sangat dilindungi berdasarkan hak privasi atau rahasia medis pasien. Penulisan ini menggunakan metode penelitian yuridis normatif. Permasalahan yang diangkat yakni terkait hak privasi dan rahasia medis pasien dalam percepatan penanganan Covid-19. Pasal 51 Undang-undang Nomor 29 tahun 2004 tentang Praktik Kedokteran yang menyatakan bahwa kewajiban dokter salah satunya adalah merahasiakan segala sesuatu yang diketahuinya tentang pasien, bahkan juga setelah pasien itu meninggal. Hal ini menunjukkan makna bahwa sesungguhnya rahasia kedokteran berkaitan erat dengan Hak Asasi Manusia.

Kata kunci: Covid-19, rahasia medis, pasien

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Introduction

Since the end of 2019, the world has been experiencing an unusual upheaval. The emergence of a new disease which origins were previously unknown has now become an extraordinary pandemic. The whole world feels the suffering and sadness caused by this pandemic. This pandemic is none other than the coronavirus pandemic. Coronavirus are

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a group of viruses that can cause disease in humans. Several types of corona virus can cause respiratory infections in humans. This new type of virus that has been discovered are the one that can cause the Covid-19 disease. This pandemic has a devastating impact on every human being from all around the world (WHO, 2020). The countries affected by the pandemic are making various efforts to protect their citizens from this incident. Some have carried out lockdowns, regional quarantine, as well as what the Indonesian government has done, namely by implementing Large-Scale Social Restrictions (PSBB) as an effort to accelerate the handling of Covid-19. All of the things above are merely to prevent and also as a solution to prevent this pandemic from becoming more widespread (Sakharina, 2020).

Various attempts were made to disseminate information about Covid-19. Ranging from an appeal to continue to maintain personal hygiene, to keep safe distance, and to not make any direct contact with others, as well as other appeals to help people become more aware and not underestimate this disease (Veska, 2020). This dissemination and outreach is carried out on various platforms, from advertisements on TV to social media on our own devices. We also notice that the news coverage includes which areas have been considered exposed by Covid-19, the number of people who have been infected, the number of people who have recovered, and the number of people who have died from the virus. Oftentimes, the news is followed by the dissemination of the peoples identity, on the grounds that the public should be more careful, when in fact, the identity of both the patient and the victim is very much protected (Buana, 2020).

Everyone, in this case either the patient or victim, has a secret that they do not want to tell anyone, and this secret will be hidden so that no one will find out. The patient is willing to tell all things related to their illness because they believe that the secret will be kept by the doctor who treats, examines, or medicate these patients. It is from the patient's description that the doctor will know about the patient's illness. Previously, the doctor did not know what they were suffering from. This concludes that the origin of medical confidentiality is from the patients where they told the doctor about their conditions. And it is appropriately to say that the patients are the one who is regarded as the owner of the medical confidentiality over him and not the doctor who was notified and draw conclusions about the patient's illness. Thus, what used to be called as "medical confidentiality" is the patient's medical conditions secret, not the doctor's secret (Ridwan, 2019).

The relation between doctor and patient is not seen solely based on trust. In its implementation, it has been legally regulated (Roihanah, 2019) There are rights and obligations which regulated in Article 51 of Law Number 29/2004 concerning Medical Practice (hereinafter referred to as the Medical Practice Law) which stated that "A doctor is obliged to keep all the information concerning the patient, even after the patient died." This uphold the fact that a medical confidentiality is closely related to human rights. In this case, human rights are basic individual rights owned by patients. Rights that are owned by patients are the right to privacy in the form of rights to medical

confidentiality (Heriani, 2018). Rights to privacy is a constitutional right which expressive verbis be found in Article 28G of Constitution of the Republic of Indonesia (hereinafter referred to as UUD NRI 1945) which stated that “Everyone has the right to protection of himself, family, honor, dignity, and the right to a sense of security and protection from the threat of fear.” This, of course, applies to patients that are infected by the Covid-19 virus. The right to privacy, in this case is a medical confidentiality, is very important. So, when there were an information that the Minister of Transportation (Reza Gunadha, 2020) is infected by Covid-19 (Prasetia, 2020), it was contradicting with the regulation about not exposing the infected patient (Briantika, 2020). It is not in line with the government policies which have argued that this is a patient’s confidentiality and needs to be guarded and cannot be disclosed. The government affirm that the medical confidentiality of patients, including those owned by the Covid-19 infected patients, should not be disseminated, let alone be consumed by public. Then, detailed information was released through social media. It was about two patients infected by Corona and they were treated at RSPI Sulianti Saroso (Candra, 2020). From eastern Indonesia, doctors in Kupang leaked the medical records of covid-19 patients. This is based on the report submitted by the patient’s family as stated in the number LP/B/351/III/2020/SPKT/ Kupang Kota Resort, which is recorded on the Police Report Receipt (STTLP) number 349/STTLP/III/2020/SPKT/Kupang Kota Resort signed by Banit I SKPT Brigpol Enjel Makaborang (Keda, 2020). Based on the fact that occur, medical confidentiality or patient medical records is essential, so that it needs to be reviewed regarding the patient’s right to privacy over medical confidentiality and information regarding the services provided. Therefore, it is hoped that knowledge of the legal protection to the patient’s rights will improve the quality of the prudent attitude of health workers.

Research Problems

Based on the introduction above, this article is intended to study the legal protection of patient’s rights in relation to patient’s human rights, especially the protection of the medical confidentiality of Covid-19 patients in receiving health services.

Research Methods

This article uses a legal research (Tinambunan, 2016) method using statutory approach and a conceptual approach. The legal materials used in this article are primary legal materials, secondary legal material, and non-legal materials to support the preparation of this article (Tinambunan & Prasetio, 2019) Also, in studying the legal issues discussed, the article is using legal prescriptions which aim to provide depth, systematic, and comprehensive details regarding legal issues (Tinambunan, Widodo, & Ahmad, 2018) in the protection of Covid-19 patients which should be in accordance with

current regulations related to legal theory and law enforcement practice related to the disclosure of medical confidentiality of Covid-19 patients.

Discussion

In the current 4.0 era, the internet has an ideal utility power. The use of the internet on a large scale makes cross-country human connectivity occur continuously, in this case it is called the Internet of Things (IoT). IoT as one of the vital and functional pillars of the 4.0 industrial revolution has made all people from across the world easily access a variety of the latest information from all over the world. This phenomenon can occur due to the virtual nature of the internet world, so that various information on the internet does not recognize the boundaries of time and space. Indeed, there are many conveniences offered by the internet, especially in modern times like this. (Humas UNJA, 2019) Humans who usually have difficulty finding knowledge or are simply curious about something, can immediately get the answer in just seconds (Muslimin, 2011). This convenience also affects humans' life in various aspects, such as economic aspect, communication aspect, social aspect, even health aspect. In the economic aspect, it is easier for people to find ways to make their lives better financially, for example, it is easier now to looking for a job-on-job vacancy websites, or people can do online business, and so on. In the communication aspect, technology and the internet certainly help people to reach out to each other without having to meet face to face and travel long distances if they want to see relatives in other part of the world. The social aspect as well. Whereas in the health aspect, the internet also helps people to find out what symptoms they are experiencing. Do they need to go to the doctor or they just need to take a rest, it also helps in purchasing medicine using several health applications (Pohan & Halim, 2013) In the current pandemic conditions, the internet and technology are very beneficial to human relations, for example in terms of work, education, to social relations. It succors in times like this since direct interactions must be avoided to prevent the spread of Covid-19. The scope of the internet is not limited between space and time, so if it is not used properly, it will be dangerous for its users. This includes the implementation of press conferences that have recently been held by the Government to provide information to the Indonesian people about the growth of the Covid-19 virus. In conducting press conferences, the Government certainly needs to be mindful in making decisions when conveying information to the public, because the slightest mistake will be triggering a buzzer which will make it viral. Everything that is broadcast on television and what we can see on the internet will be easily diffused even to the African continent. When everything is on the internet, even if it is deleted, it will last for a long time on the internet. This indicates that the internet is actually a place that stores everything permanently. This is a dangerous thing, especially if it involves someone's personal matter (Santoso, 2016) With the existence of the internet it does not rule out the possibility that an alarming news can occur in the community regarding Covid-19 information, including the dissemination of information regarding the identities of Covid-19 patients.

Legal Protection of Covid-19 Patients Medical Confidentiality

Article 1 No. 10 of the Medical Practice Law stated that “a patient is any person who conducts a consultation on his/her health problem in order to obtain the necessary health services, either directly or indirectly, to a doctor or dentist.” Based on this definition, a patient has a close relation with the doctor/dentist. According to K. Bertens, he stated that one of the important characteristics in the relationship between doctor and patient is that the patient must always be recognized and treated as a person, meaning that a patient is also a human being who has a unique dignity (Ramadianto, 2017) In Article 39 of the Medical Practice Law proclaim that “medical practice is held based on an agreement between a doctor or dentist and a patient in an effort to maintain health, prevent disease, improve health, treat disease, and restore health.” The characteristics of the relationship between doctor/dentist and patient should be considered as a relationship between humans so that this relation remain as a relationship that approaches equality of rights between humans. Therefore, the doctor/dentist relations in Article 39 of the Medical Practice Law refers to the phrase “agreement”, which express that this is a contractual relationship (Susilowati, Surjoseputro, & Silviawati, 2018). The contractual relationship in this case is a therapeutic contract that creates rights and obligations between parties (Judi, 2017). One of the obligation in the therapeutic contract is the responsibility of the doctor/dentist to keep the patient’s medical confidentiality as a form of protection to the patient (Putra, 2001). Patients who have an inferior position must be respected for the basic rights and human rights, in this case is related to the medical confidentiality, but every so often these patient’s rights are ignored due to other things, so that the legal protection of the patients become dwindle (Siringoringo, Hendrawati, & Suharto, 2017).

As stated by Satjipto Raharjo, legal protection is to provide protection for human rights (HAM) that harmed by others and this protection is given to the community so that they can enjoy all the rights provided by the law (Nurmala, 2018). With regard to patient’s rights, it means that the law provides protection for patient’s rights in relation to medical records or medical confidentiality of the health services they receive. Regulations related to medical records can be seen in Article 46 Paragraph (1) of the Medical Practice Law which states that “every doctor or dentist in carrying out medical practice is obliged to make medical records.” Furthermore, Article 47 Paragraph (1) of the Medical Practice Law affirm that a medical record document belongs to doctors, dentists, or health service facilities, while the contents of medical records belong to patients. Article 1 No. 1 Regulation of the Minister of Health of the Republic of Indonesia Number 269/MENKES/PER/III/2008 concerning the Medical Records (hereinafter referred to as Permenkes Number 269/2008) states that “medical records are files containing notes and documents regarding patient’s identity, examination, treatment, actions, and other services that have been provided to patients.” Based on the Permenkes, medical records are stated in the form of notes in a document called a “medical record document.” The documents referred to “records of doctors, dentists, and/or certain

health workers, reports on the results of supporting examinations, records of daily observations and medication and all records, whether in the form of radiological photos, imaging images, and electro diagnostic records” as regulated in Article 1 Number 7 of Permenkes No. 269/2008.

The medical records must be kept and guarded by doctors/dentists and the head of health service facilities due to its confidentiality. It is confirmed in Article 47 Paragraph (1) and (2) of Medical Practice Law which affirm that:

- (1) The medical record document as meant in Article 46 belongs to a doctor, dentist, or health service facility, while the contents of the medical record are the property of the patient.
- (2) The medical record as intended in paragraph (1) must be kept and guarded by a doctor or dentist and the head of health service facilities.

In Article 48 of Medical Practice Law stated concerning medical confidentiality:

- (1) In carrying out medical practice, every doctor or dentist is obliged to keep medical confidentiality.
- (2) Medical confidentiality can only be disclosed for the benefit of patient’s health, fulfilling requests from law enforcement officials in the framework of law enforcement, patient’s requests, or based on statutory provisions.

According to the things have been stated above, data confidentiality of the Covid-19 patient is a fundamental right to privacy which protected by the state for the confidentiality of the illness, including its medical data. The right to privacy over medical data is protected by the state through legal instruments which regulated in various laws and regulations. This is intended as the state’s respect to the rights of citizens that is *expressive verbis* as regulated in the 1945 Constitution of the Republic of Indonesia. Based on the legality principle, the information about patient’s privacy and medical data can only be justified if it is in accordance with what has been formulated in law. Outside of these provisions, it can be categorized as an act of confidential leakage which is against the law, resulting in harm to the patient (Syafuddin dan Arif Rohman, 2019). In relation to medical confidentiality, there is a legal protection to patients for law violations by leaking information related to patients which results in losses among them:

1. Article 58 Paragraph (1) of Law Number 36/2009 concerning Health (hereinafter referred to as Health Law) stated that “everyone has the right to claim compensation for a person, health worker, and/or health provider who causes harm due to mistakes or negligence in the health services they receive.” In this Article, there is a phrase “harm” which means that “what includes losses due to health services, including the leakage of medical confidentiality.”
2. Article 1365 of the Indonesian Civil Code stated that “every act that violates the law and brings harm to other people, obliges the person who caused the loss due to his mistake to compensate for the loss.” The phrase “compensate for the loss” means that a patient who feels aggrieved by a leak can sue for damages in material and immaterial forms (Siti Kotijah, 2011).

3. Article 322 of the Indonesian Criminal Code stated that “anyone who deliberately discloses a secret, which according to his position or work, both current and former, is obliged to keep it, is sentenced to a maximum of nine months’ imprisonment or a maximum fine of Rp. 9000, -.” As believed by R. Soesilo, to be punished by this Article, the things that must be proven are: what is notified (disclosed) must be a secret; that the person is obliged to keep the secret and he must really know that he is obliged to keep the secret; that the obligation to keep the secret is the result of a position or job that is currently or previously held; and unlocking the secret was done on purpose. It was further explained by R. Soesilo which interpreted as a “secret” is something that is known only to those with an interest, while other people do not know it. Who is obliged to keep the secret, each occurrence must be reviewed individually by the judge, for example, a doctor must keep the confidentiality of his patient’s illness (Marini V. Pandi, 2013).
4. Article 15 Paragraph (3) Regulation of the Minister of Health of the Republic of Indonesia Number 36/2012 concerning Medical Confidentiality (hereinafter referred to as Permenkes Number 36/2012) which regulates administrative sanctions stated that “administrative measures as referred to in paragraph (2) can be in the form of an oral warning, written warning, or revocation of registration certificate, health worker practice license and/or health service facility permission.”

The Right to Community Health Information in the Covid-19 Pandemic Period

Medical confidentiality are a patient’s right that must be respected, so that in medical practice the obligation to keep the confidentiality is an order obtained on the basis of the position held by a doctor in the field of health services in accordance with the Hippocratic oath which is the basis of doctor’s oath around the world (Marini V. Pandi, 2013). Patients in receiving treatment performed by a doctor/dentist have a rights and legal protection in terms of medical services, including: (a) Right to Medical Information, patients have the right to know everything about the illness they suffer from when the doctor makes a diagnosis, treatment method, type of medication given, the risks when carrying out treatment to the applicable hospitalization costs at the hospital; (b) Informed Consent, “informed consent is considered the norm because there are obvious and known risks for the patient” (Doudenkova & Bélisle Papon, 2016). This doctrine was born based on 2 (two) things, namely the existence of obedience and the existence of bodily injury which causes why the patient must have the right to know and approve medical actions that occur to him, either directly or through a legal guardian; (c) The right to medical confidentiality, is the main right owned by patients and should not be violated by medical personnel and it is the obligation of medical personnel to keep it confidential unless the patient wants it otherwise (Syafuruddin & Anand, 2015).

This is not only an obligation in carrying out a professional position but also a moral obligation based on the norms of decency which has been the basis for doctors since a long time ago which stated that “everything I see and hear in carrying out my

practice I will keep as a secret.” The obligation to maintain medical confidentiality is a form of respect for the confidentiality of medical practice, apart from the Hippocratic oath, the obligation to keep medical confidentiality is also contained in The Declaration of Geneve, a Hippocratic oath which is modernized and introduced by the Medical Association which stated that : “I will respect the secrets which are confided in me, even after the patient has died “or” whatever, in connection with it, I see or hear in the life of men, which ought not to be spoken of abroad, I will not divulge, as reckoning that all such should be kept secret.” Just as Fred Ameln stated, medical confidentiality are (Amir, 2019):

1. Everything the patient communicates (consciously or unconsciously) to the doctor.
2. Everything that doctors know when treating the patients. In the literature of continental and Anglo-Saxon countries, medical confidentiality is the property of patients, doctors are only entrusted with these secrets by their patients for medicinal purposes. Only the files belong to the hospital and which cannot be taken out of the hospital, by anyone. Nor can the doctor or the patient take it home. Medical record files must remain and be kept at the hospital.

Based on the statement above, medical confidentiality are human rights or rights for every individual (the right of self-determination) which must be realized through the guarantee of providing a sense of security by the government in providing health services (Yustina, 2014) in the midst of the Covid-19 pandemic that has hit almost all countries in the world, including Indonesia. With the increase in Covid-19 cases, even on July 21 2020, Indonesia has surpassed China, causing widespread concern in the community (Amin-doni, 2020) This situation can lead to fear and disturbances among people in the process of preventing, deterring, overcoming, and handling both from the government and from the community. One of the causes to the fear and disturbances is the circulation of the identity of Covid-19 patients on social media and in the community which has resulted in a negative stigma against the victim, including the victim’s family.

The identities of patients, especially Covid-19 patients, have been protected in our constitution. This has been regulated in Article 28G of the 1945 Constitution of the Republic of Indonesia which stated that “every person has the right to protection of himself, family, honor, dignity, and the right to a sense of security and protection from the threat of fear.” Based on Permenkes Number 36/2012, in principle, identity information cannot be distributed without the permission of the person concerned. With the disclosure of information regarding patient medical confidentiality, the public needs to be given knowledge and understanding so it would not become a polemic in social life. According to Warren and Brandeis, they stated that “the right to privacy does not prohibit any publication of matter which is of public or general interest” which means that the right to privacy is not absolute (Warren & Brandeis, 2019). When referring to the legal side, there are regulations related to medical confidentiality. In this regulation it is said that medical confidentiality is not absolute. This can be found in the existing laws and regulations in Indonesia, such as in Article 48 Paragraph (2) of the Medical Practice

Law, Article 57 Paragraph (2) of the Health Law, Article 38 Paragraph (2) of Law Number 44/2009 concerning Hospitals (hereinafter referred to as the Hospital Law), and Article 9 Paragraph (4) letter b Permenkes Number 36/2012.

The constitutional limitations set out in these laws and regulations can be seen in Article 28J Paragraph (2) of the 1945 Constitution of the Republic of Indonesia. It is stated in this article, “In exercising his rights and freedoms, every person is obliged to comply with the restrictions established by law with the sole purpose of ensuring recognition and respect for the rights and freedoms of others and to fulfill fair demands in accordance with morals, religious values, security, and public order in a democratic society.” When viewed from the phrase “restrictions,” it means that human rights can be limited as long as they do not conflict with morals, religious values, security, and public order. With regards to medical confidentiality, in this case related to the personal identities of Covid-19 patients, as previously explained, medical confidentiality is a certain thing that cannot be shared with other parties, but it is necessary to pay attention to the matters that are required regarding information disseminated to the public. As stated in Article 5 Paragraph (1) Permenkes Number 36/2012 which stated that “medical confidentiality can be opened only for the benefit of patient health, fulfilling requests from law enforcement officials in the context of law enforcement, patient requests themselves, or based on statutory provisions.”

Article 10 Paragraph (1) of Law Number 14/2008 on Freedom of Information (hereinafter referred to as UU KIP) stated that “Public Bodies must immediately announce information that can threaten the livelihoods of many people and public order,” based on this article, it means that in when threaten conditions and are related to public order, there is an obligation to disclose information to the public. This is reinforced in Article 9 Paragraph (1) Permenkes Number 36/2012 which stated that “the disclosure of medical confidentiality based on the provisions of laws and regulations as referred to in Article 5 is carried out without the patient’s consent in the interests of upholding ethics or discipline, as well as the public interest” and in Article 9 Paragraph (4) letters b and e of Permenkes Number 36/2012 which stated that “the public interest as referred to in paragraph (1) includes : b. Threat of extraordinary events/outbreaks of infectious diseases; and e. A threat to the safety of others individually or society.” So that if you refer to the Presidential Decree of the Republic of Indonesia No. 11/2020 concerning the Determination of Public Health Emergency for Corona Virus Disease 2019 (Covid-19), Presidential Decree of the Republic of Indonesia Number 12/2020 concerning the Determination of Non-Natural Disaster for the Spread of Corona Virus Disease 2019 (Covid-19) as National Disaster, and Decree of the Minister of Health of the Republic of Indonesia Number Hk.01.07/Menkes/413/ 2020 concerning Guidelines for the Prevention and Control of Coronavirus Disease 2019 (Covid-19) which stipulates that Covid-19 is a disease that can cause an outbreak. So thus, information related to Covid-19 patients is something that must be announced to the public as Information by the government so that the general public can be protected from the Corona Virus.

The disclosure of information by the Government can increase awareness of the public. It is the government's obligation to convey information (Komarudin dan Yudo, 2009) concerning the corona pandemic is based on Covid-19, which is a virus that threatens the safety of other individuals or society and public order. Data on patients infected by Covid-19 need to be opened to facilitate contact-tracing. This is to obtain and provide information in order to direct a control measures effectively and efficiently. (RI, 2020) One thing that needs to be believed is that the disclosure of the identity data of patients with Covid-19 infection is not something that is demeaning or has the potential to cause stigmatization, let alone discrimination in a community environment. In fact, it should be increases community prudence and solidarity by guiding the disclosure of medical data by considering and balancing the rights of patients and the public interest and must be limited based on *abusus non tollit usum*, which means that the possibility of misuse does not impede benefits, so that in the name of an emergency, not everything can be diverted freely and without consideration or restriction (Tinambunan and Disantara, 2020)

Conclusion

Legal protection of the Covid-19 patient's rights in terms of the confidentiality of patient information is protected by our constitution. This has been regulated in Article 28G of the 1945 Constitution of the Republic of Indonesia. No one is allowed to disseminate identity information about someone without the permission of those who own the identity. The existence of Covid-19 patient data that has been outspread to the public without the patient's permission is a violation of the patient's human rights and medical confidentiality rights. However, in an emergency situation as stated in the legislation, the infected patient data can be opened to facilitate contact-tracing. This is to obtain and provide information in order to direct a control measure effectively and efficiently. One thing that needs to be believed is that the disclosure of the identity data of patients with Covid-19 infection is not something that is demeaning or has the potential to cause stigmatization, let alone discrimination in a community environment. In fact, it should be increases community prudence and solidarity by guiding the disclosure of medical data by considering and balancing patient's rights and public interest.

Suggestion

In terms of protecting the patient's secret, the patient must increase caution and community solidarity by guiding the openness of medical data by paying attention to and balancing the patient's rights and public interests and must be limited based on *abusus non tollit usum*, meaning that the possibility of misuse does not interfere with profits, so that in the name of an emergency, it does not all of them can be transferred freely and without consideration or restriction.

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