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Hospital Responsibility for Medical Records Leaked by Medical Personnel Without the Patient's Consent

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Abstract: Health history is a file that contains important notes or documents that contain the patient's identity regarding examinations, treatment, actions and services that have been provided to the patient. Medical records have a major influence on the legal relationship between hospitals and patients. This research examines two things, namely legal regulations related to the management of hospital patient files and the responsibility of hospitals to disclose confidential medical records. The author's aim in conducting this research is to analyze the responsibility of hospitals, especially medical personnel, if there is a data leak from a patient's medical history. This type of research is normative legal research, with emphasis on the study of legislation and literature, analyzing and revising applicable legal norms as a basis for problem solving. The research results show that the legal provisions contained in Law NO 17 of 2023 concerning health, medical personnel can be prosecuted for negligence in health services, including divulging medical secrets. Regulated in Article 301 paragraph (2) of Law NO 17 of 2023 concerning Health, medical personnel can be held responsible for actions/deeds related to the implementation of Health Services including medical records which cause civil and criminal harm to patients.

Keyword: Medical Records, Law NO 17 of 2023 Concerning Health Law, Legal Sanctions Given to Medical Personnel for Leaked Medical Record.

INTRODUCTION

Responsibility is something that must be done if someone does something bad or good. In accordance with the author's title, medical personnel or more precisely health workers also have responsibilities towards the patients they treat. Apart from medical personnel, there are also other related parties and hospitals where medical personnel work also have joint responsibilities with existing medical personnel.

Law is a series of regulations that play a role in regulating human life in order to create order and harmony. One of the functions of law is as a social controller which is equipped with sanctions as a coercive tool so that regulations are obeyed, because only with consistent law enforcement can the state maintain its existence. One aspect regulated by law is health. To achieve optimal public health, support is needed for the implementation of activities in the health sector.

Etymologically, legal responsibility or liability is often interchanged with responsibility. The Black Law Dictionary states that the terminology of liability has broad meaning. The definition of legal liability is a liability which courts recognize and enforce as between parties (Soekidjo Notoatmojo, *Etika dan Hukum Kesehatan*, Jakarta, Rineka Cipta, 2010, hlm. 55) .

Responsibility means obligations that must be accounted for, including decisions, skills, abilities and abilities related to the implementation of obligations based on law. In practical terms, the term liability refers to legal responsibility, while responsibility refers more to political responsibility.

Based on a quote from Kansil (1989), health law is a collection of laws and regulations in the health sector that regulate medical services and medical facilities (Hendrik, *Etika & Hukum Kesehatan*, (Jakarta: EGC, 2014), hlm. 24) .

Juridically, medical records are a very important form of document its existence is important, as proof that a health worker really has carry out his professional duties.

Hospitals have a very important role in realizing public health optimally, so they are required to manage each activity by prioritizing professional responsibility. Medical personnel and nurses in hospitals are required to carry out their duties and authority with professionalisme.

Medical errors are errors that occur when planning a treatment or procedure delivered incorrectly. Medical errors can occur in various medical service units, such as the home hospitals, health centers, clinics, pharmacies, doctor's practices, and maternity hospitals are involved matters of medicine, surgery, diagnosis, examination tools, and laboratories.

This medical record functions to provide legal certainty on the basis of justice reference for health service providers in providing health services, so medical errors that occur can be accounted for (Darda Syahrizal & Senja Nilasari, *Undang-Undang Praktik Kedokteran & Aplikasinya*,(Jakarta: Dunia Cerdas, 2013), hal.30) .

For health service providers, medical records can be a means of defense and alibi information written that there are professional duties that are carried out well, there is no negligence of duty and in accordance with professional standards that have received the approval of the patient or his family. Apart from that, for the patient himself, the medical record file can be used by the patient or his family on the law as a basis for carrying out legal claims or prosecuting cases in court with applicable legal procedures (Nusy KI Jayanti,

Penyelesaian Hukum Dalam Malpraktek Kedokteran,(Yogyakarta Pustaka Yustisia, 2009), hal. 85) .

Juridically, medical records are a very important form of document its existence is important, as proof that a health worker really has carry out his professional duties. In other words, medical records provide an overview review what health workers have done (https://publikasi.unprimdn.ac.id/posts?author_id=254-Penerbit: Cakrawala-Media, ISBN: 978-979-1533-07-2-Yovita Arie Mangesti, SH., MH., Dr. Tommy Leonard, S.H., M.Kn) .

Second, medical records are a form of document whose contents are strictly protected relating to cases with legal indications must go through a series of procedures and to can take him to court, subject to a written request from the judge. With permission written from the head of the hospital, medical records can be removed from storage, to the extent data is needed in connection with the need to prove the case with legal indications accused (<https://publikasi.unprimdn.ac.id/posts/297-rekam-medis--medical-record--alat-bukti-untuk->

menentukankesalahan-dokter-dalam-perkara-pidana-di-rumah-sakit-umum-daerah-curup-Yovita Arie Mangesti, SH., MH).

METHOD

In this study, the author employs the Normative Legal Research method. This research is descriptive in nature, which aims to describe a situation in a certain area and at a certain time. In descriptive research, the author generally has obtained or has an initial picture in the form of data regarding the problem to be studied. This method allows the author to provide a clearer understanding of the situations and conditions related to the topic discussed.

RESULTS AND DISCUSSION

The legal position of patient medical records in hospitals is based on Law NO 17 of 2023 concerning Health Law

Legal standing is a concept or situation where a person has the right and meets the requirements to submit a petition before the court. If we look at the discussion, what was obtained by the author in this study regarding the position of patient medical records in hospitals, namely; Medical records are used as evidence because medical records contain notes regarding the results of physical examinations, all medical procedures, and treatment given by health workers based on the consent given by the patient while the patient is undergoing treatment at a health service facility, all of which are written down by the staff. health based on what he knows according to the knowledge and expertise he has in carrying out his profession.

At the request of this investigator, the health worker who is responsible for the medical record of a particular patient can provide a photocopy of the patient's medical record or make a written report in the form of a resume of what is stated in the medical record. (J. Guwandi. Hukum Medik. Fakultas Kedokteran Universitas Indonesia. Jakarta, 2004. Hlm, 232) .

If a patient's medical record at a hospital is leaked without the patient's permission, the position that applies to this action is an ethical violation of health workers, then the health worker will be subject to administrative sanctions. Medical personnel who provide health services are obliged to maintain the confidentiality of patients' personal medical records (UUD NO 17 TAHUN 2023,Pasal 301-rahasia-kesehatan-pasien).

The authority of the MKEK (Medical Ethics Honorary Council) to adjudicate its members the violations committed are considered as an attempt to wrap things up demanding criminal responsibility for the treatment of doctors as those in charge of therapy patient (<https://publikasi.unprimdn.ac.id/posts/297-rekam-medis--medical-record--alat-bukti-untuk-menentukankesalahan-dokter-dalam-perkara-pidana-di-rumah-sakit-umum-daerah-curup-Yovita ArieMangesti, SH., MH dan Dr. Tommy Leonard, S.H., M.Kn>).

Responsibility of medical personnel for the confidentiality of patient medical records in hospitals based on Law NO 17 of 2023 concerning Health Law

Health workers also have an obligation to provide correct information which is stated in the 2012 Indonesian Medical Code of Ethics, concerning the obligation of a health worker to respect the rights of his or her patients "Doctors are required to provide clear and accurate information." that information adequate. and respect the patient's opinion or response to the doctor's explanation".

Diatur bahwa rumah sakit memiliki kewajiban dalam memberikan informasi terhadap pasien mengenai penyakitnya yang telah tercantum didalam Kode Etik Rumah Sakit yaitu pasal 10 (Jurnal Analogi Hukum, Volume 4, Nomor 1, 2022. CC-BY-SA 4.0 License, hal 29) .

In UUD No. 17 of 2023, as regulated in Article 301, a medical worker Regarding confidentiality of medical records :

1. Every health professional is obliged to maintain the confidentiality of the patient's personal medical records at this time provide health services.
2. Disclosure of the patient's personal health information, as regulated in paragraph (1), only may be carried out for certain purposes in accordance with the provisions in article 4 paragraph (4).
3. Furthermore, the confidentiality of a patient's personal medical records is also regulated in government regulations.

In accordance with the repressive form of legal protection, it shows that the facilities health services such as hospitals have been proven to have leaked or disclosed information to the public, then in accordance with the law. Health No. 36 of 2009 in article 58 says house illness can be sued for compensation. If there is a civil request for disclosure confidentiality of patient medical records, then the hospital has to bear the consequences take full responsibility and bear the respective burden of proof on the hospital.

Procedures for creating, storing and managing medical records must support improvement implementation of regulations and reflecting forms of accountability in medical services in accordance with established standards. In line with the interests of investigation, treatment regarding medical records must be carried out with a value-oriented mentality of the relevant parties justice and humanity, outweighing any personal interests that may lie behind existence medical records. This document serves to describe the rights and obligations of doctors as well patients as givers and recipients of medical services (<https://publikasi.unprimdn.ac.id/posts/297-rekam-medis--medical-record--alat-bukti-untuk-menentukankesalahan-dokter-dalam-perkara-pidana-di-rumah-sakit-umum-daerah-curup> Dr. Tommy Leonard, S.H., M.Kn).

Legal sanctions against hospitals for medical records leaked by staff medical treatment without the patient's permission based on Law NO 17 of 2023

In Indonesia, doctors who reveal patient secrets can be subject to punishment under Article 322 of the Criminal Code. The criminal sanction that can be imposed is a maximum prison sentence of nine month or a maximum fine of six hundred rupiah. This article applies to anyone who deliberately revealing secrets that must be kept confidential because of position or employment they. In addition, in accordance with Health Law no. 17 of 2003 Article 308 paragraphs 1 and 2, medical personnel or health workers who are suspected of committing legal violations in the implementation of services health can be subject to criminal sanctions, but before that a recommendation must be requested from assembly as regulated in Article 304. In addition, medical personnel and health workers who must also be held responsible for actions that harm patients in a civil manner obtain recommendations from the panel in accordance with the provisions in Article 304.

The responsibility of medical personnel who leak patient medical records will be subject to sanctions criminal offense based on Article 79 of Law Number 29 of 2004 concerning Medical Practice. This article states that this violation is punishable by a maximum imprisonment sentence 1 (one) year or a maximum fine of Rp. 50,000,000.00 (fifty million rupiah).

CONCLUSION

Responsibility is the obligation to bear everything that can be sued, blamed, and be sued if something happens. Health history is a collection of important information that contains notes or documents regarding the patient's identity, including details of examinations, treatment, procedures and services health care provided to patients. Article 301 paragraph 1 states that medical records must be kept and kept confidential by medical personnel and health workers. This provision shows that the patient has the right get legal protection for their medical records, because these medical records are belongs to the patient and includes information of a personal

nature. If a patient's medical record at a hospital is leaked without the patient's permission then the position applicable in this action is a violation of ethics against health workers, then workers such health will be subject to criminal sanctions and civil sanctions based on article 308 paragraph 1 and 2. Apart from that, if there are health workers who cause harm to patients and even if they don't until death or serious injury results, the patient has the right to demand compensation based on Article 1365 and Article 1367 of the Civil Code. The responsibility of medical personnel who leak patient medical records is regulated in law Health, as stated in Law Number 17 of 2023 Article 308 paragraph 2. This article states that "medical personnel and health workers who are requested responsibility for actions or actions related to the implementation of services health, which causes civil harm to the patient," must be held accountable for their actions in accordance with applicable law. This underscores the importance of maintaining the confidentiality of medical records and provide legal protection for patients. Based on the responsibility of medical personnel in divulging patient medical records subject to civil sanctions, namely administrative sanctions, if proven by medical personnel carrying out and being directly involved in the leak of medical records, sanctions may be imposed namely revocation of permits and receiving verbal and written warnings.

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