

Research Article

The Authority of the Professional Disciplinary Council and Its Implications for Legal Certainty for Medical and Health Personnel

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Abstract: This study examines the changes in the authority of the Professional Disciplinary Council (Majelis Disiplin Profesi, MDP) under Law Number 17 of 2023 concerning Health and their implications for legal certainty for medical and health professionals. Although these changes are intended to improve the professional disciplinary system, they have resulted in the centralization of authority under the Ministry of Health, including the appointment of members, institutional formation, and the process of judicial review of MDP decisions. Furthermore, MDP recommendations can now serve as a basis for criminal investigations against medical and health personnel, which contradicts the original function of the MDP as an institution for enforcing ethics and professional discipline based on due process of ethics. This research employs a normative juridical method with a descriptive-analytical and case study approach, supported by expert interviews in health law. Theoretical frameworks used include the Theory of Legal Certainty, the Theory of Human Rights, and the Theory of Legal Protection. Findings indicate that the centralization of authority under the Ministry of Health has created a power imbalance in professional oversight. This has negative implications for legal protection, increasing the risk of conflict of interest, abuse of authority, and weakening legal certainty for medical and health professionals. Therefore, it is necessary to revise Law No. 17 of 2023 and Government Regulation No. 28 of 2024 to restore the independence of the MDP and ensure a proportional redistribution of authority within the health professional oversight system.

Keywords: Health Law; Legal Certainty; Professional Disciplinary Council

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1. Introduction

Public service is a series of activities aimed at fulfilling the service needs of every citizen, as required by laws and regulations [1]. As stipulated in Article 28H paragraph (1) of the 1945 Constitution, it is stated that every person has the right to live in physical and spiritual prosperity, to have a place to live, and to obtain a good and healthy living environment, as well as the right to receive health services. Article 9 of Law Number 39 of 1999 concerning Human Rights states that Everyone has the right to live, defend their life, and improve their standard of living. Every person has the right to live in peace, security, tranquillity, happiness, and prosperity, both physically and spiritually. Every person has the right to a good and healthy living environment [2]. Health as a human right must be realized by providing various health efforts to all members of society and implementing quality and affordable health development [3]. Key components of healthcare services must be key components, namely

doctors and dentists, who apply their medical knowledge to deliver healthcare to the community. Therefore, doctors and dentists play a vital role, as they are directly involved in providing healthcare services and determining the quality of the services given [3].

A doctor is highly susceptible to encountering legal matters when practising medicine, as this profession is closely related to a person's safety [4]. A medical dispute is a disagreement between two or more parties regarding a legal event that occurs within the medical field, including actions taken by doctors, nurses, or paramedics towards patients [5]. Disputes between doctors and patients occur when patients become dissatisfied with the doctor's performance in carrying out medical treatment or performing medical procedures (Novianto, 2017:9). Every medical treatment a doctor performs inherently carries risks associated with the medical procedure. Therefore, doctors should also have legal immunity in carrying out their duties and authority in performing medical actions, as long as these are by their competence and the medical code of ethics.

In the practice of medicine, there are three types of violations: (a) legal violations/malpractice, (b) ethical violations, and (c) violations of the professional discipline of doctors and dentists. The distinction between these types of violations is based on the material legal sources applied and the institutions authorized to adjudicate when such violations occur [4].

In resolving medical disputes involving doctors or dentists, a lengthy procedure must be undertaken before an act can be determined as malpractice or medical negligence, as it is necessary to identify the specific violations committed by the doctor in the provision of medical services. The possible violations that may be committed by doctors in the medical profession can include ethical, disciplinary, administrative, and legal violations (both criminal and civil) (Novianto, 2017:9). A different institution handles each type of violation: (i) the MKEK, which handles medical ethics; (ii) the MKDKI, which handles medical discipline; and (iii) the court, which handles medical disputes [7].

The Indonesian Medical Discipline Honorary Council (hereinafter referred to as MKDKI) is an autonomous body of the Indonesian Medical Council (KKI) [8], appointed to handle cases of alleged violations of medical or dental discipline and to impose sanctions, this body is authorized to receive complaints, investigate, and evaluate whether or not there has been a breach committed by doctors or dentists in the application of their professional discipline, and subsequently to impose sanctions if a violation is proven. Disciplinary sanctions that may be imposed on doctors or dentists found guilty include issuing a written warning, recommending the revocation of the Registration Certificate/Practice License (STR/SIP), and/or requiring participation in additional education or training. If the investigation uncovers an ethical violation, the complaint will be forwarded to the professional organization through the Medical Ethics Honorary Council (hereinafter referred to as MKEK), which is an autonomous body within the management of the Indonesian Medical Association (PB IDI) [8]. MKEK is responsible for guiding and supervising the implementation of professional ethics, overseeing the enforcement of the Indonesian medical code of ethics, and imposing sanctions on members who violate professional ethics, including permanent revocation of membership for doctors who breach medical ethics.

In recent years, several real cases have demonstrated the importance of enforcing discipline and ethics in the medical profession. The case of Dr. MY [9], an orthopedic doctor in Banyuwangi who was involved in alleged sexual harassment of a patient, is one such example. Dr. MY was reported to have committed sexual harassment against a female patient at the hospital. This case highlights the importance of strict supervision and the application of firm sanctions for violations of professional ethics [10]. MKDKI and MKEK, as supervisory bodies, play an important role in ensuring that violations like this are not tolerated and that perpetrators can be punished appropriately for the level of the violation committed.

In addition to the case of Dr. MY, there was also a case of bullying against a resident doctor (Specialist Medical Education Program participant) at a teaching hospital. In this case, a resident doctor experienced bullying by their senior, which resulted in severe stress and psychological disturbances for the victim [11]. This bullying case has attracted public attention and sparked discussions about the need for better supervision of professional ethics, not only in the relationship between doctors and patients but also in interprofessional relationships within educational and medical service environments. From the examples of cases above, it is evident that strong regulations and effective oversight are essential to maintaining ethical standards and discipline within the medical profession.

The resolution of problems in the health sector remains a serious challenge in Indonesia, and health law in Indonesia continues to evolve. A new Health Law has been enacted, namely Law Number 17 of 2023. Various objections have arisen from institutions, associations, and

organizations engaged in the health sector because, with the enactment of the new Health Law on August 8, 2023, several laws have been revoked and declared no longer valid. One of these is Law Number 29 of 2004 concerning Medical Practice, which regulates the Indonesian Medical Disciplinary Board (MKDKI) [12].

Several regulatory changes stipulated in Law Number 17 of 2023 and its implementing regulation, namely Government Regulation Number 28 of 2024, related to the Indonesian Medical Disciplinary Board (MKDKI), include the change of name to the Professional Discipline Council and a shift in authority in the enforcement of medical professional discipline. Law Number 29 of 2004 Article 56 stipulated that the MKDKI was responsible to the Indonesian Medical Council. However, under the latest provisions, specifically Article 712 paragraph (3) of Government Regulation 28 of 2024, the Professional Discipline Council is directly responsible to the Minister of Health. This change reflects a shift in authority that impacts the governance of medical professional discipline in Indonesia, where previously collegial oversight has now moved into the bureaucratic domain.

The recruitment process for members of the Professional Discipline Council under the latest regulation shows significant differences compared to previous rules. In Law Number 29 of 2004, Article 59 paragraph (1), the membership of the Indonesian Medical Disciplinary Honorary Council (MKDKI) consisted of 3 doctors, three dentists from professional organizations, one doctor and one dentist from hospital associations, and 3 law graduates. Furthermore, Article 59 paragraph (2) letter g requires law graduates to have health law experience. However, in Government Regulation Number 28 of 2024, Article 714 paragraph (1), the composition of the Professional Discipline Council members is changed to 9 people, consisting of representatives from the Ministry of Health, professional organizations, health care facilities, legal experts, and the public. What is noteworthy is that this regulation does not provide clear criteria regarding the legal experts and members of the public who may become members, in contrast to the previous rule, which explicitly required legal experts with experience in health law. This lack of clarity can potentially create bias in the recruitment of members. It may affect the quality and integrity of the council in handling disciplinary cases in the health sector.

Changes in rulings also indicate the potential for legal uncertainty in their implementation. In Law Number 29 of 2004, Article 69 paragraph (1), it is stated that the decisions of the Indonesian Medical Disciplinary Honorary Council (MKDKI) are binding for doctors, dentists, and the Indonesian Medical Council. In addition, Article 69, paragraph (2) affirms that these decisions may take the form of a declaration of innocence or the imposition of disciplinary sanctions. However, in the latest regulation, Law Number 17 of 2023 Article 306 paragraph (2), the results of the Professional Discipline Council's examination are binding on medical and health personnel in general. Furthermore, Article 307 allows the council's decisions to be subject to review by the Minister of Health.

The minister's authority to review decisions may have implications for legal certainty for medical and health personnel. On one hand, the review can serve as a corrective mechanism for unfair or erroneous decisions. On the other hand, it may prolong the resolution process of disciplinary disputes and create uncertainty for the involved medical personnel. Therefore, it is necessary to analyze to what extent this authority is regulated and how its implications affect legal certainty for medical and health personnel in Indonesia.

Based on the above explanation, the author is interested in conducting research aimed at analyzing whether the changes in the authority of the Professional Discipline Council have a positive or negative impact on the independence, accountability, and effectiveness of the council's disciplinary enforcement and what the implications are for legal certainty for medical and health personnel in resolving issues in the medical field.

This research will analyze, first, how the authority of the Professional Discipline Council is regulated in Law Number 17 of 2023 on Health, particularly regarding the scope, mechanism, and forms of authority of the council in enforcing professional discipline and providing sanctions or recommendations for disciplinary violations by medical and health personnel; and second, how the implications of the council's decisions affect legal certainty for medical and health personnel, especially in the context of legal protection, prevention of disproportionate criminalization, and guarantees of procedural justice in handling cases of alleged disciplinary violations or criminal acts in the health sector.

2. Literature Review

Health Law

In this study, health law is defined as rules or norms regulating the rights and obligations in healthcare services applicable to medical personnel and patients. Health law encompasses regulations regarding healthcare service standards, the protection of patients' rights, and guidelines for medical ethics and professional discipline. Essentially, health law in this study covers aspects contained in Law Number 36 of 2009 concerning Health and Law Number 29 of 2004 concerning Medical Practice, including amendments in Law Number 17 of 2023 and the implementing regulations of Government Regulation Number 28 of 2024.

Profesi Authority of the Professional Discipline Council

The Professional Discipline Council's authority in this study's context refers to the rights and powers held by the Council to supervise, examine, and enforce discipline against medical personnel suspected of violations. This authority includes actions such as receiving reports or complaints, conducting investigations, deciding on the existence of disciplinary or ethical violations, and determining appropriate sanctions. This authority is outlined in Articles 304 and 306 of Law Number 17 of 2023 concerning Health, which regulates the enforcement of professional discipline for medical and health personnel.

Legal Protection

Legal protection in this study is defined as efforts or mechanisms undertaken by the state or certain institutions to ensure that the rights of medical and health personnel are fulfilled and protected from actions that violate the law, discipline, and code of ethics. Legal protection includes preventive measures such as preventing violations through legislation and repressive measures in handling violations by imposing sanctions through institutions such as the Professional Discipline Council. According to experts such as Satjipto Rahardjo, Setiono, Muchsin, and Philipus M. Hadjon, legal protection aims to safeguard individual interests, prevent arbitrary actions, balance social norms, and uphold human dignity by the principles of the rule of law and the recognition of human rights. In the context of medical and health personnel, legal protection is crucial to ensure that they can carry out their profession safely and professionally, both through preventive rights to protect them from threats or pressure and repressive rights when facing disputes, as regulated in Government Regulation No. 28 of 2024 and Article 1 paragraph (3) of the 1945 Constitution, so that the state is obliged to provide legal certainty and guarantees, enabling medical personnel to work according to their authority without undue legal interference or threats.

Legal Certainty

Legal certainty in this research refers to the guarantee that the rules and regulations applicable in the medical and health sectors can be clearly understood, consistently applied, and provide a sense of security for health and medical professionals so that they know the boundaries of their authority and responsibilities and are protected from subjective legal interpretations. According to Jan Michiel Otto, legal certainty in developing countries is often only theoretical due to the gap between regulations and practice. However, absolute legal certainty requires clear rules, consistent government implementation, government adjustment of citizens' behaviour, judicial independence, and concrete enforcement of decisions. Lon Fuller adds that legal certainty is achieved if eight principles of legality are fulfilled, such as clarity, consistency, publication of rules, and harmony between rules and their implementation, all of which reflect the internal morality of law. In the context of medical professionals, legal certainty is crucial to protect patients from the risk of malpractice and medical personnel from unfounded claims. However, to this day, health law in Indonesia still faces challenges in defining the boundaries of violations, so clear regulations and firm resolution procedures are needed to create legal certainty that protects both parties and increases public trust in the legal system in the health sector.

Human Rights

In this research, human rights are operationalized as the fundamental rights of medical and health personnel, including the right to safety, justice, and dignity in carrying out their duties. These rights encompass the right to work under fair conditions, free from pressure or discrimination, and protection from legal claims that do not adhere to professional procedures. According to Scoot Davidson, human rights (HR) initially emerged from the natural law school of thought, which holds that natural law is part of God's perfect law and can be accessed through rational thought, with humans as unique individuals separate from the state. Davidson outlines five main theories of human rights: the natural law theory, which emphasizes natural rights as a reference point against unjust state laws; positivist theory, which defines rights based on state law without moral considerations; anti-utilitarian theory, which highlights the protection of minority rights from majority domination; legal realism, which stresses universal values to protect human dignity; and Marxist theory, which views rights as tools within capitalist societies and unnecessary in an ideal communist society.

In the context of medical and health personnel, human rights are crucial to ensure that they can work safely, are protected, and adhere to ethical standards, as guaranteed in Government Regulation No. 28 of 2024. This regulation provides rights to legal protection, fair compensation, occupational safety, and opportunities for self-development. It affirms that legal protection aims to provide legal certainty and guarantee working conditions free from coercion or threats. This protection is provided by the central government, local governments, and the leadership of health facilities through professional standards and operational procedures, as well as legal support and assistance for medical and health personnel facing legal issues, including consultation and assistance in dispute resolution.

Professional Discipline Council

In this study, the Professional Discipline Council refers to the body authorized to examine and impose sanctions for disciplinary or ethical violations committed by medical personnel. This operational definition includes the council's duties in processing reports, conducting investigations, and deciding on medical and health professional discipline violations. The council is expected to uphold professional standards by providing legal certainty for patients and protecting medical personnel who work by professional standards.

Medical Personnel and Health Workers

This study authorised medical personnel, including doctors, dentists, and specialists, to practice medicine. In contrast, health workers include nurses, pharmacists, and other health professionals who work to support medical services. The medical and health personnel who are the subjects of this study have professional responsibilities according to the standards of their respective professions as regulated by law, which include their rights and obligations to provide safe and high-quality healthcare services.

3. Proposed Method

The research method used in this writing is the descriptive-analytical method with a normative juridical approach. Descriptive-analytical research aims to describe and analyze data obtained from observations, interviews, documents, and field notes, which are then analyzed to understand the authority of the Professional Disciplinary Board and its implications for legal certainty for medical and health personnel. The normative juridical approach is employed by examining literature (secondary materials) or conducting library-based legal research, performing comparative legal analysis of Law Number 17 of 2023, Government Regulation Number 28 of 2024, and previous regulations governing medical discipline and codes of ethics (Nugroho et al., 2020:8).

The data sources in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include legislation such as Law Number 17 of 2023 concerning Health, Government Regulation Number 28 of 2024, and other relevant previous regulations. Secondary legal materials comprise literature, books, scientific journal articles, theses, dissertations, and other scholarly works related to medicine's discipline and code of ethics. Meanwhile, tertiary legal materials provide explanations or guidance regarding primary and secondary legal materials, such as legal dictionaries and encyclopedias (Nugroho et al., 2020:29).

Data collection techniques were conducted through library research to obtain secondary data and direct interviews with health law experts and medical practitioners to obtain primary data. The data obtained were then analyzed using a descriptive-comparative method, which involves grouping, selecting, and systematically organizing the data, followed by deductive analysis and comparison between the new and old regulations. To maintain the validity and reliability of the data, source triangulation was performed by comparing information from various sources and conducting cross-checks of the interview results. With this method, the research is expected to provide a comprehensive overview of the resolution of disciplinary violations and the medical code of ethics according to the applicable regulations, as well as a comparison with previous regulations [14]

4. Results and Discussion

The Authority of the Professional Discipline Assembly, as Regulated in Law Number 17 of 2023, concerning Health

Discipline is one of the fundamental elements in maintaining professionalism in a profession, including in medicine. In this context, discipline is an ethical guideline and a mechanism to ensure that every action aligns with established quality standards. Before discussing in detail the authority of the Professional Discipline Assembly as regulated in Law Number 17 of 2023 concerning Health, it is important first to understand the concept of discipline, the foundations of its application within the medical profession, and the early history of the formation of disciplinary institutions responsible for upholding these standards. This understanding provides a strong basis for assessing the authority of the Professional Discipline Assembly within a broader regulatory context.

Before Law Number 17 of 2023 concerning Health was enacted, regulations related to medical discipline were governed by Law Number 29 of 2004 concerning Medical Practice. That law served as the primary legal basis for establishing standards of discipline, ethics, and professionalism for medical personnel, including mechanisms for resolving disciplinary violations through the Indonesian Medical Discipline Honorary Council (Majelis Kehormatan Disiplin Kedokteran Indonesia, MKDKI). The definition of medical discipline according to Article 55, paragraph 1 of Law Number 29 of 2004 concerning Medical Practice is the rules and/or provisions for applying scientific knowledge in delivering services that doctors and dentists must follow. Meanwhile, disciplinary and ethical violations are breaches of the rules and/or provisions for applying scientific knowledge, which, in essence, can be grouped into three categories [4]:

- 1) Practicing medicine incompetently;
- 2) Failing to carry out professional duties and responsibilities towards patients properly;
- 3) Engaging in disgraceful behaviour that damages the dignity and honour of the medical profession.

The existence of the Indonesian Medical Disciplinary Honor Council (Majelis Kehormatan Disiplin Kedokteran Indonesia/MKDKI) was established based on Law No. 29 of 2004 concerning Medical Practice, formed in response to the need to uphold professional standards and discipline in medical practice in Indonesia. This institution emerged as part of reforms in regulating the medical profession, aiming to maintain the quality of healthcare services and protect the rights of the public as users of medical services.

Background and Rationale for the Formation of Law Number 17 of 2023 on Health

The 2019 COVID-19 pandemic revealed various weaknesses in the national health system, ranging from disparities in access to services and limited health resources to weak legal protection for medical personnel. This situation made the government realise the importance of comprehensive reform in health governance.

The pandemic has served as a reflective moment that underscores the necessity for a paradigm shift in the healthcare system, as well as regulatory reforms, in order to address contemporary challenges effectively [15]. In response to these needs, the Indonesian House of Representatives (DPR RI) and the government ultimately enacted the Draft Health Law through the omnibus law method, resulting in Law Number 17 of 2023 during the plenary session on July 11, 2023. One of the fundamental changes introduced by this law is the shift in focus from a curative (treatment-based) approach to a promotive and preventive

(prevention-based) approach. The government also emphasizes the importance of strengthening primary healthcare services through the standardization of healthcare service networks, aiming to expand coverage and improve the quality of services, particularly at the community level [16].

The reform of the health system, as reflected in the enactment of the new Health Law, is driven by practical needs arising from the pandemic and represents the state's intention to build a resilient, adaptive, and equitable health system. Through this law, the state seeks to provide better legal protection for all health service actors, promote the utilization of technologies such as telemedicine and electronic medical records, and update institutional structures to ensure the discipline and professionalism of medical and health personnel.

One strategic step is adopting the omnibus law method, which aims to avoid obstacles in regulatory formation, facilitate consensus-building, save legislative time, and increase efficiency and productivity in law-making. At the same time, it seeks to prevent the accumulation of regulations with similar substance, as was the case with Law Number 29 of 2004 concerning Medical Practice, Law Number 36 of 2009 concerning Health, and Law Number 38 of 2014 concerning Nursing, all of which contain provisions on legal protection for health workers. Thus, reform through the omnibus law method is expected to simplify and integrate various existing legal provisions, making the health law system more efficient and effective.

Organisational Structure and Procedural Mechanisms of the Professional Discipline Council (MDP)

Law Number 17 of 2023 concerning Health emphasises healthcare services as a primary component in improving public health. One of the key aspects comprehensively regulated by this law is human resources in health, which includes Medical Personnel and Health Workers. A particularly noteworthy provision for further study is the regulations concerning the institution responsible for enforcing professional discipline among medical personnel, as stipulated in Articles 304 to 309 of the law. This institution is subsequently referred to as the Professional Discipline Council (Majelis Disiplin Profesi, MDP), as specified in Government Regulation Number 28 of 2024, which serves as the implementing regulation of Law Number 17 of 2023 [17].

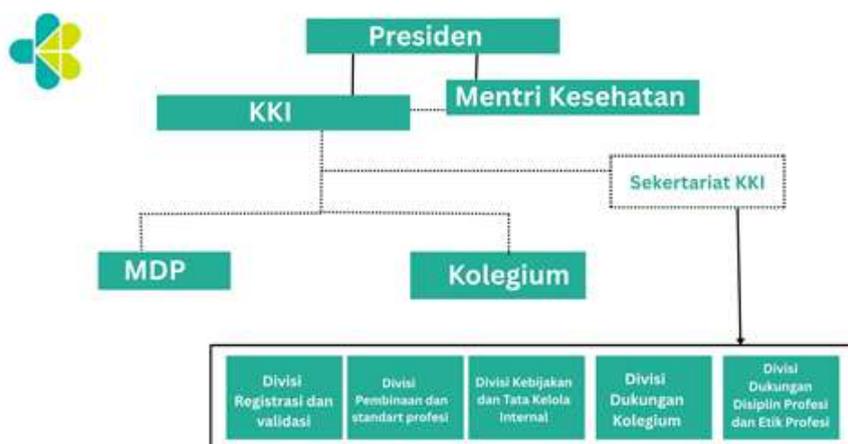


Figure 1. Structure of the Council, Collegium, and Assembly

Before further discussing the role and position of the Professional Disciplinary Assembly (MDP), it is important to understand that the regulatory system for medical and health personnel in Indonesia operates through an interconnected institutional structure, namely the Indonesian Health Council (KKI), the Indonesian Health Collegium, and the Disciplinary Assembly. The KKI is a non-structural institution accountable to the President through the Minister of Health. However, it operates independently in carrying out its duties, primarily formulating internal policies, managing registration, and conducting technical professional development for medical and health personnel by Article 694 of Law Number 17 of 2023. Meanwhile, as a scientific forum composed of experts, the Collegium is tasked with developing competency standards, training curricula, and competency certification as regulated in

Article 705 of Government Regulation 28 of 2024. Every medical and health professional must be technically competent and uphold ethics and professional standards. Therefore, when allegations of disciplinary or ethical violations arise, the MDP serves as the institution that receives reports, investigates, adjudicates disciplinary violations, and provides recommendations. Its existence is thus crucial in maintaining order and safeguarding the profession's integrity within society.

Further explanation is provided regarding the mechanisms and procedures followed by the professional disciplinary assembly, starting from the reporting stage, examination process, decision-making, and review procedures. In a forum themed "Communication of the Indonesian Medical Association on April 20, 2025," Prasetyo Edi, a member of the MDP, explained the disciplinary complaint mechanism as follows;



Figure 2. Complaint Mechanism

This mechanism begins with the complainant filling out a complaint form and identifying the reason for the complaint. The report is then received and verified by the MDP. At this initial stage, a notable difference from the mechanism applied in the previous MKDKI is the involvement of the respondent's perspective, namely the health worker or medical personnel being reported. This perspective is significant because it may differ from or contradict the complainant's analysis, particularly in addressing the provisions of Article 306 of Law No. 17 of 2023, which regulates the discipline of medical and health personnel.

After document verification, the MDP holds a plenary meeting to assess whether the report meets formal and substantive requirements. If these requirements are met, an examination team will conduct a hearing with the relevant parties, including additional examinations if necessary. Subsequently, the examination results are brought to a decision-reading session, and the MDP issues its decision. This new mechanism affirms the principle of procedural justice by involving the respondent's perspective from the outset. It provides a more open opportunity for the reported party to present a defence. Additionally, an opportunity is provided to request a review of the decision using;



Figure 3. Mechanism of Judicial Review

According to Yuli in the official release of the Ministry of Health of the Republic of Indonesia, the mechanism of judicial review of the decision of the Professional Disciplinary

Board is intended as a corrective measure in cases where new evidence (novum) emerges, or errors are found in the application of disciplinary law. The reported party must submit the request for judicial review within 10 working days from the announced date of the decision. The Minister of Health has the authority to determine the outcome of the judicial review; however, its implementation is delegated to the Director General, who is responsible for forming an Ad Hoc Team [18].

The Ad Hoc Team shall examine the newly submitted evidence, and the applicant is required to provide a rebuttal of the grounds for their petition. Subsequently, the Ad Hoc Team shall submit its recommendation to the Director General, and the Director General, on behalf of the Minister, shall issue a decision on the review. This decision is final and binding and may only be submitted once.

Another mechanism introduced in Law No. 17 of 2023 is the provision for recommendations from the professional disciplinary council for medical and health personnel suspected of engaging in unlawful conduct during the provision of health services, with the following procedural flow:



Figure 4. MDP Recommendation Mechanism

Citing the discussion in the official broadcast of the Ministry of Health of the Republic of Indonesia as presented by Yuli, the mechanism for submitting a recommendation request may be initiated by relevant parties, such as investigators (in criminal cases), civil servant investigators (PPNS), or, in civil cases, by the concerned health professionals or their legal representatives. The application can be uploaded online, after which the Chairperson of the Professional Discipline Council (MDP) will assign an examination team to follow up on the request. The examination process consists of two stages: document review and field assessment. During this examination, the team will evaluate the conformity of actions with standard operating procedures (SOPs), verify the authenticity of documents, and conduct interviews with relevant witnesses. Upon completion of the examination process, a deliberation session will be held to formulate recommendations, which will then be submitted to the Chairperson of the MDP to serve as the basis for decision-making [18].

Comparison of the Authority of the Indonesian Medical Disciplinary Honor Council (MKDKI) under Law Number 29 of 2004 and the Professional Disciplinary Council (MDP) under Law Number 17 of 2023

Changes in health law policy in Indonesia are marked by a shift in the authority to supervise professional discipline from the Indonesian Medical Disciplinary Honor Council (MKDKI), as regulated in Law Number 29 of 2004 concerning Medical Practice, towards the establishment of the Professional Disciplinary Council (MDP) under Law Number 17 of 2023 concerning Health. Therefore, it is essential to compare both bodies in terms of their structure, authority, and roles in the disciplinary enforcement process to assess how these changes affect the principles of justice, independence, and legal certainty for the medical profession.

The Authority of MKDKI Based on Law Number 29 of 2004

Initially, the Indonesian Medical Disciplinary Honor Council (Majelis Kehormatan Disiplin Kedokteran Indonesia, MKDKI) was an independent body established under the mandate of Law Number 29 of 2004 concerning Medical Practice. MKDKI is primarily responsible for upholding discipline within the medical profession, functioning as an autonomous body under the Indonesian Medical Council (Konsil Kedokteran Indonesia, KKI). In carrying out its duties, MKDKI is granted the authority to receive, examine, and decide upon complaints submitted by patients, patients' families, or other parties who feel aggrieved by the actions of doctors or dentists (Rusmini, 2019:10). With this function, the Indonesian Medical Council (MKDKI) serves as a crucial pillar in upholding the standards of the medical profession, ensuring that professional standards, medical service standards, and applicable operational procedures carry out every medical practice

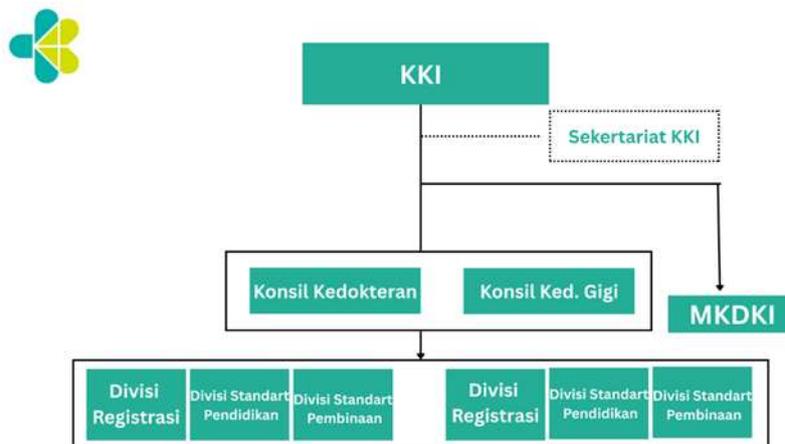


Figure 5. Structure of the Council, Collegium, and Assembly According to Law No. 29/2024

As an independent body, the Indonesian Medical Disciplinary Honorary Council (Majelis Kehormatan Disiplin Kedokteran Indonesia, MKDKI) operates without intervention from external parties, including the Ministry of Health. This independence enables the MKDKI to carry out its duties objectively and professionally, thereby maintaining the integrity of the disciplinary enforcement process. MKDKI's decisions are final and binding for physicians and dentists, providing essential legal certainty for doctors and patients. This ensures justice, protects patients' rights, and offers protection to doctors who have acted by professional standards. The MKDKI balances public protection and respect for the medical profession by ensuring that disputes are resolved professionally and fairly.

Throughout the implementation of Law No. 29 of 2004, the MKDKI has played a strategic role in maintaining public trust in the medical profession as a disciplinary authority and as a key instrument in upholding professional standards to guarantee the quality of healthcare services. The existence of the MKDKI reflects the commitment of both the government and the medical profession to uphold the values of professionalism, ethics, discipline, and integrity in the practice of healthcare services.

Authority of the Disciplinary Council Based on Law Number 17 of 2023

Law Number 17 of 2023 concerning Health introduces fundamental changes to the governance and authority of professional disciplinary bodies for the medical profession in Indonesia. One of the main changes is the replacement of the Indonesian Medical Disciplinary Honor Council (Majelis Kehormatan Disiplin Kedokteran Indonesia/MKDKI) with the Professional Disciplinary Council, which is now directly accountable to the Minister of Health, as stipulated in Article 712 paragraph (3) of Government Regulation Number 28 of 2024. Previously, the MKDKI operated autonomously under the Indonesian Medical Council (Konsil Kedokteran Indonesia/KKI), but oversight is now more bureaucratic and centralized within the ministry. This shift creates a dilemma between needing more centralized control and potentially losing independence in handling professional disciplinary cases.

In addition to changes in governance, the scope of decisions made by the Professional Disciplinary Council has also been adjusted. The council's decisions are now binding on medical and health professionals, but there is a review mechanism by the Minister of Health by Article 307 of Law Number 17 of 2023. This mechanism is intended as a corrective measure for council decisions deemed unfair, but it also has the potential to prolong the resolution of disciplinary disputes and create legal uncertainty. The final authority resting with the Minister of Health opens the possibility for bureaucratic and political influence, thereby reducing the council's independence and raising concerns among medical professionals regarding the objectivity and fairness of the disciplinary oversight system.

Regarding membership, Government Regulation Number 28 of 2024 Article 714 paragraph (1) stipulates that the Professional Disciplinary Council comprises nine members representing the Ministry of Health, professional organizations, healthcare facilities, legal experts, and the public. However, the absence of clear criteria regarding the expertise or experience of members, especially those from the public and legal expert sectors, poses a risk of declining quality in handling disciplinary cases and opens opportunities for bias in recruitment. These regulatory changes reflect the government's efforts to strengthen control over the medical profession. However, an overly centralized approach may reduce transparency, the participation of professional organizations, and legal certainty in enforcing discipline among medical and health professionals.

Apaq	UU No. 29 Tahun 2004 tentang Praktik Kedokteran	UU No. 17 Tahun 2023 tentang Kesehatan
	<p>Pasal 67 : Majelis Kehormatan Disiplin Kedokteran Indonesia memiliki dan melaksanakan kewenangan terhadap pelanggaran yang berkaitan dengan disiplin dokter dan dokter gigi.</p>	<p>pasal 308 : (1) Tenaga Medis atau Tenaga Kesehatan yang diduga melakukan perbuatan yang melanggar hukum dalam pelaksanaan Pelayanan Kesehatan yang dapat dikawatirkan membahayakan keselamatan diri orang lain sebagaimana dimaksud dalam Pasal 304.</p> <p>pasal 308 : (2) Rekomendasi sebagaimana dimaksud pada ayat (1) berupa rekomendasi dapat atau tidak dapat dilakukan penyidikan hukum pelaksanaan praktik keprofesionalitas yang dilakukan oleh Tenaga Medis atau Tenaga Kesehatan sesuai atau tidak sesuai dengan standar profesi, standar pelayanan, dan standar prosedur operasional.</p>
Apaq	UU No. 28 Tahun 2004 tentang Praktik Kedokteran	PP No. 28 Tahun 2024 tentang Kesehatan
pelanggaran	<p>Pasal 70 : Ketentuan lebih lanjut mengenai pelaksanaan fungsi dan tugas Majelis Kehormatan Disiplin Kedokteran Indonesia, tata cara pengangkatan, tata cara pengangkatan, dan tata cara pemecatan serta pemberian hukuman diatur dengan Peraturan Komisi Kedokteran Indonesia.</p>	<p>pasal 713 : (1) Majelis Disiplin Profesi sebagaimana dimaksud mengorganisir upaya melaksanakan pengawasan disiplin profesi Tenaga Medis dan Tenaga Kesehatan berdasarkan ketentuan peraturan disiplin yang ditetapkan oleh Menteri.</p>

Implications of Disciplinary Board Decisions on Legal Certainty for Medical and Health Personnel

From the outset, the enactment of Law Number 17 of 2023 concerning Health has faced widespread rejection from various professional organizations in the health sector. This opposition is not only due to the omnibus law format, which is perceived as being drafted hastily but also because the substance of the law is seen as threatening the independence of the professions and creating legal uncertainty. The Chairman of the Indonesian Medical Association (PB IDI), Adib Khumaidi, in an interview with CNN Indonesia on May 11, 2023, stated that the anxiety among medical and health personnel arises because regulations that were previously explicitly governed under lex special laws have now been replaced by the Health Law, whose articles are considered not to reflect legal certainty and protection concretely. He believes that this situation can potentially give rise to legal claims against medical and health personnel, especially in an increasingly litigious era [20].

Pros and cons have also arisen regarding issuing Government Regulation (PP) Number 28 of 2024 as the implementing regulation of Law Number 17 of 2023. The Chairperson of the Indonesian Health Law Society (MHKI), Mahesa Paranadipa, stated that consolidating all clusters into a single government regulation could create difficulties in the future if substantive provisions need to be revised. He emphasized the importance of upholding the supremacy of law, as implementing regulations must not conflict with higher-level legislation. Furthermore, the limited involvement of stakeholders (health organizations) in the formulation process of this regulation has also been highlighted as a critical issue that deserves attention [21].

In this context, the author focuses on one particular article concerning the decisions of the Professional Discipline Council, which has significant implications for legal certainty for medical and healthcare professionals. Legal certainty, as emphasized by Gustav Radbruch, is one of the three fundamental values of law, alongside justice and utility. In the context of medical and healthcare professionals, legal certainty serves as a crucial foundation for establishing stability and predictability, enabling them to perform their duties safely without fear of unclear legal consequences. Radbruch asserts that legal certainty refers to the clarity and precision of statutory regulations that serve as guidelines in implementing the law. Regarding the decisions of the Professional Discipline Council, legal certainty must be reflected in a transparent, logical, and consistent decision-making process to not create doubt among medical professionals or the public.

The Health Law System in Germany

To deepen the discussion regarding the relationship between legal decisions issued by professional disciplinary boards and legal certainty, it is necessary to compare the legal systems of other countries that have been established for a long time and possess a well-developed legal structure. For example, Germany, like Indonesia, adopts a civil law system. In the context of health law, Germany has a highly structured system oriented toward professional standards and patient protection [22].

Germany's legal system is federal, meaning authority is divided between the central government (Bund) and the federal states (Bundesländer). Core legal frameworks such as the German Constitution (Grundgesetz), Criminal Code (Strafgesetzbuch–StGB), and Civil Code (Bürgerliches Gesetzbuch–BGB) apply uniformly throughout the country. However, administrative regulations and health professions laws, such as the Heilberufsgesetz (Health Professions Act) and the Berufsordnung für Ärzte (Professional Code of Conduct for Physicians), are often adapted by each federal state to regulate licensing, professional oversight, and continuing education for medical practitioners. This arrangement allows each region to tailor regulations to local needs while maintaining consistency within the national legal framework.

In enforcing medical professional discipline, Germany has the Berufsgericht (Professional Court), an independent body responsible for adjudicating ethical and disciplinary violations by medical professionals. Legal proceedings typically begin with a report to the Ärztekammer (Chamber of Physicians) or the local medical authority, which verifies the complaint and, if substantiated, refers the case to the Berufsgericht. In this court, evidence and expert testimony are thoroughly examined, hearings are held on camera to ensure confidentiality, and the accused physician is granted the right to defend themselves. If found guilty, sanctions may include warnings, fines, restrictions on the right to practice, or medical license revocation. Decisions of the Berufsgericht can be appealed to higher courts such as the Oberlandesgericht, thereby ensuring legal certainty and fairness at every level.

The disciplinary legal system for medical professions in Germany demonstrates a strong integration between professional bodies and the general judiciary, unlike in Indonesia, where administrative and judicial domains tend to be separated. In Indonesia, disciplinary boards are administrative; their decisions do not automatically enter the general judiciary and operate under ministerial coordination. In Germany, by contrast, the Berufsgericht functions as an independent court with a clear and transparent appeals mechanism, providing more comprehensive legal protection for both doctors and patients. Another fundamental difference lies in Germany's decentralized legal system, which grants greater autonomy to the federal states in regulating health matters. In contrast, Indonesia still adheres to a centralized legal system, making the equalization of regulations and legal certainty ongoing challenges in Indonesia.

Expert Interview: Health Practitioner Perspective

Furthermore, the author interviewed with Edi Prosetyo. This interview aimed to examine the impact of regulatory changes on the mechanisms for enforcing professional discipline in the medical field, the effectiveness of the new system in addressing disciplinary violations, and the implications for the legal protection of medical personnel. Based on the interview with Edi Prosetyo, it was explained that previously, the Indonesian Medical Disciplinary Board (MKDKI) specifically handled disciplinary matters within the medical profession, focusing solely on doctors and dentists. However, under the new regulation, the Health

Disciplinary Board (MDP) has a broader scope, accommodating various health professions such as nursing, pharmacy, medical rehabilitation, and other supporting health personnel. This development occurred due to the consolidation of various professional laws into one omnibus regulation, namely the Health Law. This change increases the responsibilities of the MDP, which now covers all health personnel, not just certain medical professions. [23].

The Professional Discipline Council (Majelis Disiplin Profesi, MDP) now holds significantly broader authority, encompassing Medical Personnel, namely doctors and dentists, including their specialists and subspecialists, as well as all categories of Health Workers as stipulated in Article 304(1) and Articles 198–199 of the Health Law. These Health Workers include clinical psychologists, nurses, midwives, pharmacists, public health professionals, environmental sanitation officers, nutritionists, physiotherapists, medical recorders, radiographers, traditional health practitioners, and other professionals designated by the Minister of Health. This regulatory change has rendered the handling of disciplinary cases increasingly complex, while the effectiveness of the MDP in resolving cases within 14 working days remains in question. Digitalization and telemedicine are expected to accelerate the examination process; however, there has yet to be a precise evaluation regarding the success of their implementation.

A crucial change is the shift of the MDP from an autonomous body under the Indonesian Medical Council (KKI) to an entity within the Ministry of Health, raising concerns about professional independence. Edi Prosetyo emphasizes the importance of maintaining professional autonomy in scientific and ethical matters while acknowledging that administrative oversight by the government remains necessary to ensure checks and balances. Introducing a judicial review mechanism (Peninjauan Kembali, PK) to the Minister of Health is a positive aspect, as it provides additional legal protection for medical personnel who feel disadvantaged. Nonetheless, this also raises concerns about potential administrative intervention that could affect the objectivity of disciplinary decisions. Therefore, these systemic changes require clear technical guidelines and strict oversight mechanisms to ensure that legal protection and professional independence are preserved.

The Health Law has repealed and replaced various previous norms, including provisions on professional organizations, which functionally serve as institutional norms and are the "heart" of medical profession regulation. The elimination of the requirement for a single professional organization and the weakened position of recommendations from the professional discipline council, which are now regarded merely as "suggestions" without binding force, render the protection of medical personnel vulnerable to dispute, both in civil and criminal domains. This creates legal ambiguity and blurs the role of professional organizations as guardians of ethical and competency standards [24].

Furthermore, substantial changes to these important norms were made without adequate formal procedures, particularly regarding involvement and meaningful participation. Comprehensive public participation is a fundamental requirement in forming democratic and legitimate legislation. The failure to fulfil this principle reinforces the view that legal protection for medical and health personnel in the Health Law remains superficial, as it is built on an unstable foundation in substance and process. Therefore, the author contends that Peer Committees (PK) as a means of legal protection must be re-examined within a systemic context rather than being viewed merely as a procedural solution. Adequate legal protection for medical personnel can only be realized if all the norms within the law are designed and implemented consistently with the principles of clarity, participation, and justice, whether in terms of institutional structure, disciplinary enforcement procedures, or the position of professional organizations as guardians of ethics and scientific competence.

Case Study

Since the enactment of Law Number 17 of 2023, various cases involving medical personnel have become a public concern. One such example is the issue of bullying within the medical education environment, which has emerged as a serious problem. From July 2023 to August 2024, the Ministry of Health received more than 1,500 reports on bullying against participants in the Specialist Medical Education Program (PPDS). Of these reports, 39 perpetrators have been subjected to strict sanctions. This demonstrates that bullying remains a significant challenge within the medical education environment.

The conflict between Dr Richard Lee and a "Doctor Detective" figure came to public attention in late 2024, originating from allegations of overclaimed and non-transparent marketing practices related to skincare products. One disputed claim was Richard Lee's statement that his product contained white tomato extract. However, after an investigation by Doctor Detective, this ingredient was not listed in the product's composition and was suspected to contain only L-reduced glutathione. Additionally, Richard Lee was accused of repackaging practices, namely selling foreign products under his new label at a higher price, raising concerns about the authenticity and safety of these products in the community. The conflict escalated further when Doctor Detective questioned the validity of Richard Lee's practice license and accused him of falsifying information regarding his certification and professional competence [25].

On the other hand, the method employed by Dokter Detektif to expose the alleged violations has also sparked controversy. Through social media, he not only criticized Richard Lee's products and business practices but also used derogatory nicknames, such as "Suneo," which are considered to undermine the professional dignity of his peers. This action has triggered a debate about the boundary between public education and breaches of medical ethics, given that the Indonesian Medical Code of Ethics (KODEKI) requires every doctor to uphold the profession's honour and avoid actions that could damage the reputation of colleagues in public spaces. As a result, Richard Lee and Dokter Detektif have been reported to the Medical Ethics Honor Council for alleged violations of the professional code of ethics, making this case not only a controversy over products but also a matter of integrity and professional ethics within Indonesia's medical community [25].

From the perspective of the medical discipline, such actions also have the potential to result in legal consequences. Within the medical system, if a physician discovers indications of violations committed by a colleague, the appropriate course of action is to report the matter to the Medical Ethics Honor Council (Majelis Kehormatan Etik Kedokteran, MKEK) or the Professional Discipline Council (Majelis Disiplin Profesi), rather than bringing it directly to social media. Open criticism, such as that conducted by the so-called "Doctor Detective," not only risks damaging collegial relationships but may also undermine public trust in the medical profession.

By examining various cases that have occurred, both during the period when the Indonesian Medical Disciplinary Honor Council (MKDKI) still held authority and after the Professional Discipline Council (MDP) became responsible, one can gain an understanding of the changes in the mechanisms of disciplinary enforcement and oversight of medical personnel in Indonesia, in order to assess the implications of decisions made by the MDP. A case that remains vivid in public memory is the Omni Hospital and "brand wash" case involving Dr Terawan, which also drew attention to the issue of medical disciplinary enforcement and decisions made by the MKDKI.

In 2008, Prita Mulyasari sought medical care at Omni International Hospital due to fever and dizziness. During her treatment, she felt that the hospital's services were inadequate, particularly regarding inconsistent laboratory results. She subsequently expressed her complaints via email, which spread widely among the public. The hospital felt aggrieved and sued Prita for defamation, resulting in a protracted legal process and significant public attention. During this process, the Indonesian Medical Disciplinary Honor Council (MKDKI) was asked to determine whether the physicians treating Prita had violated professional discipline. After a thorough review, the MKDKI concluded that the physicians in question had not violated professional discipline, as the medical procedures performed were by established standards and included the patient's informed consent [26].

Meanwhile, in another case, the Indonesian Medical Disciplinary Board (MKDKI) once imposed disciplinary sanctions on Dr Terawan Agus Putranto regarding the "brain washing" (BW) method for the treatment of chronic ischemic stroke. The BW method sparked controversy because it was widely promoted to the public before undergoing research and clinical trials officially recognised in the medical profession. The MKDKI and the Medical Ethics Honorary Council (MKEK) considered this action a violation of professional discipline by Indonesian Medical Council Decree Number 17/KKI/KEP/VII/2006, which emphasises that new methods must be scientifically tested to ensure patient safety. As a result of this violation, Dr Terawan was permanently dismissed from membership in the Indonesian

Medical Association (IDI). This decision demonstrates that the MKDKI upholds professional discipline based on medical evidence and prevailing standards without favouring any individual or institution [27].

After the legislative reforms were implemented and the disciplinary council was established, the Professional Disciplinary Council (Majelis Disiplin Profesi, MDP) was assigned an additional responsibility: to provide recommendations upon request by the police in cases where medical or health professionals are suspected of committing unlawful acts in the course of providing healthcare services. One case illustrating the role of the MDP involves a dental extraction procedure performed on a patient named Nira Pranita Asih on December 28, 2023. The patient was reported to have passed away on April 27, 2024, approximately four months after the procedure. According to statements from the family, particularly the deceased's husband, the patient's condition deteriorated following the extraction, as evidenced by gum swelling and inflammation, which progressed to a systemic infection and eventually spread to the lungs. The husband also noted that the extraction procedure performed by the dentist was conducted rapidly and did not fall into the category of an impaction or complex extraction case [28].

In response to the incident, the Chairperson of the Indonesian Dental Association (PDGI), Usman Sumantri, stated that the dentist who treated the patient had been summoned to provide clarification. He emphasized that the medical procedures were carried out according to service standards and supported by radiological documentation, including pre-and post-procedure X-ray images [28].

Subsequently, on October 14, 2024, the Ngawi Resort Police, through the East Java Regional Police, submitted a request for a recommendation to the MDP to assess the presence or absence of alleged professional disciplinary violations by the reported dentist [29]. Based on the results of the MDP (Medical Disciplinary Panel) evaluation, the physician's actions were deemed to be in accordance with professional procedures, and no indications of ethical violations or criminal elements were found. This recommendation serves as the basis for the police to issue a Letter of Termination of Investigation (SP3).

Entering 2025, several cases of sexual violence involving medical personnel have gone viral on social media, sparking public concern regarding the enforcement of professional discipline within healthcare and higher education environments. One such case involves Dr. Priguna Anugerah, a resident physician at Hasan Sadikin Hospital (RSHS) Bandung, who was reported to have raped a patient's family member on March 18, 2025. The perpetrator's modus operandi was to lure the victim into an empty room in the MCHC Building of RSHS under the pretence of taking a blood sample, then injecting the victim with a substance that caused unconsciousness, and subsequently committing acts of sexual violence. The victim reported the incident to her parents, who immediately notified the police. This report prompted a swift investigation by the Bandung Metropolitan Police, who apprehended the perpetrator on March 28, 2025. During the investigation, the police questioned a total of 11 witnesses, including the victim's family, nurses, and medical colleagues. Evidence secured included medications, syringes, and condoms. Priguna has been charged under Law No. 12 of 2022 concerning Sexual Violence Crimes, facing a maximum sentence of 12 years' imprisonment [30].

A case of sexual violence also occurred in Garut, involving an obstetrician with the initials MSF. The report was filed by a pregnant patient who alleged that MSF had committed sexual harassment during a prenatal examination at a clinic in the Pengkolan area of Garut. A CCTV camera captured this incident, which the clinic had previously installed, due to several patient complaints regarding the doctor's behaviour. After a 53-second video of the incident circulated and went viral on social media, the victim approached the police to make an official report. The Garut Police promptly summoned witnesses and examined the CCTV footage as the primary evidence. MSF was subsequently named a suspect. However, the suspect status was not directly related to the viral video but rather to a report filed by another victim on April 15, 2025, concerning alleged sexual violence at the perpetrator's boarding house.

In addition to the ongoing criminal proceedings, the Professional Discipline Council (MDP) of the Ministry of Health also intervened by imposing an administrative sanction to suspend the doctor's Registration Certificate (STR) temporarily. The clinic stated they had previously anticipated such incidents by increasing supervision but left the legal process

entirely to the police. For his actions, MSF has been charged under Article 6(b) and/or (c) in conjunction with Article 15 paragraph (1)(b) of Law Number 12 of 2022 concerning Sexual Violence Crimes. The suspect faces a maximum prison sentence of 12 years [31].

In both cases of sexual violence involving medical personnel, it was only in the Garut case that the Professional Discipline Council (Majelis Disiplin Profesi, MDP) intervened to conduct an investigation and provide recommendations. This raises critical questions regarding the consistency of the authority and scope of the MDP. Does indecent assault fall within the category of professional disciplinary violations that are indeed under the jurisdiction of the MDP? According to existing regulations, the MDP can examine disciplinary violations in implementing healthcare services by professional standards [32].

In a YouTube interview with Nasser on April 30, 2025, he stated that there is inconsistency in the involvement of the Professional Discipline Board (MDP) in various cases. For instance, among the three cases of sexual violence involving medical personnel and academics mentioned above, only in the Garut case did the Professional Discipline Board intervene to conduct an investigation and provide recommendations. In contrast, the MDP did not handle the molestation case in Bandung despite the presence of a clear *mens rea* element.

According to Nasser, professional discipline should only encompass fulfilling professional standards, namely, how medical practice is carried out by established written standards. Acts of molestation should not be categorized as violations of professional discipline, as they are not directly related to medical actions [32].

Based on Perkonsil Regulation No. 4 of 2011 concerning the Professional Discipline of Doctors and Dentists, which remains in effect until May 2025, disciplinary violations in medical and dental practice encompass 28 forms of misconduct. These include: practicing without adequate competence; failing to refer patients to other more competent doctors or dentists; delegating tasks to unqualified health personnel; providing temporary substitutes who lack competence or without notification; practicing while in a physical or mental condition that endangers patients; failing to provide adequate medical care; conducting excessive examinations or treatments; not providing honest and sufficient explanations to patients; performing medical procedures without patient consent; failing to create or maintain medical records; performing abortions or ending a patient's life outside legal provisions; using knowledge or technology not yet properly accepted; conducting research without ethical approval; failing to provide emergency assistance without valid reasons; refusing or discontinuing treatment without appropriate justification; breaching medical confidentiality; issuing medical statements without proper examination; involvement in torture or execution of the death penalty; unlawfully prescribing narcotics; committing sexual harassment, intimidation, or violence against patients; using unearned academic titles; accepting rewards from referrals or prescriptions; misleadingly advertising capabilities; addiction to addictive substances; practicing with invalid documents; dishonesty in determining medical fees; and failing to provide necessary information or evidence in investigations of alleged disciplinary violations, as further detailed in the regulation's appendix.

There are also cases related to recommendation procedures, one of which involved Dr. Shillea Olimpia Melyta. On February 14, 2024, a patient named Jamie Irena Rayer experienced complaints of fever and back pain and subsequently contacted Dr. Shillea for an examination. Although the patient refused to be referred to a higher-level healthcare facility, Dr. Shillea proceeded to administer therapy consisting of 12 types of drugs via infusion, including An-train, an NSAID known to have the potential to cause allergic reactions. As a result, the patient suffered a severe allergic reaction, including swelling and shortness of breath. Dr. Shillea was accused of performing medical procedures without informed consent and was suspected of errors in medical record documentation [33].

The case proceeded to the investigation stage, and the trial commenced on October 22, 2024. The expert presented at the initial hearing stated that there was an element of negligence as stipulated in Article 440 paragraph (1) of the Health Law, namely a lack of due diligence in providing healthcare services, which was suspected to have caused serious injury. However, negligence was not proven during the evidentiary stage, and the patient's medical condition was declared not to have resulted in serious injury.

An interesting fact emerged during the February 11, 2025, hearing: the entire legal process against Dr. Shillea was conducted without going through the Medical Disciplinary Panel

(MDP) recommendation mechanism. A legal expert presented at the hearing stated that this violated the procedures set by the Health Law, rendering the legal process administratively flawed. Nevertheless, the legal proceedings continued, and Dr. Shillea was sentenced by the Denpasar District Court to a fine of Rp50 million, with a subsidiary penalty of three months' imprisonment [33].

The increasing incidence of sexual violence occurring within healthcare facilities has drawn the attention of the Deputy Chairperson of the Indonesian Medical Association (PB IDI), Slamet Budiarto. In a press conference held on January 16, 2023, at Nusantara III Building, Parliament Complex, Jakarta, Slamet highlighted that since the enactment of Law Number 17 of 2023 on Health, all authority for the supervision and guidance of medical practice has been fully transferred to the Ministry of Health. As a result, professional organizations such as the Indonesian Medical Association (IDI) have lost their strategic role in overseeing and taking action against violations of the medical code of ethics. Previously, the IDI had the authority to conduct medical audits and issue recommendations for issuing Practice Licenses (SIP), which required a series of eligibility assessments, including ethical and Health evaluations for doctors wishing to practice.

Therefore, according to Slamet, with the supervisory function now in the hands of the government, the responsibility for the emergence of ethical violations, including sexual violence perpetrated by doctors, rests entirely with the Ministry of Health as the authority holder. It can thus be concluded that the weak supervision by the Ministry of Health is a significant contributing factor to the rise in cases of ethical violations and sexual violence committed by medical personnel [34].

The centralization of healthcare service supervision under the Ministry of Health following the enactment of Law Number 17 of 2023 on Health has sparked widespread controversy, particularly among medical professionals. This controversy intensified after several statements by Minister of Health Budi Gunadi Sadikin were deemed ambiguous and raised concerns regarding medical practice. One statement that drew criticism was the Minister's suggestion to enhance the skills of traditional dental technicians (*tukang gigi*) to address the shortage of dentists in community health centres (*Puskesmas*), despite these technicians lacking formal education in the health sector. Academics and professional organizations have emphasized that such a solution poses risks to patient safety and contradicts the principle of healthcare worker competence. The Ministry of Health later clarified that the Minister referred to Dental and Oral Therapists (*Terapis Gigi dan Mulut, TGM*) who possess formal education rather than traditional dental technicians [35].

The controversy continued when the Minister of Health proposed training general practitioners to perform caesarean sections in remote areas lacking obstetrics and gynecology specialists. Professional organizations again rejected this proposal, as it was considered to contradict the principles of competency and patient safety [36]. The centralization of authority under the Ministry of Health has also raised concerns regarding potential conflicts of interest, as reflected in the sudden reassignment of the Chairperson of the Indonesian Pediatric Society (IDAI), dr. Piprim Basarah Yanuarso is known for his critical stance toward government policies. This reassignment was deemed procedurally improper and is suspected to be a form of sanction in response to IDAI's rejection of the collegium under the Ministry of Health. Consequently, this situation has raised concerns about the independence of the medical profession and the potential for political intervention in the governance of national health care [37].

Implications of Legislative Amendments

To deepen the understanding of the significance of recent legislative changes, the author will elaborate and analyze in detail the relevant articles in Law Number 17 of 2023 and its derivative regulations. These will then be compared with previous legislation and linked to empirical case studies to assess the extent of their implications for the independence of professional disciplinary board decisions and legal certainty for medical and health professionals;

Analysis of the Implications of Centralizing Authority in the Ministry of Health

The centralization of authority within Indonesia's medical profession system is evident through the changes stipulated in Articles 712, 713, and 714 of Government Regulation No. 28 of 2024, which implements Law No. 17 of 2023. These articles illustrate the concentration

of power under the Ministry of Health. This authority was previously exercised independently by the Indonesian Medical Council and the Indonesian Medical Disciplinary Honorary Council. This shift marks a significant change in institutional relationships and introduces risks to the independence of the medical profession, which has historically relied on peer oversight and professional autonomy.

Article 712 of Government Regulation No. 28 of 2024 indicates that the Ministry of Health establishes the Professional Disciplinary Council, which reports directly to the Minister. This arrangement removes the autonomy of professional bodies previously managed independently by professional organizations. Formerly, the Indonesian Medical Disciplinary Honorary Council (MKDKI), established under Law No. 29 of 2004, held strong and independent legitimacy. However, with the new structural changes, the Professional Disciplinary Council is now subordinated to the Ministry of Health, potentially diminishing the legal protections afforded to medical professionals in carrying out their duties.

Article 714 addresses the membership of the Professional Disciplinary Council, stating that its members are appointed directly by the Minister of Health without the involvement of professional organizations in the selection process. Compared to previous legislation, this simplification risks undermining the quality of the council's institutional structure. Excluding professional organizations from the selection process opens the door to potential bias in enforcing professional discipline. This raises concerns about the credibility and competence of those authorized to issue recommendations on disciplinary violations, which may lead to legal uncertainty and conflicts of interest in the enforcement of medical professional discipline.

Minister of Health Regulation (Permenkes) No. 3 of 2025, enacted on May 19, 2025, regulates the enforcement of discipline among medical and health professionals. A significant change in this regulation is the classification of disciplinary violations in Article 4, which includes various offences such as incompetent practice, abuse of professional authority, and inappropriate or sexual misconduct. The main difference from previous regulations is that the phrase "in the conduct of medical practice" is removed from the provisions on inappropriate or sexual acts. This change blurs the boundaries of the Professional Disciplinary Council's (MDP) authority, as such violations can now be prosecuted even if they occur outside the context of medical practice, such as in the personal lives of medical professionals, which should be beyond the council's jurisdiction.

Article 4(2) also grants the Minister of Health the authority to determine additional disciplinary violations as needed. Although Article 3(2) asserts that the MDP is autonomous and independent, this authority potentially undermines its independence. It creates opportunities for external intervention in cases under review, which may influence the MDP's decisions based on policy or political interests. The resulting uncertainty from these changes threatens to weaken a disciplinary enforcement system that should be fair and professional, to the detriment of medical and health professionals who must contend with legal uncertainty regarding the ever-changing categories of violations.

Analysis of the MDP Recommendation Procedure

The Professional Discipline Board (Majelis Disiplin Profesi, MDP) under Law Number 17 of 2023 on Health has been assigned a significant new responsibility: providing recommendations at the request of investigators regarding medical or healthcare personnel suspected of legal violations in the provision of health services. Article 308 of the law stipulates that before an investigation by law enforcement officers can proceed, a recommendation from the MDP must first be obtained. This recommendation determines whether an investigation can be initiated based on whether the actions of the medical or healthcare personnel comply with professional standards, service standards, and operational procedures. This provision demonstrates a closer relationship between the professional discipline body and formal legal processes while maintaining the MDP's authority to examine disciplinary violations within medical practice.

Previously, Article 69 of Law Number 29 of 2004 granted the Indonesian Medical Disciplinary Board (Majelis Kehormatan Disiplin Kedokteran Indonesia, MKDKI) binding normative authority within the realm of the medical profession, separate from criminal or civil proceedings. Disciplinary enforcement by the MKDKI differed from law enforcement, which aims to achieve justice by fulfilling legal rights and obligations. The MKDKI prioritized the

"due process of ethics" principle, distinct from the "due process of law" in formal judicial systems. Nevertheless, the ethical process still guarantees procedural justice, such as the right to defend oneself and present evidence, emphasizing that proceedings in the MKDKI are based on ethical standards and internal professional fairness.

However, with the new provisions in Law Number 17 of 2023, which empower the Professional Discipline Board to issue recommendations in criminal proceedings, ambiguity arises regarding the limits of the MDP's authority. Article 308 states that recommendations apply only to violations related to health services, but in cases occurring outside healthcare facilities, such as the incident in Garut, questions emerge about the MDP's authority to examine violations outside the context of medical practice. This lack of clarity can weaken the MDP's role in enforcing professional discipline, which should focus solely on ethical violations rather than criminal matters outside the scope of medical practice.

The requirement for MDP recommendations in general criminal cases also raises concerns about potential abuse of authority, particularly regarding the Ministry of Health's control of the medical profession. Normatively, the law governing the police grants full authority to law enforcement officers, such as the police, to handle criminal cases without first seeking a recommendation from the MDP. Article 16 of the Police Law authorizes the police to take actions such as arrest and seizure based on their assessment without relying on MDP recommendations. This indicates that the MDP recommendation mechanism could create legal uncertainty for medical and healthcare personnel, who should be subject to legal proceedings separate from the jurisdiction of professional discipline bodies.

Analysis of the Review Mechanism

The new mechanism introduced in Law No. 17 of 2023 regarding the Review (Peninjauan Kembali – PK) of decisions by the Professional Disciplinary Council (Majelis Disiplin Profesi – MDP) grants the Minister of Health the authority to make the final decision. Article 307 of this Law stipulates that a PK may be submitted to the Minister if new evidence is discovered, an error in the application of disciplinary violations, or an alleged conflict of interest. Under the previous regulation, Article 69 paragraph (1) of Law No. 29 of 2004 stated that decisions of the Indonesian Medical Honorary Disciplinary Council (Majelis Kehormatan Disiplin Kedokteran Indonesia – MKDKI) are binding on the medical profession. This demonstrates that MDP decisions previously held normative finality within the domain of professional discipline without intervention from other parties, including the executive branch.

The Constitutional Court Decision No. 21/PUU-XII/2023 affirms that the disciplinary enforcement mechanism in Indonesian Medical Council Regulation No. 50 of 2017 already provides detailed procedures for handling disciplinary complaints. In practice, the MKDKI establishes a Disciplinary Examination Council (Majelis Pemeriksaan Disiplin – MPD) with the authority to examine and decide on disciplinary violations, ensuring the right of the accused to respond and submit new evidence. This process is safeguarded by three valid types of evidence as stipulated in Articles 73, 74, and 75 of Regulation No. 50 of 2017. Therefore, the previous system operated independently and was separate from criminal or civil legal proceedings.

However, the review mechanism that grants the Minister of Health the authority to intervene in the decisions of the Professional Disciplinary Council has drawn criticism. The material review petition submitted by Joni & Tamanas Law Firm argues that this ministerial authority exceeds the proper boundaries set within the professional disciplinary enforcement system. Granting such authority to the executive, in this case, the Minister of Health, creates tension within a disciplinary system that should remain independent and free from executive interference. This poses a risk to the integrity of the professional disciplinary process and may cause disorder in the legal enforcement system for medical professionals.

This situation creates legal uncertainty, as illustrated by the case of a general practitioner who was sanctioned for practising beyond their authority based on a ministerial policy. If the Review (PK) is rejected, the doctor is left vulnerable, having been sanctioned for actions driven by ministerial policy. Conversely, if the PK is granted, the decision may provoke unrest and raise questions about substantive justice since violations of competence that harm patients are not legally accounted for. According to Gustav Radbruch, this reflects the tension

between formal legal validity and the social justice values prevailing in society. Legally valid decisions must align with society's moral and ethical acceptance to achieve true justice.

Conclusions

Law Number 17 of 2023 concerning Health significantly changes the structure and authority of the Professional Discipline Council (MDP). The scope of the MDP's authority, which was previously limited to doctors and dentists, now includes all medical and health personnel. In addition, the MDP is now authorized to provide recommendations to investigators in criminal cases involving health personnel, a role that did not exist under previous regulations. Another difference from previous regulations is that the Indonesian Medical Discipline Honorary Council (MKDKI), formerly accountable to the Indonesian Medical Council (KKI), is now replaced by the MDP, which reports directly to the Minister of Health.

When assessing the implications of decisions made by the MDP, it is important to examine the process of its formation and its authority. Currently, health regulations place all MDP authority under the supervision of the Minister of Health, who is responsible for the establishment, assignment of duties, and appointment, as well as the dismissal of MDP members. Furthermore, the Minister of Health can determine and add types of disciplinary violations, which ideally should be a more independent power. The limited involvement of professional organizations in the MDP could lead to an imbalance in the check-and-balance mechanism, which may affect the independence and quality of MDP decisions.

Although there is a new mechanism for judicial review (Peninjauan Kembali/PK) in Minister of Health Regulation (Permenkes) Number 3 of 2025, which in principle could strengthen legal protection for medical and health personnel, the authority to submit a PK remains with the Minister of Health, opening the potential for conflicts of interest. The provision in Permenkes Article 4 paragraph (2), which gives the Minister the authority to determine types of disciplinary violations "as needed," creates legal uncertainty because clear and objective criteria do not accompany it. This results in MDP decisions becoming unstable and inconsistent if the process of forming and appointing MDP members is not carried out accountably and is free from power intervention. The resulting decisions risk neglecting legal certainty for medical and health personnel.

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