

Legal Protection Regarding the Disposal of Confidential Medical Information of Covid 19 Patients in Urip Sumoharjo Hospital Lampung Province

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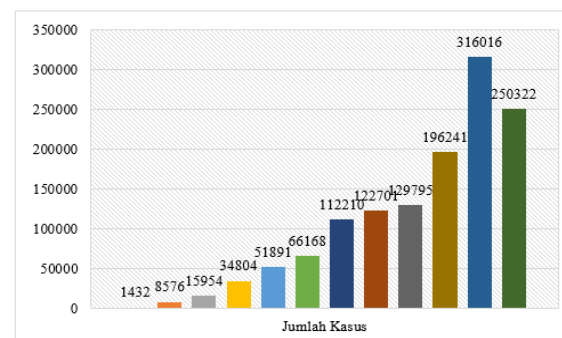
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Abstract:- Ethically and legally, medical secrets of Covid 19 patients can be opened but not for public consumption, only limited to the identity of patients or people with or without clinical symptoms with a positive diagnosis of Covid 19 (confirmed cases) in principle, they must be protected. The provision of information on Covid-19 patient data in a transparent and comprehensive manner by the parties involved in handling this outbreak is an obligation stipulated by law and must be carried out. Basically, in certain situations where it is permissible and obligatory to disclose medical secrets, such as during the Covid 19 outbreak which threatens public health and the most important thing is that protecting public health is more important than individuals. Limitations on the disclosure of confidential medical information of Covid 19 patients can be carried out by medical officers at Urip Sumoharjo Hospital by taking into account the type of information, the designation of the information and the recipient of the information. Medical staff of Urip Sumoharjo Hospital should ensure that the provision of patient medical information Covid 19 is in accordance with the law on the confidentiality of medical information in surveillance activities. Legal protection for medical personnel related to the release of medical information for Covid 19 patients at Urip Sumoharjo Hospital can be carried out by establishing special policies regarding the use of medical information during the Covid 19 pandemic. Determination of this policy can be based on the provisions of other laws and regulations, including the Health Law, Law No. Outbreaks of Infectious Diseases, Minister of Health Regulations for Medical Records, Minister of Health Secretariat of Medicine as well as MKEK's Decree on Medical Ethics Fatwa, Health Policy, and Research in the Context of the COVID-19 Pandemic.

Keywords:- Legal Protection, Medical Confidentiality, Covid-19 Pandemic.

I. INTRODUCTION

Indonesian government has declared the Corona Virus Disease 2019 (COVID 19) pandemic as a non-natural disaster, since the announcement of the first confirmed case in March 2020, within one month all provinces have reported confirmed cases, until December 27, 2020 as many as 706,837 confirmed cases of COVID 19 have been reported in Indonesia and recorded as many as 20,994 people died. [1] The number of Covid-19 cases in Indonesia can be seen in the following table:



Based on the data above, the increase in Covid-19 cases each month increases significantly. In 2021 it will increase to 250,322 cases of covid-19. Therefore, in tackling the spread of this disease outbreak, the Government of the Republic of Indonesia immediately formed a task force for the Covid-19 Handling Unit under the control of the National Disaster Management Agency (BNPB) and set several strategic steps, including: [2] First, Handling patients affected by Covid -19, Second, Enforcement of Large-Scale Social Restrictions (PSBB) and maintaining cleanliness, Thirdly closing flight access both to and from within the country.

In the midst of implementing the prevention and control of the Covid-19 outbreak, there are many opinions regarding the transparency of data on patients with Covid-19, which has become a polemic for policy makers and the public.

Disclosure of information related to Covid 19 in the form of reporting on an event is an obligation so that it can be known by the wider community to obtain an accurate degree of information during this Pandemic period.[3] This indirectly causes the boundary between personal privacy data and public interest data to be very thin. The government is obliged to provide transparent and accurate news/information to the public so that there is no confusion of news in the community. Digital reporting through social media using cellular phones or other electronic devices has also changed the global order of human civilization where all access to information can be obtained regardless of distance and time.

Ethically and legally, medical secrets of Covid 19 patients can be opened but not for public consumption, only limited to the identity of patients or people with or without clinical symptoms with a positive diagnosis of Covid 19 (confirmed cases) in principle, they must be protected. In certain circumstances, it can be disclosed as limited to initials

of name, gender, short health status, age and a brief chronology limited to information relevant to the risk of transmission, for example the description of the location of the potential transmission with the intention of being a public alert and tracing/contact tracing (epidemiological investigation). [4]

Basically, in certain situations where it is permissible and obligatory to disclose medical secrets, such as during the Covid 19 outbreak, which threatens public health, and what matters most is protecting public health more than individuals. Disclosure of medical secrets may be carried out by authorized medical officers and the data shall be disclosed to authorized agencies/persons, medical secrets may not be disseminated for public consumption.

Based on the description above, this study will discuss the legal protection related to the release of confidential medical information for Covid 19 patients in the Isolation Room of Urip Sumoharjo Hospital. This is done considering the need for information regarding Covid-19 so that it doesn't spread. The release of this information is carried out to stabilize the spread of Covid-19 which is increasing every month. Therefore, this study will examine the legal protection against the release of information to patients that must be kept confidential, but in preventing the spread of Covid-19 it must be informed.

II. LITERATURE REVIEW

A. Confidentiality of Medical Information

Medical records are defined as information or records, both written and recorded, regarding the identity, condition of the patient, and all the actions given, including the treatment received by the patient. In more depth, medical records have a broad meaning because in these records all information concerning a patient is reflected which will be used as the basis for further actions in service efforts and other medical actions given to a patient who comes to a health care facility. [5]

The legal chain of medical records containing the confidentiality of the patient belongs to the patient, which by the health worker must be open to the patient's rights and can be closed to third parties who are not interested/authorized by law to know the confidentiality in the medical record. Therefore, medical records have legal value because their contents involve the issue of guaranteeing legal certainty on the basis of justice in the context of efforts to enforce the law and provide evidence to uphold justice. [6]

In general, it can be realized that the information contained in medical records is confidential and must be kept confidential by doctors and other health professionals. Pitono Soeparto in Ethics and Law in the Health Sector said that Indonesia does not adhere to the notion of absolute obligation to keep medical secrets, but there are exceptions that medical secrets can be opened based on several things, namely: [7]

- Forced power
- Executing statutory orders
- Job orders
- To get insurance benefits

B. Conception of Patient Legal Protection in Health Law

According to Setiono, legal protection is an act or effort to protect the public from arbitrary actions by authorities that are not in accordance with the rule of law, to create order and peace so as to enable humans to enjoy their dignity as human beings. [8]

Legal protection of patients to protect patients from errors and omissions in health services is regulated in Law Number 36 of 2009 concerning Health which is regulated in Article 56 - Article 58, more precisely in Article 58 paragraph (1) which emphasizes that everyone has the right to claim compensation for a person, health worker, and/or health provider who incurs a loss due to an error or negligence in the health service he/she receives.

The legal protection of patients is reviewed from Law Number 8 of 1999 concerning Consumer Protection as in Article 1 paragraph 1 which explains that consumer protection is all efforts that guarantee legal certainty to provide protection to consumers. As in Article 2, a consumer is any person who uses goods and/or services available in the community, both for the benefit of oneself, one's family, other people, and other living creatures and not for trading.

C. Overview of Urip Sumoharjo Hospital

Urip Sumoharjo Hospital is a general hospital with Islamic nuances in Bandar Lampung City and has been accredited at the Plenary level. This hospital is located in the city on Jalan Urip Sumoharjo Bandar Lampung which began operating on September 10, 2001. The structure of the Urip Sumoharjo Hospital consists of sections that have the responsibility, function, and authority in regulating, carrying out and inspecting work that affects the quality that has been determined. defined and documented in the job description and operating procedures.

The purpose of the activity of establishing a hospital is as a means of health efforts that organizes health service activities and can function as a place for health worker education and research. to meet patient needs. Meeting the needs of these patients is of course based on the limits of the hospital's capabilities.

III. RESEARCH METHOD

The research used is based on normative-empirical (applied) legal research. [9] This type of legal research is used to examine the implementation or implementation of positive legal provisions (laws) in each particular legal event. This research is also supported by primary and secondary data collected through field studies and literature studies.

IV. RESULT AND DISCUSSION

A. Urip Sumoharjo Hospital Health Services during the Covid 19 Pandemic

In an interview at Urip Sumoharjo Hospital in August 2021, Head of Nursing Ns. Desmina S.Kep revealed that the number of Covid 19 patients was higher than that of non-Covid patients. This shows that during this pandemic, Urip Sumoharjo Hospital's health services are dominated by Covid 19 patient services.

In practice, health services for Covid 19 patients at Urip Sumoharjo Hospital have a different scheme or procedure from the service for non-Covid patients. Urip Sumoharjo Hospital has prepared stricter safety procedures where the infection prevention and control (APC) protocol is followed according to WHO standards [10]. Patient admission procedures have also undergone changes, including the universal use of masks, stricter screening procedures, setting visitation schedules, and limiting visitors/patient companions and even separating services for Covid 19 and non-Covid 19 patients.

The separation of services at Urip Sumoharjo Hospital is divided into two space zoning, namely the Covid 19 zone and the Non-Covid 19 zone. The Covid 19 zone is an area where the risk of COVID-19 transmission is high because it relates directly or indirectly to the services of COVID-19 patients [11]. This zone is intended for close contact, suspected, probable and confirmed COVID-19 patients. Included in the COVID-19 zone include service areas and support areas. Urip Sumoharjo Hospital currently has intensive services specifically for the Covid 19 zone, which consists of the Covid 19 ICU and the Isolation Room (service area). As for the supporting areas, Urip Sumoharjo Hospital divides the Covid 19 zone with the Non-Covid 19 zone with adequate bulkheads or barriers.

B. Restrictions made by Urip Sumoharjo Hospital Officers on the Release of Confidential Medical Information for Covid 19 Patients

All countries in the world are currently being shaken by the Covid-19 virus outbreak, including Indonesia. In a situation like this, the provision of information on Covid-19 patient data in a transparent and comprehensive manner is an obligation stipulated by Law Number 36 of 2009 concerning National Health. Under these conditions, a conflict arises between the protection of private rights and the public interest. This is because the patient's medical record data is part of the inherent rights of the individual concerned and is confidential which cannot be separated from the patient, so there needs to be a legal protection [12].

The release of confidential medical information is an issue that is a polemic in the world of health, especially during the Covid 19 pandemic. In practice, the release of confidential medical information for Covid 19 patients involves two intersecting rights. These intersecting rights are the right to public information for social purposes and the right to the security of personal data of Covid-19 patients. The intersection of these rights creates a separate polemic for the position of confidential medical information of Covid 19 patients. The purpose of this position is the extent to which medical confidential information of Covid 19 patients can be provided by medical personnel to be used as public information to prevent and overcome the spread of Covid 19 and the extent to which confidential medical information of the patient must be secured and kept confidential in order to protect the patient's private rights.

Such a polemic was also experienced by Urip Sumoharjo Hospital as a health service entity in Bandar Lampung. The hospital, which is the last guard in handling Covid 19, has the obligation to receive and treat Covid 19

patients. The health services provided by Urip Sumoharjo Hospital in serving Covid 19 patients are carried out in order to treat exposed patients as well as to optimize the prevention of the spread of Covid 19 in certain clusters. Efforts to optimize the prevention of the spread of Covid 19 in certain clusters are carried out by identifying traces of patient activity within the last 14 days. This, of course, requires medical information from patients exposed to Covid 19 regarding personal identity and others related to the interests of tracking clusters for the spread of Covid 19.

• Policy on Disposal of Confidential Medical Information of Covid 19 Patients by Hospitals

Health care providers are responsible for protecting health information contained in medical records against possible loss, damage, falsification and unauthorized access. Maintaining information security, information accuracy and easy access to information are the guidelines for health service organizations and health practitioners as well as authorized third parties. Meanwhile, parties who need information must always respect patient privacy. Overall, security (security), privacy (privacy), confidentiality (confidentiality) and safety (safety) are devices that fortify information in medical records.

However, under certain conditions or needs, confidentiality can be excluded. The act is carried out by medical personnel with the approval of the head of the health service provider. The rationale for waiving medical information is:

- There is a urgency or urgency to prove a medical claim for the patient's actual condition.
- Medical information is needed in the public interest
- Does not infringe on the patient's private rights.

The release of medical information based on the Health Law is permitted, as long as it is intended for matters that have been determined by legislation. In addition, the lex specialist procedure for releasing medical information is contained in the regulations issued by the health service provider.

The legal basis for confidential medical information is accommodated by two provisions, namely Regulation of the Minister of Health of the Republic of Indonesia Number 269/MENKES/PER/III/2008 concerning Medical Records (hereinafter written Permenkes No. 269/MENKES/PER/III/2008) and Regulation of the Minister of Health of the Republic of Indonesia. Indonesia Number 36 of 2012 concerning Medical Secrets (hereinafter written Permenkes 36/2012). The two provisions regulate all matters relating to confidential medical information, both to the procedure, the content of the material, the rights and obligations of each party and others.

Referring to the provisions of Article 9 Paragraph (4) of the Minister of Health 36/2012 it is determined that one form of releasing confidential medical information is due to the threat of an infectious disease outbreak. What is meant by an outbreak of an infectious disease is an outbreak of an infectious disease in a community whose number of sufferers has significantly increased beyond the usual situation at a certain time and area and can cause havoc. This should be

interpreted as an event in which many people contract a disease within a certain period of time that can threaten their lives and safety. Infectious disease outbreaks can be classified into three types, namely epidemic, endemic and pandemic.

The Covid-19 pandemic is actually a reflection of the occurrence of an infectious disease outbreak in the form of the corona virus which infects many people in a wide geographical area [13]. The spread of this corona virus poses a health hazard and has spread across regions and even across countries, so the Covid 19 pandemic is designated as a Public Health Emergency in Presidential Decree Number 11 of 2020 concerning the Determination of a Covid-19 Public Health Emergency. As a consequence of the stipulation of the Covid 19 pandemic as a Public Health Emergency, matters relating to the prevention and control of Covid 19 must refer to the provisions of Law Number 6 of 2018 concerning Health Quarantine.

In line with the understanding of the COVID-19 pandemic as an infectious disease outbreak, the connection with the release of confidential medical information is the qualification of the COVID-19 pandemic as an infectious disease outbreak. This means that the COVID-19 pandemic is classified as a condition for releasing confidential medical information for the public interest.

This relevance was further strengthened through the Decree of the Honorary Council for Medical Ethics Number 015/PB/K.MKEK/03/2020 concerning Fatwa on Medical Ethics, Health Policy, and Research in the Context of the COVID-19 Pandemic (hereinafter written SK MKEK No. 015/PB/ K.MKEK/03/2020). In essence, this MKEK Decree stipulates that medical secrets related to the interests of gathering information on outbreaks can be disclosed under certain conditions and limitations. That is, through MKEK Decree No. 015/PB/K.MKEK/03/2020, medical information relating to the COVID-19 outbreak is adjusted to be kept confidential at certain information limits. As for the things that can be disclosed in the interest of information on the 19 outbreak, they are limited to: [14]

- Initials
- Gender
- Short health status (died/severe critical/cured)
- Age
- Limited chronology only relevant to transmission

Meanwhile, the things that must be kept confidential are detailed clinical information, co-morbidities and treatment for Covid patients. This means that there are concrete limits set by the MKEK in terms of disclosing confidential medical information of covid 19 patients. The medical information that is opened leads to things that are directly related to efforts to handle, prevent and control the spread of covid 19. As for more detailed information, MKEK urges him to keep it closed and kept confidential. Here there is a repositioning of medical information status. Information that was originally closed, through the MKEK Decree, was changed to be partially closed and the other part to open medical information.

Thus, it can be concluded that the COVID-19 pandemic is one of the conditions for the release of confidential medical information as determined by Permenkes 36/2012. The legality of releasing confidential medical information is also strengthened through MKEK Decree No. 015/PB/K.MKEK/03/2020 which stipulates the disclosure of confidential medical information related to covid 19 under certain conditions and limitations. So basically there are three main legal policies that underlie the act of releasing confidential medical information of Covid 19 patients by health service providers, namely Permenkes No. 269/MENKES/PER/III/2008 concerning Medical Records, Minister of Health Regulation 36/2012 concerning Medical Secrets and MKEK Decree No. 015/PB/K.MK.K.MK/03/2020 concerning Fatwa on Medical Ethics, Health Policy, and Research in the Context of the COVID-19 Pandemic.

• Limitations on the Release of Confidential Medical Information for Covid 19 Patients Performed by Urip Sumoharjo Hospital Officers

Medical information regarding the handling and treatment of Covid 19 patients must be provided by medical personnel before the patient enters the isolation room. According to Rina S.Kep as Head of the Covid 19 Isolation Room at Urip Sumoharjo Hospital, giving general consent regarding Covid 19 patients must be given to the patient's guardian, either husband/wife, parents, biological children or people who live at home with the patient. Before entering the isolation room, the patient or the patient's guardian must first give written consent to the general consent given. This is intended so that the patient's family is fully aware of the strict Covid 19 patient care scheme.

The treatment of Covid 19 patients is carried out in a closed and limited manner to avoid the spread of the virus as well as to control the prevention of Covid 19. So the patient's family must really understand the procedure for isolating Covid 19 patients at Urip Sumoharjo Hospital, so that the medical risks that occur later on, the patient's family cannot be arbitrary. -mena sues medical personnel or Urip Sumoharjo Hospital with claims of negligence or failure to treat patients.

Referring to SK MKEK No. 015/PB/K.MKEK/03/2020 concerning Fatwa on Medical Ethics, Health Policy, and Research in the Context of the COVID-19 Pandemic, the identity of patients, with or without symptoms, as well as positive cases must still be protected. In certain circumstances, information may be disclosed as limited to initials of name, gender, brief health status (dead, clinically critically critical, or recovered), age and chronology relevant to the tracing of transmission. As for other in-depth clinical information, which is not of broad public health importance, such as detailed health status, co-morbidities, and treatment should not be disclosed. However, this returns to the exceptions to the provisions of the applicable laws and regulations, including in the case concerning the disclosure of the names of public officials and the names of medical personnel who are victims, awards can be given by the medical profession and the state. [15]

Legally, disclosing data on positive COVID-19 patients is a sensitive violation of human rights. A number of risks occur due to the disclosure of personal medical data to Persons Under Monitoring (ODP), Patients Under Supervision (PDP), positive patients and recovered patients, namely many of them being evicted from their homes and even refusal of funerals for patients who died due to being positive. Covid-19.

Limitations on the disclosure of confidential medical information of Covid 19 patients can be carried out by medical officers at Urip Sumoharjo Hospital by taking into account the type of information, the designation of the information and the recipient of the information. Medical officers at Urip Sumoharjo Hospital should ensure that the provision of medical information for Covid-19 patients is in accordance with the law on confidentiality of medical information in surveillance activities. In addition, the medical staff of Urip Sumoharjo Hospital must also ensure that the use of confidential medical information is strictly limited to the original purpose for which the information was collected.

The use and sharing of information for activities other than surveillance or unrelated research, requires an ethical submission to the committee concerned. For surveillance purposes, disclosure of the patient's identity to a certain extent is still acceptable, but for research it is unacceptable because there is no reason whatsoever that requires the disclosure of the identity of the research subject. All clinical data may be disclosed, except the identity of the research subject.

C. Legal Protection for Medical Personnel Related to the Release of Medical Information at Urip Sumoharjo Hospital

Disclosure of medical secrets collected in the event of an outbreak (including name, address, diagnosis, family history, etc.) without the patient's consent can pose a risk to the individual concerned.[16] WHO therefore recommends that despite the need for countries to control outbreaks, countries must also ensure adequate protection against these risks.

On the other hand, WHO recommends rapid data sharing related to public health emergencies. In epidemic conditions, which are conditions full of uncertainty and instability, periodic data sharing becomes crucial and urgent. The data in this case include health surveillance, clinical research studies, epidemiological, qualitative, and environmental studies. Each party that plays a role must cooperate in sharing relevant and accurate data for the sake of overcoming the outbreak. The involvement of this large amount of data requires countries to review laws and policies regarding data sharing and confidentiality. For the public, the sharing of periodic information in a transparent manner can combat misinformation, calm panic, restore public trust.

Legal protection for medical personnel related to the release of medical information for Covid 19 patients at Urip Sumoharjo Hospital can be done by establishing a special policy regarding the use of medical information during the Covid 19 pandemic. The determination of this policy can be based on the provisions of other laws and regulations, including the Health Law, Law No. Outbreaks of Infectious

Diseases, Minister of Health Regulation on Medical Records, Minister of Health Secretariat of Medicine and MKEK's Decree on Medical Ethics Fatwa, Health Policy, and Research in the Context of the COVID-19 Pandemic. In addition, the Urip Sumoharjo Hospital must encourage the cooperative attitude of medical staff, patients and their families to always participate in efforts to contain the spread of Covid 19.

Currently, the Indonesian government enforces very limited disclosure of medical information regarding medical information for Covid-19 patients by only providing data in the form of case number, age, and area of residence. Thus, the main actor in the act of releasing confidential medical information of Covid 19 patients is the government. This means that the limited disclosure of medical information for Covid 19 patients is an act that is legalized during the Covid 19 pandemic. However, if there are medical personnel who misuse or disseminate confidential medical information of Covid 19 patients, they must be given sanctions according to the applicable laws and regulations. apply.

Efforts to minimize lawsuits against hospitals and health workers are basically an effort to prevent ongoing risks that are patient safety oriented. To support these efforts, adequate health legal instruments are needed, so that there is legal certainty and comprehensive protection both for health service facilities and also for health workers who provide services.[17]

V. CONCLUSION

The COVID-19 pandemic is one of the conditions for releasing confidential medical information. Limitations on the disclosure of confidential medical information of Covid 19 patients can be carried out by medical officers at Urip Sumoharjo Hospital by taking into account the type of information, the designation of the information and the recipient of the information. Medical officers at Urip Sumoharjo Hospital should ensure that the provision of medical information for Covid-19 patients is in accordance with the law on confidentiality of medical information in surveillance activities.

Currently, the Indonesian government enforces very limited disclosure of medical information regarding medical information for Covid-19 patients by only providing data in the form of case number, age, and area of residence. Thus, the main actor in the act of releasing confidential medical information of Covid 19 patients is the government. This means that the limited disclosure of medical information for Covid 19 patients is a legal action during a pandemic.

Legal protection for medical personnel related to the release of medical information for Covid 19 patients at Urip Sumoharjo Hospital can be carried out by establishing special policies regarding the use of medical information during the Covid 19 pandemic.

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