



**Fédération Européenne  
des Médecins Salariés**  
European Federation  
of Salaried Doctors

Date:	<b>06-05-2015</b>	Document:	<b>F15-027 EN</b>
Title:	<b>National Report Turkey</b>		
Author:	<b>Dr Arda Saygili, Istanbul Medical Chamber</b>		



**İstanbul Medical Chamber**

## **Semi-annual report of the İstanbul Medical Chamber, Vienna, May 2015**

### **The requirement of privacy protection with personal health data**

Keeping records of personal health and treatment data and information at all stages of health services is necessary with respect to different aspects. Previously used record systems have been replaced with electronic record systems. Notwithstanding the substantial benefits in regard to personal and social health achieved by it – keeping records of personal health data has led to undeniable issues.

All health information about individuals in Turkey is collected, stored and distributed, without informing these individuals and without obtaining their consent. As the result of privatization of health services, personal health data are being collected by the Ministry of Health, Social Security Institution, and private health insurance companies, commercialized and distributed nationwide and internationally.

In contrast to personal health data collected to a limited extend by an electronic record system called MEDULA used primarily for accounting purposes, which had been created upon the establishment of a single social security institution – now personal health data are being collected and distributed more extensively. Ministry of Health collecting the information of patients subject to treatment at any private and public health institution by a system it has named as “Health Network 2 Data Transmission System” – now has started a new practice asking self-employed physicians to send all patient data by the end of the day on electronic media, and makes efforts to turn this practice into a legal requirement.

By law; physicians are obliged “to present all, even confidential, documents, books and information upon request” according to the Legislative Decree 663 and Article 16 – and the Ministry of Health and its subsidiaries have been entitled by Article 47 with the authority “to collect, process and share by any means, the personal data of the individuals receiving health service from any public or private health institution or entity, who have to provide these to the related health institution or entity due to the provision of health service, and the information about the services provided to such individuals”.

The health data requested to be transmitted by all private and public health entities to the Ministry of Health and to be processed automatically and shared by the Ministry are not only limited with the information about the diseases subject to a notification requirement. The information requested as such include all identity, address, contact information, pregnancy tests, medical history, disabled status, marital status, smoking, alcohol and substance use, occupation, profession, educational background, income conditions, disease complaints, disease history, all analysis results, institutions addressed for analysis, the numbers of delivery, abortion and type of abortion of women between 15 and 49, women’s health processes, method of family planning used, results of identifications of pregnancy, last date of menstruation, father’s blood group, all cases of pregnancy resulting with delivery or abortion, whether pregnancy was identified or not, all oral and dental health information about preventive medicine actions, diagnosis and treatment and many other kinds of information.

The confidentiality of private life is protected by Article 20 of the Constitutional Law of Turkey. The use of private information of individuals without the consent of the individual or expect for cases, where a court ruling in this respect



## **İstanbul Medical Chamber**

exists, is prohibited. Collection and use of medical information and data as personal information beyond medical processes by other institutions of entities would constitute an explicit violation of personal rights and the confidentiality of private life, according to the provisions of European Convention on Human Rights and Ruling of European Court of Human Rights.

The rule that “everyone has the right to the protection of personal data concerning him or her” has been set forth by Article 8 of European Union Charter of Fundamental Rights. Furthermore, the principle that “the patient has the right to expect that his physician will respect the confidential nature of all his medical and personal detail” has been provided, according to WMA Declaration of Lisbon on the Rights of the Patient issued in the year 1981.

In a State of law, any authorization which is not based on the constitution and laws cannot be used, particularly those restricting personal any rights and freedom. The provisions of the new regulation draft intending to allow collection and sharing of data for recording of health information of individuals are unlawful – since collecting personal data about health is not based on the constitution and laws, since such practice is implemented only based on a legislative decree and since “personal data” included as a concept in privacy and protection of confidentiality rights cannot be subject to a form of any legislative decree. For these reasons; Article 47 of Legislative Decree 663 authorizing the Ministry of Health to “illegally keep records of patients” has to be abolished immediately by the Constitutional Court.

Furthermore – data security has either a vital importance, beneath the protection of personal data. We are seriously concerned about this issue and its multi-dimensions – as to the rumors about the Social Security Institution selling health data in order to cover budget deficits as reported in national media news and that the documents of 80 million people at private health insurance companies have been stolen as the result of a cyber-attack.

Such data are extremely valuable assets for drug companies, insurance companies and organ mafia, and it became very difficult to rely on data security under current conditions because of cybercrime and hacking becoming a real threat under current technological developments, and more importantly to convince the patients that the information they provide and their secrets are kept confidential in safe hands. Such data getting into the hands of third persons may lead to patients and physicians to be aggrieved or even menaced by them.

The protection of personal data and patient data security must be maintained as an incontestable right of patients in our profession, where health services should be predicated on trust and security.

İstanbul Medical Chamber, FEMS Delegation  
Arda Saygılı.MD