

TERAJU

Jurnal Syariah dan Hukum

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- **Syariah:** Usul Fikih, Fikih, Hukum Ekonomi Syariah, Hukum Keluarga Islam, Perbandingan Mazhab, dan Ilmu Falaq.
- **Hukum:** Filsafat Hukum, Hukum Bisnis, Hukum Pidana, Hukum Perdata, Hukum Tata Negara, Hukum Adat, Hukum Internasional dan Studi Perbandingan Hukum.

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Legal Protection of Patient Personal Data to Prevent Leaks on Social Media

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Abstrak

Era digital saat ini, jumlah informasi yang dibagikan melalui media sosial semakin meningkat, seperti data pasien yang rentan terkait kebocoran yang diakibatkan oleh tenaga kesehatan saat bekerja menggunakan social media dan mengumpulkan data pasien. Risiko pelanggaran privasi dan masalah hukum Undang-Undang No. 17 Tahun 2023 tentang Kesehatan belum cukup melindungi data pasien karena belum ada ketentuan yang mengatur sanksi pidana. Penelitian ini mengkaji standar hukum yang tepat terkait perlindungan data pribadi pasien di Indonesia yang dapat mengatasi masalah ini. Tujuan utama studi ini adalah mengkaji sanksi pidana bagi tenaga kesehatan yang menggunakan media sosial untuk mengungkapkan informasi pribadi pasien. Kesenjangan dalam undang-undang kesehatan yang tidak secara khusus mengatur sanksi pidana atas pelanggaran privasi data pasien menjadi subjek utama studi ini. Penelitian hukum dalam studi ini diharapkan dapat memperkuat undang-undang terkait perlindungan privasi pasien dan membantu otoritas kesehatan mencegah penyalahgunaan informasi pasien di media social oleh tenaga medis dan tenaga kesehatan di rumah sakit.

Kata Kunci : *Perlindungan Hukum, Data Pribadi Pasien, Media Sosial*

Abstract

In the current digital era, the amount of information shared through social media continues to increase, including patient data that is vulnerable to leakage caused by healthcare workers who use social media in their professional activities and during data collection. This situation poses risks of privacy violations and legal issues. Law No. 17 of 2023 concerning Health does not yet provide sufficient protection for patient data, as it lacks explicit provisions regarding criminal sanctions. This study examines the appropriate legal standards for protecting patients' personal data in Indonesia to address these issues. The main objective of this research is to analyse criminal sanctions for healthcare workers who disclose patients' personal information through social media. The legal gap in the current health law, which does not specifically regulate criminal sanctions for breaches of patient data privacy, is the core subject of this study. The legal analysis conducted in this research is expected to strengthen legislation related to patient privacy protection and assist health authorities in preventing the misuse of patient information on social media by medical and healthcare personnel in hospitals.

Keywords: *Legal Protection, Patients' Personal Data, Social Media*



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Introduction

In today's digital age, the dissemination of information through social media is increasing, for example, patient personal data that is vulnerable to leaks. This is due to the carelessness of health workers in managing patient information. This poses a risk of privacy violations and legal problems. Law No. 17 of 2023 concerning Health does not fully protect patient personal data, and there are no restrictions that impose criminal sanctions for violations. By providing appropriate legal guidelines on the use of personal data, Law No. 27 of 2022 on Personal Data Protection in Indonesia can address this issue in the absence of specific regulations. This study uses a normative-empirical approach, combining field data with analysis of legal regulations to assess the effectiveness of patient data protection.

The aim is to examine the criminal sanctions that are not strictly enforced in the Health Law, particularly regarding the leakage of medical records by health workers on social media. This research focuses on the lack of regulations regarding relevant criminal sanctions, with the hope of providing healthcare workers with a better understanding of how to protect patients' personal data and prevent the misuse of personal data on social media in the future, which is recorded as reaching 215.63 million people. The increase in internet penetration is a result of the public's increasingly urgent need for internet access. This is evident from the increasing use of the internet for various activities, such as communication, education, increased use of , and entertainment.¹ Every year, internet usage in Indonesia continues to increase,

¹ Smart Min, "Internet Usage in Indonesia Increases Rapidly, Reaching 221 Million People in 2024," *Smart City Gunungkidul*, 14 February 2024,

<https://smartcity.gunungkidulkab.go.id/2024/02/14/pengguna-internet-di-indonesia-meningkat-pesat-capai-221-juta-orang-di->

bringing both positive and negative impacts. In one sense, ICT emphasises community progress and welfare. However, unwise use, such as breaking the law, can cause problems. Indonesia is a country governed by law that requires all citizens to comply with all applicable laws. The state also guarantees equal legal protection for every individual, so it is important for the public to use ICT wisely to avoid negative consequences. It is necessary to discuss the relationship between the concept of human rights and national human rights law. According to F.J. Stahl, a nation is called a country governed by the rule of law (*rechtsstaat*) if it has the following three elements: (1) human rights (*grondrechten*) and their protection; (2) the state is based on the separation of powers (*scheiding van machten*); (3) its government is subject to legislation (*wetmatigheid van het bestuur*); and (4) a national administrative branch of justice () responsible for handling violations of government law (*administrative rechtspraak*).²

Albert Veen Dicey's theory of the rule of law is common in Anglo-Saxon countries, alongside JF Stahl's theory (*rechtsstaat*), which is common in continental Europe. This idea refers to three principles of law in a country: (1) equality before the law; (2) the supremacy of law; and (3) human rights.

According to the doctrine of the supremacy of law developed by F.J. Stahl and Albert Veen Dicey, a country is considered a constitutional state if it meets a number of requirements, including guaranteeing the protection of human rights. Therefore, when some countries claim to be constitutional states, their claims are difficult to accept if, in reality,

their governments do not guarantee and protect the human rights of foreign residents and their own citizens.

Based on Article 28G paragraph (1) of the 1945 Constitution, every citizen has the right to personal safety and security of information from data misuse. This includes the protection of personal data, including information that can be used to identify a person. Therefore, the protection of patients' personal information is very important to uphold the rights and dignity of every citizen.

As a country that upholds the rule of law, Indonesia faces difficulties in ensuring legal protection in the form of binding laws. According to the 1945 Constitution, the law is a weapon to protect human rights, including the right to privacy. This right, which is protected by law, includes data protection, especially the personal data of patients.³

Concerns about data breaches caused by technological advances and innovations in various industries, particularly in the health sector, have prompted increased legal protection for personal data. Everyone has the right to a decent and healthy life, housing, a healthy environment, and healthcare services, in accordance with Article 28 H paragraph 1 of the 1945 Constitution. This means that health is a fundamental human right, so patients have the right to receive optimal medical services and facilities in all circumstances.⁴

In the digital age, the use of social media to share information has involved people from all walks of life. However, if we are careless in using these platforms, we may violate the law. For example, healthcare workers who want to share

tahun2024/#:~:text=Asosiasi%20Penyelenggara%20Jasa%20Internet%20Indonesia,mencapai%20221%2C56%20juta%20orang, diakses 20 Agustus 2025.

² Ruslan Renggong and Dyah, *Human Rights in the Perspective of National Law* (Makassar: Kencana, 2021).

³ Sinta Dewi Rosadi, *Discussion of the Personal Data Protection Law (Law of the Republic of Indonesia No. 27 of 2022)* (Bandung: Sinar Grafika, 2023).

⁴ Metta Karunia Wijaya, "Criminal Law Review of the Right to Personal Data Protection for Accident Victims," *Journal of Health Law*, Vol. 9, No. 2, 2023.

content about health often inadvertently disclose patients' personal information, such as medical records. This highlights the risk of data leaks and patient privacy violations, which can have serious consequences. As a result, social media users need to be more careful and cautious when disseminating information.

Every individual has secrets they wish to keep, including patients who entrust their health information to healthcare professionals. Patients usually follow procedures by sharing details of their illnesses, believing that this information can support the healing process. Therefore, medical personnel have a responsibility to protect patient privacy. Based on their oath, healthcare professionals have a professional obligation to respect the rights and privacy of patients, including their personal and medical data. Enforcing confidentiality is crucial for building trust in the relationship between patients and healthcare professionals.

There is an urgent need for criminal regulations regarding the protection of patients' personal data on social media. Such regulations will provide a basis for identifying prohibited actions and even criminal offences, as well as establishing penalties for violators. Research on this topic is important to ensure the protection of patient privacy, by reviewing and analysing. Based on the Health Law and the PDP Law, the research question is: How important are Indonesian laws and regulations that protect patient privacy in the digital age to prevent privacy violations, particularly those related to the use of social media by healthcare professionals? The use of empirical normative legal research methodology is very important in producing academic work, particularly legal research. Research methodology is

necessary to obtain a comprehensive research direction because the purpose of legal science is to explain the law comprehensively in accordance with the objectives of legal studies themselves. In essence, legal science can be described as an applied science and a prescriptive science. Legal science examines the objectives of legislation, the principles of justice in a legal system, the benefits of legislation, and legal concepts and standards in the prescriptive realm. On the other hand, jurisprudence establishes protocols, clauses, and limitations in the application of law.⁵

Empirical research as a research methodology means that data is collected based on facts from the field. This research uses various sources to collect data, such as the results of pre-test questionnaires from participants, which can strengthen the data obtained. Using an empirical research approach allows data to be collected directly from the community through surveys and observations. Empirical data provides insight into how the law is applied and how the community responds to it. In the results of empirical research interviews, 87.5% of respondents reported experiencing personal data leaks, thus necessitating a legal approach and efforts to protect personal data. The main advantage of the empirical approach is its ability to reveal the reality of law in society, which is often undetected by normative analysis. For example, this approach can uncover problems in the application of rules to improve or enhance current regulations, especially those related to the protection of patient information data.⁶ Empirical legal research emphasises the collection and analysis of data from social reality to understand the factual application of law. The advantage of this empirical legal research method lies in its ability to

⁵ Suci Utami, "Criminal Acts of Virtual Money Laundering," *Al Adl Journal*, Vol. 1, No. 1, 2021.

⁶ Erwin Tumpal Ferdinand Tampubolon, et al., "Legal Liability of Hospitals Related to Patient Personal Data Leaks Based on Laws and Regulations," *Journal Syntax Idea*, Vol. 6, No. 3, 2024.

explain how laws are implemented, how society responds to them, and their impact on social behaviour. By using techniques such as interviews, observation, surveys, and statistical analysis, researchers can obtain a more accurate picture of the effectiveness of laws in real life. This method is very useful for assessing the success or failure of legal policies, as well as for designing legal reforms based on empirical facts. Although there are several significant methodological challenges in data collection and validation, empirical methods provide important added value in understanding law as a dynamic social phenomenon.⁷

Discussion

The health index of citizens is a crucial element in the development of a country. Every country needs to have a clear regulatory system in the field of health to ensure the welfare of its people. Health legislation serves as a guideline for health workers in providing medical services, as well as a reference for academics and legal practitioners. It is essential to have a deep understanding of health law so that healthcare providers can provide services in accordance with standard operating procedures (SOPs). If services do not comply with regulations, healthcare workers may face legal sanctions. Therefore, strict enforcement of health regulations is necessary to maintain the quality of services and health in the community.

Health is a fundamental human right and plays a crucial role in achieving the welfare desired by the Indonesian people. As part of overall welfare and national objectives, health development seeks to ensure that everyone has the capacity to live healthily and achieve the best possible level of health for the community. As the

highest authority, the government must fulfil its responsibility to provide adequate health facilities and services. Thus, the welfare of the people can be guaranteed and national prosperity can be realised.

Health is very important for humans and is needed by everyone. Health is an important part of the welfare of a country's society. Due to the importance of the welfare of the people, the community has the right to access health services that are simple, fair, and non-discriminatory, upholding human rights, and this is the responsibility of the government. In accordance with Article 28 H of the 1945 Constitution as amended.⁸

Rapid advances in technology and information have increased internet usage worldwide. Social media, when used wisely by medical personnel and health professionals, can have a positive impact, such as sharing educational health information. However, there are also negative risks, especially if healthcare practices lead to leaks of patients' personal data, such as medical records. Medical records must be kept confidential because they contain highly sensitive information. Articles 296 and 297 on medical records are regulated in the rules listed in Article 32 of Minister of Health Regulation No. 24 of 2022 and Article 4 of Minister of Health Regulation No. 36 of 2012, both of which regulate medical confidentiality based on health law. The obligation to maintain the confidentiality of this information is very important in protecting patients' privacy rights.

Every healthcare provider is responsible for establishing and upholding patient privacy. If patients feel that their data is securely protected, they are more likely to disclose personal information. To provide patients with a safe and comfortable environment, medical records

⁷ Yulia Audina Sukmawan and Dwi Damayanti, *Normative and Empirical Legal Research Methods as a Strategy for Strengthening the Perspective of Legal Studies*, *Notary Law Journal*, Vol. 4, No. 1.

⁸ Maryati, *The Application of Health Law in Community Services* (Jakarta: Scopindo, 2023).

must be kept confidential. In addition to being a moral right, protecting this privacy is also required by healthcare professional ethics. Doctors and other healthcare professionals are required to protect patient privacy and only use data for relevant medical purposes. In this way, protecting patient privacy is key to building trust in the medical relationship.

In addition to fulfilling our moral and legal responsibilities, we also build a strong foundation of trust between patients and healthcare professionals by emphasising the principle of medical record confidentiality. There is a component of trust in the doctor-patient relationship, namely that doctors can provide medical care and be relied upon to protect patients' personal information. "Every doctor is expected to maintain the confidentiality of any information they know about a patient, even after the patient's death," according to KODEKI, Article 12. This means that doctors have an ethical obligation in this situation.⁹

The process of providing healthcare services has several measurable aspects that are viewed from a quality perspective. These aspects then become the characteristics of service quality. Known as SERVQUAL, there are five main components: physical evidence, assurance, responsiveness, empathy, and reliability.

- a. The ability to provide services in a timely, accurate, and satisfactory manner is known as reliability.
- b. The willingness of employees to assist every customer and their ability and motivation to provide service quickly is referred to as responsiveness.
- c. Assurance means that staff have the necessary skills, are polite,

trustworthy, and free from risk and doubt.

- d. Empathy is the ability of staff to put themselves in the customer's shoes, which can include facilitating relationship building and communication, showing concern for customers, and understanding their needs.
- e. Physical evidence includes the presence of buildings and operational equipment, as well as the aesthetically pleasing appearance of staff.¹⁰

The quality of service provided by medical personnel has a significant influence on patient satisfaction. This quality can be measured through five aspects: reliability, availability, assurance, empathy, and tangible evidence. Utilising these five dimensions is crucial to providing optimal healthcare services. "Healthcare personnel are individuals who work in the healthcare field, are highly educated, and are authorised to carry out healthcare efforts," according to Article 1 Paragraph 7 on Health. By meeting these criteria, healthcare professionals can significantly improve patient satisfaction.

The Health Act is a "special rule and regulation" that governs the responsibilities and rights of healthcare professionals when treating patients. The Health Act is very important because it provides security, legal clarity, and references for medical services. However, this law does not fully regulate criminal sanctions for the misuse of patients' personal data. Article 4 paragraph (1) letter I, "The right to maintain the confidentiality of personal health information and data", outlines the patient's right to confidentiality.

⁹ Trihoni Indra, "Protection of Patient Data Confidentiality vs. the Obligation to Open Access to Electronic Medical Records," *Soeptra Journal of Health Law*, Vol. 10, No. 1, 2024.

¹⁰ Emilia M. K. Wijaya, "Criminal Law Review of the Right to Personal Data Protection for Accident Victims," *Soeptra Health Law Journal*, Vol. 9, No. 2, 2023.

Furthermore, as stated in paragraph (3) of Article 177, "Government regulations stipulate additional restrictions related to patient confidentiality." Maintaining patient privacy requires stricter and clearer legislation.



Figure 1. Healthcare Workers Using Social Media on TikTok

The photo of the health worker above shows a clear violation of the patient's right to personal data privacy. Healthcare workers are required by the Health Law to respect patient privacy, specifically Article 4 (1) letter i, which states that patients have the right to confidentiality of their health data and information. This violation highlights the need for greater awareness and understanding among healthcare workers about the importance of protecting patient privacy.

Healthcare workers have the right to report suspected criminal acts that they hear about from patients, in accordance with Article 302 of the Health Law. Specifically, paragraph (2) states that such reporting is not subject to patient confidentiality. However, there are currently no laws regulating criminal violations related to patient health confidentiality. This has created a legal gap in the protection of personal data.

Sensitive information related to the formal relationship between patients and healthcare practitioners is known as patient personal data. Protecting this data is crucial to prevent misuse that could damage the privacy of patients and their families. Violating someone's privacy can cause

financial and emotional harm, including long-term trauma due to the dissemination of patient personal data. Therefore, to ensure patient confidentiality and PDP, comprehensive government regulations with criminal sanctions are needed. The healthcare world has greatly benefited from advances in information and communication technology. However, there are also negative impacts, especially related to the use of social media by healthcare professionals. For example, posting photos or videos that include patient personal data, such as medical records, can result in violations of patient rights and privacy.

Table 1. Level of Understanding of Medical Personnel in Patient Data Protection

No.	Aspect of Understanding	Percentage (%)
1	Knowledge of patient personal data protection	10.5
2	Implementing best practices in managing patients' personal data	9.4
3	Efforts to prevent leaks of patient personal data	8.4
4	Understanding the consequences of patient personal data breaches	7.5

Based on the results of a research questionnaire conducted, many medical personnel are aware of patient privacy data and understand the legal consequences of violating patient personal data, but they do not apply best practices in managing patient personal data, and 9.4% still lack efforts to prevent the leakage of patient personal data in hospitals. Therefore, we chose this research title so that the

prevention of patient personal data leakage can be addressed. Therefore, there is a need for legal awareness among medical personnel to carry out their profession properly, namely by taking preventive measures in the event of a leak of patient personal data, as well as the need for strict regulations and sanctions to follow up on issues related to violations of personal data leaks in every hospital.

8.4% of patient data confidentiality is at a minimal level, based on data collected in the field; violations of patient personal data leaks are significant violations of patient PDP.

As this is not regulated by any law or regulation, criminal sanctions for violations, privacy and patient personal data are not adequately protected. Therefore, to protect the rights and privacy of patients and ensure legal clarity in terms of patient PDP, the government must immediately establish strict legal requirements.

With the enactment of the PDP Law, Indonesia has begun to implement regulations related to the protection of personal data. The data obtained is used to identify a person as a legal subject. The PDP Law states that failure to protect personal data can result in administrative, criminal, or civil sanctions. Article 65 paragraph (2) prohibits the sharing of other people's personal information without their consent, and paragraph (3), which prohibits the use of other people's personal information in the same way, provides an explanation of the limitations related to personal data protection. Enforcing legal accountability and protecting individuals' rights to their personal data are the main objectives of the PDP Law. According to Article 67, a person who deliberately and illegally discloses another person's personal information in violation of Article 65 paragraph (2) faces a maximum imprisonment of four years and/or a maximum fine of 4M. In addition, a person who deliberately and provenly exploits

another person's personal information in violation of Article 65 paragraph 3 is subject to a maximum imprisonment of five years and/or a maximum fine of 5 million.

The use of information and communication technology can have adverse effects in the digital age, particularly in relation to the misuse of private data, which often occurs unintentionally or because people are unaware of the dangers. The Indonesian government has passed a Personal Data Protection Law (PDP) to protect personal information. This law contains a number of important principles, including: *the principles of confidentiality, balance, accountability, public interest, benefit, prudence, protection, and legal certainty.*

With the enactment of PDP Law No. 27 of 2022, it is hoped that the public will be more cautious in their actions that could potentially violate PDP laws. A concrete example is the case of leaked patient medical records due to the imprudent use of ICT by health workers. This data leak could harm patients and lead to legal violations, making it important to have strong PDP regulations in place.

Comparison of data privacy regulations in various countries:

1. Hong Kong was the first region to implement a legislative framework governing data privacy. The Personal Data Privacy Ordinance (PDPO) of 1995 established the Privacy Commissioner for Personal Data (PCPD) as the authority responsible for data privacy issues. The PDPO has undergone significant changes over the years, particularly in 2012. Data security requirements, data deletion and destruction procedures, data quality obligations and guidance to third parties, restrictions on data collection, use and disclosure, and transparency in practices are all part of Hong Kong's data privacy principles.

2. The PDPO outlines specific data protection standards, such as:
 - a) Consent: Only with the consent of the data subject may an organisation collect, use, or disclose personal data.
 - b) Purpose: A company may only collect or utilise personal information if it discloses to the data subject the reasons for collecting, using, or disclosing the information.
 - c) Fairness: This is only possible if the organisation collects, uses, or shares personal information in a fair and justifiable manner.
3. Malaysia Articles 5 to 12 of the PDP Act list seven basic principles of data protection, including obtaining consent, providing information and choices to others, disclosing information, protecting data, and maintaining data integrity (storage and access). The European Union's Data Protection Directive has had a greater influence on these principles than the OECD Guidelines or the APEC Framework.
4. South Korea's Article 3 of the Personal Information Protection Act (PIPA) of 2011 establishes the fundamentals of data privacy. Processors of personal data are required to:
 - a) Have appropriate and well-defined purposes;
 - b) Only use personal information in accordance with the reasons for its collection;
 - c) Ensure the accuracy, completeness, and currency of personal data;
 - d) Ensure data security;
 - e) Ensure access rights and establish privacy policies;
 - f) Handling data without violating the rights of data subjects;

- g) striving to process data without disclosing the identity of the data subject where possible; and
- h) striving to gain the trust of data subjects by complying with the law.¹¹

Law enforcement related to PDP in Indonesia is very important given the frequent misuse of personal data due to unwise use in digital activities. The impact of this misuse can be very detrimental, including privacy violations such as leaks of patient medical records, false identities, fraud, and other crimes. As technology develops, ICT-related violations are on the rise, so criminal law must adapt to remain effective and capable of protecting personal data. This requires comprehensive regulatory updates so that sanctions imposed for personal data violations can be maximised and have a deterrent effect on perpetrators. The Indonesian government has improved personal data protection in a number of ways, with the aim of ensuring the privacy rights and fundamental human rights of citizens. Data protection regulations are based on the principles of the 1945 Constitution and Pancasila, which form the basis of positive law in Indonesia. Article 28G of the 1945 Constitution, One of the main provisions supporting this is that "It is a fundamental human right for every person to feel safe and protected from dangers that may cause them to fear to act or not to act, and everyone has the right to protection of their dignity, honour and privacy." Therefore, more generally, the legal framework for data protection safeguards individual privacy and fundamental human rights.

Article 12 Everyone has the right to privacy, according to the Universal Declaration of Human Rights and the protection of personal data, which protects the right to privacy under international law. Indonesia has ratified the UDHR, which

¹¹ Sinta Dewi, *Discussion of the Personal Data Protection Law (Law of the Republic of Indonesia No. 27 of 2022)* (Bandung: Sinar Grafika, 2023).

means that the government must be committed to enforcing laws related to this right. The laws currently in force are intended to help society as a whole and provide protection, justice and legal clarity.¹²

In the context of PDP, the following laws and regulations relate to patient personal information:

1. The management of medical records and the protection of patient data are regulated in Medical Records Regulation No. 269/MENKES/PER/2008 of the Minister of Health.
2. Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions contains guidelines on data security and privacy in electronic systems.
3. Law No. 27 of 2022 on PDP regulates the collection, handling, and protection of personal information.
4. Health Law No. 17 of 2023: This law protects patients' rights, including privacy and medical data protection.
5. Law No. 1 of 2024 regulates ITE.

Survey findings indicate that 96.9% of healthcare professionals have experienced data breaches involving patients' personal information. One notable example of a data leak occurred in early 2022, where 230,000 patient data cases were compromised. Additionally, approximately six million COVID-19 patient medical records were traded on the RaidForums website. On the one hand, the recurrence of data breaches highlights the lack of adequate data protection measures.

On the other hand, these repeated incidents underscore the urgent need to enact the Personal Data Protection Bill. It is estimated that this empirical study will significantly influence cases of breaches

involving personal data by strengthening social sanctions and legal regulations in the health sector, as well as data privacy laws related to patient information.

Conclusion

The protection of patients' personal data is part of the human rights guaranteed by the 1945 Constitution and reinforced by the Personal Data Protection Law. Although the legal framework is in place, enforcement remains weak because the Health Law does not yet regulate criminal sanctions for personal data violations. Research at Banjarmasin Hospital shows that data leaks still occur due to low legal and ethical awareness among medical personnel. Therefore, strict derivative regulations, synergy between regulations, and consistent monitoring and enforcement of sanctions are needed to protect patient privacy and increase public trust in health services in the digital age.

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¹² Muhammad Agusliyanto and Achmad Syaufi, "Criminal Acts of Personal Data Collection

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