

The Relationship Between Ethics Institutions in The Health Sector in The Enforcement of Professional Ethics from a Utilitarian Perspective

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Abstract

This research analyzes the existence of ethics institutions in the health sector from a utilitarian perspective. Utilitarianism emphasizes that a good action is one that provides benefits and advantages, while a bad action is one that causes suffering and loss. This perspective is useful as an ethical evaluation tool by considering the overall impact of actions on the welfare of society, using calculations of pleasure and suffering. Although this approach provides a clear view in assessing the consequences of actions, there are criticisms related to the difficulty of objectively measuring pleasure and suffering, as well as the potential for ethical dilemmas where the benefits to the majority can sacrifice the minority. This research is a normative legal study that examines the norms related to the authority of ethical enforcement in healthcare services from a utilitarian perspective. The Indonesian Medical Ethics Honor Council (MKEK) and the Indonesian Medical Discipline Honor Council (MKDKI) play crucial roles in upholding the standards of the medical profession in Indonesia. MKEK focuses on professional ethics and the doctor-patient relationship, while MKDKI handles disciplinary violations and imposes sanctions in accordance with Law No. 29 of 2004. These two institutions work together to ensure ethical medical practice that meets the established standards. The enforcement of medical ethics in Indonesia faces a dualism between MKDKI and MKEK, with a low number of sanctions imposed and an increasing number of legal complaints against doctors. Law No. 17 of 2023 on Health aims to strengthen the enforcement of discipline and promote restorative justice. However, better communication between doctors and patients is still needed to reduce medical disputes.

Keyword: Relationship, Ethics Institutions, Professional Ethics, Utilitarian Perspective

1. INTRODUCTION

Professional ethics is an ethical attitude that is inseparable from the life of someone practicing a particular profession. Assessment of compliance with professional ethics should be carried out by individuals practicing that profession because only they understand best whether their behavior is in accordance with the demands of professional ethics. Due to the lack of technical knowledge, lay people find it difficult to assess this. Therefore, compliance with professional ethics is highly dependent on the morals and character of the individual practicing the profession (Asshiddiqie, 2015). The ethical institutions in the health sector consist of various bodies, including the Indonesian Medical Council, Dental Council, Indonesian Health Workers Council, Councils for each Health Profession, Secretariat of the Indonesian Medical Council, Secretariat of the Indonesian Health Workers Council, Indonesian Medical Discipline Honor Council, Medical Ethics Honor Council (MKEK), Hospital Ethics and Law Committee (KEHRS) and Provincial Hospital Supervisory Board (BPRS), Nursing and Midwifery Ethics and Discipline Council, as well as Ethics and Discipline Councils for other healthcare professions. These institutions play an important role in upholding professional ethics and discipline within the healthcare sector in Indonesia (Tadda et al., 2022). These provisions describe a quite extensive structure of ethical institutions that consist of various entities responsible for ethical aspects in various fields of Health (Amin, 2017). This includes the Indonesian Medical Council, the Dental Council, the Indonesian Health Workers Council, and similar institutions representing various healthcare professions. These ethical institutions act as regulators, supervisors, and

policymakers in terms of codes of ethics, standards, and regulations that govern the conduct and practice of healthcare professions.

Additionally, these provisions also mention the existence of the Indonesian Medical Discipline Honor Council, the Medical Ethics Honor Council (MKEK), the Hospital Ethics and Law Committee (KEHRS), the Provincial Hospital Supervisory Board (BPRS), the Nursing and Midwifery Ethics and Discipline Council, as well as the Ethics and Discipline Councils for other healthcare professions. Each of these institutions has a specific role in upholding ethical standards, addressing ethical breaches, and ensuring that practices in the healthcare field are in accordance with the established codes of ethics (Asshiddiqie, 2018). They function as a platform for resolving ethical issues, imposing sanctions if necessary, and ensuring that healthcare professionals continue to comply with the established norms and ethics (Purnama, 2017). This demonstrates a structured and disciplined system for regulating the ethical aspects of various healthcare professions, with the aim of ensuring better quality of service to the community. Based on the description of the ethical institutions in the healthcare sector, a deeper examination reveals that there may be overlaps in the authority between these institutions. For instance, in the field of medicine, the Indonesian Medical Council, the Medical Council, the Dental Council, the Indonesian Medical Discipline Honor Council, the Medical Ethics Honor Council (MKEK), the Hospital Ethics and Law Committee (KEHRS), and the Provincial Hospital Supervisory Board (BPRS) will have interrelated roles and responsibilities. Similarly, for other healthcare professions, such as nursing or midwifery, there may be similar interconnections between the respective ethical bodies. Considering this, it can be assumed that the existence of numerous ethical institutions in the healthcare sector has the potential to enhance the overall enforcement of ethics, but with some caveats. The coordination between these institutions may become complex and confusing, which in turn could slow down the decision-making process and actions related to the enforcement of ethics.

Furthermore, the existence of these ethical institutions needs to be analyzed from a utilitarian perspective. The utilitarian view emphasizes that actions considered good are those that provide benefits and advantages, while actions considered bad are those that cause suffering and harm (Mangunhardjana, 1997; Pratiwi et al., 2022). The use of the utilitarian perspective in this research on ethical institutions is based on the premise that utilitarianism is a useful tool for evaluating ethics by considering whether an event provides benefits or losses to the community as a whole, using calculations of pleasure and pain (Pratiwi et al., 2022). The utilitarian approach prioritizes the benefits and harms in assessing the morality of an action. Its analysis is based on the overall impact of the action on the well-being or happiness of the community. By considering the concept of pleasure and pain, utilitarianism emphasizes the importance of evaluating actions based on how much benefit (in the form of pleasure) they generate and how little harm or suffering they cause. While this approach provides a clear perspective in considering the consequences of an action on the community as a whole, there are some criticisms against this approach. One of them is the difficulty in objectively measuring or weighing pleasure and pain. The definitions of pleasure and pain can vary among individuals and groups, making it complex to determine how to measure them. Furthermore, utilitarianism can also create dilemmas where an action that provides benefits to the majority can sacrifice the interests of the minority. This can create situations where certain groups or individuals suffer for the greater good of the majority, which then raises ethical questions about justice. Nevertheless, the basic concept of utilitarianism provides an important foundation in considering the social and moral impacts of actions or decisions, raising awareness of the importance of considering the interests of the wider community in the context of ethical evaluation.

2. RESEARCH METHODOLOGY

This research is a normative legal study, which examines the norms related to the authority of ethical enforcement in healthcare services from a utilitarian perspective. A statutory approach is applied with systematic interpretation, as explained by Lemaire, which involves interpreting legislation as part of the overall legal system by relating it to other regulations. The legislation used in this research includes: Law Number 17 of 2023 on Health; Government Regulation of the Republic of Indonesia Number 49 of 2013 on the Hospital Supervisory Board; Minister of Health Regulation Number 42 of 2018 on the Hospital Code of Ethics and Law; and Minister of Health Regulation of the Republic of Indonesia Number 49 of 2013 on the Hospital Nursing Committee. The normative legal research methodology employed in this study involves analyzing the relevant legal norms and regulations within the healthcare sector, with a specific focus on the ethical institutions and their authority. The utilitarian perspective is applied as a lens to evaluate the

effectiveness and efficiency of these ethical frameworks in fulfilling their intended purpose of promoting ethical practices and safeguarding the well-being of the community. This approach allows for a comprehensive legal analysis that considers the broader socio-ethical implications of the existing regulatory structures, while also acknowledging the potential limitations and critiques of the utilitarian approach in the context of healthcare ethics.

3. RESULT AND DISCUSSION

The Relationship between Professional Ethics and Codes of Ethics in Law Enforcement

Law enforcement is a series of processes to realize values, ideas, and aspirations that are viewed as abstract into a sufficiently concrete goal. The ideals or goals of the law embody moral values such as truth and justice, and these values should be realized in reality through law enforcement (Faizal, 2012). Law enforcement is defined as the effort to implement the law as it should be, to supervise its implementation to prevent violations, and to restore the law if violations occur (Isnantiana, 2019). Law enforcement is carried out with sequential actions, including: issuing warnings to stop the violation and not repeat it, imposing specific obligations such as compensation or fines, isolation or exclusion such as revoking certain rights, and imposing physical sanctions such as imprisonment (A. Muhammad, 2006). Law enforcement officials are individuals or groups tasked with enforcing the rules and regulations within a country's legal system (Jumaka, 2011). The judicial system involves the process of examining, deciding, and adjudicating cases to ensure compliance with substantive law through formal legal procedures. The courts carry out this process by following fair and transparent procedures. Thus, law enforcement and the judicial process are interconnected and essential in maintaining justice and order in society (Hadi, 2012). Furthermore, there are at least seven factors that contribute to the difficulty in enforcing the law in Indonesia: Firstly, the weak rule of law in the country, both in terms of political will and political action. Secondly, the existing legislation still reflects political interests. Thirdly, the lack of moral integrity, professionalism, and credibility among law enforcement officials, particularly judges, prosecutors, police, and lawyers, in enforcing the law. Fourthly, the limited infrastructure and resources that support the law enforcement process. Fifthly, the low level of legal awareness and culture within the community. Sixthly, the prevailing legal enforcement paradigm is still positivist-legalistic, prioritizing substantive justice over formal justice. Lastly, the policies adopted to address the issues of law enforcement are still imperfect, lacking comprehensiveness, ad hoc, or fragmented (Faizal, 2012).

The relationship between law and ethics can be seen, for example, in the ethical provisions of certain professions that require the obligation to maintain confidentiality (Pelle, 2012), such as the provisions in Article 170 of the Indonesian Criminal Procedure Code (KUHP) and the act of disclosing such confidentiality being a criminal offense as stated in Article 322 of the Indonesian Criminal Code (KUHP). This demonstrates the realization of abstract ethical values into concrete regulations that give them effect, in addition to the fact that the dignity of a profession is determined by the quality of the empowerment of its code of ethics. Members of a profession will feel bound by the duties and authorities as stipulated in the code of ethics, not only to protect the interests and rights of clients but also to safeguard the general interests of the state. The relationship between ethics and the legal profession can be understood as the professional ethics being the way of life that involves the willingness to provide professional services with full engagement and expertise in order to carry out duties and obligations towards the community (Atikah, 2017). The code of ethics for the legal profession is the realization of the ethical principles of the legal profession, which must be adhered to by every legal professional, and is the concrete manifestation of the implementation of the code of ethics as a guideline in serving the community (S. R. F. Muhammad, 2021). The code of ethics contains provisions regarding obligations to oneself, obligations to the general public, obligations to colleagues, and obligations to the individuals or professions being (Kenedi, 2016). The code of conduct serves as a means to determine whether a profession has engaged in professional malpractice or not. Malpractice occurs when someone, in carrying out their duties and obligations, performs unprofessional actions that cause harm to others (Sabrina, 2017). The code of ethics is a collection of moral principles that govern a profession to guide the actions of its members, maintain quality, and prevent conflicts (Sinaga, 2020). The code of ethics functions as a social control mechanism and helps members understand their obligations (Sinaga, 2020). The purpose is to enhance the dignity and quality of the profession, protect members from unfair competition, and prioritize the public interest. However, its implementation is often hindered by factors such as familial ties, positional influence, consumerism, and weak spirituality.

Other obstacles include the misuse of the legal profession, with a tendency for the legal profession to become a business activity, a decline in social concern, technological advancements that are not matched by legal progress, low awareness for self-development, lack of commitment due to a lack of understanding or proper implementation of the code of ethics, inadequate sanctions that fail to provide a deterrent effect, and weak law enforcement (Sinaga, 2020). In fact, the enforcement of the law in this discussion also applies to the enforcement of the code of ethics itself. The code of ethics is part of positive law, and its enforcement is not limited to positive law but also extends to the enforcement of the code of ethics. The enforcement of the law and the enforcement of the code of ethics by law enforcement officials will be a reflection of the community's efforts to uphold the law. The law will become increasingly undermined if law enforcement officials are unable to serve as role models in law enforcement. The ethical principles possessed by the legal profession, which are essentially the law enforcement agents, will provide benefits to the social environment (Atikah, 2017). In conclusion, the relationship between professional ethics and codes of ethics to law enforcement is such that the professional ethics and codes of ethics possessed and adhered to by law enforcement officials are an absolute necessity and should be one of the essential elements of effective law enforcement. Developing robust law enforcement requires the implementation of processes oriented towards the actualization of the values that underlie and guide the behavior of the law enforcement process, namely the adherence to a professional code of ethics and other relevant provisions related to the law enforcement process. It is through this process that the achievement of the goals of the law will be attained (Kusnu Goesniadhie, 2010).

In the Indonesian context, the Indonesian Medical Association (IDI) is the first professional organization that has developed and implemented a code of ethics system for its members, known as the Indonesian Medical Code of Ethics (Kodeki). The purpose of this guideline is to establish the rules that must be followed in the development and application of medical ethics, as well as the resolution of alleged ethical violations by the Medical Ethics Honor Council (MKEK) in order to improve medical practices that are caring towards patients and the public. In addition to MKEK, there is also the Indonesian Medical Discipline Honor Council (MKDKI) which also has the authority to enforce the professional ethics of medical personnel according to their competence. This scheme of medical professional ethics institutions was in place before the enactment of Law Number 17 of 2023.

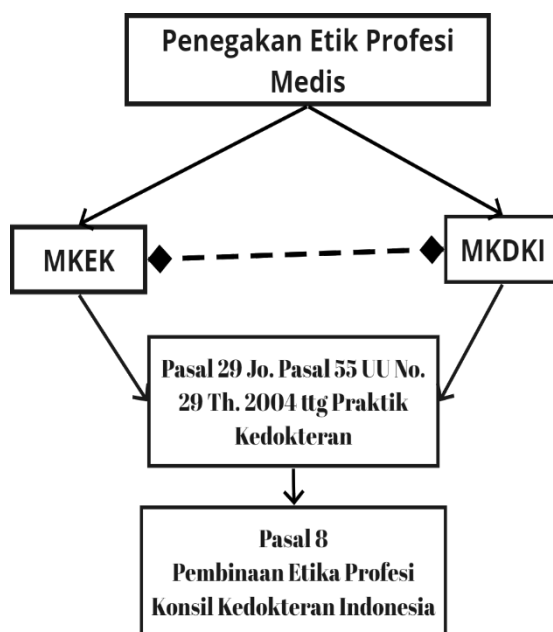


Diagram: Scheme of Health Workforce Ethics Institutions

Source: Processed.

The Medical Ethics Honor Council (MKEK) and the Indonesian Medical Discipline Honor Council (MKDKI) are two entities that regulate professional standards in the field of medicine, with a focus and authority that differ. The MKEK, which operates under the Indonesian Medical Association (IDI), focuses on

the professional ethics of the medical field and is tasked with providing ethical considerations and resolving ethical cases among its members. On the other hand, the MKDKI operates under the Indonesian Medical Council (KKI) with regulations derived from Law Number 29 of 2004 concerning Medical Practice. The MKDKI focuses on medical and dental discipline, handling professional misconduct and imposing sanctions. The MKDKI has formal authority to decide and impose sanctions in cases of disciplinary violations. A comparison between the Medical Ethics Honor Council (MKEK), the Indonesian Medical Discipline Honor Council (MKDKI), and the framework of Councils and Councils in Law Number 17 of 2023 on Health reveals important differences and similarities in the context of regulation, focus, and authority over ethics and discipline in the Indonesian health sector.

1. Regulation and Legal Basis

MKEK and MKDKI serve the specific needs of the medical profession with different legal and organizational bases; MKEK is under the IDI, while MKDKI is under the KKI. The Councils and Councils established under Law No. 17 of 2023 have a broader scope, covering all medical and health personnel, with a strong legal basis for improving the quality and discipline of the profession.

2. Focus and Main Duties

MKEK focuses on the development of the medical profession's ethics, while MKDKI focuses on the enforcement of medical and dental discipline. The Councils and Councils have broader duties that include the registration of health workers, technical guidance, and the enforcement of professional discipline, demonstrating the integration of tasks in improving the quality of health services.

3. Authority

MKEK's authority is more internal and geared towards the development of IDI members, while MKDKI has formal authority to decide cases of disciplinary violations. The Councils and Councils, as regulated in Law No. 17 of 2023, are granted more comprehensive formal authority to assess and decide on disciplinary sanctions against health workers, with clear procedures for complaints and case resolution.

The framework of the Councils and Councils in Law No. 17 of 2023 offers a more inclusive and integrated approach to improving the quality and supervision of professional discipline in the health sector, compared to the more specific focus of MKEK and MKDKI on the medical profession. The implementation of this law is expected to strengthen professional standards and provide better protection for the public.

Table 1. Comparison of Professional Ethics Institutions for Medical Personnel in Law Number 17 of 2023 on Health, with Presidential Regulation (PERPRES) Number 86 of 2019 on Amendments to Presidential Regulation Number 90 of 2017 on the Indonesian Health Workforce Council

Councils in Health Law No. 17/2023	Functions & Duties	Description
Councils	To improve the quality and competence of health workers, and provide protection to the public.	General structure for Councils covering various health professions.
Specific Councils in Presidential Regulation No. 86/2019		
Clinical Psychology Council	Oversees and fosters clinical psychology.	Newly added, similar to the general functions of the Council in improving quality and development.
Nursing Council	Oversees and fosters various types of nurses.	Includes registration and enforcement of practice discipline, in accordance with the general principles of the Council.
Midwifery Council	Oversees and fosters midwives.	Newly added, focused on fostering the midwifery profession.
Pharmaceutical Council	Oversees and fosters pharmacists and pharmaceutical technical personnel.	Includes registration and disciplinary enforcement, in accordance with the Council's objectives under Health Law No. 17/2023.
Public Health Council	Oversees and fosters health	Focused on public health, reflecting

	epidemiologists, health promotion personnel, and others.	the diversity of healthcare fields that can be regulated by the Council.
Environmental Health Council	Oversees and fosters environmental sanitation personnel, health entomologists, and health microbiologists.	Focused on environmental aspects, in line with the Council's role in protecting the public.
Nutrition Council	Oversees and fosters nutritionists and dietitians.	Focused on nutrition and diet, relevant to improving the quality of public health.
Physical Therapy Council	Oversees and fosters physiotherapists and other related therapists.	Focused on physical therapy, supporting the Council's function in enhancing competence and development.
Medical Technology Council	Oversees and fosters various technical professions in the medical field.	Newly added, indicating the diversity of professions regulated within the healthcare system.
Biomedical Engineering Council	Oversees and fosters specialized engineering disciplines in medical treatment and healthcare.	Indicates adaptation to technological developments in healthcare, in line with the Council's objectives.
Traditional Health Council	Oversees and fosters traditional healthcare practices.	Focused on traditional practices, emphasizing the importance of diverse approaches in healthcare.

Noted. The information provided is sourced from Law Number 17 of 2023 on Health, and Presidential Regulation (PERPRES) Number 86 of 2019 on the Amendment to Presidential Regulation Number 90 of 2017 on the Indonesian Health Workforce Council. This matrix demonstrates how the concept of the Council in Law No. 17 of 2023 on Health provides a framework for regulating various health professions through specific Councils in accordance with Presidential Regulation No. 86/2019. Each specific Council has the goal of overseeing and fostering a particular profession, similar to the broader objectives of the Council in the Law, which are to improve quality and competence as well as protect the public. The merger of all health workforce Councils into the Disciplinary Board for Medical Personnel and Health Workers as regulated in Law No. 17 of 2023 raises several legal issues that require in-depth analysis. The following are some of the legal aspects of concern that can be identified from this policy:

1. Complexity and Specificity of Professions

Each health profession has its own complexity and specificity in professional practice. Merging them into a single disciplinary board poses challenges in understanding and applying the different standards fairly and accurately. Specific expertise and deep understanding of each profession become crucial, and without this, there is a risk that the board's decisions may not reflect a comprehensive understanding of the specialized practice.

2. Representation and Diversity

It is important to ensure that all health professions are fairly represented in the Disciplinary Board. This involves challenges in the board's membership structure, where there must be a balance between broad representation and operational efficiency. There is a risk that some professions may feel underrepresented, which can reduce the legitimacy and acceptance of the board's decisions.

3. Procedural and Complaint Processes

Standardizing the complaint and disciplinary case handling processes for diverse professions within a single board can pose procedural challenges. There must be a clear and structured mechanism to handle complaints from various professional backgrounds, while considering the uniqueness of each case. Uniformity of the process must be balanced with flexibility to adapt to the specifics of each case.

4. Training and Capacity Development

Establishing a competent and knowledgeable board requires significant investment in training and capacity development of its members. The legal challenge here relates to the financing, resources, and logistics to ensure that all board members have the necessary knowledge and expertise.

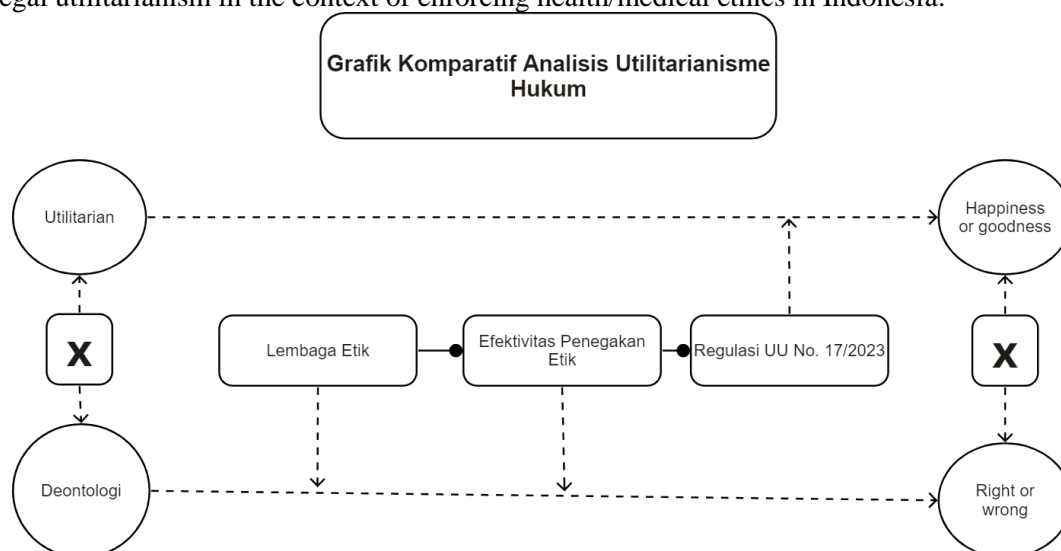
5. Provisions and Implementation Guidelines

The details of this merger, including the duties, functions, and authorities of the board, must be further regulated in a Government Regulation. There are challenges in developing guidelines that not only meet legal requirements but also best practices in the ethics and discipline of health professions. This process requires broad consultation with stakeholders and careful review of existing regulations.

The merger of all health workforce Councils into a single Disciplinary Board offers the potential to improve the quality and consistency in enforcing professional standards. However, the emerging legal challenges require a careful approach, including regulatory adjustments, training of board members, and inclusive and fair complaint mechanisms. Ensuring the successful implementation of this policy will require close collaboration between the government, health professions, and the community.

The Authority of Ethical Institutions in the Health Sector in Enforcing Professional Ethics from a Utilitarian Perspective

The connection between utilitarianism and the enforcement of ethics and law is the process of maximizing usefulness (RIYANDI, 2024), in which the process of maximizing usefulness is the same as maximizing happiness, benefits, gains, and pleasures for as many people as possible (Wardhani et al., 2024) or in the same premise, maximizing usefulness is the same as minimizing suffering for as many people as possible who are affected by a situation that is considered morally important to them (Wardhani et al., 2024). Therefore, utilitarianism in this research is to analyze the usefulness of regulating the authority of ethical institutions and their relationship with law enforcement in the field of health services. Furthermore, as an indicator of utilitarian theory, it will be analyzed through several legal decisions of the judiciary and the relationship of ethical institutional decisions within them. Based on this description, the following will be an analysis of legal utilitarianism in the context of enforcing health/medical ethics in Indonesia.



The chart shows that the enforcement of medical or health ethics in Indonesia has not yet reflected the values of legal utilitarianism. This can be seen from the description of the variables as follows:

Potential Dualism of Ethics Enforcement Institutions

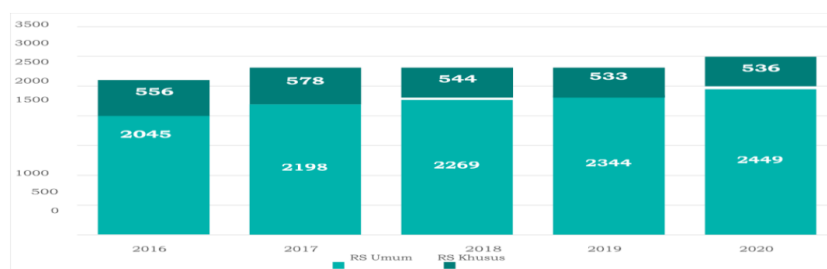
There is inconsistency in the position of the Indonesian Medical Discipline Honor Council (MKDKI) and the Indonesian Medical Ethics Honor Council (MKEK) in several court rulings. In Decision No. 1441/Pid.Sus/2019/PN Mks, the court considered the Ethical Decision of the Indonesian Medical Ethics Honor Council (MKEK). Similarly, in Supreme Court Decision No. 233 K/Pid.Sus/2021, the judges also referred to the Indonesian Medical Ethics Honor Council (MKEK) in their legal considerations. However, in Constitutional Court Decision No. 14/PUU-XII/2014, it was stated that MKDKI has the authority to examine and decide whether there has been a violation of the medical profession's discipline. Furthermore, in a civil lawsuit at the Bekasi District Court, case number 630/Pdt.G/2015/PN Bks, the court initially granted part of the plaintiff's claim, stating that the defendants had committed an unlawful act. However, this decision was later overturned by the West Java High Court (No. 462/Pdt/2016/PT.BDG) and the Supreme Court (No.

1366 K/Pdt/2017), which argued that the lawsuit was premature and should have been preceded by an examination by MKDKI first. In contrast, the Bandung District Court (No. 514/Pdt.G/2013/PN.Bdg) and the South Jakarta District Court (No. 484/Pdt.G/2013/ PN.JKT.Sel) accepted the plaintiff's claims, affirming the important role of MKDKI in determining disciplinary violations but not eliminating the right to file a lawsuit. The debate over the role and position of MKDKI in medical disputes continues in various jurisprudence in Indonesia, reflecting the challenge in balancing patient protection and a fair legal process for medical professionals.

Effectiveness of Ethics Enforcement

Based on the data described earlier, the data from the Indonesian Medical Discipline Honor Council (MKDKI) shows that the total number of cases that occurred was 193. Of these, 34 received written sanctions, 6 received re-education, and 27 had their registration certificates revoked, totaling 67 sanctions or 34.715% of the total 193 cases. According to data from the Indonesian Medical Association (PB IDI), legal complaints and lawsuits against doctors in Indonesia have continued to increase every year. In 2015, there were 10 lawsuits against doctors, which increased to 30 lawsuits in 2016, 38 lawsuits in 2017, and reached 33 lawsuits in the first half of 2018 (Octaviani, 2018). One of the causes of the weak effectiveness of ethics enforcement is the uneven distribution of doctors and medical specialists. The excessive working hours of doctors have become a national and international concern, with a heavy workload due to the increasing number of patients, uneven distribution of doctors, and the growing complexity of patient illnesses. These factors are thought to contribute to the increased workload of doctors, which can potentially affect the quality of medical services and increase the number of lawsuits (Baharuddin et al., 2017).

Gambar 2. 11 Persebaran Dokter/Dokter Gigi/Spesialis berdasarkan alamat korespondensi



Source. The Legal Academic Paper on the 2023 Health Bill

Furthermore, another problem is the lack of effective communication between doctors and patients, which is the cause of around 80% of medical disputes (Alwy., n.d.). Based on this, the ethical enforcement carried out by both MKDKI and MKEK has not been effective in providing legal protection through ethical enforcement for the community or for medical personnel. This is in line with the opinion of Jimly Asshiddiqie, who said that the criminalization of certain professions is caused by the ineffective enforcement of the code of ethics in that profession (ALI/RZK., 2014). Jimly emphasized that the law must not only be improved with a spirit of justice, but also supported by the enforcement of ethics. He said the need to build a system of state ethics. The 1945 Constitution is not only about law, but also about ethics. Furthermore, Jimly considered that law and ethics can complement each other (ALI/RZK., 2014). The 2023 Health Law (Law No. 17 of 2023) aims to support the professionalism of medical and health personnel, through the enforcement of professional discipline as regulated in Article 304. To achieve this, the Minister is obligated to establish a council specifically tasked with professional discipline. This council plays an important role in determining whether there has been a disciplinary violation by medical and health personnel. The council can be permanent or ad hoc, depending on the need, with its duties and functions regulated in more detail in a Government Regulation. Article 306 emphasizes that in cases where medical or health personnel have undergone disciplinary sanctions and are then found to be suspected of a criminal offense, dispute resolution must prioritize a restorative justice mechanism in accordance with the applicable laws and regulations. This shows an effort to resolve problems in a restorative manner, rather than just punishing.

Meanwhile, Article 308 states that before criminal action can be taken against medical or health personnel suspected of violating the law in the implementation of health services, a recommendation from the council mentioned in Article 304 must first be obtained. This also applies to cases of civil liability, where medical or health personnel must obtain a recommendation from the council before being held liable for actions that harm patients in a civil manner. The request for a recommendation must be submitted in writing

by the investigator or by the medical, health, or representative personnel, depending on the context of the case. The council must then provide a recommendation within 14 working days, with the absence of a recommendation within this period considered as approval to conduct an investigation. These provisions demonstrate a legal effort to ensure that actions taken against medical or health personnel are carried out with careful consideration of professional standards and operating procedures, reflecting recognition of the complexity of medical practice and the importance of maintaining professional standards.

4. CONCLUSION

The Indonesian Medical Ethics Honor Council (MKEK) and the Indonesian Medical Discipline Honor Council (MKDKI) play crucial roles in upholding the standards of the medical profession in Indonesia. MKEK, under the Indonesian Medical Association (IDI), focuses on professional ethics and the doctor-patient relationship, while MKDKI, under the Indonesian Medical Council (KKI), handles disciplinary violations and imposes sanctions in accordance with Law No. 29 of 2004. These two institutions work together to ensure ethical medical practice that meets the established standards. The enforcement of medical ethics in Indonesia faces a dualism between MKDKI and MKEK, with a low number of sanctions imposed and an increasing number of legal complaints against doctors. Law No. 17 of 2023 on Health aims to strengthen the enforcement of discipline and promote restorative justice. However, better communication between doctors and patients is still needed to reduce medical disputes.

REFERENCEE

- ALI/RZK. (2014). Jimly: Weak Ethics Enforcement, Criminalization of the Profession is Rampant. Hukumonline. <https://www.Hukumonline.com/berita/a/jimly--penegakan-atik-sebuah--kriminalization-profesi-marak-lt533017b71e644/>
- Alwy., S. (nd). Most Allegations of Disciplinary Violations are Due to Lack of Communication between Doctors and Patients. Sehatnegeriku.Kemkes.Go.Id. <https://sehatnegeriku.kemkes.go.id/baca/rilis-media/20110521/451104/dugaan-pelanggaran-disciplinary-terbesar-akibat-kurangnya-komunikasi-dokter-dan-patient/>
- Amin, Y. (2017). Professional Ethics and Health Law . Ministry of Health of the Republic of Indonesia.
- Asshiddiqie, J. (2015). Initiating Ethical Justice in Indonesia. Judicial Commission of the Republic of Indonesia. Jakarta , 249–250.
- Asshiddiqie, J. (2018). The Role of Ethics Institutions in Supervising and Maintaining the Honor, Nobility and Behavior of Public Officials. Paper Presented at the National Seminar on the Honorary Court of the DPR-RI Regarding the Role of Ethics Institutions in Supervising and Maintaining the Ethical Behavior of Public Officials, at the DPR-RI Building, Jakarta , 8 , 8–9.
- Atikah, I. (2017). The Function of Legal Professional Ethics as a Fair Law Enforcement Effort. In: Social Transformation Towards an Ethical and Democratic Information Society.
- Baharuddin, M., Lefrandt, R., & Santosa, F. (2017). An ethical review of doctors' working hours regulations in Indonesia. Indonesian Journal of Medical Ethics , 1 (1), 25.
- Faizal, L. (2012). Law Enforcement Behavior Towards Progressive Law Enforcement in the Perspective of National Legal Development. ASAS: Journal of Sharia Economic Law , 4 (1).
- Hadi, I. (2012). Who are the Law Enforcers in Indonesia? Hukumonline. <https://www.Hukumonline.com/klinik/detail/ulasan/lt502201cc74649/anggaran-penegak-Hukum/#:~:text=Meanwhile,law enforcement is defined as those related to judicial matters.>
- Isnantiana, NI (2019). Law and Legal System as Pillars of the State. Journal of Sharia Economic Law , 2 (1), 19–35.
- Jumaka, W.F. (2011). Analysis Of Law Enforcement Against Child Trafficking Through Facebook Media . 25.
- Kenedi, J. (2016). Legal Profession and Professional Code of Ethics. El-Afkar: Journal of Islamic Thought and Tafsir Hadith , 5 (1), 43–54.
- Kusnu Goesniadhie, S. (2010). Moral Perspective of Good Law Enforcement. Ius Quia Iustum Law Journal , 17 (2), 195–216.
- Mangunhardjana, A. (1997). Isms in ethics. Yogyakarta: Kanisius .
- Muhammad, A. (2006). Legal professional ethics . Aditya Bakti's image.

- Muhammad, SRF (2021). Application Of The Duties And Authority Of The Regional Honors Council In Addressing Code Of Ethics Issues Against Notaries Who Violate The Code Of Ethics In Carrying Out The Duties Of The Office (p. 6). Andalas University.
- Octaviyani, PR (2018). Mediation Should Be Utilized in Malpractice Cases . Indonesian Media. <https://mediaindonesia.com/humaniora/168824/mediasi-besar-dicepatan-dalam-case-malpractice>
- Pratiwi, E., Negoro, T., & Haykal, H. (2022). Jeremy Bentham's Utilitarianism Theory: Legal Goals or Legal Product Testing Methods? *Journal of Constitutions* , 19 (2), 268. <https://doi.org/10.31078/jk1922>
- Purnama, S.G. (2017). Health ethics and law module. In Udayana University .
- RIYANDI, A. (2024). Reconstruction Of Regulations For Fulfilling The Rights Of Victims Of Trafficking Crimes Based On The Value Of Justice . Sultan Agung Islamic University Semarang.
- Sabrina, N. (2017). Qualification of medical negligence, "Medical Malpractice", and medical failure in Indonesian Legislation .
- Sinaga, NA (2020). Code of ethics as a guideline for the good implementation of the legal profession. *Aerospace Law Scientific Journal* , 10 (2).
- Tadda, A., Indar, I., & Ilyas, A. (2022). Legal Review of the Existence of the Hospital Ethics and Legal Committee (KEHRS) in Resolving Medical Disputes. *Ecosystem Scientific Journal* , 22 (1), 120–135.
- Wardhani, NK, Gaol, TML, & Syahuri, T. (2024). Application of the Concept of Utilitarianism Theory in Law Enforcement in Indonesia. *Journal of Public Relations* , 2 (1), 123–130.