

BALANCE BETWEEN ETHICS AND LAW IN HEALTH PRACTICE**Endra Widiyanto¹, Rofik Darmayanti²**^{1,2} Program Studi Administrasi Rumah Sakit, Fakultas Fakar, Universitas Strada IndonesiaEmail: endrastrada@gmail.com**ABSTRACT**

In the world of health, service practices carried out by medical personnel and health professionals have a direct impact on human life. Therefore, health practices must be based on complementary ethical and legal principles. Ethics act as a moral guideline that directs health workers to be professional, fair, and respect patient rights. Meanwhile, the law provides binding rules to ensure that every medical action is carried out in accordance with established standards and protects the rights of patients and health workers. This study aims to provide a better understanding of how to maintain harmony between the two, so that it can support the creation of responsible, moral, and legal health practices.

In this study using library materials, books, references, online media, print media as supporting materials for writing this scientific work. The method used in this study is using the normative legal method, namely a deductive study. In the deductive approach, theory is used as the beginning of answering research questions. The data sources used in this study are secondary legal materials and tertiary legal materials. Data collection techniques use literature studies, including documentaries. Data analysis is normative-qualitative by interpreting and constructing statements contained in documents and legislation

The results of the study are used as reading material that is useful for everyone so that they can learn and guide them to behave in everyday life in interacting with other communities. These health ethics and laws can be utilized optimally as guidelines and rules that regulate the procedures for a person to be able to prioritize politeness in the social life of society.

Keywords : Balance, Ethics, Law, Health Practices**I. INTRODUCTION**

Since humans are born until they grow older, they always interact, socialize as other social beings and the scope of their relationships with other humans in society becomes wider. Through this journey of life, humans will know the similarities and differences with other humans. In socializing, humans have freedom, but freedom in socializing must prioritize norms so that humans who live and socialize with other humans can be accepted, because humans have different characteristics. In the world of health, the practice of services carried out by medical personnel and health professionals has a direct impact on human life. Therefore, health practices must be based on complementary ethical and legal principles. Ethics act as a moral guideline that directs health workers to be professional, fair, and respect patient rights. Meanwhile, the law provides binding rules to ensure that every medical action is carried out in accordance with established standards and protects the rights of patients and health workers. However, in practice, there is often a clash between ethics and law. For example, the dilemma



in making medical decisions involving patients in critical conditions, where law and ethics may have different views.

Ethics education is built starting from the environment which is a process of early learning growth instilled by the family of parents as role models born in the environment until we ourselves, the family as the main bone of the birth of moral values as early education where we are educated to be good or bad people, then we actually determine it ourselves, education itself does not have to be taken formally so that humans can be formed into good individuals or can give rise to good or bad behavior. 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. Humans are living creatures who have a variety of cultural needs, from these needs they can be perfectly fulfilled if moral values are placed in social life. Human relations with humans need to be bound by moral bonds so that humans can grow in a safe and peaceful community life. In human relations, it must also be based on good ethics to carry out rules according to the norms that apply in the surrounding environment. Because the values adopted by society are the benchmark of truth and goodness as a reference for organizing personal life and organizing relationships between humans, as well as humans with their surroundings. In addition, technological developments in the medical world also pose new challenges in determining ethical and legal boundaries.

This can cause confusion or even conflict that can affect the quality of health services. The balance between ethics and law is important to ensure that health services are not only in accordance with applicable legal provisions, but also meet moral standards and human values. Without this balance, there is a risk of health practices that not only violate the law but also ignore basic human rights. With this background, the discussion of the balance between ethics and law in health practices is crucial. This study aims to provide a better understanding of how to maintain harmony between the two, so that it can support the creation of responsible, moral, and legal health practices.

II. METHODS

The method used in this study is the normative legal method, which is a deductive study. In the deductive approach, theory is used as the beginning to answer research questions. The data sources used in this study are secondary legal materials and tertiary legal materials. Data collection techniques use literature studies, including documentaries. Data analysis is normative-qualitative by interpreting and constructing statements contained in documents and legislation.

III. RESULT

In standard situations, informed consent is an essential prerequisite required before undertaking a medical procedure. The concept of informed consent was developed to change the dynamics between doctors and patients from a paternalistic relationship to a consensus-based partnership. The essence of informed consent is a treatment agreement made between a doctor and a patient, based on the patient's health condition (Sosiawan et al., 2023: 2). This can be realized in two forms, namely implied consent (considered to have been given without being stated explicitly) and expressed consent (stated by the patient to the doctor either verbally or in writing). Through informed consent, the doctor has the certainty that the patient has understood the information given, which serves to reduce the possibility of misunderstanding and strengthen patient compliance with the recommended medical procedure plan (Kasiman et al.,

2023: 2). In Law Number 17 of 2023 concerning Health, there are explicit provisions regarding the requirement to obtain informed consent, as regulated in :

1. Article 274 sub-paragraph b, which emphasizes the obligation of doctors to obtain informed consent from patients or families before carrying out medical procedures;
2. Article 293 paragraph (1), which states that every medical procedure carried out individually by a doctor must be preceded by obtaining consent from the patient.
3. Article 293 paragraph (5) emphasizes that prior to carrying out high-risk medical procedures, written informed consent must be obtained.

In addition to complying with regulations, the existence of informed consent is very important because it is a form of legal protection for doctors, prevention of malpractice, proof of trust in the doctor-patient relationship and respect for the patient's right to autonomy. Consent for medical procedures, known as informed consent, is a critical aspect for both patients and doctors. Therefore, doctors are required to provide informed consent to patients before carrying out medical procedures. This is vital to avoid potential legal complaints from patients. If doctors do not obtain legal consent for their actions, they may face legal problems, whether in the criminal, civil, or professional discipline realm (Hajar, 2020: 793).

The absence of informed consent can trigger accusations of improper medical practice, especially if there is harm or action that affects the patient's physical condition. In order to file a lawsuit for the absence of informed consent, several legal components must be met, namely: (1) there is a doctor's duty to obtain informed consent; (2) this duty is not fulfilled without a valid legal reason; (3) there is harm to the patient; and (4) there is a direct link between the failure to fulfill informed consent and the harm experienced by the patient (Suntama, 2017, p. 92).

IV. DISCUSSION

In an emergency situation, a patient often loses his or her competence. This is because the patient is in a state of decreased consciousness to the point of being unconscious. In such a condition, the patient experiences an inability to understand information, an inability to communicate decisions, and an inability to make rational decisions. Therefore, he or she will lose the right to accept or reject medical treatment. This provision is also explained in Article 4 paragraph (3) of Law Number 17 of 2023 concerning Health, which states that an individual's right to agree to or reject part or all of a medical procedure does not apply to people who are unconscious or in a medical emergency. In a condition where the patient loses competence, doctors often have to rely on decisions they believe are in the patient's best interests, or seek approval from a legal guardian or family member if time permits. In addition to the patient's incompetent condition, another problem that doctors often encounter in emergency situations related to providing informed consent is :

1. There is not enough time to obtain informed consent because the life-threatening emergency occurs suddenly and quickly, for example, a case of total airway obstruction that causes the patient to be unable to breathe at all.
2. There is no responsible family (patient status is unclear), for example, a homeless person found unconscious due to severe head trauma on the side of the road.
3. The responsible family is present, but is not in the hospital and cannot be contacted in various ways by the doctor at the time of the emergency, for example, in the case of a patient emergency in the hospital that occurs in the early hours of the morning when the family is sleeping at home.
4. The responsible family is present, but is not able/does not dare to give informed consent because they are in a state of confusion and cannot think clearly, for example, after

being given complete information about the risks of the procedure, the family becomes increasingly confused/afraid of the possible consequences.

To deal with such a situation, the doctor should not hesitate to immediately take medical action if necessary. Medical actions carried out by the doctor are protected under Law Number 17 of 2023 concerning Health, in accordance with the following articles:

1. Article 80 paragraph (3) states that in a medical emergency, medical procedures may be carried out without requiring prior consent.
2. Article 293 paragraph (9) emphasizes that if a patient does not have the capacity to give consent and is facing a life-threatening condition without a guardian who can be asked for consent, then consent for the medical procedure is not required.

In an emergency situation, it is very possible that a doctor is required by the situation to carry out high-risk medical procedures as quickly as possible in an effort to save a life. In such a stressful situation, a doctor is required to think clearly in deciding the best medical procedure for his patient. The definition of a high-risk medical procedure is given in Article 1 point 5 of the Regulation of the Minister of Health of the Republic of Indonesia Number 290 of 2008 concerning Consent for Medical Procedures.

In this regulation, a medical procedure that is considered to have a high risk is a procedure that has the possibility, at a certain level of probability, of causing death or disability in the patient. This medical procedure has a relatively high chance of causing serious complications or undesirable effects. The probability of risk is often associated with complicated procedures, poor patient conditions, potential reactions to medications, or uncertain outcomes. One example of a high-risk medical procedure is tracheal intubation (the process of inserting a thin tube from the mouth into the airway). Tracheal intubation is a very important and common procedure in the intensive care unit (ICU).

This procedure protects the patient's airway and, when connected to a breathing machine, can treat respiratory failure, which is a common problem in critically ill patients and is associated with various complications including death. (Khan et al., 2020: 1) A study showed that up to 28% of critically ill patients undergoing tracheal intubation may experience life-threatening complications such as severe drops in blood oxygen levels or sudden fluctuations in blood pressure, and 2.7% of complications were cardiac arrest (Russoto et al., 2021: 1165). Any medical procedure that carries the potential for significant harm must obtain formal written consent from a party who has the authority to give such permission. In this context, 'authorized person' can refer to the patient or his/her family members.

V. CONCLUSION

In medical emergency situations, patients often lose their capacity to provide informed consent due to significantly decreased consciousness, sometimes to the point of being completely unconscious. In such conditions, patients are unable to understand information, make rational decisions, or communicate their wishes. As a result, their right to accept or refuse medical treatment becomes inapplicable, as stated in Article 4 paragraph (3) of Law Number 17 of 2023 concerning Health.

In these circumstances, doctors are obligated to make immediate decisions in the best interest of the patient, even without consent from the patient or their family. Additional challenges often faced by doctors in obtaining informed consent during emergencies include: extremely limited time, absence of a responsible family member, inability to contact family, or family members being unable to provide consent due to panic or confusion.

To address such situations, the law provides legal protection for medical professionals. Article 80 paragraph (3) and Article 293 paragraph (9) of Law Number 17 of 2023 clearly state that in emergency conditions, medical procedures may be performed without prior consent.

Medical actions taken in emergencies are often high-risk procedures, such as tracheal intubation, which is essential to secure the patient's airway and is commonly performed in intensive care units (ICUs). However, due to the potential for serious complications, including death, such procedures under normal circumstances require formal written consent from an authorized party, such as the patient or their family.

Therefore, in emergency situations, doctors are expected to act swiftly, rationally, and professionally to save lives. Their actions are legally protected as long as they are based on the patient's best interests, even when formal consent cannot be obtained.

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