

ETHICS AND LAW OF HEALTH WORKERS IN MEDICAL SERVICE PRACTICE

Harold Rifano Masharto

Mahasiswa Pasca Sarjana Universitas Panca Budi Medan

Received : 21 May 2025

Published : 09 July 2025

Revised : 30 May 2025

DOI : <https://doi.org/10.54443/ijerlas.v5i4.3517>

Accepted :

Link Publish : <https://radjapublika.com/index.php/IJERLAS>

Abstract

This paper examines the ethics and law of health workers in medical service practices and the sanctions or legal basis applied if negligence occurs in medical service practices. Ethics and law are two important components in health worker practice. In the context of medical services, health workers are not only technically and professionally responsible, but must also comply with applicable ethical principles and legal norms. This article analyzes the relationship between professional ethics and law in the responsibilities of health workers, both in providing services, making medical decisions, and being accountable for errors or negligence that occur. The approach used is normative and empirical juridical with literature studies. It was found that harmonization between ethical and legal rules can prevent conflicts between patients and medical personnel and improve the quality of health services.

Keywords: *Professional ethics, health law, medical responsibility, health workers, code of ethics.*

INTRODUCTION

In the ever-evolving medical landscape, the existence of hospitals and all their health workers occupies a strategic position as the main pillar in maintaining and improving the quality of life of the community. The progress and decline of health services in these institutions is actually determined by the integrity of the implementation of professional ethical norms and compliance with the law carried out by key actors—doctors, nurses, and all health service personnel who support the system. Service, in its true sense, is not just a technical activity, but rather a structured humanistic action, designed to optimally meet the needs of others, while building a meaningful experience of satisfaction for health service users. Health services represent a systemic construction in the implementation of health interventions to the public, which includes promotive, preventive, curative, and rehabilitative dimensions in an integrated manner. So that the distribution of the benefits of these services is not trapped in geographical inequality, the procurement and distribution of medical personnel must be seen not only as an administrative agenda, but as a strategic effort to reach community groups to remote areas of the country. The placement and optimization of health workers in all regions, including marginal and isolated areas, is the main foundation in creating a health service system that is not only functional, but also socially just and ethical in its practice. Health workers have a strategic position in the public service system. This role requires not only technical skills, but also compliance with ethical values and legal norms. When violations occur, either due to negligence or intent, health workers can be held accountable ethically, administratively, civilly, or criminally. This study aims to explore the boundaries and interactions between professional ethics and legal provisions of health workers in medical service practices.

Ethics

In K. Berten's view, the term "ethics" is rooted in Ancient Greek, namely ethos and ta etha. Semantically, ethos has a broad meaning, ranging from residence, pen, and pasture, to referring to habits, customs, morality, inner feelings, character, disposition, and mindset. Meanwhile, ta etha refers to social conventions that are institutionalized in the form of customs. However, in a contemporary perspective, ethics is not merely understood as a routine that is carried out repeatedly, but as a philosophical discipline that elaborates in depth the normative dimensions of human action—namely as a systematic effort to weigh what is worthy of being called good or bad based on the framework of values that develop in a particular social space. In the Indonesian dictionary (WJS Poerwandaminto, 2002) ethics is the science of moral principles. In another sense, there is also the ethics of Prof. DR. Franz Magniz Suseno. Providing an explanation of ethics is a science that seeks orientation (a science that provides direction or a foothold and basis for human actions). If a person has a clear orientation, he will not live carelessly or follow various parties, but he will be able to determine his own destiny. In this way, ethics can help humans to be responsible for the life

they live. The terminology of ethics and ethics often appears in everyday interactions, but has substantial differences epistemologically. Ethics can be interpreted as a normative philosophical discipline that investigates the foundations of morality and questions the rational legitimacy of human actions in the dimensions of good and bad. In contrast, ethics refers more to a set of normative values that have been institutionalized in certain social or professional practices, acting as a normative compass that directs collective behavior. The term ethics then becomes a symbolic label used to affirm that an action, choice, or attitude is in line with the moral expectations agreed upon by the community. Thus, if ethics is a critical reflection on morality, then ethics is a concrete articulation of morality itself in the realm of praxis.

Faith

The word etiquette is rooted in the French term "etiquette," which in the past was used to refer to invitation cards given by French aristocrats to guests to attend agreed events, such as parties or formal meetings. Conceptually, etiquette includes various social rules that need to be obeyed, including how to speak, dress, sit, shake hands, receive guests, and how to visit politely. In a broader sense, etiquette refers to a collection of norms and correct attitudes in social interactions, which function to shape the behavior of civilized individuals. In this view, etiquette is not only the result of parental teachings or environmental influences, but is also formed through experiences and social interactions that guide a person to have attitudes and actions that are in accordance with the values and social norms that are collectively accepted in society. Thus, etiquette acts as a foundation for individuals to live social lives with full respect for existing manners.

Health ethics and law, although operating in different domains, actually complement and enrich each other. Health law, with its structured and formal nature, is often constrained by lengthy procedures and legal mechanisms that are slow to keep up with the changing times. The complex legalization process and limited scope make it unable to always accommodate all the dynamics in the ever-evolving medical practice. On the contrary, ethical norms in the health sector serve to patch up these deficiencies, with flexibility that allows for faster adjustments to social evolution and advances in medical science. Ethics provides more subtle and in-depth guidelines regarding behavior that is considered appropriate, although it does not have the same binding force as law. Thus, although they are different, health law and ethics complement each other, where law provides clear boundaries and ethics provides guidance that is more responsive to changes in the social and scientific context.

History of Health Law in Indonesia

The development of health law, which is considered a relatively new branch of law, began with the 1967 World Congress on Medical Law held in Belgium. In Indonesia, one of the important moments that marked the emergence of awareness of health law can be traced back to an event that occurred in the early 1980s. At that time, a doctor named Dr. S who worked at the Wradiyaksa Health Center in Pati, Central Java, was involved in a legal case that resulted in a lawsuit. Although there have been many cases that can be included in the realm of medical law, there are several factors that cause the effectiveness of legal handling of these cases to be less than optimal. One of the obstacles is the patient's dependence on the doctor's medical decisions which are often not accompanied by an adequate understanding of their legal rights. This condition has the potential to create ambiguity in handling similar cases in the future.

The incident involving Dr. S in the early 1980s became a crucial moment that united the world of medicine and law, thus giving birth to a new branch of law known as medical law. This medical law developed as an effort to provide a clearer legal framework in regulating medical practice, while also providing protection for patient rights in the ever-evolving health care system. As technology and biomedical knowledge advance, patient trust in doctors has shifted from interpersonal relationships to trust in the expertise of doctors and medical technology. Medical Law, as part of health law, has two important functions. First, it provides protection for practicing doctors by ensuring they comply with standards and have a license to practice. Second, it provides legal certainty for patients, so that they feel safe in receiving medical services. Thus, medical law protects the rights of medical personnel and provides a sense of security for patients.

Health Law

In terminology, although the term "health law" is often considered equivalent to "medical law," the two actually have different scopes. Health law, as a more comprehensive field, involves various aspects that are not limited to the medical world. This can be seen in the health law curriculum in many universities in Indonesia, which tends to focus on medical issues and often prioritizes discussions related to medical law. However, the Health Law has a much broader scope, covering various legal sectors related to public health in general.

RESEARCH METHODS

In line with the objectives of the writing that have been described previously, the approach applied in this study combines normative and empirical legal methods, accompanied by literature studies. The results of the analysis show that the integration of ethical and legal norms plays an important role in preventing conflicts between medical personnel and patients, while contributing to improving the quality of health service practices. In this case, the law serves as a guideline that leads to the formation of general assumptions. In addition, the information used comes from various library sources, including books, journals, and literature available on the internet. This study also uses a narrative descriptive method and conducts a literature review. Literature Review is a report containing topics that have been previously published by academics and researchers aimed at expanding knowledge about a topic. In addition, literature review also improves information search skills, namely the ability to scan literature objectively and efficiently. In addition, critical assessment is the ability to use analytical methods to determine valid studies.

RESULTS AND DISCUSSION**Literature Research**

Study literature This use data secondr, This secondary data consists of:

1. primary legal material, namely material orlaw binding, consisting of several laws and regulations, judicial regulations, bound by civil agreements of the parties relating to the responsibility of doctors and hospitals for medical records.
2. Secondary legal materials such as tertiary books such as magazines, newspapers and the internet that are related to what is being researched.

Understanding the Code of Ethics for Health Workers

The Code of Ethics for Health Workers refers to a set of norms, principles, and values that serve as guidelines for directing the behavior and interactions of medical professionals in carrying out their practice. The establishment of this code of ethics aims to ensure that the provision of health services in a country is carried out by prioritizing integrity, professionalism, and a strong commitment to patient welfare. This code of ethics covers various dimensions, ranging from the relationship between medical personnel and patients, the obligation to maintain medical confidentiality, procedures that must be followed in medical research, to the obligations of health workers towards their social and environmental responsibilities. Ultimately, this code of ethics serves as a solid foundation in maintaining the quality and fairness of medical services based on high moral principles.

Purpose of the Code of Ethics for Health Workers

The code of ethics for health workers has a fundamental purpose in creating professional standards that protect patient rights and maintain the integrity of medical practice. Some of the main purposes of the existence of the code of ethics include:

1. Protecting Patient Rights: Codes of ethics play a major role in ensuring the protection of patient rights. These rights include the right to honest and complete medical information, the right to maintain the confidentiality of personal data, and the right to receive safe and quality care. Codes of ethics ensure that the basic rights of patients are respected throughout the entire process of medical care.
2. Ensuring the Professionalism of Health Workers: The code of ethics aims to maintain and improve professionalism in medical practice. With clear behavioral guidelines and high standards, health workers are expected to carry out their duties with integrity and high commitment to medical ethics, which in turn improves the quality of health services.
3. Respecting Ethical Principles: The code of ethics provides a clear basis for health professionals to adhere to fundamental ethical principles in medical practice. These principles include patient autonomy, justice, medical confidentiality, and protection of patients from harmful medical actions. These guidelines are important as a guide in making medical decisions that consider the welfare of the patient.
4. Dealing with Ethical Dilemmas: A code of ethics provides clear guidance for health professionals in dealing with complex ethical dilemmas. Situations such as conflicts of interest, refusal of care, or end-of-life decisions often occur in medical practice. A code of ethics helps health professionals make fair and ethical decisions, in accordance with applicable moral principles.
5. Building Public Trust: One of the primary purposes of a code of ethics is to build and maintain public trust in the medical profession. By adhering to strict ethical guidelines, health care professionals can demonstrate their commitment to integrity and morality, which will strengthen the trust and respect of patients and the public.

Ethical Basis for the Health Worker Profession

Professional ethics are moral guidelines that guide health workers in carrying out their duties. The main principles in medical ethics include:

1. Autonomy
 - Respecting the patient's right to make their own decisions about their health care
 - Ensuring patients have complete information to make informed decisions
2. Doing Good (Beneficence)
 - Acting in the best interests of the patient
 - Providing beneficial care and minimizing risks
3. Nonmaleficence
 - The principle of "primum non nocere" or "first do no harm"
 - Ensuring the benefits of treatment outweigh the risks
4. Justice
 - Ensuring equitable distribution of health resources
 - Providing care without discrimination

Every profession health own code of Ethics each of which is determined by the organization professions, such as IDI (Indonesian Doctors Association), PPNI (Indonesian National Nurses Association), and IBI (Indonesian Midwives Association).

Legal Responsibilities of Health Workers

Health care professionals have several important responsibilities in ethical decision making:

1. Patient Advocacy
 - Fighting for patient rights, health and safety
 - Understanding privacy guidelines and ensuring informed consent
2. Professional Accountability
 - Responsible for medical practice
 - Maintaining competence and continuous professional development
3. Collaboration and Communication
 - Communicate effectively with other health professionals
 - Protecting human rights and reducing health disparities

As for the legal aspects that regulate the form of responsibility of health workers if there is a deviation or error. There are three forms of responsibility:

Administrative Law

Administrative law in the health context regulates the relationship between health workers and the government, as well as the responsibilities inherent in health workers in carrying out their practice. These responsibilities include legal aspects related to the provision of health services, including compliance with established regulations and standards.

Administrative Legal Responsibility

The administrative legal responsibility of health workers refers to their obligation to comply with regulations set by the government and health institutions. This includes the responsibility to provide services that are safe, effective, and in accordance with applicable standards.

Administrative Sanctions

Health workers can be subject to administrative sanctions if they violate applicable regulations. These sanctions can be in the form of Warnings for minor violations that do not endanger patients and fines for more serious violations and revocation of practice permits in cases of serious violations that threaten patient safety.

Civil law

Viewed from a civil law perspective, provisions related to professional responsibility are integrated into articles of the Civil Code (KUHPerdata), especially those related to contracts, namely in the context of agreements covering medical care or treatment. In the medical profession, this agreement is classified as *inspanningsverbintenis*—an agreement that requires medical personnel to make the best efforts in the treatment process, without guaranteeing specific results. This is different from *resultaatverbintenis*, which focuses on achieving

certain results. In this scenario, doctors are expected to make maximum efforts in providing medical services, but are not responsible for the final outcome, unless there is evidence of negligence or fatal errors that cause harm to the patient.¹ Article 1320 of the Civil Code states that for an agreement to be valid, there are 4 conditions that must be met, namely:

- There is an agreement that is free from coercion, error, misunderstanding and fraud, the parties making the agreement are legally competent.
- There is something that makes the agreement due to a lawful reason.
- Health workers must also provide complete explanations. This is in accordance with the provisions of Article 45 paragraph (3) of the Medical Practice Law Number 29 of 2004, which contains the following:
 - Article 45, which regulates service standards regarding every health worker action to be carried out by doctors or health workers on patients, must receive approval.

The consent as referred to in paragraph (1) is given after the patient has received a complete explanation.

The explanation as referred to in paragraph (2) at least includes:

- Diagnosis and management method of medical action.
- Purpose of medical action that will be done.
- Alternative actions others and their risks.
- Risks and complications that might happen.
- Prognosis for actions to be taken.

Criminal law

If there is an element of gross negligence or an act that is detrimental to the patient legally. Criminal law in the context of the responsibility of health workers regulates actions that can be categorized as criminal violations in medical practice. The legal basis that regulates this includes:

Criminal Code (KUHP):

- a. Article 359 regulates negligence resulting in death
- b. Article 360 relates to negligence that causes serious injury
- c. Article 361 regulates negligence that endangers public safety.
- d. Law No. 17 of 2023 (Articles 427-448) regulates various aspects of criminal health law, including malpractice and negligence.

Some examples of types of malpractice that can result in criminal sanctions include:

1. Gross Negligence:
 - Actions that fall far below the expected standard of care, for example performing surgery under the influence of alcohol or drugs.
2. Intentional Act
 - Actions that intentionally harm patients, namely cases of illegal euthanasia or actions that intentionally harm patients
3. Fraud in Health Care
 - Performing unnecessary medical procedures for financial gain and receiving kickbacks for unnecessary medical procedures
4. Unauthorized Practice
 - Providing medical services without the necessary license or qualifications.

Interaction Between Ethics and Law

Ethics are normative morals, while law is legally binding. However, both complement each other. For example, medical action without informed consent can be considered unethical and also against the law. Therefore, basic legal training is very important for medical personnel to understand the limits of their authority and the legal consequences of their actions. The interaction between ethics and law in health practice is an important aspect that influences how health workers carry out their duties. Both have complementary roles, where ethics provide moral guidance and basic principles, while law provides a regulatory framework that governs the actions and responsibilities of health workers.

Law in Health Practice

Legal basis

Health law in the Republic of Indonesia, as stipulated in Law Number 17 of 2023, provides a legal framework that regulates medical practice, including the rights and obligations of health workers and their legal protection. This law also regulates the procedures that must be followed in providing health services, including patient consent (informed consent).

Legal Responsibility

Health workers can be subject to legal sanctions if they violate applicable provisions, either through malpractice or negligence. The law provides protection for patients and ensures that health workers act in accordance with established standards.

Tangent Point

Ethics and law often have a point of contact, where actions that are considered ethical are not necessarily regulated by law. For example, in an emergency situation, a doctor may have to make a quick decision that does not always comply with strict legal procedures, but is considered ethical in order to save a patient's life.

1. Law as a Small Circle of Ethics

Law can be seen as part of a broader set of ethics. Many ethical actions are not regulated by law, so health care workers must be able to navigate situations where they must make decisions based on ethical principles even in the absence of clear regulations.

2. Ethical and Legal Dilemmas

Health care professionals often face dilemmas in which they must choose between following the law or ethical principles. For example, in cases where a patient is unable to give consent, a physician must consider the patient's best interests while still following applicable laws.

Informed Consent as Legal Protection for Health Workers and Patients

Law Number 36 of 2009 concerning Health and the Medical Practice Law also provide legal protection for medical personnel, provided that the actions taken are based on professional standards and SOPs. This protection prevents criminalization of health workers as long as they act according to their authority.

Informed consent, in its multifunctional capacity, plays a role not only for the benefit of patients, but also for medical personnel, especially doctors. For patients, informed consent has several profound fundamental functions:

- a. Informed consent allows individuals to make their own choices freely, after gaining a thorough understanding of the medical options available. It gives patients complete control over their bodies, based on complete and unrestricted information.
- b. To ensure maximum protection of patients from potential unwanted medical risks. Through the informed consent process, patients are respected for their right to know all possible harms, benefits, and alternatives of therapy.
- c. As an ethical guardian, informed consent prevents harmful practices such as deception or coercion against patients. By relying on a transparent process, patients are protected from medical actions carried out without valid consent.
- d. Not only for patients, but informed consent also serves as a catalyst for the medical profession in conducting self-evaluation (self-security), making the medical profession more introspective in measuring the suitability of actions with moral and legal standards.
- e. Encourage more rational decision-making, based on a comprehensive understanding of the medical condition and available treatment options. Thus, decisions taken are more targeted and in accordance with the patient's needs.
- f. Serves to shape social awareness of the values of patient autonomy, which are in line with broader social principles. It provides space for the public to participate in the monitoring and evaluation of biomedical investigations, strengthening the principles of fairness, transparency, and sustainability in medical practice.

For medical personnel, informed consent serves to limit their authority over actions towards patients, ensuring that every medical step is carried out with the clear and explicit consent of the patient. This function encourages caution in medical practice and prioritizes the patient's right to autonomy in determining the course of treatment to be received. Substantially, the purpose of informed consent is to provide legal protection, both for patients and medical personnel. For patients, this ensures that they receive health services that meet the best standards, while for medical personnel, it serves to reduce the potential for lawsuits that may arise due to negligence in carrying out their duties. Thus, informed consent not only protects patient rights, but also strengthens the professional integrity of

medical personnel in carrying out their duties. When patients give informed consent to health workers or doctors, the legal position of the health workers or doctors becomes stronger. This is because the agreement states that if the health workers or doctors fail to carry out their obligations, the patient will not file a lawsuit. However, patients still have the right to file a lawsuit, either criminally or administratively, if it is proven that the health workers or doctors have not carried out their profession according to established standards or have been negligent in carrying out their responsibilities. This underlines that although informed consent provides protection to health workers or doctors, the patient's right to receive appropriate medical services remains protected and protected by the applicable legal system..

Factors Causing Disputes Between Health Workers and Patients Regarding Informed Consent

One of the main challenges in implementing informed consent lies in the differences in language and the way information is conveyed between health workers and patients. Often, the difference in understanding between the two is quite striking, considering that the majority of patients are not familiar with medical terminology. Medical terms used in medical practice are often difficult to translate into a language that can be understood by people who are not medically knowledgeable. In addition, not all health workers have the ability to convey medical information in a way that is simple and easy for patients to understand. This gap, which includes aspects of language and understanding, has the potential to hinder the effectiveness of information delivery. When communication is unclear, it can hinder the achievement of the main goal of informed consent, which is to ensure that patients truly understand the information provided before making medical decisions. As a result, this limited communication process can be detrimental to both parties, both patients and health workers, by affecting the quality of decisions taken.

The patient's right to refuse treatment creates a paradox for doctors, who are caught between their ethical obligation to save lives and respecting the patient's freedom to make decisions about their health. Even if the doctor has provided clear information about the potential for recovery and the risks of refusing treatment, the doctor cannot force the patient to agree. The principles of autonomy and informed consent emphasize that medical decisions should be based on the patient's free, uncoerced consent, even if it conflicts with medical recommendations.

Some complaints that patients often convey regarding the informed consent process include:

- a) Use of language that is too technical and difficult for patients to understand
- b) The doctor's attitude seems rushed, doesn't pay enough attention, or doesn't provide enough time for a question and answer session.
- c) The patient's emotional state is under pressure, which affects his or her ability to understand the information provided.
- d) The patient is in a less than optimal physical condition, such as being sleepy, asleep, or not fully conscious, which hinders understanding of the information conveyed.

Meanwhile, doctors' complaints about informed consent are:

- a. The patient does not/can be informed.
- b. Patient tunable to understand.
- c. The risk is too general or often occur.
- d. Emergency situations or times of need limited.

From this explanation, it can be concluded that the challenges and obstacles that arise in implementing informed consent are:

1. From the language, there are medical terms that are difficult to explain or translate into a language that is easier to understand.
2. Delivery of information that according to the facts sometimes makes patients afraid, depressed or tense.
3. The patient's right to refuse or the hesitation they experience creates a dilemma for doctors, who on the one hand are bound by a moral obligation to provide help, but on the other hand must respect the patient's decision.

Conclusion

Ethics and law must be integrated in the practice of health workers. Continuous guidance and supervision by educational institutions, hospitals, and professional organizations are needed. The government also needs to strengthen legal protection for medical personnel who act in accordance with professional standards. The interaction between ethics and law in health practice is very important to ensure that health workers can provide quality and safe services. By understanding these two aspects, health workers can be better at making decisions that not only meet legal standards but also reflect high ethical values. Increasing understanding of this relationship will help reduce the potential for legal conflicts and improve the overall quality of health services. Ethics are morally normative, while law is legally binding. However, the two complement each other. For example, medical actions without informed consent can be considered unethical and also against the law. Therefore, basic legal training is very important for medical personnel to understand the limits of their authority and the legal consequences of their actions.

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Pasal 360 berkaitan dengan kelalaian yang menyebabkan luka berat

Pasal 361 mengatur tentang kelalaian yang membahayakan keselamatan publik

Undang-Undang Kesehatan:

UU No. 17 Tahun 2023 (Pasal 427-448) mengatur berbagai aspek hukum pidana kesehatan, termasuk malpraktik dan kelalaian

UU No. 17 Tahun 2023 (Pasal 427-448) mengatur berbagai aspek hukum pidana kesehatan, termasuk malpraktik dan kelalaian

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