

# The Scientific Synergy in Handling the Crisis of The Covid-19 Outbreak: Privacy Protection Vs. Public Information Transparency

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**Abstract.** There are three interrelated things in scientific synergy in handling the Covid-19 response: government policies (both local and national), community attitudes, and no less important are, the role of technology. Since the initial instance was discovered, the spread of Covid-19 viral infections has risen. The debate around granting Covid-19 Positive Patients access to medical record data raises both positives and negatives in the community. If we are looking at the studies that has been published by researchers from other countries, this article intends to evaluate the viewpoints of numerous rules in assessing or examining medical record details, the shape of legal protection and the ramifications, and legal remedies for applied practice. According to the article, medical record data is a person's right that is both secret and limited. The legal protection afforded to a patient's medical record data is insufficient. Several nations have used patient personal data to predict the proliferation of the Covid-19 Virus, in accordance with the criteria of proportionality, need, and aim limitation.

**Keywords:** Medical Data; privacy; Covid 19; Openness

## 1 Introduction

There are three interrelated things in scientific synergy in handling the Covid-19 response: government policies (both local and national), community attitudes, and no less important are, the role of technology. The policy taken by the government, in this case, is somewhat different because the policy was not carried out during regular, stable times, but during a crisis where the safety and health of citizens are at stake, such as the lockdown policy, PSBB, and so on which harm the economy. However, the most controversial issue is the issue of Privacy Protection as opposed to Public Information Transparency.

Transparency of all forms of reporting an event is a must. It must be known by the broader community to obtain an accurate degree of information in the current era of openness. This demand indirectly leads to a fine line between personal privacy and public interest. The government is obliged to provide transparent and accurate news/information to prevent social disturbances in the community. Digitization of news that is integrated directly on smartphones and other electronic devices has also changed the order of human civilization globally.

The erosion of the boundaries of distance and time zones creates efficiencies in communication between individuals and groups. However, on the one hand, some problems can

cause friction in regulating legal protection and limiting the determination of the priority scale between the private and public domains. One area that raises serious legal issues regarding information disclosure has two interests: protecting individual privacy rights and guaranteeing the public's human right to access news that has implications for many people's lives.

The provision of information on medical records/patient health is a legal issue that invites debate, especially regarding the disclosure of data on the health condition of patients suffering from infectious diseases. The Covid-19 virus epidemic is a devastating illness that has struck several nations, including Indonesia. At the end of March 2020, two inhabitants of Depok City, West Java, became the first subjects to get the illness on the territory of the Republic of Indonesia.

The transmission of two positive Covid-19 patients began after one of them had personal contact with a Japanese citizen who tested positive for Covid-19 while undergoing testing in Malaysia. After meeting Patient 01 and a Japanese citizen at a Valentine's Eve dance party at Amigos Club in Jakarta, it was discovered that the Indonesian citizen had caught Covid-19 and transferred it to Patient 01. Patient 01 also infected his mother with the Covid-19 virus (Patient 02). Finally, both were found to be positive and had to be isolated in Sulianti Saroso Hospital. There are benefits and drawbacks to the openness of Covid-19 patient data while adopting Covid-19 outbreak prevention and control, which is a polemic for policymakers and the public. Those who support the comprehensive disclosure of the personal data of Covid-19 patients think that this action can help in anticipating transmission in an organized manner.

However, rejection also came from those who opposed this effort because it could cause discrimination and unilateral persecution from the community against patients and their families and those closest to them. Such as the incident that happened to patients 01 and 02 where the personal data of both of them was disseminated by irresponsible parties, including domicile, photos, family members, occupations to the work location concerned. The disclosure of Covid-19 patient data in a transparent and thorough manner by all parties engaged in the outbreak's management is a legal requirement that must be met.

According to Article 57, paragraph 2 of Law 36 of 2009 (from now on referred to as the National Health Law), the right to secrecy of personal circumstances is regarded null and invalid for the benefit of law and order and the public interest. This condition creates a severe legal conflict between protecting privacy rights and fulfilling the public interest. The security issue of media archives should be handled differently, and disclosure to the public is a challenge to the existence of private rights.

Medical confidentiality could also imply a relationship between patients and healthcare providers. Individuals' core human rights include access to their medical records. Because it is secret, legal protection is required. Considering the conflict between the public interest in limiting the spread of the Covid-19 pandemic and the question of prioritizing the concealment of medical record data as part of basic human rights in the private domain, this article will examine several things.

First, Identification of citizens, legal perspectives in viewing the disclosure of patient health data as a form of information transparency. Second, examine the protection provided to individual medical record owners and their legal implications after disclosing relevant information by unauthorized parties to the public. Third, evaluate inputs to the Government through comparative studies.

#### **Formulation Of Problems**

Based on the descriptions above, several problems can be stated, namely:

- a. What are the viewpoints of various national legislative legislation on the right to public information in COVID-19 patients' medical records?

- b. What is protecting patients' medical records with COVID-19 and the implications for violations of patient data confidentiality?
- c. How is the evaluation to mediate the conflict of information disclosure with protecting the privacy rights of the medical data of COVID-19 patients?

## **2 Research Methods**

This research employs normative juridical research, which examines the implementation of positive legal principles or norms (Ibrahim, 2019). The idea of positivist legis is used in normative juridical approaches. The concept considers law to be the same as written rules created and propagated by authorized institutions or officials. This notion regards law as a normative framework that is independent, closed, and disconnected from the lives of ordinary people (Soemitro, 1988).

This study relies on secondary data derived from library materials such as library books, rules and regulations, government documents, scientific works, publications, and research materials. Secondary data is information gained through library research findings obtained via the examination of papers, archives, and books in the study of theoretical subjects, particularly constitutional law.

The normative analysis approach reviews and investigates study matter based on legal understanding, norms, legal theories, and doctrines relevant to the subject matter, and the researcher scrutinizes the facts obtained. The necessary facts (legal facts) utilized as the minor premise are then connected with the legal rules required as the major premise, and a conclusion is made using a syllogism.

## **3 Results and Discussion**

### **3.1 The Perspectives of Various National Laws on the Right to Public Transparency on Patient History Data of Covid-19**

The Origination of Privileges and Data will be examined prior to explaining the situation with patient clinical record information in a few lawful instruments that wins from one side of the country to the other. As indicated by Sudikno Mertokusumo, the setting of right is characterized as safeguarded interests, while interests are characterized as people or gatherings that need their assumptions to be met. Interests fundamentally include legal powers that must be used in order to carry them out. According to this concept, human beings have inherent rights. While drawing in with different people and organizations, their application is being applied to the degree of opportunity and uniformity. While the meaning of data is gotten from the words informare, and that means to shape, suggests to illuminate.

Based on these definitions, information may be viewed as a notification about a specific object that allows someone to create an opinion about anything transmitted based on his expertise. The Law on Open Data Divulgence (Regulation No. 14 of 2008) characterizes data as articulations, considerations, and signs that contain values, definitions, and messages, the two information, verifiable information, and portrayals that should be visible, heard, and read that are given in various bundles and layouts following the progression of data and correspondence innovation electronically and non-electronically. This guideline characterizes public data as data got, kept, made due, sent, or potentially being gotten by open specialists connecting with state heads and the organization and additionally organization of other public experts as per this Regulation, as well as data of different issues of public interest.

Some rules in the national legal system divide Health Information into two categories: components of public law and aspects of private law. In the context of public law, health information is classified into two types: generic health information and particular health information. Hospital service information systems could be given in terms such as form of pricing, kinds of service methods, operational standards, service facilities, and funding systems include general health public information.

Also, the specific health public record includes information about the prevalence of infectious disease patterns, the patterns of transmission or transmission of a disorder, where the disease disorder spreads, and information about a time or description of the disease and its spread. By law, some of the later public guarantees about fitness data became required to be made available to the public. Several major reasons for the importance of public information sharing must be examined. First, in an era of globalization, access to information on government records happens practically anywhere in the globe, it demands that the government begin to open all access rights to information requested by the public.

Second, the consequences of maintaining human rights, which include information disclosure via active community participation in managing government decisions. Third, developments in information technology make it simpler for consumers to obtain news in a timely and efficient manner. Fourth, information disclosure policy is the legal foundation for effective governance. In terms of public law, the Public Information Ordinance is enshrined in various laws, including the Public Information Disclosure Act and the Health Act No. 36 of 2009 (known as the Health Act). Article 169 of the Health Act regulates transparency of public access rights to health information, which states: "Government provides the public with easy access to health information to promote public health." During the Covid19 pandemic, governments around the world are facing a headache, especially to prevent the spread of this disease.

The uncertainty surrounding the discovery of a vaccine to cure the Covid19 virus adds countless dangers to the social stability of a country. To prepare for the systemic impact of this disease, each country is trying to implement a non-medical strategy in the form of a "social vaccine". Social Vaccine is an administration activity and methodology that gives significant subtleties and measurements to bring issues to light about sound living in the midst of the Covid-19 episode. In order to stop the development of the Covid-19 epidemic, the government must provide the population with accurate and up-to-date information and literacy.

The quantity of positive and negative Coronavirus cases, the quantity of fatalities, the further insights of recuperated patients, measures to bring down the death rate, dissemination proportion, dealing with techniques, and the patient remaining parts are completely expected achievements. Covid-19 to the quarantine period's duration It is intended that the government would use these accurate, accessible, and accountable data points to reduce risk through proper legislation, therefore slowing the growth in the number of Covid-19 patients.

The option to get to wellbeing data was likewise essential for the accentuation of the issue, which is respected a high need in fulfilling the patient's freedoms as purchasers in conveying wellbeing administrations. This is represented by Consumer Protection Law No. 8 of 1999 and Hospitals Law No. 44 of 2009. As indicated by the standards of Article 4 passage (3) of the Consumer Protection Law, clients reserve the option to secure suitable, straightforward, and loyal data about the terms and assurances of items and administrations.

Accept it is associated with the former arrangements to satisfy the right to general wellbeing data. In such occurrences, it very well might be asserted in a roundabout way that the general population, as purchasers/patients, has the privilege to clean and legit data while getting wellbeing administrations off of the supplier. The clinic is additionally expected to share

wellbeing data to offer wellbeing administrations. Clinics are expected to uncover exact data in regards to administrations proposed to the local area under the terms of Article 29 section (1) of Regulation Number 44 of 2009. The extent of data that should be given precisely and straightforwardly incorporates the sort of administration, spending plan straightforwardness, simple access, and other public commitments seeing its status as a public assistance organization. The revelation of information to general society during the Coronavirus Pandemic as managed in a few of the regulations above is a development to the basic freedoms guideline in the 1945 Constitution of the Republic of Indonesia.

Considering the plans of Article 28 E and Article 28 F, the 1945 Constitution of the Republic of Indonesia gives confirmations to every Indonesian inhabitant to have, secure, and dissipate news and information to general society. In handling the Covid-19 outbreak, the Public authority meets the public's data needs for legitimate, exact and constantly refreshed information as indicated by the most recent circumstances and chance moderation should be done no matter what.

Transparency and coordination of the Public authority of the Republic of Indonesia in the conveyance of data in an incorporated way with the Provincial Government is the essential key to restrain the proliferations of Coronavirus so it doesn't turn out to be more monstrous. Also, the exactness and conveyance of responsible data about the Coronavirus episode can be utilized as a sign to forestall the receipt of uneven data that imperils the general population, including systems for utilizing sanitizers and the utilization of extra medications not suggested and safeguards for accumulating clinical gadgets. In the mean time, the kind of wellbeing data is private.

The extent of the clinical record comprises of information and the patient's ailment, both formed in clinical record information and known by wellbeing specialist co-ops, the two medical clinics, centers, and specialists. Patient clinical record information qualifies as delicate individual information. This is indivisible from the potential lawful dangers that are dreaded to happen, for example, accumulation, access and dispersal of clinical record information to different gatherings who don't have capability without the information and assent of the patient himself.

For instance, it tends to be utilized financially by other help giving ventures like the clinical and protection enterprises, so immediate selling is something many refer to. As indicated by the arrangements of Article 1 point 1 of the Priest of Soundness of the Republic of Indonesia Number 269 of 2008 about Clinical Records, clinical records will be records and papers giving patient recognizable proof, tests, treatment, exercises, and different administrations proposed to patients. Medical records include sensitive information. This is because the medical record reveals the uniqueness of the patient-doctor interaction. It should be protected from spilling as per the clinical set of rules as well as any relevant regulations and guidelines. The variable of mystery in clinical record information comprises of reports on understanding assessment discoveries, which ought not be disseminated to unapproved parties because of the patient's character.

Patients reserve the option to mystery and security in regards to their ailment, in principle. This is spelled forward in Article 32, letter i of the Wellbeing Regulation No. 44 of 2009. As a general rule, clinical record information is isolated into two classifications: private data and non-secret data. Private data incorporates reports or discoveries of evaluating the patient's wellbeing state, subsequently the substance of this archive ought not be gotten to or appropriated to unapproved people. The patient's doctor is responsible for informing the patient/family about the patient's sickness, and other parties have no authority to do so.

In the interim, non-private data incorporates personality and non-clinical data. Clinical record data having a place with Coronavirus patients is one sort of private data. Patient individual information is prohibited from being uncovered to people in general. This course of action is coordinated in Article 17 h of the Law on Disclosure of Public Information and Article 57 segment (1) of Guideline Number 36 of 2009 concerning Prosperity which communicates that: everyone has the honor to the order of his own infirmity that has been uncovered to prosperity expert associations. Data content containing clinical records and non-clinical individual information of Coronavirus patients is barred from severe and restricted data to be distributed to general society.

This information must be opened with the proprietor's authorization or on the sets of regulations and guidelines. In the event that anybody abuses this arrangement, they can be dependent upon lawful approvals adhering to the pertinent regulations and guidelines. In light of the depiction above, one might say that data in regards to general wellbeing can be gotten to by the public transparently on the grounds that the data is remembered for the part on basic social privileges to get to wellbeing administrations. Notwithstanding, this isn't true with clinical record information which logically contains the classification of individual privileges. Open admittance to clinical record information is totally restricted by regulation.

### **3.2 Assurance of Clinical Records of Patients with Covid-19 and its Suggestions for Infringement of Classification of Patient Information**

The revelation of positive Covid-19 patients' self-identity information and medical record data has sparked discussion in the community. To lower the incidence of transmission to the population, the request for total exposure of positive Covid-19 patient data for multiple categories is deemed necessary. It is intended that by disclosing medical information on Covid-19 patients, the public would be able to learn about the subject, place of residence, and history of patients' social interactions or positive Covid-19 suspects. The defenders of open clinical record information accept that straightforwardness is expected for early anticipation against the risk of transmission by limiting distance.

This contention depends on the approved foundation's month to month distribution of an ascent in the quantity of individuals distinguished to be tainted with the Coronavirus infection. On the opposite side, the arrival of information on certain Coronavirus patients has legitimate implications as encroachment of a very touchy parts of basic freedoms. Clinical information from positive Coronavirus patients should be shielded and put out of for free.

A few dangers might emerge because of unapproved people uncovering individual clinical information to People Under Management (ODP), Patients Under Observing (PDM), Positive Patients, and Recuperated Patients, resulting in a breach of an individual's human rights. Virus carriers are the unfavorable stigma connected to the four sorts of persons mentioned above. As a result, large numbers of them were ousted from their homes, and, surprisingly, the individuals who had passed on confronted dismissal when it came time to be covered.

During the Coronavirus response period, there were various events in which wellbeing specialist co-ops confronted two choices; first, specialists or clinical authorities keeps on dispersing data about the patient's wellbeing status as a ready and deterrent so the general population would stay away from illness transmission. Second, while referring to the Law's requirements for normatively sharing medical record data for Covid-19 positive patients, clinicians or medical officials continue to be directed by regulations while respecting patient medical confidentially.

Patient clinical data is confidential and restricted, and that implies that legitimate status is the kind of data gets special cases so it isn't uncovered to general society. This statement is

likewise upheld by Guideline of the Minister of Health of the Republic of Indonesia No. 269 of 2008, which expresses that wellbeing administration offices are at risk for clinical records. All events linked to patient services must be made or recorded by health care professionals; they must be managed appropriately and kept secret.

In such manner, it is feasible to gather that patient wellbeing information doesn't include data that must be kept and defended. It might just be uncovered with the approval of the Coronavirus patient being referred to or as per the provisions of the relevant regulations and guidelines that are freely accessible. Medical secrecy is a fundamental right of patients that must be upheld. The right to medical secrecy regarding the patient's medical record condition should be remembered as a restriction that should not be broken while acquiring access to health information. The right to protection in ongoing clinical record information is one of the crucial freedoms of people in medical care (the right to self-assurance).

Clinical record information is a lawful thing in Wellbeing regulation and a part of the Clinical Mystery Set of three Idea. The Mysterious Set of three of Medication is a bunch of interconnected joins between therapeutic activities. Informed consent, medical records, and medical confidentiality are the three components of the medical/therapeutic service relationship. The helpful collaboration among specialist and patient starts with the specialist giving essential data in regards to the patient's ailment. The specialist is then expected, as a component of the medical services gear, to seek for and obtain the patient's consent (informed consent). Informed subtleties was basically a clinical movement that starts with data given by a clinical specialist benefits and closes with the patient's consent to make a clinical move. This is a right that the patient should know about. As a result, even if the patient does not request it, it must be performed.

As indicated by Minister of Health Guideline No. 290 of 2008 concerning Clinical Records, specialists should play out the demonstration of informed assent sincerely, trustworthiness, and without alarming patients, and should plainly unveil the positive and negative ramifications of clinical measures that specialists will lead. The conflict regarding the disclosure of public information by freeing access to personal medical record data for Covid-19 positive patients has become a legal issue that has emerged during this pandemic. The peak of this momentum occurred when a citizen submitted a judicial review to the Constitutional Court (MK) to examine legal norms in several laws and regulations that stipulate the strata of classification of patient data.

This aims to make reactive steps to overcome early on by knowing the medical conditions of patients with or suspected of being positive for Covid-19. At the end of March 2020, Advocate Muhammad Sholeh and his six colleagues represented two of their clients to register a judicial review of some laws relating to the confidentiality of Covid-19 patient data to the Constitutional Court through online registration. The petitioners feel that their constitutional rights are disturbed due to the implementation of articles that protect personal data that can harm the community's interests.

In his subjective opinion, the applicant views that the existence of articles on the protection of personal data hinders the constitutional claims of the applicants for information about patients who have been affected by Covid-19. If the information is opened, it can minimize the risk more quickly. The incident above shows a tension between the human rights of positive or suspected Covid-19 patients, which must be protected by law, and the public's human rights, which demand to be more protected from the spread of the Covid-19 outbreak.

The exemption for distributing data on persistent clinical record information lawfully has a defensive premise in a few arrangements, specifically Article 17 h of the KIP Regulation and Article 57 section (1) of Regulation Number 36 of 2009 concerning Wellbeing, which expresses

that everybody has the privilege to the classification of his own ailment has been submitted to the wellbeing specialist organization.

Overcoming the Covid-19 virus pandemic, the Information Commission has an important task: first, to draw up technical instructions for information services during an emergency. The formulation of the provisions in Law no. 14 of 2008 only regulates information services when the country is in a normal situation, not a national disaster emergency. The information commission should draw up the guidelines from the pandemic's start. At this level, KIP has carried out its duties by issuing guidelines for information services during health emergencies. Second, the mechanism for resolving information disputes is quite complex.

Until now, there has been no request for dispute resolution regarding the personal data of Covid-19 patients. The aggrieved party's appeal must be submitted to the Public Agency controlling the published patient data. If there is a request, the Public Agency is obliged to conduct a public interest test. The test parameters used to apply two assumptions: the legal consequences if the information is disclosed and the data's impact on confidentiality. The Public Agency evaluates the balance of interests based on these two indicators. Suppose there are information applicants who object to the interest test results after going through the mechanism regulated by the Public Information Disclosure Act.

In that case, the patient data applicants can submit an information dispute request to the Central Information Commission or the competent Provincial Information Commission. A review of the legal culture on protecting private patient medical records for Covid-19 patients, the public's understanding of the importance of medical record data as privacy is not yet optimal. Public literacy regarding the limits of information published in general has not been fully understood by the public, such as disclosing the first two positive Covid-19 patients, which led to discrimination and unilateral justification for the parties concerned with their family members. The three indicators of the legal system above show that the protection provided legally for protecting the personal data of patients with Covid-19 is not yet comprehensive.

### **3.3 Evaluation to Mediate Disclosure of Information Conflicts with Protection of the Right to Privacy of Medical Data for Covid-19 Patients**

The spread of the Covid-19 virus pandemic, which has spread to almost all countries globally, has prompted many heads of government to take unconventional policies to stem, eradicate, and minimize the risk of the spread of Covid-19 through the use of data information. The use of the Digitalis system functions to collect, process and transfer data to form an integrated information network.

An intermediate step taken by the governments of some countries is to use data to disseminate essential information that will be used to map sustainable policies in handling the Covid-19 outbreak. Each country launched many policy breakthroughs to overcome this catastrophic disease. One of the controversial actions is access to personal data, which risks violating its citizens' privacy and fundamental rights.

Protection requirement specialists for the most part support a logical and context oriented approach in managing crises because of the Coronavirus flare-up while keeping up with proportionality and regarding the standards of public security. Halfway recovery of protection information is utilized to survey and further develop the medical services framework's ability and assess the adequacy of regulation and alleviation arrangements that confine the development of people. This presents new difficulties for overseeing protection and security. For instance, individual contact following is utilized to give significant data in restricting the spread of the infection. All things considered, from one perspective, it can prompt mass

assortment and sharing of individual information, check individual opportunities and disrupt individuals' majority rule freedoms.

Several countries have scalable solutions to support extraordinary measures against the recurrence of the Covid-19 outbreak while still paying attention to privacy regulations and data protection, as follows:

- a. The specialists of the Republic of Korea have phenomenal abilities to gather individual information if "important to forestall irresistible illnesses and communicate contamination" (Irresistible Infectious prevention and Avoidance Act, Articles 76-2).
- b. In Singapore, important individual information might be gathered, utilized and accumulated without assent for contact installments and different precautionary measures.

Based on the practice of collecting data on the handling of Covid-19 in several countries above, the governments of these countries do not reveal the personal identities of positive COVID-19 patients, especially those who are still suspect. The government only needs to provide the number of positive patients or suspected infections based on the serial number of case identification. The reasons for protecting public health can be made possible by limiting the protection of personal data by considering some requirements, such as the data subject's explicit consent, and aimed at the data subject's vital interests.

In actuality, both South Korea and Singapore have robust personal data protection legislation as a legal foundation. So, despite the fact that there is a policy in place to access personal data of patients suspected of or infected with Covid-19 (Contact Tracing), the scope of personal information that is traced includes past record of activities that correlate with transmission and places visited for roughly 14 days without disclosing personal identity. On the one hand, this step is thought to be rather fair because the benefits of disseminating information to the general population, who might have direct contact with patients, can significantly effect transmission rates. However, information distribution and the patient's medical record status should not be made public unless such data owner's explicit agreement is acquired and the information subject's vital interests are protected.

The Government of Indonesia can adopt good personal data use practices by the government based on the Personal Data Protection Principles, namely the principle of proportionality, necessity, and limitation of objectives. The principle of arbitrary restriction is the provision of restrictions on collecting personal data. That data must be obtained by lawful and fair means and, if necessary, with the knowledge or consent of the data subject. The content of personal data collected can only be used on a limited basis in connection with the COVID-19 response policy by first obtaining explicit consent from the patient concerned without publishing without a personal profile.

### **3 Conclusion**

Patient Medical Record Data is categorized by several statutory regulations as individual rights, which are private and confidential, so they cannot be published to the public without the consent of the patient concerned. Many laws and regulations have separately regulated patient medical record data protection, but they are not optimal. This is due to the conflicting norms in the Health Law between Article 71 and Article 72, which creates legal uncertainty and the abolition of criminal sanctions for unscrupulous doctors who violate the rights of medical records and harm patients' position in therapeutic agreements.

The practice of tracing patient personal data can be carried out in Indonesia by considering proportionality, limitations and needs related to limiting the spread of the Covid-19 outbreak. In addition, the Draft Law on the protection of personal data should be ratified immediately so

that Indonesia has a central umbrella regulation that is used as a bridge to handle the partial regulation of personal data, which is scattered in some regulations.

This paper only examines the scientific synergy in handling covid from the point of view of a legal expert, so the discussion is only about how to formulate the law and apply it optimally to address this critical Covid-19 crisis. So, it is recommended that readers study more from other sources and other disciplines to support the built synergy.

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