



## GENERAL OVERVIEW OF HEALTH LAW IN INDONESIA

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### Abstract

Initially, health development relied on efforts to treat disease and restore health, shifting to implementing comprehensive health efforts with an emphasis on efforts to prevent disease and improve health. Adequate health legal instruments are intended to provide legal certainty and comprehensive protection for both providers of health efforts and communities receiving health services. The legal basis for health is regulated in Law Number 36 of 2009 concerning health. Health Law is all legal provisions that relate directly to health maintenance/services. This concerns the rights and obligations of receiving health services (both individuals and levels of society) as well as the implementation of health services in all its aspects, organization, facilities, medical service standards and so on. A Health Worker is any person who dedicates themselves to the health sector and has knowledge and/or skills through education in the health sector, which for certain types requires authority to carry out health efforts. As legal subjects, actors in the health sector such as doctors, dentists, hospital directors, heads of health services, heads of divisions, heads of community health centers always carry out legal actions. Legal actions taken if they conflict with applicable regulations will result in legal sanctions.

**Keywords:** *Health Law, Health Workers, Rights and Obligations*

### 1. INTRODUCTION

In the current era of reform, law plays an important role in various aspects of social and state life. To realize an optimal level of health for everyone, which is an integral part of welfare, legal support is needed for the implementation of various activities in the health sector. Changes in the concept of thinking about implementing health development are inevitable. Initially, health development relied on efforts to treat disease and restore health, shifting to implementing comprehensive health efforts with an emphasis on efforts to prevent disease and improve health. This paradigm is known in health circles as the healthy paradigm. As a logical consequence of the acceptance of the healthy paradigm, all activities must be oriented towards health insight, continue to maintain and improve the quality of individuals, families and communities and the environment and continuously maintain and improve quality, equitable and affordable health services and encourage community independence. to live healthy. In summary, to realize an optimal level of health for everyone, serious attention must be continuously paid to implementing health-oriented national development, providing guarantees for health care, increasing professionalism and decentralizing the health sector. These activities of course require adequate health legal instruments. Adequate health legal instruments are intended to provide legal certainty and comprehensive protection for both providers of health efforts and communities receiving health services. The questions that arise are who the health workers are and their relationship to the oath or code of ethics for health workers, doctors and midwives, and what is meant by health law, what is the basis of health law, the content of health legislation and health law in future. It is hoped that the answers to these questions can contribute to thinking, both theoretically and practically, regarding the existence of health law. For this reason, a normative study is carried out, a study that refers to law as a norm with restrictions on health problems in general through legal scientific traditions. In this connection, the health laws studied are divided into 3 (three) groups according to the three layers of legal science, namely legal dogmatics, legal theory and legal philosophy.

Furthermore, to solve legal issues, legal questions that arise, conceptual, statutory, historical, dogmatic and comparative approaches are used. However, due to time constraints, this study was limited to only looking at health sector legislation.

## 2. RESULTS AND DISCUSSION

### Understanding Health Law

Health Law is all legal provisions that relate directly to health maintenance/services. This concerns the rights and obligations of receiving health services (both individuals and levels of society) as well as the implementation of health services in all its aspects, organization, facilities, medical service standards and so on. As legal subjects, actors in the health sector such as doctors, dentists, hospital directors, heads of health services, heads of departments, heads of community health centers always take legal action. Legal actions taken if they conflict with applicable regulations will result in legal sanctions. Every legal subject in the health sector must understand health law. Lack of understanding of health law results in people often being caught up in legal actions. If you look at health law, it includes:

1. Medical law (medical law).
2. Nursing law (nursing law)
3. Hospital law
4. Environmental pollution law (environmental law)
5. Waste laws (from industry, household, etc.)
6. Pollution law (noise, smoke, dust, odors, toxic gases)
7. Laws on equipment that uses x-rays (cobalt, nuclear)
8. Work safety law
9. Laws and other regulations that have a direct relationship that can affect human health.

### Foundation of Health Law in Indonesia

Hermien Hadiati Koeswadji said that in principle health law is based on the right to health care as a basic social right (the right to health care) which is supported by 2 (two) basic individual rights consisting of the right to information (the right to information) and the right to determine one's own destiny (the right of self-determination). In line with this, Roscam Abing links health law with the right to health by stating that the right to health care includes various aspects that reflect the provision of protection and provision of facilities in its implementation. Realizing the right to maintenance can also involve implementing the right to life, the right to privacy and the right to obtain information. Likewise, Leenen specifically explains in detail all the basic human rights which are the basis for health law. The legal basis for health is regulated in related laws and regulations, namely: Law no. 36 of 2009 concerning health. This law is the basis for every health business operator. Therefore, it is a good idea for everyone working in the health service sector to know and understand what is regulated in this law. The aim of this law is to improve the health of all members of society. So health administration must follow the provisions that have been set. Health law also has several functions, namely:

1. Tools to increase the effectiveness and efficiency of implementing health development which includes health efforts and resources.
2. Reaching the increasingly complex developments that will occur in the future.
3. Providing legal certainty and protection for providers and recipients of health services.

Legal principles are basic norms that are explained from positive law and are not considered by law to originate from more general rules. In health science, several principles are known, namely:

1. *Sa science et sa conscienc* meaning that the intelligence of a health professional must not conflict with his conscience and humanity. Usually used in regulations on the rights of medical personnel, medical personnel have the right to refuse to carry out medical procedures if it is against their conscience.



2. *Agroti Salus Lex Supreme* namely patient safety is the highest law.
3. *Deminimis noncurat lex* means the law does not interfere with trivial matters. This is related to negligence committed by health workers. As long as the negligence does not have a detrimental impact on the patient, the law will not prosecute.
4. *Res ispa liquitur* i.e. the facts speak for themselves. Used in malpractice cases where the negligence that occurred does not need further proof because the facts are clearly visible.

## Health Workers, Professional Ethics, and Health Code of Ethics

### a. Health workers

Health worker is every person who dedicates themselves to the health sector and has knowledge and/or skills through education in the health sector, which for certain types requires authority to carry out health efforts, whether in the form of D3, S1, S2 and S3 degree education; non-degree education; up to special vocational training such as Immunization Specialist, Malaria, etc., and expertise. This is what differentiates this type of energy from other types of energy. Only those who have education or special skills are allowed to do certain work that is related to the human soul and body, as well as the environment. Types of health workers consist of:

- 1) Nurse
- 2) Dentist
- 3) Midwife
- 4) Physiotherapist
- 5) Optician refractionist
- 6) Radiographer
- 7) Pharmacist
- 8) Pharmacist assistant
- 9) Pharmaceutical analyst
- 10) General practitioners
- 11) Dentist
- 12) Medical specialist
- 13) Specialist dentist
- 14) Acupuncturist
- 15) Speech therapist
- 16) Occupational therapist.

### b. Health Ethics

Health Ethics consists of Ethics and Etiquette, Health Ethics Derived from English, ethics is a term that emerged from Aristotle, the origin of the word ethos, namely custom, character. Ethics in general means that every human being has the right and obligation to determine his own actions and be responsible for them before God, while the definition of a code of ethics in public health includes:

- 1) Code of ethics for health workers.
- 2) Work health and safety code of ethics.
- 3) Code of ethics for sanitarians (environmental health experts).
- 4) Nutritionist code of ethics.
- 5) Biostatistics code of ethics.
- 6) Epidemiology code of ethics
- 7) Health informatics code of ethics
- 8) Reproductive health code of ethics

Problems with the Public Health Code of Ethics are: Enforcement of the code of ethics, factors inhibiting the code of ethics and justice in the profession, differences in ethics and etiquette. Ethics determines norms of action whether the action can be done or not, for

example entering without permission is not permitted. Etiquette determines how to carry out actions according to what is desired. Ethics does not depend on whether people are present or not. Ethics is absolute and non-negotiable, for example stealing and killing. Etiquette is relative. Values are beliefs about how to behave and the final goals an individual desires, and are used as principles or standards in their life. Ethical assessment is based on several factors, namely: The emphasis of ethical assessment as a science is on good or evil, moral or immoral actions and a person's actions or behavior which have become their nature or have become ingrained in their flesh, that is what is called morals or good deeds. character. Budi grows in the soul, when it is born in the form of actions, it is called character. Drs. Burhanuddin Salam explains that an action is valued at 3 (three) levels.

- 1) The first level, before it is born into action, is still a plan in the heart, an intention.
- 2) The second level, after birth, becomes a real action, namely character.
- 3) The third level, the consequences or results of the action, namely good or bad.

Values in philosophy consist of Logical or Reasonable Values which include the value of right or wrong. Aesthetic Value: sight. Ethical Values: behavior. The value, whether good or bad, creates, maintains and improves the highest level of public health. respecting the rights of others in an effort to obtain a healthy environment, both physical, biological and social. Have a healthy lifestyle to create, maintain and promote the highest level of health. Maintaining and improving the health status of other people who are their responsibility. Everyone is obliged to participate in the social health insurance program. Rights and Obligations in the Profession Article 27 (1) Health workers have the right to receive compensation and legal protection in carrying out duties in accordance with their profession. Health workers in carrying out their duties are obliged to develop and improve their knowledge and skills. School & Principles of Health Ethics. Deontological flow: assessing whether an action is right or whether a person is good or not does not need to look at the end result but what is judged is the action itself. Immanuel Kant "a person does good because he is rational and not dogmatic, for example: people do not steal not because they are afraid of hell, but they steal bad deeds. Continued Teleological (consensualist) flow: The good and bad of a person is judged by the goals to be achieved. Division: Ethical Egoism: obliged to do good for the sake of personal Utilitarianism: the obligation to do good for the sake of the public and society, for example: smoking.

### 3. CONCLUSION

1. Health Law is all legal provisions that are directly related to health care/services, apart from that, every legal subject in the health sector must understand health law.
2. The legal basis for health is regulated in statutory regulations, namely: Law no. 36 of 2009 concerning health. This law is the basis for every health business operator. Therefore, it is a good idea for everyone working in the health service sector to know and understand what is regulated in this law.



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