

Securing Health Information: Personal Data Protection Under the Indonesian Health Law

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Taking effect in August 2023, Indonesia's "Omnibus Law" on health—Law No. 17 of 2023 ("**Health Law**"), reforms and replaces various existing health regulations and introduces significant measures to protect patient data, particularly the personal data and information of the patients which are obtained from healthcare facilities, relevant government agencies, organizations involved in the national social security program, individual self-reporting by the patients, or other sources.

The Health Law's emphasis on data protection aligns with Indonesia's Personal Data Protection ("**PDP**") Law, which defines personal data as information related to individuals that can identify them either directly or indirectly, through electronic or non-electronic means.¹ This definition means that all health data pertaining to an individual is considered personal data and must be safeguarded by the data controller. Furthermore, the PDP Law classifies health data as a specific type of personal data, which requires enhanced protection due to the potential risks associated with its misuse—such as discrimination or significant harm to individuals if exposed or mishandled.

It's important to note that some provisions in the Health Law, particularly those related to personal data processing, refer to existing laws and regulations on data protection, specifically the PDP Law. As a result, the PDP Law plays a crucial role across the health sector, guiding organizations in ensuring the safe handling and processing of patients' health data (or in this case, personal data).

Health Information System

The Health Law recognizes the Health Information System ("**HIS**"), a system that integrates various stages of processing, reporting, and utilizing health data. This system aims to improve the effectiveness and efficiency of health organizations.²

This system must process health data and information, which includes the acts of planning, collecting, storing, examination, transferring, utilizing, and destroying. The health data will include personal data, data whose identity cannot be traced or in the form of aggregated data, public information, and/or confidential information.³

The HIS is designed to support services within the health sector. Those responsible for the system must ensure its reliability in providing high-quality health data and indicators. These responsible parties are deemed to be 'organizers' and consist of:⁴ (a) the central government; (b) regional governments; (c) healthcare service facilities; and (d) the general public, including individuals and groups ("**Organizers of HIS**"). They are also required to maintain the confidentiality of patients' personal health information managed within the system.

¹ Article 1 number 1 of the PDP Law

² Article 9 number 9 of the Health Law

³ Article 961 paragraph (2) of GR 28/2024

⁴ Article 345 paragraph (2) of the Health Law

Organizer of Health Information System as Data Controller

The PDP Law classifies every person, public agency, and international organization that acts individually or jointly in determining purposes and exercising control over the processing of personal data, as a 'data controller'. In this regard, Article 962 of Government Regulation No. 28 of 2024 on the Implementing Regulation to Health Law ("**GR 28/2024**") provides that all organizers of HIS are considered to be data controllers, who are responsible for ensuring the quality of health and data information. As such, the Organizers of HIS must comply with the provisions on data processing under the Health Law and adhere to the data controller obligations set out in the PDP Law.

Requirement on Securing a Basis for Personal Data Processing

Under the Health Law, specifically Article 351, Organizers of HIS must obtain approval from the data owner and/or comply with the legal provisions governing personal data processing. This must be in accordance with the applicable laws and regulations related to personal data protection. Furthermore, Article 963 of GR 28/2024 specifies that the basis for processing health data may also be derived from other valid grounds for personal data processing, in accordance with relevant laws and regulations.

This leads us to Article 20 of the PDP Law, which outlines the following legal grounds under which a data controller may process personal data:

1. **Explicit consent** from the data subject for one or more specific purposes, provided to the personal data subject by the data controller;
2. **Fulfillment of agreement obligations**, where the data subject is a party, or to fulfill the data subject's request when entering into an agreement;
3. **Compliance with the data controller's legal obligations** under the provisions of applicable laws and regulations;
4. **Protection of the vital interests** of the data subject;
5. **Public interest duties, public services**, or exercising the authority of the data controller in accordance with laws and regulations; and/or

6. **Legitimate interests of the data controller**, taking into account the purpose, necessity, and balancing the interests of the data controller with the rights of the data subject.

Additionally, GR 28/2024 requires the Organizers in HIS to inform data subjects (personal data owners) about the processing of their personal data. If the data subject does not consent to the processing of their personal data, they must provide a written or electronic statement to the Organizers in HIS indicating their objection.

Rights of Personal Data Subjects under the Health Law

The Health Law grants the 'data owner' or in this case, the personal data subject — the individual to whom the health data pertains — several rights, including the right to access, correct, or request the deletion of their health data, to transfer it to another Organizers of HIS, and obtain other rights of personal data subjects in accordance with provisions of laws and regulations in the field of personal data protection (as provided in Art. 5 to Art. 13 of the PDP Law).

However, the above rights may be restricted under certain circumstances, such as:

- (a) national defense and security;
- (b) law enforcement processes;
- (c) public interest in state administration;
- (d) oversight of the financial services sector, payment systems, and financial stability; or
- (e) statistical and scientific research.

Moreover, GR 28/2024 specifies that personal data processing must adhere to the principles outlined in the PDP Law. These include ensuring that data collection is limited, legally valid, and transparent; and that data processing is carried out in accordance with its intended purposes, among other principles.

⁵ Article 1 number 4 of the PDP Law

⁶ Article 963 paragraph (2) of GR 28/2024

⁷ Article 351 paragraph (3) of the PDP Law

Conclusion

In conclusion, Indonesia's Health Law, together with the Personal Data Protection (PDP) Law, establishes comprehensive measures to protect personal health data. These laws ensure that patient information is handled securely and responsibly across the health sector. The Health Law outlines clear responsibilities for managing data within the Health Information System (HIS), while also granting patients important rights, such

as accessing, correcting, and requesting the deletion of their personal health data. With clear guidelines for obtaining consent, ensuring data accuracy, and regulating the flow of information, these laws represent a significant step forward in promoting trust and accountability in the management of health data. Moving forward, it will be essential to keep pace with evolving technology and regulations to maintain the security and integrity of health data.

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The article above was prepared by Dentons HPRP's lawyers

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