



Review Article

ANALYSIS OF HEALTH WORKERS' PRACTICE NEGLIGENCE: REVIEW OF ETHICAL CODES AND LEGAL ASPECTS

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ABSTRACT

Background. Healthcare professionals hold a unique ethical and legal responsibility for patient health, where negligence is considered a failure to maintain professional standards that can result in patient harm, leading to both ethical concerns and legal consequences. This study aimed to analyze health workers' practice negligence to clarify ethical codes and legal concepts.

Research method. This approach emphasizes review articles and normative studies, viewing law as a collection of written norms found in legislation, jurisprudence, and expert opinions. The study aims to conduct a normative analysis of the current, formally applicable legal framework, utilizing a statutory method to examine Law Number 17 of 2023, Law Number 29 of 2004, additional regulations from the Criminal Code, and relevant sectoral laws.

Findings. The relationship between ethical norms and legal obligations in medical practice illustrates that ethical standards often precede legal frameworks by establishing professional expectations. Legal rules serve to enforce minimum care standards, protecting patients and practitioners. Negligence constitutes a breach of duty leading to harm, making health professionals liable under civil law for unlawful acts causing injury, thereby allowing patients to seek compensation. In Indonesia, health law defines legal obligations and penalties for negligence, with civil and criminal liabilities relevant in severe injury or death cases.

Conclusion. The importance of clarity in legal standards to adjudicate malpractice claims. A key harmonization, when ethical and legal systems diverge, conflicts can arise, for instance, between respecting autonomy and mandated interventions. Ethical guidelines can help resolve these tensions, but cannot substitute for legal accountability.

Keywords: Ethical Standards, Health Workers, Legal Obligation, Practice.

BACKGROUND

Nursing services are an important part of health services that require nurses to provide professional care based on ethics and respect for patient dignity. The high frequency of interaction between nurses and patients makes understanding and applying the code of ethics a fundamental aspect of nursing practice. In the previous research reviewed, it is emphasized that the nursing code of ethics serves as a moral guideline and a standard of professional behavior in decision-making, especially when nurses are faced with ethical dilemmas[1]. Healthcare professionals hold a unique ethical and legal responsibility for patient health, where negligence is considered a failure to maintain professional standards.

However, in daily practice, various forms of violations of the values in the nursing code of ethics are still found, ranging from patient identification errors, non-compliance with hand hygiene standards, to suboptimal therapeutic communication. This situation directly impacts patient safety and the quality of healthcare services. The journal indicates that despite the binding nature of the code of ethics and its legal and moral consequences, violations persist due

to a lack of understanding and internalization of professional ethics[2]. Additionally, high workloads, the imbalance between the ratio of nurses to patients, and demands from the work environment also contribute to negligence in the performance of duties. Indonesia, as a country with a large population, faces serious challenges in the adequacy and distribution of healthcare personnel. This condition can increase the potential for malpractice or professional errors if not balanced with strong ethical knowledge and attitudes[3].

The previous study found that although the majority of nurses at Hospital X in Jakarta had a good level of knowledge and attitude towards the code of ethics, there were still aspects that needed improvement, particularly those related to the relationship between nurses and the community[4]. This shows that understanding ethics is not only related to direct interaction with patients, but also the scope of holistic services involving families and communities. Continuous evaluation is needed so that the implementation of nursing ethics can be consistent and prevent negligence in practice[5]. Thus, analysis of cases of negligence related to violations of the code of ethics and the implementation of professional ethics is important. These efforts not only serve as a reflection on nursing practice but also as a foundation for systematic improvements to enhance the quality of healthcare services and ensure patient safety across various healthcare facilities.

Healthcare workers occupy a unique ethical and legal position due to their direct responsibility for patient well-being. Negligence in clinical practice, broadly defined as failure to meet professional standards resulting in patient harm, triggers both ethical scrutiny and legal consequences[6]. Research on this intersection emphasizes that ethical codes and legal norms are complementary frameworks that guide health worker behavior, while also providing mechanisms for accountability and patient protection[7,8].

Analysis of negligence in health practice is important theoretically because it clarifies the difference between negligence and malpractice, which often confuses the public[9]. This analysis helps to understand that not all adverse outcomes constitute malpractice and places medical errors appropriately within the legal framework. The doctor-patient relationship is understood as a therapeutic contract, so negligence is more appropriately viewed as a civil breach rather than a criminal offense. Doctors are bound by obligations such as informed consent, due care, and acting in accordance with professional standards[10].

This analysis also explains the elements of negligence-duty, breach, harm, and causation-thereby distinguishing negligence from unpredictable medical risks. The theoretical analysis affirms that doctors are only obligated to exert their best efforts without guaranteeing outcomes, and strengthens the basis for resolving medical disputes through mediation in accordance with the Health Law. Overall, the analysis of negligence helps clarify legal concepts, protect patients, and prevent the criminalization of health workers, thus becoming an important foundation for improving health law in Indonesia.

This research contributes to the field of health law and medical ethics by offering an integrative analysis of health workers' practice negligence that combines ethical codes and legal frameworks, which are often examined separately in previous studies. It clarifies the distinction between unavoidable medical risk and actionable negligence, thereby strengthening theoretical understanding of professional responsibility in healthcare. Practically, the study provides insights for healthcare institutions, professional bodies, and policymakers to enhance ethical compliance, legal awareness, and governance mechanisms, while also identifying gaps in ethical education and legal literacy that can inform future training, policy development, and research to improve patient safety and legal certainty.

RESEARCH METHODS

This research used a literature study method with a qualitative descriptive-analytical approach to describe, analyze, and interpret health law policies and concepts in Indonesia, utilizing a literature study method to achieve a comprehensive understanding. This approach focuses on normative studies, in which law is understood as a set of written norms reflected in legislation, jurisprudence, and the thinking of legal experts[11,12]. This study to develop a normative analysis of the existing and formally applicable legal structure. In its implementation, a statutory approach is used, namely by examining the provisions of Law Number 17 of 2023 concerning Health, Law Number 29 of 2004 concerning Medical Practice, as well as other regulations included in the Criminal Code and various relevant sectoral regulations.

In addition, a conceptual approach is also used, namely, examining various legal ideas or concepts such as medical malpractice, professional responsibility, and the legal relationship between health workers and patients. This approach is used to explore the substantive dimensions of legal protection derived from the principles of professional ethics and the fundamental rights of patients in health services. However, regulations regarding the responsibility of health workers for negligence that causes harm to patients can be found in a number of articles scattered throughout the legislation. Among them are Article 293 and Article 310 of Law Number 17 of 2023 concerning Health, which provide a legal basis for the legal consequences of medical actions that deviate from standards. On the other hand, Article 1365 of the Civil Code (KUHPerdata) stipulates that any unlawful act that causes harm obliges the perpetrator to provide compensation. In the criminal sphere, Article 360 of the Criminal Code (KUHP) sets out provisions regarding negligence causing injury or death. Law No. 29 of 2004 on Medical Practice regulates the procedures for enforcing professional discipline against medical personnel suspected of ethical and professional violations[1,13].

This right is constitutionally protected under Article 28H(1) of the 1945 Constitution of the Republic of Indonesia, which states that every individual has the right to a prosperous life, including the right to health. This right is constitutionally protected by Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which affirms that every individual has the right to a prosperous life, including in terms of physical and mental health. In the national legal system, patients' rights are not only guaranteed by the constitution, but also further elaborated in various sectoral regulations, including Law Number 17 of 2023 concerning Health[14].

FINDINGS

The nursing code of ethics consists of values and principles that are closely related to morality, making them normative in nature and requiring benchmarks for assessment. Based on the definition explained by the Indonesian National Nurses Association (PPNI) in 2003, it is a statement of professional standards used as a guideline by nurses in acting, carrying out their duties and functions as nurses[15,16]. This is in line with the PPNI's expectation that nurses, in carrying out their duties, should always pay attention to clients and provide the best possible service to them.

The Code of Nursing Ethics in Indonesia is a professional standard used as a guideline, benchmark, and framework for making decisions. It is a rule for Indonesian nurses in carrying out their duties and functions so that they always adhere to the code of ethics, thereby avoiding undesirable situations and avoid ethical violations[17]. According to Nasrullah, the nursing code of ethics in Indonesia[18] consists of:

1. Nurses and Clients Nurses, in providing nursing services, shall always respect human dignity

without regard to ethnicity, race, religion, social class, political affiliation, skin color, gender, or social status.

2. In providing nursing services, maintain a conducive environment by respecting the values embraced by other cultures, customs, and religious practices.
3. Nurses remain responsible for clients who require nursing care and support.
4. Nurses are obligated to keep confidential all matters related to clients and entrusted to them, except when required for legal proceedings under applicable law.

Elements of the Nursing Code of Ethics[19] include:

- 1) Nurses and Patients/Clients. This element emphasizes that nurses have a moral and professional responsibility to protect the dignity, rights, and safety of patients. In practice, nurses are required to provide humane services, respect patients' values and beliefs, and maintain the confidentiality of patients' personal data throughout the care process. This journal shows that nurses are required to be empathetic, polite, provide a sense of security, and establish therapeutic communication as a form of implementing the code of ethics in their relationship with patients.
- 2) Nurses and Nursing Practice. In this element, the code of ethics stipulates that nurses must carry out professional practice based on competency standards, operational procedure standards, and patient safety principles. The code of ethics requires nurses to uphold integrity, honor honesty, and make clinical decisions based on scientific evidence and patient needs. This journal explains that discipline, responsibility, attention to detail, and decision-making ability are crucial aspects of applying the code of ethics in daily practice.
- 3) Nurses and Colleagues/ Co-workers. This element explains that nurses must maintain harmonious professional relationships with fellow nurses and other health workers. Its implementation includes mutual respect, teamwork, not undermining colleagues, and supporting each other for the sake of patient safety and quality of service. This journal found that nurses demonstrate attitudes of mutual assistance, providing support, maintaining effective communication, and preventing conflicts, as part of compliance with the code of ethics in relationships among healthcare workers.
- 4) Nurses and the Community. The code of ethics in this element stipulates that nurses are responsible for helping to meet the broader health needs of the community. This includes providing health education, engaging in promotional and preventive activities, and supporting community health programs. This study found that nurses adopt a community-based approach, provide health counseling, and demonstrate concern for social health issues as a form of implementing their ethical role within the community.
- 5) Nurses and the Nursing Profession This element of the code of ethics emphasizes the obligation of nurses to maintain the good name of the profession, improve their competence, and participate in the development of nursing science. Through continuous learning, participating in training, and upholding professional values, nurses demonstrate their commitment to professional ethics. This journal explains that nurses are encouraged to continuously improve themselves, comply with professional organization regulations, and maintain the profession's image in the eyes of the community as a form of applying this ethical aspect.

According to Rokayah and Widjaja, forms of negligence in the context of medical/ health workers malpractice are divided into six main types[9]. The document explicitly states that there are six (6) types of negligence, namely: 1) Malfeasance, when a person commits an act that is against the law or commits an improper act; 2) Misfeasance, which is the execution of an act but

done incorrectly; 3) Nonfeasance, which is the failure to perform an act despite having a duty to do so or having an obligation to do so; 4) Malpractice, which is negligence or carelessness on the part of someone who holds a profession such as a doctor, nurse, midwife, accountant, and so on; 5) Maltreatment, which is careless or unskilled treatment; 6) Criminal negligence, which is indifference to the safety of others despite knowing that one's actions could cause injury or harm. The journal by Fitria et al. explains that the principle of non-maleficence is a moral obligation for nurses not to cause harm to patients[20]. Although this journal focuses on the relationship between ethical code knowledge and non-maleficence behavior, its content can be analyzed using the four elements of malpractice, namely duty, breach, causation, and damages.

Duty (Nurse's Obligation), nurses have a professional obligation to provide safe, non-harmful, and ethical services. The journal states that nurses must maintain a safe environment and prevent physical, psychological, and social harm to patients. The principle of non-maleficence is the basis of this obligation, so that every nursing action must be carried out with caution[20].

Breach of duty, a breach occurs when nurses fail to carry out these obligations. The journal provides examples of ethical violations that contradict non-maleficence, such as patient identity errors, mixing up supporting examination results, and a lack of explanation to patients/families before treatment. Such behavior demonstrates non-compliance with the code of ethics and failure to fulfill the obligation not to harm patients[16].

Causation arises when the violation has the potential to or actually causes an impact on the patient. The journal explains that violations of non-maleficence can "threaten patient safety" and that unethical or careless actions have direct consequences on the patient's condition[20]. This proves the existence of a relationship between the violation of obligations and the emergence of danger or risk to the patient.

Damages occur when patients experience physical, psychological, or social impacts as a result of the violation[21]. The journal mentions examples of ethical incidents that caused serious losses, even to the point of maternal death in a case of nursing ethics violation. This illustrates that negligence or carelessness can lead to real losses, including worsening conditions, psychological trauma, and even death.

Relevant legal basis: 1) Law No. 38 of 2014 concerning Nursing- regulates the scope of nursing practice, professional standards, the delegation of authority (mandate) from medical personnel, and the mechanism of professional/administrative responsibility, which forms the main framework for assessing the obligations and standards of conduct of nurses; 2) Article 359 of the Criminal Code formulates criminal acts resulting from negligence that causes death: "Whoever, due to their fault (negligence), causes the death of another person" with the criminal penalties stipulated in the article; for criminal liability to apply, the elements of negligence and a causal relationship between the negligence and the death must be present[22].

DISCUSSION

Legal Consequences of Negligence

The legal consequences of negligence in healthcare practice include civil, criminal, and administrative liability borne by health workers and hospitals as providers[23]. Hospitals are obligated to pay compensation for material losses (such as additional medical expenses) and immaterial losses (such as prolonged physical suffering or loss of hope for recovery) experienced by patients, as stipulated in Article 46 of Law Number 44 of 2009 concerning Hospitals. This provision is a derivation of Articles 1365 and 1367 paragraph (3) of the Civil

Code, which require perpetrators of negligence or employers (hospitals) to compensate for losses resulting from unlawful acts[24,25].

Negligence is proven if it meets four elements (4D): duty (professional obligation), dereliction (breach of duty), direct causation (direct causal relationship), and damage (actual loss), thereby triggering a lawsuit based on the doctrine of vicarious liability, where the hospital is liable for the actions of its subordinates[16]. In cases like that of a patient, the repeated loosening of sutures after a hysterectomy caused infection and prolonged pain, which could be sued as negligence for violating standard operating procedures (SOP) for suturing wounds and the hospital's duty of care[26]. In addition to compensation, legal consequences may include criminal penalties for healthcare personnel if negligence results in death or severe disability, in accordance with Article 58 paragraph (1) of Law No. 36 of 2009 concerning Health, as well as the *res ipsa loquitur doctrine* which burdens the perpetrator with proving their lack of negligence. Hospitals are also required to fulfill patients' rights. Article 32 of Law No. 44/2009, such as effective and safe services, to avoid further lawsuits (Kurniawan Sinambung Agung, 2019).

Forms of Legal Protection for Victims of Negligence in Health Practice

1. Preventive Legal Protection

Legal protection is provided before negligence or patient harm occurs. The aim is to prevent potential malpractice or services that do not meet standards. Its forms are: The aim is to prevent potential malpractice or services that do not meet standards. Forms: a) Professional Standards and SOP (Standard Operating Procedures); b) Health workers are required to follow professional standards, standard operating procedures, and service standards set by professional organizations and the government. These standards serve as work guidelines to minimize the risk of errors; c) Informed Consent; d) Before undergoing medical treatment, patients have the right to receive complete information regarding the diagnosis, risks, benefits, alternative treatments, and costs; e) Registration and Licensing (STR and SIP); f) Every health worker must have a Registration Certificate (STR) and a Practice License (SIP). With these licenses, the state guarantees that health workers in practice have met the competency qualifications; g) Supervision by Councils and Professional Organizations, examples: Indonesian Medical Council (KKI), Medical Ethics Honorary Council (MKEK), Indonesian Nurses Association (PPNI), Health Department[16].

2. Administrative/Disciplinary Legal Protection

Administrative protection is provided when patients suffer losses due to healthcare workers failing to adhere to professional standards, but this does not necessarily fall under criminal jurisdiction. Authorized institutions was Indonesian Medical Disciplinary Honorary Council (hereinafter referred to as MKDKI). The MKDKI investigates whether doctors have committed disciplinary violations, such as: failure to follow standard operating procedures (SOP), failure to perform required examinations, violation of practice authority limits, and failure to update professional competencies. MKDKI sanctions may include: 1. Reprimand, 2. Written warning, 3. Obligation to undergo retraining, 4. Restriction of practice authority, 5. Temporary revocation of practice license, 6. Permanent revocation of practice license, 7. Sanctions from Professional Organizations. MKEK (Indonesian Medical Association) or the Nursing Ethics Council may impose ethical sanctions in the form of a warning, revocation of membership status, professional suspension, sanctions from the health Office or hospital may include: guidance, work suspension, transfer, temporary deactivation from service[27].

3. Civil Legal Protection (Compensation)

Civil protection is provided when patients can prove that negligence on the part of health

workers has caused harm. This is based on Article 1365 of the Civil Code, Unlawful Acts (PMH). Elements: 1. There is an unlawful act, 2. There is damage, 3. There is a causal relationship, 4. There is an element of fault. Forms of compensation that can be claimed by the victim for material losses, additional medical expenses, hospitalization costs, loss of income, damage to medical equipment or property, immaterial losses, psychological pain, suffering, disability, loss of opportunity for a decent life. Civil lawsuits can be filed against healthcare professionals who committed negligence and hospitals (liable under vicarious liability).

Criminal Law Protection: If negligence causes serious consequences (serious injury/death), the perpetrator can be charged with a criminal offense[28]. Frequently used articles:

- 1) Article 359 of the Criminal Code (Negligence resulting in death)
- 2) Article 360 of the Criminal Code (causing serious injury due to negligence)
- 3) Article 361 of the Criminal Code (negligence committed in the course of employment/profession)

Criminal penalties may include imprisonment, detention, and fines. Recommended evaluative steps:

- 1) Inventory of facts and evidence: complete medical records, action notes, shift schedules, doctor's instructions, SOPs, documentation of delegation of authority (if any). These documents determine whether there has been a breach.
- 2) Independent expert opinion (nursing/medical/forensic): assess whether the action meets professional standards. The expert also explains the cause-and-effect relationship.
- 3) Separate the ethical, civil, and criminal domains in a structured manner: the professional disciplinary process can run concurrently with/independently of the criminal/civil process, but the outcome of one domain can affect the other (e.g., disciplinary council recommendations as evidence).
- 4) Review the delegation of authority and responsibility of the mandator: The Nursing Law allows delegation within certain limits; however, the responsibility for delegated actions often needs to be reviewed (who gave the mandate, whether the delegation procedure complies with the rules, and the existence of supervision).

This study's limitation the analysis relies primarily on secondary data from academic literature, ethical codes, and statutory regulations, which may not fully capture the complexity of negligence as it occurs in real clinical practice. Second, the normative approach focuses on *ideal legal and ethical standards*, limiting the ability to assess gaps between regulation, ethical norms, and actual implementation by health workers. Third, variations in institutional policies, professional cultures, and enforcement mechanisms across healthcare settings are not examined in depth, which may affect the generalizability of the findings. Finally, the absence of empirical data such as case studies, interviews, or judicial decisions restricts the study's capacity to measure the practical effectiveness of ethical codes and legal frameworks in preventing or resolving health workers' practice negligence.

CONCLUSIONS

Ethical codes and legal rules are mutually reinforcing frameworks for governing health worker practice and addressing negligence. Ethical codes guide preventive behavior rooted in professional values, while legal rules provide enforceable standards and remedies for harm. Understanding the synergy, as well as tensions between these domains, is essential for

strengthening health system accountability, patient safety, and trust in healthcare professionals. The importance of clarity in legal standards to adjudicate malpractice claims. A key harmonization, when ethical and legal systems diverge, conflicts can arise, for instance, between respecting autonomy and mandated interventions. Ethical guidelines can help resolve these tensions, but cannot substitute for legal accountability.

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