



Medical Record Data Counterfeiting by Doctors in Indonesia Reviewed from the Ethics, Discipline, and Legal Aspects

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Abstract

A doctor is required to provide good medical care and complies with the standard to the public. Doctors in carrying out their practice must make medical records. The existence of a medical record is not only needed as part of the health service but also as a legal basis because it contains facts about the patient's condition about the history or condition if the disease and the treatment measures that have been, are being, and will be done by a doctor. The problem in this research is about counterfeiting of medical record data by doctors in Indonesia reviewed from the ethics, discipline, and law aspect. A complete and correct medical record contains the medical chronology from patients and becomes one of the keys to resolving cases malpractice even made excuses by corruptors to ignore from investigation process with illness reason. Medical records data counterfeiting cases in Indonesia are subject to ethics, discipline, and law sanctions based on applicable laws and regulations because the counterfeiting violated the provisions applicable rules in medical practice whereas if the case only violates the provisions of ethics code and/or discipline then it is considered violations of ethic and/or discipline only. Thus, if a doctor is considered unlawful, then the doctor also violates ethics and discipline. Whereas, if a doctor is considered violate ethics and discipline then the doctor is not necessarily considered unlawful. Furthermore, a doctor should know and understand about ethics, discipline, and law related to medical practice and

need special education every doctor continuously in order to give understanding about ethics, discipline, and law so that cases of violations of ethics, discipline, and law can be minimized, or even no more doctor in Indonesia does violation caused by lack of integrity as a doctor also need for improvement in the medical record system so that its existence can be well maintained and not easily manipulated by anyone.

Keywords: *Counterfeiting, Medical Record, Ethic, Discipline, Law.*

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A. Introduction

A doctor is required to provide good medical care and corresponding with standards to the public. In Article 46 Law Number 29 on 2004 of Medical Practice (Medical Practice Law) explained that doctors in carrying out their practice are required to issue medical records. Further, described in Article 27 Medical Practice Law that record documents belong to doctors, dentists, or healthcare facilities while containing medical records are belong to patients and should be saved and kept confidential by doctors or dentists and chief of healthcare facilities.

A medical record is a file containing notes and documents about patient identities, examinations, medications, actions, and other services to patients on health care facilities.¹ Medical records are not only archived notes but it is also listed chronologically, systematically, and accurately comply with Article 3 Regulation Minister of Health Republic of Indonesia Number 269/MENKES/PER/III/2008 about Medical Record and its defined as history of person’s illness, actions, management plan information, clinical observation records and treatment results, approval/rejection from an action, discharge summary, and name also signature from health worker. Medical records as a document file have two forms: conventional medical records and electronic medical records.² Medical records can be a benchmark for the quality of health services in a healthcare facility. Even in the accreditation of

¹ J. Guwandi, *Dokter dan Rumah Sakit*, Depok: Fakultas Kedokteran Universitas Indonesia, (1991), p. 74.

² Nabil Atta Samandari dkk, “Kekuatan Pembuktian Rekam Medis Konvensional dan Elektronik”, *SOEPRA Jurnal Hukum Kesehatan Universitas Katolik Soegijapranata*, 2 (2), (2016), p. 156.

health care facilities, medical records include the part that gets an assessment.

Moreover, the existing medical record is not only required as part of health care but also as a legal basis because it contains facts about the patient condition or illness condition and also medication treatment by doctors. The medical record is important information for patients because doctors or hospitals have an obligation to share properly, clearly, and honestly related to health care that has been provided to the patient.³ The completeness medical record documents are very important because it affects to service process by medical officers and hospitals.⁴

Medical record may not be manipulated for any reason because to manufacture and to maintain the medical record is part of the professional ethics code. According to Sidharta, a professional ethics code is the principle moral in a profession arranged systematically, but by no means without ethics code, every professional carrier must put forward their principle.⁵ In practice, it unavoids if there is a doctor makes a fake or manipulated medical records deliberately which does not fit with the actual conditions. Though doctors need medical records because what has been done can be known from medical records and what should be done is in various standards which can be done if medical records are made accurately and completely while on the other hand, the standard of service is also written in detail.⁶ Some doctors do actions outside medical ethics code, in other words, to violate doctors discipline.⁷ A doctor named Bimanesh Sutarjo make a hospitalization letter for Setya Novanto allegedly with some diagnosis: hypertension, vertigo, and diabetes militus before Setya Novanto arrives in hospital. Doctor Bimanesh also commands nurse to put infus to Setya Novanto with needle sized 24 whereas that size usually uses for children, so he was charged with an investigation from Setya Novanto, the defendant of the e-KTP corruption case.⁸ His actions violate service standards applicable

³ Sudjana, "Aspek Hukum Rekam Medis atau Rekam Medis Elektronik Sebagai Alat Bukti Dalam Transaksi Terapeutik", *VeJ Universitas Padjadjaran*, 3 (2), (2017), p.372.

⁴ Fantri Pamungkas, Tuti Hariyanto, dan Endah Woro U, "Identifikasi Ketidaklengkapan Dokumen Rekam Medis Rawat Inap di RSUD Ngudi Waluyo Wengi", *Jurnal Kedokteran Brawijaya Universitas Brawijaya*, 28 (2), (2015), p. 125.

⁵ Sidharta, *Moralitas Profesi Hukum Suatu Tawaran Kerangka Berfikir*, Bandung: Refika Aditama, (2009), p. 107

⁶ Yanuar Amin, *Etika Profesi dan Hukum Kesehatan*, Jakarta: Pusat Pendidikan Sumber Daya Manusia Kesehatan, (2017), p. 138.

⁷ Darda Syahrizal dan Senja Nilasari, *Undang-undang Praktik Kedokteran & Aplikasinya*, Jakarta: Dunia Cerdas, (2013), p. 9.

⁸ Nasional Tempo, "Dokter Junior Bimanesh Sutarjo Akan Bersaksi Hari Ini", <<https://nasional.tempo.co/read/1072425/dokter-junior-bimanesh-sutarjo-akan-bersaksi-hari-ini>> Accessed on April 18, 2018

in health care by hospitals. Violations against with standards have effects of medical records counterfeiting even malpractice. It's shown by the high number of malpractice cases in Indonesia. At least from the year 2006 to 2015, there are 317 cases malpractice reported to Indonesian Medical Council (KKI).⁹ Therefore, according to the authors, these cases can describe the importance of good and true the existence from medical records. The rise of medical disciplinary cases by doctors is due to lack of profession discipline and understanding of medical ethics code.¹⁰ Also, less understand about the law among doctors also becomes a causal factor of the legal violation. From the above description, the author wants to discuss Counterfeiting Medical Record Data by Doctors in Indonesia Viewed from Ethics, Discipline, and Legal Aspects.

B. Discussion

1. Ethics, Discipline, and Law

In medical practice, ethics, and legal keep each other. Ethics is science what is commonly done or science of customs.¹¹ Ethics violation does not effect informal sanctions for the perpetrators. Unlike law violations, the sanctions of ethics violations will be imposed by a group of professions who have arranged the ethics code. Ethics can be divided into 2:¹²

- a. Pure ethical violation
 - 1) Withdraw unreasonable compensation from the patient or withdraw the remuneration from the family;
 - 2) Taking over the patient without his family agreement;
 - 3) Praise yourself in front of the patient, family, or community;
 - 4) Discrimination of medical service;
 - 5) Collusion with pharmaceutical companies or pharmacies;
 - 6) Unfollow medical education continuously;
 - 7) Doctors neglect their health.
- b. Legal ethics violations
 - a) Under standard medical service;
 - b) Issuing a false statement;
 - c) Performing contrary medical acts with the law;

⁹ Pos Kota News, "Dokter Umum Paling Banyak Lakukan Malpraktik", <<http://poskotanews.com/2015/05/20/dokter-umum-paling-banyak-lakukan-malpraktik/>>, Diakses pada 23 April 2018

¹⁰ Julius Pelafu, "Pelaksanaan Penegakan Kode Etik Kedokteran", *Lex Crimen Universitas Sam Ratulangi, IV (3), (015)*, p. 48.

¹¹ K. Bertens, *Etika*, Jakarta: Gramedia Pustaka Utama, (2007), p. 4.

¹² M. Jusuf Hanafiah dan Amri Amir, *Etika Kedokteran dan Hukum Kesehatan*, (akarta: Penerbit Buku Kedokteran, (2014), p. 20.

- d) Performing medical action without any indication;
- e) Sexual harassment; and
- f) Leaking patient secrets.

While discipline, in this case, is a rule of application of medical science and dentistry, and the law is a tool of written or unwritten norms used to organize discipline, and resolve various problems in society. The law is made by authorities, binding and also has clear sanctions. The law can be either permitting, prohibition, and/or obligation to do something. According to Hans Kelsen, the law is valid if it is made by institution or authorized authority and based on the higher norms (superior norms) hereby the lower norms (inferior norms) shall be formed by superior norms and the law hierarchy tiered and multilayered forms where an inferior norms apply, sourced, and based on superior norms.¹³ The law is divided into the various group, one of them can be seen from its contents. The law viewed from its contents is distinguished into public law and private law. Public law is a law that regulates the public interest, the relationship between the state and individual. While the private law is a law that regulates the relationship between one people with another which focus on the individual interest.¹⁴ In this regard, the health law includes the law of “lex specialis” which specifically protects the duty of the health profession (provider) in the human health service program towards the objective of the declaration of “health for all” and the special protection to “receiver” patient to get health services.¹⁵ Automatically, the health law regulates each right and obligations of service providers and service recipients, either as an individual (patient) or a community group.¹⁶ The medical ethics enforcement is conducted by the Medical Ethics Council of Ethics or *Majelis Kehormatan Etik Kedokteran* (MKEK) under the Indonesian Doctors Association or *Ikatan Dokter Indonesia* (IDI, the medical discipline enforcement conducted by the Indonesian Medical Disciplinary Council or *Majelis Kehormatan Disiplin Kedokteran* (MKDKI) under the Indonesian Medical Council, while its enforcement law is carried out by law enforcement apparatus. Sanctions against ethical violations by the severity of the violation may take the form of an oral warning, written warning, or administrative action. While sanctions for violations of medical discipline given by MKDKI can be in the

¹³ Hans Kelsen, *General Theory of Law and State*, New York: Russel & Russel, (1973), pp. 112-115.

¹⁴ C.S.T. Kansil, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia*, Jakarta: Balai Pustaka, (1989), p. 75.

¹⁵ Cecep Triwibowo, *Etika dan Hukum Kesehatan*, Yogyakarta: Nuha Medika, (2014), p. 16.

¹⁶ Soekidjo Notoatmodjo, *Etika dan Hukum Kesehatan*, Jakarta: Rineka Cipta, (2010), p. 44.

¹⁷ M. Jusuf Hanafiah dan Amri Amir, *Op.Cit.*, pp. 121-122.

¹⁸ Julius Pelafu, *Op.Cit.*, p.43.

form of warning, revocation of registration documents or *Surat Tanda Registrasi* (STR), temporary or permanent practice permits or *Surat Izin Praktik* (SIP), and re-education¹⁷. Ethics and discipline violation do not necessarily open the possibility of law violation, but law violation may open the possibility of ethics and discipline violation.¹⁸

2. Medical Record Counterfeiting by Doctors in Indonesia Viewed from Ethics, Discipline, and Legal Aspects.

In Article 13 paragraph (1) regulation of the Minister of Health Records has been explained that doctors must make medical records because medical records can be used for the following

a. Healthcare patient treatment

To maintain and treat the patient needs a medical record that to contain any disease that has been suffered patient, whatever the doctor do to treat the patient, any medication is ever given and other measures to treat patients. So if the patient needs further medical care, then the doctor and hospital have an illness patient history which may be useful in treating the patient.

b. Evidence in the process of law enforcement, medical discipline, and dentistry and the medical ethics and ethics dentistry enforcement.

Medical records may be evidence in the law enforcement officers if required by law enforcement officers and can only be granted if the court or the relevant institution in law enforcement asks for it.

c. Educational and Research purpose

In its use for educational and research purpose, it is not permissible to mention patient's identity if it has not obtained a written agreement from the patient or his heirs unless the utilization is used for a state purpose.

d. The basis of health service payers

Medical records can be useful as a basis for the health care payment because containing the patient's illness, hospital services regarding facilities and infrastructure, health care services provided to patients, and drugs provided which are in standard payment on each hospital handling patients.

e. Health statistics

Medical records can be data containing health statistics from patients even public. It can be used as a tool for evaluation from the hospital, doctors, or even government in the handling of disease and health services to the community.

Medical records may act as one of the legal evidence in the court. Complete and correct medical record contains a chronological health patient

history, and it is one of the keys to resolving cases of alleged malpractice. Even in some cases, corruptors proposed the medical records as an alibi to avoid the investigation process. Truth proofing of a disease in a medical record patient is the subject of an examination of a court case in the court and as a tool to make sure a judge about the truth in a dispute that is being handled by him.

Doctors who falsify medical records can be subject to ethical and disciplinary sanction. Article 7 of the Indonesian Medical Ethics Code or Kode Etik Kedokteran Indonesia (KODEKI) stipulates that doctor only gives a statement and opinion which has been examined for its truth. If a doctor violates the provisions in that Article, he may be subject to sanctions by MKEK in the form of a warning, suspension, and dismissal from professional membership. Article 69 of the Medical Practice Law stipulates that doctors can also be subjected to disciplinary sanctions in the form obtaining written warnings, recommendations for revocation of practice permits, and the obligation to attend education and training in a medical or dental education institution. The sanctions can be given by MKDI as an authorized institution to determine whether there are errors committed by doctors and dentists in the application of medical and dental disciplines, and to impose sanctions, as described in Article 1 number 14 of the Medical Practice Law. In Article 3 Paragraph (2) letter r of the Indonesian Medical Council Regulation Number, 4 on 2011 of Professional Discipline of Doctors and Dentists has been regulated that violations of professional discipline in any form are prohibited by doctors, including in making medical information that is not based on correctly and properly medical record. MKDKI decisions are binding, and their contents can be declared innocent or disciplined sanctions as mentioned above.

Furthermore, in the legal aspect, counterfeiting of medical records can be subject to rules in criminal and civil law. Article 184 of the Criminal Procedure Code or Kitab Undang-Undang Hukum Acara Pidana (KUHAP), the legal evidence is witness testimony, expert testimony, letters, instructions, and statements of the defendant. So, when viewed from the criminal law point of view, counterfeiting of medical records is included in the counterfeiting of evidence so that the perpetrator can be subject to sanctions contained in article 263 paragraph (1) and (2) of the Criminal Code or Kitab Undang-Undang Hukum Pidana (KUHP) which the elements are making fake letters that can give rise to rights and are intended for evidence and deliberately use fake or forged letters so that the use of the letter can cause harm.

In the case of malpractice, the doctor may falsify a medical record to protect himself from being found guilty of the lawsuit. It can be charged under Article 263 paragraph (1) and (2) of the Criminal Code (KUHP).

Another example in the case of corruption (typicism) which is used to ensnare officials, counterfeiting of medical records by doctors can occur when the official usually performs a strategy of pretending to be ill to deceive the investigators in the examination process, and this can be charged under Article 21 of Law Number 31 Year 1999 as amended by Act Number 20 Year 2001 concerning Eradication of Corruption Crimes whose elements are deliberately preventing, obstructing or derailing directly or indirectly the legal process in court against suspects, defendant, witnesses in corruption cases. Juncto Article 55 paragraph (1) and (2) of the Criminal Code (KUHP), the elements of which are those who carry out, order to do, and participate in committing acts and giving opportunities, means or information, deliberately encouraging others to commit actions. Regarding civil law, doctors who make counterfeiting of medical records can be subject to Article 1365 of the Civil Code (KUHPdt), explaining that any act violates the law which brings loss to other requires the person who due to the wrong issuance of losses, replacing the loss.

C. Conclusion

Counterfeiting cases of medical records can be subject to ethical, disciplinary, and legal sanctions based on the prevailing laws and regulations. Completed ethically, discipline, and law because the counterfeiting of medical records carried out violates the provisions in the applicable regulations in the medical practice while if only through ethics and discipline if the case only violates the provisions in the code of ethics and discipline only. So, if the doctor is declared to have violated the law, it is certain that the doctor violates the law. Furthermore, doctors should know and understand about ethics, discipline, and law related to medical practice as well as special education for each doctor on an ongoing basis in order to provide an understanding of doctors in Indonesia about ethics, discipline, and law so that cases of ethical violations, discipline, and the law can be minimized, or even no more doctors in Indonesia commit these violations caused by a lack integrity as a doctor and need for improvement in the medical record system so that its existence can be well maintained and not easily manipulated by anyone.

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