LEGAL PROTECTION OF PATIENT PRIVACY RIGHTS AGAINST DISCLOSURE BY HEALTHCARE PROFESSIONALS ON SOCIAL MEDIA

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Abstract

The rapid development of information technology and the increasing use of social media in healthcare services have created significant risks to patients' right to privacy, particularly through the unauthorized disclosure of personal health information by healthcare professionals. This study aims to analyze the legal protection of patients' privacy rights and the legal consequences applicable to healthcare professionals who violate such rights through social media. This research employs a normative juridical method using statutory and conceptual approaches by examining relevant regulations, including the Indonesian Civil Code, Law Number 17 of 2023 on Health, and Law Number 1 of 2024 concerning Electronic Information and Transactions. The study finds that the unauthorized disclosure of patients' personal and health information through social media may constitute an unlawful act and give rise to disciplinary, administrative, civil, and criminal liability. Legal protection available to patients is predominantly repressive and multi-layered, including requests for content removal, complaints to healthcare institutions and professional disciplinary bodies, alternative dispute resolution, civil lawsuits, and criminal proceedings where the statutory elements of an offense are fulfilled. Despite the existing legal framework, its effectiveness remains constrained by implementation challenges, dependence on victims' initiatives, and insufficient regulatory harmonization. Therefore, stronger legal enforcement, comprehensive digital ethics guidelines, increased awareness among healthcare professionals, and better regulatory harmonization are required to ensure effective protection of patients' privacy rights in the digital environment.

Keywords: Patient Privacy; Social Media; Healthcare Professionals; Legal Protection; Legal Liability

1. INTRODUCTION

The development of information technology and social media has significantly changed communication in the healthcare sector. Healthcare professionals increasingly use social media for personal activities, professional communication, health education, and dissemination of medical information. A survey involving approximately 4,000 physicians reported that 90% used social media for personal purposes and 65% for professional purposes [1]. Although social media provides benefits in expanding access to health information and facilitating interaction with the public, its use also creates ethical and legal risks, particularly concerning patient privacy and confidentiality [2].

Patient privacy is an essential element of the relationship between healthcare professionals and patients. Patients disclose personal and medical information based on trust that such information will only be used for legitimate healthcare purposes. Therefore, healthcare professionals are required to maintain the confidentiality of information obtained during healthcare services. Previous studies have identified patient privacy, professional boundaries, and professional reputation as important ethical concerns in the use of social media by healthcare professionals[3]. The issue becomes more serious

when patient information, photographs, videos, diagnoses, or medical procedures are disclosed through social media without the patient's consent.

Several documented cases in Indonesia show that patient privacy violations through social media have produced legal and professional consequences. In April 2022, Kevin Samuel Marpaung posted a video recorded during a vaginal examination of a patient in childbirth, showing inappropriate gestures; the patient was identifiable, no consent had been given, and after the content went viral the Indonesian Nurses Association (PPNI) imposed a disciplinary sanction, the professional was dismissed, and criminal proceedings were initiated under the ITE Law [4].

In May 2022, a nursing student in Yogyakarta disclosed on social media the physical characteristics and medical condition of a male patient whose catheter she had inserted, without consent; she received academic sanctions and mandatory ethics training, while her institution apologised and tightened its social media policy. In Ogan Komering Ulu Timur, a health worker livestreamed a surgical procedure on TikTok to approximately 4,600 viewers without the patient's consent; the Regional Health Office suspended the practice licence and the hospital was ordered to revise its internal device-use policy [5].

These cases share a common pattern: disclosure without informed consent, patient identifiability, wide dissemination through social media, and accountability through disciplinary, administrative or criminal channels following public attention or formal complaint.

Indonesian law provides several legal foundations for protecting patient privacy. Law Number 17 of 2023 concerning Health recognizes the confidentiality of personal health information and establishes obligations for healthcare professionals regarding patient information. In the digital environment, Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions regulates the use of personal information through electronic media and emphasizes the importance of the consent of the person concerned. Protection is further strengthened by Law Number 27 of 2022 concerning Personal Data Protection, which provides specific protection for personal data, including health information. Accordingly, unauthorized disclosure of patient information through social media may not only constitute an ethical violation but may also give rise to disciplinary, administrative, civil, and criminal consequences.

Nevertheless, the existence of several overlapping legal instruments raises questions regarding how legal protection is applied in practice. A single disclosure of patient information through social media may simultaneously involve professional discipline, healthcare regulations, civil liability, electronic information law, and personal data protection law. Previous studies [2] have largely focused on ethical conduct and professional responsibilities in the use of social media, while the legal remedies available to patients and the sanctions that may be imposed on healthcare professionals require further examination [3].

Therefore, this study focuses on two principal issues: the forms of legal protection available to patients whose privacy rights are violated through social media by healthcare professionals, and the legal sanctions that may be imposed on healthcare professionals who commit such violations. This study is expected to contribute to the development of health law and privacy law in the digital environment and to provide practical legal understanding for patients, healthcare professionals, and healthcare institutions regarding the protection of patient information on social media

2. METHODOLOGY

This study employed a normative juridical research method, also referred to as doctrinal legal research, because the object of the study consists primarily of legal norms, principles, and statutory provisions governing patient privacy and the responsibilities of healthcare professionals.[6]. Normative legal research is conducted through the examination of legal materials and secondary sources relevant to the legal issues being analyzed [7]. This study was descriptive-analytical in nature, as it systematically described the applicable legal framework and subsequently analyzed its application to violations of patient privacy through social media.

The research applied two principal approaches: the statutory approach and the conceptual approach. The statutory approach was used to examine the legal provisions governing patient confidentiality, personal data protection, electronic information, professional responsibility, and

available legal remedies. The principal legal materials included the Indonesian Civil Code, Law Number 17 of 2023 concerning Health, Law Number 1 of 2024 concerning Electronic Information and Transactions, and Law Number 27 of 2022 concerning Personal Data Protection, together with relevant implementing regulations and professional disciplinary provisions. The conceptual approach was used to examine concepts concerning legal protection, patient privacy, therapeutic relationships, confidentiality, and professional responsibility.

The legal materials consisted of primary, secondary, and tertiary legal materials. Primary legal materials comprised legislation and regulations relevant to patient privacy and healthcare professionals. Secondary legal materials included books, journal articles, academic studies, and legal commentaries concerning health law, privacy, professional ethics, and personal data protection. Tertiary materials, including dictionaries and relevant media sources, were used where necessary to provide additional explanation and contextual information. The cases and professional ethical issues discussed in the study were used as supporting contextual materials to illustrate privacy-related conduct by healthcare professionals rather than as empirical samples.

The materials were collected through library research and analyzed qualitatively using normative legal analysis. Relevant statutory provisions, legal principles, concepts, and scholarly opinions were identified, classified, interpreted, and systematically connected to determine the forms of legal protection available to patients and the possible legal consequences for healthcare professionals who disclose patient information through social media. The analysis was then presented systematically to answer the research questions of the study.

3. RESULTS

Based on the analysis of the applicable legal framework, this study finds that violations of patient privacy by healthcare professionals through social media give rise to several interconnected legal consequences. Patient protection is not regulated under a single legal instrument, but is formed through the interaction of civil law, health law, electronic information law, personal data protection law, and professional disciplinary regulations. The findings further show that patients may obtain protection through different mechanisms depending on the nature and impact of the violation, while healthcare professionals may be subject to disciplinary, administrative, civil, and criminal consequences. In addition, patients are provided with several legal remedies, ranging from preservation of electronic evidence and removal of content to professional complaints, dispute resolution, civil claims, and criminal proceedings where the statutory requirements are fulfilled. Accordingly, the results of this study are presented in three main sections: legal protection for patients, legal sanctions for healthcare professionals, and legal remedies available to patients.

3.1 Legal Protection for Patients Against Privacy Violations on Social Media

The results indicate that legal protection for patients whose privacy is violated by healthcare professionals through social media is multi-layered and predominantly repressive. Following Muchsin [8], legal protection may be divided into preventive and repressive protection, the latter operating after a violation has occurred to resolve disputes and provide remedies; in social media disclosure cases, protection generally becomes relevant only once the patient's information has already been published or disseminated.

Preventive protection combines regulatory, institutional, and educational measures. At the regulatory level, Law No. 17 of 2023 on Health recognizes confidentiality as a protected right (Art. 4(1)(i)) and establishes professional accountability (Art. 305), while Government Regulation No. 28 of 2024 imposes corresponding obligations on professionals and healthcare institutions, including internal policies, supervision, and prohibitions on unauthorized recording or photography of patients. Law No. 27 of 2022 on Personal Data Protection adds consent requirements and obliges healthcare institutions, as data controllers, to adopt administrative, technical, and organisational safeguards such as access controls, staff training, and audit mechanisms.

Educationally, professional associations, universities, and employers are expected to provide continuing training on confidentiality, digital ethics, and professional boundaries — an approach reinforced by Minister of Health Regulation No. 3 of 2025, which allows training requirements to form

part of disciplinary sanctions. Comparable international guidance, such as the UK General Medical Council's Doctors' use of social media (2013), shows how clear professional standards can prevent violations, although it is not binding in Indonesia. In practice, however, these mechanisms remain limited: many institutions lack comprehensive social media policies and awareness of legal obligations among professionals is uneven, so stronger institutional commitment, clearer operational guidelines, and sustained education are needed.

Repressive protection becomes relevant after a violation has occurred and focuses on remedies for the patient and accountability for the professional, through several interconnected mechanisms discussed below.

3.1.1 Protection under the Indonesian Civil Code (KUHPerdata)

The relationship between healthcare professionals and patients creates legal rights and obligations through a therapeutic relationship. One of the obligations inherent in this relationship is the obligation to respect the patient's rights and confidentiality. Where a healthcare professional unlawfully discloses patient information and causes harm, such conduct may constitute an unlawful act under Article 1365 of the Indonesian Civil Code.

Article 1365 provides that a person whose unlawful act causes damage to another person is responsible for compensating the injured party. Accordingly, patients whose privacy is violated through the publication of medical information, photographs, videos, or treatment processes may claim compensation for both material and immaterial losses. Article 1367 of the Civil Code may also provide a basis for examining the responsibility of hospitals or healthcare institutions for unlawful acts committed by persons under their responsibility [9].

Therefore, civil law protection places emphasis on restoring the patient's rights through compensation where the elements of unlawful conduct, fault, loss, and causality can be established.

3.1.2 Protection under Law Number 17 of 2023 concerning Health

Law Number 17 of 2023 concerning Health provides more specific protection of patients' health information. Article 4 paragraph (1) letter i recognizes the right to confidentiality over personal health data and information, establishing confidentiality as a legally protected right and imposing a corresponding duty on healthcare professionals. That duty is grounded in the therapeutic relationship, characterized by trust, dependency, and information asymmetry, and is therefore not discretionary but inherent in the provision of healthcare services: patient information may not be disclosed freely, and any disclosure requires a lawful basis such as consent or another ground recognized by legislation.

The protection is operationalized through Article 305, which provides a complaint mechanism for patients or their families harmed by professional conduct and enables accountability through the disciplinary process. The Disciplinary Board (Majelis Kehormatan Disiplin Tenaga Kesehatan) examines complaints, assesses whether professional standards have been breached, and imposes sanctions where violations are established. Minister of Health Regulation Number 3 of 2025 specifies that disclosure of patient confidentiality constitutes a disciplinary violation sanctionable by written warning, mandatory education or training, temporary suspension of professional registration, or a recommendation for license revocation. Government Regulation Number 28 of 2024 reinforces the duty and sets administrative measures oral and written warnings, administrative fines, temporary suspension of practice, and license revocation while holding healthcare institutions responsible for ensuring compliance and liable to institutional sanctions where oversight is inadequate. These sanctions serve not only to punish the violating professional but also to protect future patients and maintain public trust in the healthcare system.

The connection between rights and obligations is thus structured: patients hold a legally recognized right to confidentiality, professionals bear a corresponding duty to protect patient information, and disciplinary, administrative, and judicial mechanisms enforce that duty. The Health Law likewise recognizes patient autonomy through the right to adequate information about health conditions and treatment, a principle closely tied to informed consent. Komalawati explains that adequate information allows the patient to participate actively as a legal subject in medical decision-making, and the same

principle requires professionals to respect the patient's control over information concerning their health [10].

3.1.3 Protection under the ITE Law and Personal Data Protection Law

Protection of patient privacy becomes particularly important where disclosure occurs through electronic media. Article 26 of Law Number 1 of 2024 concerning Electronic Information and Transactions provides that the use of information relating to an individual's personal data through electronic media must generally be based on the consent of the person concerned. Therefore, publication of photographs, videos, diagnoses, medical procedures, or other identifiable patient information through social media without lawful consent may infringe the patient's privacy rights [11] .

Law Number 27 of 2022 concerning Personal Data Protection further strengthens this protection because health information constitutes personal data requiring specific protection. Unauthorized disclosure of such information may therefore constitute not only a breach of professional confidentiality but also an unlawful disclosure or processing of personal data [12].

The interaction between the Civil Code, Health Law, ITE Law, and Personal Data Protection Law demonstrates that patient privacy is protected through complementary legal mechanisms. A single act of unauthorized publication may consequently generate more than one form of legal responsibility.

3.2 Legal Sanctions for Healthcare Professionals

The study finds that a healthcare professional who violates patient confidentiality through social media may face four distinct bodies of legal consequence: professional disciplinary sanctions, administrative sanctions, employment or institutional sanctions, and civil and criminal liability. These regimes rest on different legal bases, are imposed by different authorities through different procedures, and produce different legal effects. They may apply cumulatively to a single act of disclosure, but cumulation does not merge them: a reprimand issued by a hospital, a disciplinary sanction imposed by a professional body, and an administrative sanction imposed by an authorized official remain three separate instruments, each subject to its own grounds of challenge. The analysis therefore proceeds by regime.

3.2.1 Professional Disciplinary Sanctions

Article 305 of Law Number 17 of 2023 concerning Health allows a patient or the patient's family whose interests have been harmed to lodge a complaint with the Majelis Disiplin Profesi (MDP), which assesses professional discipline and fitness to practise rather than awarding compensation. Article 308 reinforces this screening function by requiring an MDP recommendation, issued within fourteen working days, before criminal proceedings may be pursued for conduct arising from service delivery. Where a violation is established, Article 306 provides for a written warning, an obligation to undertake training, temporary deactivation of the Surat Tanda Registrasi (STR), and/or a recommendation for revocation of the Surat Izin Praktik (SIP). Minister of Health Regulation Number 3 of 2025 specifies in Article 4 paragraph (1) letter i that "membuka rahasia kesehatan pasien" constitutes a disciplinary violation, with sanctions set out in Article 28.

3.2.2 Administrative Sanctions

Administrative sanctions are imposed by a government official rather than a professional body, and rest on administrative rather than professional-ethical grounds. Article 735 of Government Regulation Number 28 of 2024 reaffirms the duty to safeguard patient health secrets; Article 736 provides that breach may attract an oral warning, a written warning, an administrative fine, and/or revocation of license; and Article 747 vests the power to impose them in the Central, Provincial, or Regency/Municipal Government according to competence, on the basis of a complaint or official finding. The Health Law adds a more specific basis in Articles 422 to 427, which provide for a written warning, an administrative fine of up to Rp500,000,000 depending on the gravity and impact of the violation, temporary suspension of the practice license or competency certificate, and permanent revocation of

the STR or SIP [13] [14]. Being administrative decisions, these measures are governed by administrative law and may be challenged before the administrative court.

3.2.3 Employment and Institutional Sanctions

Sanctions of the third category are not health law sanctions at all. A hospital's reprimand, reassignment, or termination rests on the employment agreement, internal bylaws and credentialing rules, and employment law, Law Number 13 of 2003 and Government Regulation Number 35 of 2021, or Government Regulation Number 94 of 2021 for civil servants. Such measures regulate the employment relationship; they do not determine fitness to practice and neither substitute for nor preclude disciplinary or administrative determination. The Kevin Samuel Marpaung case illustrates the point: dismissal by the health facility, a measure by the professional association, and criminal proceedings under the ITE Law operated as three separate channels arising from a single act.

3.2.4 Civil Liability

Civil liability arises where unauthorized disclosure causes loss to the patient. Article 1365 of the Civil Code provides the principal basis, requiring an unlawful act, fault, damage, and causation; the losses claimed may be material or immaterial. In social media cases, immaterial losses may be particularly significant, since disclosure can cause embarrassment, psychological distress, damage to reputation and dignity, social stigma, or discrimination. Article 1367 may extend responsibility to the institution employing or supervising the professional [9] , while Article 310 of the Health Law requires disputes over alleged professional error to be resolved first through alternative dispute resolution. Civil liability thus performs a restorative function, focusing on compensation.

3.2.5 Criminal Liability

Criminal liability is the most serious consequence and does not arise automatically from every breach of confidentiality: it requires proof of the statutory elements of a specific offence and must be distinguished from disciplinary, administrative, and civil mechanisms [12]. Under Law Number 27 of 2022, Article 67 paragraph (2) criminalizes the intentional and unlawful disclosure of another person's personal data. Provisions of the ITE Law may also apply where electronic information is unlawfully accessed, transferred, or disclosed — Article 26 (consent), Article 30 (unlawful access), and Article 32 (unlawful alteration, transfer, or disclosure), with penalties in Articles 46 and 48 as amended by Law Number 1 of 2024.

3.3 Legal Remedies Available to Patients

The study further identifies several steps that patients may take to obtain legal protection after their privacy has been violated. The first step is to preserve electronic evidence before requesting deletion of the content. Evidence may include screenshots, screen recordings, links, account identities, publication dates, communications with healthcare professionals or healthcare institutions, and documents demonstrating the resulting losses. Article 64 of the Personal Data Protection Law recognizes electronic information and/or electronic documents as valid evidence in personal data protection disputes [12].

After preserving evidence, the patient may request the healthcare professional or healthcare institution to stop further dissemination and remove the relevant content. The patient may also use the reporting or privacy complaint mechanisms available on the relevant social media platform. Where the healthcare professional is employed by a hospital, clinic, public health center, or another healthcare institution, an internal complaint may also be submitted to request investigation and corrective measures.

Professional remedies may subsequently be pursued through the disciplinary mechanism under Article 305 of the Health Law and Minister of Health Regulation Number 3 of 2025. Administrative complaints may also be submitted to competent health authorities where the conduct constitutes a violation of health-sector regulations [13].

Alternative dispute resolution may also be pursued. Article 64 of the Personal Data Protection Law recognizes dispute settlement through court proceedings, arbitration, or other alternative dispute resolution mechanisms. Furthermore, the Health Law provides a mechanism for resolving certain disputes involving healthcare professionals outside the court. Such settlement may include removal of the content, an undertaking not to republish the information, clarification or apology, compensation, internal investigation, or improvement of institutional privacy procedures.

Where these mechanisms do not provide adequate recovery, patients may file a civil claim. Article 12 of the Personal Data Protection Law provides data subjects with the right to claim compensation for violations involving the processing of their personal data. This claim may be considered together with Article 1365 of the Civil Code where the elements of an unlawful act are established.

Finally, criminal proceedings remain available where the elements of a criminal offense are fulfilled. Therefore, the legal remedies available to patients form a progressive and multi-layered mechanism, beginning with evidence preservation and cessation of dissemination, followed by institutional and disciplinary complaints, alternative dispute resolution, civil proceedings, and criminal proceedings where legally justified.

4. CONCLUSIONS

This study concludes that the unauthorized disclosure of patient information through social media by healthcare professionals constitutes a violation of patient privacy and may amount to an unlawful act when it infringes legally protected rights and causes harm. Patient privacy is not merely an ethical obligation within the healthcare profession but a legally protected right supported by the Indonesian Civil Code, Law Number 17 of 2023 concerning Health, Law Number 1 of 2024 concerning Electronic Information and Transactions, and Law Number 27 of 2022 concerning Personal Data Protection. The legal protection available to patients is predominantly repressive and multi-layered, including requests for cessation and removal of the content, complaints to healthcare institutions and professional disciplinary bodies, alternative dispute resolution, civil claims for compensation, and criminal proceedings where the statutory elements of an offense are fulfilled.

Healthcare professionals who violate patient privacy may consequently face different forms of legal responsibility depending on the nature and severity of the violation. These include professional disciplinary and administrative sanctions, civil liability for material and immaterial damages, and criminal liability where intentional and unlawful disclosure satisfies the relevant criminal provisions. The involvement of several legal regimes demonstrates that protection of patient privacy in the digital environment requires an integrated approach rather than reliance on a single legal mechanism.

Although the existing legal framework provides relatively comprehensive protection, its effectiveness remains affected by practical challenges, particularly dependence on the patient's initiative to report violations, difficulties in controlling information after it has spread through social media, and the need for stronger harmonization between healthcare, electronic information, and personal data protection regulations. Therefore, stronger implementation of existing laws, clearer digital ethics guidelines for healthcare professionals, institutional policies on social media use, and greater awareness of patient privacy rights are necessary to ensure more effective protection of patients in the digital healthcare environment.

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