

Literature Review: Ethics and Health Law

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Abstract

Humans as social beings grow and develop through interactions with others, requiring norms and ethics in communal life. Ethics and health law are important foundations in maintaining the well-being of individuals and society. This study used a qualitative method with a literature review to collect and analyze information related to the principles of ethics and health law. Ethics, originating from Latin and Greek words, refer to norms of behavior related to human values and customs. Law regulates human behavior in society with the aim of maintaining order and justice, including in the context of health services. Ethics and health law complement each other, where the law tends to be rigid while ethics provide morally responsive guidance to changes. Conflicts between ethics and health law, such as in cases of abortion, emphasize the need for clear policies and a strong moral understanding from medical professionals. The application of ethics and health law in health services, especially in hospitals, influences patient experiences, reflecting practices that are professional and respect patient privacy.

I. Introduction

Humans grow and develop through increasing age of interaction. They are classified as social creatures (zoon politics) that need each other. In the course of human life, there are similarities and differences between humans and one another. Humans have a sense of freedom in human association, but that does not mean they have the nature of their own will. It is the most perfect creation of God because it is equipped with reason, feeling, and will. Reason is a thinking tool and a source of science and technology. Through reason, humans can judge what is good and what is right; with feelings, humans can judge what is beautiful and what is ugly; and will is a tool to express choices as a source of goodness.¹

Humans are living creatures that have many diverse cultural needs; these needs can be fully satisfied if moral values are placed in social life. Relationships between people must be bound by moral ties so that society can grow in a safe and peaceful social environment. Relationships between people must also be based on a good moral foundation, applying rules that are in accordance with the standards that apply in the neighborhood. Because the values protected by society become a reference for truth and goodness, a reference for organizing personal life and managing relationships between people, as well as between people and their natural environment.²

Ever since humans were born, they have always interacted and mingled with social beings in the environment. In this association, there are similarities and differences with other creatures. Human interaction has freedom, but this freedom must prioritize norms and ethics so that humans can coexist.³

Morals and ethics are terms that are commonly used as guidelines adopted by a person or group in living life so that society can live well and orderly.⁴

In the Big Indonesian Dictionary, the word "moral" means: teachings about good and bad that are generally accepted regarding actions, attitudes, obligations, manners, and morals; mental conditions that keep people brave, passionate, disciplined, content, or in a state of feeling. In other words, morals are a guiding tool, a guideline, as well as the most powerful control tool in directing human life. If a human being does not function perfectly according to the morals that already exist in humans, which are precisely in the heart, then the human being will become a human being who always does bad things.⁵

The word ethics comes from the Greek word *ethos*, which means the appearance of a habit. In this case, the perspective of the object is the attitude, deeds, and

¹ Herniwati et al., *Etika Profesi Dan Hukum Kesehatan* (Bandung: Widina Bhakti Persada, 2020).

² Hetty Ismainar et al., "Etika Dan Hukum Dalam Kesehatan," 2023.

³ S Bachri and Nuraeni, "Riset Etika Dan Hukum Kesehatan," *Jurnal Berita Kesehatan: Jurnal Kesehatan* 14, no. 2 (2021): 1–15.

⁴ Aris, "Pengertian Moral Dan Etika," Gramedia Blog, 2021, <https://www.gramedia.com/literasi/pengertian-moral-dan-etika/>.

⁵ Herniwati et al., *Etika Profesi Dan Hukum Kesehatan*.

actions of humans.⁶

Ethics has an important role in human life; it is also closely related to the concept of morality, which is a set of norms, values, and beliefs that govern human behavior. Ethics is a field of study that discusses morals and the principles used to determine what is right and wrong in a situation. Ethics also includes thoughts and arguments about what is good or bad, right or wrong, just or unjust, and so on.⁷

The term ethics has many meanings for experts with different backgrounds. Some say that ethics is a study, both in terms of the activity and the result of the study itself. Others argue that ethics is a moral standard whose main purpose is to determine a standard that is right or that is supported by good logical thinking. Therefore, ethics tries to reach a conclusion about moral right or wrong and moral good or bad.⁸

Ethical education is built and favored by the environment, which is a process of learning and growth from an early age instilled by the family. Education is also a guideline for human relations with other humans in the social life of other communities. Social ethics is the practice of human behavior patterns with fellow humans in social life in society. The existence of ethics towards fellow humans and professional ethics or social ethics complement each other so that happiness will be realized.⁹

In everyday life, ethics are very important to apply. Some people interpret health ethics as only a concept to be understood and not just a part of oneself. On the other hand, it is crucial to possess and implement health ethics whenever one interacts with patients or clients. Health ethics aims to regulate how to behave in providing health services and determine the rules governing how to handle a problem related to ethics so that it does not become a matter that enters the realm of law or has a punitive effect on oneself and the patient or client.¹⁰

Ethics is also applied in health law. Ethics and law have the same goal, which is to regulate the order and peace of life in society. However, the definitions of ethics and law are different. Ethics comes from the Greek word *ethos*, which means "good, proper." This is the norms, values, or behavior patterns of certain professional groups in providing services to the community. Meanwhile, the law is the legislation made by a power to regulate the association of life in society. What is meant by professional work, among others, is the work of doctors, dentists, pharmacists, public health graduates, nursing graduates, judges,

⁶ Aris, "Pengertian Moral Dan Etika."

⁷ Agnie Imania Wildan, "Kajian Kepustakaan Mengenai Etika Dan Moral Dalam Bisnis" (Universitas Sangga Buana YPKP Bandung, 2020), <https://repository.usbypkp.ac.id/1619/>.

⁸ Wildan.

⁹ Bachri and Nuraeni, "Riset Etika Dan Hukum Kesehatan'."

¹⁰ S. G Purnama, "Modul Etika Dan Hukum Kesehata" (Bali: Program Studi Ilmu Kesehatan Masyarakat Fakultas Kedokteran Universitas Udayana, 2017).

lawyers, and accountants.¹¹

The Indonesian Health Law Association (PERHUKI) defines health law as all legal provisions directly related to health care or services and their application. This concerns the rights and obligations of both individuals and all levels of society as recipients of health services and health service providers.¹²

2. Research Method

The research method used in this study is a qualitative research method in the form of a review of recent literature. This research method is conducted by collecting and analyzing data from written sources such as scientific journals, books, articles, and other documents related to the research topic. Once the data is collected, it is then analyzed to extract the latest information and findings on ethical principles and moral conflicts. Qualitative research methods involve interpretation and the use of the researcher's insight or perspective in analyzing the data. Therefore, the researcher needs to pay attention to rigor in evaluating the credibility and reliability of the sources used, as well as ensuring that the data analysis conducted is objective and reliable. In literature review research, the research method is more descriptive. This means that the researcher will describe the findings or information found in the literature related to the research topic. This research does not involve sampling or research subjects, so it does not require ethical approval, as is commonly done in quantitative research.¹³

3. Results and Discussion

Etymologically, ethics comes from the words "ethicus" in Latin and "ethicos" in Greek, which mean "habit" or custom. The meaning of ethics and etiquette has more or less the same meaning. However, in its development, ethics is closely related to value, so ethics is part of the realm of axiology, which is often referred to as human behavior.¹⁴ According to the KBBI, ethics is defined as the study of good and bad, as well as moral rights and obligations.¹⁵

Ethics is a science that discusses the problem of behavior, or behavior regarding what is considered good and bad. Ethics is part of the philosophy of human obligations and good and bad things, not discussing individual circumstances but discussing how humans should act correctly according to their morality.¹⁶

¹¹ Rospita Adelina Siregar, *Etika Dan Etika Profesi* (Bandung: Widina Bhakti Persada, 2020).

¹² Siregar.

¹³ Muannif Ridwan et al., "Pentingnya Penerapan Literature Review Pada Penelitian Ilmiah," *Jurnal Masohi* 2, no. 1 (2021): 42–51, <https://doi.org/10.36339/jmas.v2i1.427>.

¹⁴ Bachri and Nuraeni, "Riset Etika Dan Hukum Kesehatan'."

¹⁵ KBBI, *KBBI Daring: Badan Pengembangan Dan Pembinaan Bahasa, Kementerian Pendidikan, Kebudayaan, Riset, Dan Teknologi Republik Indonesia*. (Jakarta, 2022).

¹⁶ Rudy Hidana et al., *Etika Profesi & Hukum Bidang Kesehatan*, CV Widina Media Utama (Bandung: CV Widina Media Utama, 2020).

According to Barten, ethics are values or morals that guide a person or group in regulating their behaviour. Literally, humans already have the ability to consider and choose what is right and wrong by using conscience. Ethics is known as the word ethical in society, which relates to the behaviour of others. Ethics is a collective agreement that is used as a guide for a person to behave and interact in the context of society. Ethics requires that the behaviour carried out by every human being be considered using conscience so that what is done can be morally justified.¹⁷

According to Immanuel Kant, law means all the conditions under which a person has free will, so that he can adjust to the freedom of others and obey the legal rules regarding freedom. Mr. E. M. Meyers says that law is a rule that contains considerations of moral values, which are aimed at behaviour and can be a guide to carrying out duties in a country. Leon Duguit states that law is a set of rules of behaviour of members of society that must be obeyed for the common good. According to Prof. Dr Mochtar Kusumaatmadja, the definition of law is the overall rules, principles and rules governing the association of life in society, which has the aim of maintaining order. Sujipto Raharjo revealed that the definition of law is a work created by humans containing norms that are used as guidelines for behaviour.¹⁸

Law is the result of human will. By nature, human existence wants freedom both in terms of action and orientation of life. This desire often makes humans justify all efforts to achieve their goals, even allowing them to injure or violate the rights of fellow humans. Thus, a rule is needed that can direct humans to stay on track in achieving their goals without harming others.¹⁹

Law is a tool that can be used by a group of people who are full of values. Law is also called the art of value, which is the art of defending values or principles. This term was coined on the grounds of consideration: 1. Law is a rule that contains guidelines, has a value that pragmatically has a function to regulate and control human behaviour. This consideration can be accepted and justified by common sense with the aim of providing benefits to others. 2. Law regulates humans, can function as a tool to regulate humans who are required to live ideally by taking into account the overall value and dignity of humans. 3. Law is a tool to achieve justice, by adhering to the norms of justice, equal rights, honesty and others. 4. Law is easily manipulated, law is closely related to politics which has the potential to be manipulated in the interests of certain groups.²⁰

In essence, law is a tool used to protect human interests, including realising health as part of welfare in life. Laws are laws and regulations that regulate aspects of life that are created to be obeyed by all levels of society.²¹

¹⁷ R Sudra, *Etika Profesi Dan Hukum Kesehatan Dalam Praktek Kebidanan* (Medan: Yayasan Kita Menulis, 2021).

¹⁸ Herniwati et al., *Etika Profesi Dan Hukum Kesehatan*.

¹⁹ Herniwati et al.

²⁰ Dewi Novitasari Suhaid et al., *Etika Profesi Dan Hukum Kesehatan* (Pradina Pustaka, 2022).

²¹ Suhaid et al.

Leenen suggests that Health law is a set of tools that describe clarity on matters directly related to health care, directly related to health care providers and can be applied in accordance with criminal law, civil law and administrative law. According to Kansil, health law is a series of laws and regulations in the field of health that regulate medical services and medical facilities. Van Der Mjin states that health law is defined as law that is directly related to health care which includes the application of legal tools or devices as a whole juridical activity and legal rules in the field of health.²²

Health law regulates two different interests, first for service recipients who must regulate the rights and obligations of either individuals or groups and second for service providers or health agencies such as hospitals, clinics, health centres and midwives' independent practices. In general, health law is divided into two parts, namely services in hospitals, and medical law including medical by laws and nursing by laws that regulate health services to individuals.²³

Health law is all legal regulations directly related to the provision of health and their application to civil law, administrative law, and criminal law. Health law is all legal provisions directly related to health care/services and their application. This concerns the rights and obligations of both individuals and all levels of society as recipients of health implementers and from the organizers in all their aspects, organisations, facilities, medical service standard guidelines, health science, and judges and other sources.²⁴

Ethics and health law in the world of health are generally different but complementary, where laws tend to be rigid, long in the legalisation process, and less comprehensive than ethical norms will complement the weaknesses of legal norms so that they can keep up with changes that occur in society.²⁵

In an article written by Bachri and Nuraeni²⁶, it is mentioned that increasing understanding and knowledge in the field of ethics and health law is important, that with this health law can regulate health workers.²⁷ The article discusses ethics and health laws that regulate workers in the health sector. The author mentions that both doctors, field nurses, staff and patients themselves are bound by health laws, so with this health law, health services can minimise the risk that wrong actions will threaten themselves with lawsuits. For example, the mall practice of giving expired drugs is an act of illegal action, so ethics and health law are very important to be applied in every work environment, especially in the field of health services, both hospitals, clinics and other healthy homes. The article also contributes to broadening the understanding of ethics and health law. However, the article needs to be reviewed so that ethics and health law can be put to good use as guidelines and rules governing the procedures for a person to be able to prioritise manners in the social life of the community and is

²² Sudra, *Etika Profesi Dan Hukum Kesehatan Dalam Praktek Kebidanan*.

²³ Hidana et al., *Etika Profesi & Hukum Bidang Kesehatan*.

²⁴ Purnama, "Modul Etika Dan Hukum Kesehata."

²⁵ Purnama.

²⁶ Bachri and Nuraeni, "Riset Etika Dan Hukum Kesehatan'."

²⁷ Bachri and Nuraeni.

useful for everyone to be able to learn and guide to behave in everyday life in interacting with other communities.

Based on the results of the literature review, there are various ethical principles that have developed in contemporary life, such as utilitarianism, deontology, human rights ethics, environmental ethics, and professional ethics. Challenges in contemporary life require individuals to have a deep understanding of ethical principles and the ability to apply them in complex situations.²⁸ The article contributes in describing various kinds of ethical principles in contemporary life. Where based on the article, moral conflicts often occur in contemporary life, both in the work environment, personal life, and in social and political contexts. Moral conflicts can be caused by differences in values or ethical principles that differ between individuals or groups, as well as complex and difficult to understand situations.

According to the article, challenges in contemporary life require individuals to have a deep understanding of ethical principles and the ability to apply them in complex situations. Some of the ethical challenges faced in contemporary life include rapid technological developments that impact privacy and security rights, environmental and health issues, as well as corruption and fraud problems in various sectors. However, the article needs to be revisited to provide useful insights for individuals and organisations in dealing with complex situations and choosing the right ethical principles to apply.

Ethical and legal issues in Health are applied in a scholarly article on public Health services or hospitals "abortion" by ²⁹ which states that abortion has a significant impact on women's health, and unsafe illegal abortion practices can threaten their lives. In addition, there are differences in the interpretation of the law regarding abortion, especially in cases such as abortions performed on rape victims. According to the article, there are ethical and moral conflicts that highlight the need for a clear and dynamic policy on abortion in Indonesia. The author mentions the need for a clear and harmonised policy on abortion in Indonesia as well as a strong ethical and moral understanding for medical personnel.³⁰ Thus, it is necessary to understand ethics and health law in the perspective of medical ethics so that moral and ethical understanding for each individual directly involved in order to achieve the applicable law in their lives.

Ethics and health law are contained in the article by Putu Sarjana³¹ in a legal and ethical review of the suspension of essential services in hospitals mentioning the

²⁸ Hendy Juni Ar Rasyid et al., "Menjelajahi Etika: Tinjauan Literatur Terbaru Tentang Prinsip-Prinsip Etika, Konflik Moral, Dan Tantangan Dalam Kehidupan Kontemporer," *CEMERLANG: Jurnal Manajemen Dan Ekonomi Bisnis* 3, no. 2 (2023): 229–37.

²⁹ Putri Widya Herman and Annisa Wahyuni, "Masalah Etika Dan Hukum Kesehatan Pada Layanan Kesehatan Publik Atau Rumah Sakit 'Aborsi,'" *Iris Journal of Health Information Management* 3, no. 2 (2023): 1–8.

³⁰ Herman and Wahyuni.

³¹ Putu Sarjana, Chepi Ali Firman Zakaria, and Tono Hadi Susiarno, "Tinjauan Hukum Dan Etika Terhadap Penangguhan Pelayanan Essensial Di Rumah Sakit," *Jurnal Hukum Kesehatan Indonesia* 2, no. 02 (2022): 116–20.

suspension of essential services can be done as an effort to control the spread of the virus and protect patients and health workers, but it must be done carefully and in accordance with ethical principles. Hospitals should consider factors such as patient needs, hospital capabilities, and resource availability before suspending essential services. It is also important for hospitals to communicate clearly and accurately with patients about the decision to suspend essential services and provide alternative treatments or treatment delays that are safe for patients.³² Ethics and health law in this article are applied in handling conflicts between the interests of the hospital and the rights of patients, hospitals must prioritise the interests of patients to obtain health services in accordance with medical and ethical standards. In addition, hospitals and health workers must fulfil professional codes of conduct and ethical principles in suspending essential services. Thus, it is clear that ethics and health law are needed in the order of life in society.

In an article written by Anggie³³, it states that the application of ethics and health law in the provision of health services in hospitals began to be applied by considering age and education level factors. Where dominant at a relatively young age so that it is easy to respond, see, and feel every service that has been provided both directly and indirectly. When referring to the assessment indicator, namely the provision of optimal service is good because there are no complaints from patients, health workers are alert and professional in handling and overcoming patient complaints. The results show that health workers really maintain the interests and privacy of patients and provide good service.³⁴ With the fulfilment of this study, the application of the code of ethics in health law is fulfilled in the hospital. So that the application of ethics and health law is said to be good and in accordance with applicable laws and regulations.

4. Conclusion

Ethics, derived from Latin and Greek words, refers to norms of behaviour relating to human values and customs. The definition of ethics generally refers to the study of the distinction between good and bad, and the moral rights and obligations associated with human actions. Law, as a set of rules, regulates human behaviour in society with the aim of maintaining order and justice. Health law, in particular, regulates everything related to healthcare, including the rights of patients and the duties of healthcare providers.

Ethics and health law play complementary roles; while laws tend to be rigid, ethics provide moral guidance that is more responsive to change. Conflicts between ethics and health law, such as in the case of abortion, emphasise the need for clear policies and strong moral understanding from medical personnel. The application

³² Sarjana, Zakaria, and Susiarno.

³³ Anggie Septie Aningrum A N Anggie Septie and A N Aningrum, "Analisis Penerapan Etika Dan Hukum Kesehatan Pada Pemberian Pelayanan Kesehatan Di Rumah Sakit Nene Mallomo Kabupaten Sidenreng Rappang," *Jurnal Ilmiah Manusia Dan Kesehatan* 1, no. 3 (2018): 189–200, <https://doi.org/10.31850/makes.v1i3.105>.

³⁴ Septie and Aningrum.

of ethics and health law in healthcare, particularly in hospitals, affects the patient experience. Professional care and respect for patient privacy reflect good application of ethics and health law.

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