

Legal Aspects of Autonomous Indonesia Medical Discipline Honorary Council in the Completion of Medical Disputes

Anggia Paraati¹, Erni Agustina²

Law Faculty of University of National Development "Veteran"
Jl.RS. Fatmawati Pondok Labu Jakarta Selatan 12450, Jakarta, Indonesia

Abstract: *The government in Indonesia has sought a protection under the law to create a harmonious doctor-patient relationship through the formation and realization of special assemblies in the medical field in Indonesia such as Indonesia Medical Discipline Honorary Council (IMDHC). It is an institution authorized to determine the presence or absence of mistakes made by doctors and dentists in the application of medical and dental disciplines, and establish sanctions. The Role of the Autonomous Institution of the Indonesia Medical Discipline Honorary Council in Resolving Medical Disputes as an autonomous institution of IMC and an independent professional justice institution whose existence is based on Article 1 (14) of Law No. 29 of 2004 concerning Medical Practices, in charge of enforcing the rules and provisions of the application of medical science in the implementation of medical services to handle cases of alleged violations of medical or dental discipline and determine sanctions. In its role of resolving medical disputes, IMDHC receives complaints, examines and decides cases of alleged violations of disciplines of doctors and dentists who are submitted, prepares guidelines and procedures for handling cases of violations of disciplines of doctors and dentists (Indonesian Medical Council Regulation Number 3 of 2011). Legal Procedure for Settling Medical Disputes through the Autonomous Institution of the Medical Disciplinary Board through several stages, namely: The stage for submission of complaints; Initial inspection stage; Disciplinary examination stage; Stage of disciplinary hearing; The stage of issuing the Disciplinary Examination Council's decision; The stage of filing an objection; Phase of issuing IMDHC decisions and Phase of implementing IMDHC decisions.*

Keywords: Autonomous Institutions, Indonesia Medical Discipline Honorary Council, Medical Disputes

1. Introduction

Disputes that occur between doctors and patients are usually caused by a lack of information from the doctor, even though information about everything related to medical actions carried out by doctors is the patient's right, it occurs because of the paternalistic pattern that is still inherent in the relationship. Efforts to resolve disputes through the general court that have been taken so far cannot satisfy the patient, because the judge's decision is deemed not to fulfill the patient's sense of justice. This is due to the difficulty of the patient or the Public Prosecutor or Judge to prove the doctor's error. The difficulty of proof is due to their lack of knowledge about technical issues surrounding medical services.

In Law Number 29 Year 2004 Article 66 paragraph (1), it is implicitly said that medical disputes are disputes that occur because the patient's interests are harmed by the actions of a doctor or dentist who is practicing medicine. Thus, medical disputes are disputes that occur between users of medical services and medical service practitioners in this case between patients and doctors and health facilities. Often the individualistic response from the patient's body and unexpected complications after the medical action is a factor that causes the occurrence of unwanted events, even though the medical action and investigations have been carried out according to standard procedures.

The legal relationship that occurs because of the therapeutic contract and because of the law gives birth to legal responsibilities, professional responsibilities and ethical responsibilities of a doctor. A doctor or dentist who commits

an offense can be prosecuted in several courts, for example in the legal field there are civil courts, criminal courts and administrative courts. Doctors or dentists can also be brought before the Professional Disciplinary Court by the Indonesia Medical Discipline Honorary Council (IMDHC).

To uphold the discipline of doctors and dentists in administering medical practice, the Indonesian Medical Disciplinary Honorary Council was formed. The Indonesia Medical Discipline Honorary Council is an authorized institution to determine whether there are mistakes made by doctors and dentists in the application of medical and dental disciplines, and to determine sanctions.

The Indonesia Medical Discipline Honorary Council is an autonomous institution of the Indonesian Medical Council, and in carrying out its duties is independent, and is responsible to the Indonesian Medical Council. Based in the capital city of the Republic of Indonesia. The Provincial Medical Disciplinary Board can be formed by the Indonesian Medical Council at the suggestion of the Indonesia Medical Discipline Honorary Council.

Dispute resolution which is considered ideal for the parties is a settlement that involves the parties directly so as to allow open dialogue, thus a joint decision is most likely to be reached. In addition, because the meetings of the parties are closed, it will give a comfortable, safe feeling to the parties involved so that the fear of disclosure of secrets and good names that are needed by doctors and health care facilities can be avoided.

IMDHC in handling cases of alleged violations of the discipline of medicine and dentistry based on the Indonesian

Volume 9 Issue 1, January 2020

www.ijsr.net

Licensed Under Creative Commons Attribution CC BY

Medical Council Regulation No. 2 of 2011 concerning Procedures for the Case of Alleged Discipline of Doctors and Dentists who revoked the Decree of the Indonesian Medical Council No.17 / IMC / KEP / VIII / 2006 About Enforcement of the Medical Profession Discipline.

General Review of the Indonesia Medical Discipline Honorary Council (IMDHC)

Every institution in Indonesia has an assembly to solve problems related to discipline including the discipline of doctors formed under the name of the Indonesian Medical Disciplinary Honorary Council (IMDHC). It is one of the autonomous institutions in accordance with Article 55 paragraph (2), which reads: "The Indonesia Medical Discipline Honorary Council is an autonomous institution and the Indonesian Medical Council." The nature of IMDHC in carrying out its duties according to Article 55 paragraph (3) Law Number 29 Year 2004 Regarding Medical Practices, namely: "The Indonesian Medical Disciplinary Honorary Council in carrying out its duties is independent."

The Indonesia Medical Discipline Honorary Council is an authorized institution to determine whether there are mistakes made by doctors and dentists in the application of medical and dental disciplines, and establish sanctions. The Indonesia Medical Discipline Honorary Council serves to uphold the discipline of medicine and dentistry by carrying out the duties and authority to resolve cases of alleged violations of the discipline of doctors and dentists, as well as providing supervision and guidance to doctors and dentists.

The Indonesia Medical Discipline Honorary Council has the authority to draw up guidelines and procedures for handling cases of violations of discipline doctors and dentists.¹ whereas when it comes to matters of medical ethics will be handled by professional organizations (in this case MKEK/G)² and when it comes to alleged criminal acts and / or concerning claims for civil damages carried out by the competent authorities to court.³ The Indonesia Medical Discipline Honorary Council examines and provides decisions on complaints relating to the discipline of doctors and dentists.

The implementation of duties and good authority and how the procedures for handling cases of alleged violations of discipline that can properly determine the performance of doctors and dentists in carrying out medical practice.

Based on Article 55 paragraph (1) of Law Number 29 Year 2004 Concerning Medical Practice, it states that IMDHC has the task, namely: "To enforce discipline of doctors and dentists in the implementation of medical practice, an Honorary Board of Indonesian Medical Discipline was formed."

¹ KKI, *Guidelines for Medical Discipline Enforcement along with the Regulations on the Indonesian Medical Disciplinary Board*, (Jakarta: Pusat Promosi Kesehatan Kemenkes RI, 2008), hlm.73

² Law Number 29 Year 2004 concerning Medical Practice Article 68.

³ Law Number 29 Year 2004 concerning Medical Practice Article 66 paragraph 3

Responsible for the quality and safety of medical practice is the Indonesian Medical Council (IMC) and the Indonesian Medical Disciplinary Honorary Council (IMDHC).⁴ IMDHC is a legal entity that is responsible to IMC.⁵ As stated in the Act that IMDHC is an autonomous body of IMC.⁶

The tasks of IMDHC include:⁷

- 1) Receive complaints, examine and decide cases of violations of disciplines of doctors and dentists that are submitted; and
- 2) Develop guidelines and procedures for complaints of cases of violations of the discipline of doctors and dentists.

Medical Disputes

In English vocabulary there are 2 (two) terms, namely "conflict" and "dispute" which both contain an understanding of the differences in interests between the two or more parties, but both can be distinguished. Conflict has been translated into Indonesian namely "conflict", while dispute can be translated with the meaning of dispute.

While dispute as dispute is defined as "something that causes differences of opinion, quarrels, disputes" so that it can be said that conflict is a situation where two or more parties are faced with feelings of dissatisfaction with one party who feels disadvantaged by the other party by raising the issue to the surface to find a solution. Disputes can develop from a conflict that has reached a certain escalation or culminates.

While the word medical can be defined as "including or something related to the field of medicine", i.e. starting from doctors and other health workers under control or the place where doctors run the medical profession so that medical disputes can be interpreted that there is conflict between the patient and the doctor and / or hospital caused by one party who is dissatisfied or whose rights are violated by another party.

According to Nurnaningsih Amriani, what is meant by disputes is disputes that occur between parties to an agreement due to a default by one of the parties to the agreement.⁸ The same thing was said by Takdir Rahmadi, who meant that conflict or dispute is a situation and condition where people experience mutual disputes that are factual or disputes that exist in their perception only.⁹

Therefore, what is meant by a dispute is a dispute that occurs between two or more parties that mutually maintain each other's perceptions, where such dispute can occur because of

⁴ Muhammad Mulyohadi Ali, et al., *Partnership in Doctor-Patient Relations*, (Jakarta: Indonesian Business Regulatory Consultant Institute, 2008), hlm.30

⁵ Merdias Almatier, et al., *Association of Regulations Regarding Honorary Board of Indonesian Medical Discipline*, (Jakarta: Lembaga Konsultan Peraturan Bisnis Indonesia, 2008), hlm.81-90

⁶ Ibid

⁷ Ibid

⁸ Ibid, hlm.13

⁹ Takdir Rahmadi, *Mediation of Dispute Settlement through Consensus Approach*. (Jakarta: PT. Raja Grafindo Persada, 2011), hlm.1

an act of default from the parties or one of the parties in the agreement.

Law No. 29 of 2004 concerning Medical Practice implicitly states that medical disputes are disputes that occur because the patient's interests are harmed by the actions of a doctor or dentist who carries out medical practice. Article 66 Paragraph (1) of the Medical Practice Law which reads: everyone who knows or interests is harmed by the actions of a doctor or dentist in carrying out medical practice can report in writing to the Chairperson of the Indonesian Kedokteran Disciplinary Board. Thus medical disputes are disputes that occur between users of medical services and medical service practitioners in this case patients with doctors.

By Safitri Hariyani, the medical word was taken from the English-Indonesian dictionary written by John M. Echols and Hasan Shadily, which is medical which generally means related to treatment. Hermin Hadiati Koeswadi, defines "medical" as "medicine". Medical law or medical law as a translation of "Medical Law", so according to him the meaning of medical is medicine.¹⁰ Referring to the medical meaning above, the definition of medical disputes is a condition where disputes occur in medical practice.

In other words, medical disputes originate from a feeling of dissatisfaction from one of the other parties who did not fulfill the promised achievement. Patients' dissatisfaction with hospital services can lead to complaints or protests which if not handled wisely by the hospital will cause conflict between the patient and the hospital so that if there are significant losses from the patient such as unclear charging fees, losses physical or psychological suffered by patients who are considered to have originated from the absence or poor communication that exists can lead to disputes that arise with the possibility of the patient involving third parties such as the authorities, journalists or the mass media to listen to his complaints.

Research Methods

Jenis penelitian ini adalah penelitian hukum normatif yang mengkaji hukum sebagai norma-norma, aturan-aturan yang berada dalam Kitab Undang-Undang, dan berbagai peraturan perundang-undangan. Pendekatan yang digunakan dalam penelitian ini adalah dengan pendekatan yuridis normatif. Untuk itu diperlukan penelitian yang merupakan suatu rencana pokok dalam pengembangan ilmu pengetahuan. Data yang diperoleh dianalisis secara deskriptif kualitatif untuk memberikan data yang seteliti mungkin dan menggambarkan sikap suatu keadaan dan sebab-sebab dari suatu gejala tertentu.

2. Results and Discussion

The task of IMDHC is to uphold the rules and provisions of the application of medical science in the implementation of medical services that should be followed by doctors and dentists. Therefore IMDHC is a body appointed by IMC to

handle cases of alleged violations of medical or dental discipline and determine sanctions.¹¹ Thus IMDHC is an independent professional judicial institution for health workers who are established based on the law, whose task is to receive complaints, examine, hear and decide cases relating to medical cases.¹²

Based on various legal provisions obtained (both the law and the Indonesian Medical Council Regulation), it is very clearly stated that IMDHC is an authorized institution to decide whether or not there is a violation of the professional discipline of doctors and dentists, and determine sanctions for violations of the discipline. Decisions regarding whether or not there are violations of professional discipline of doctors and dentists, along with sanctions imposed on doctors, are contained in the form of IMDHC decree.

It is explained in Article 5 letter i of the Medical Council Regulation Number 3 of 2011, that one of the authorities possessed by IMDHC is to implement the IMDHC decision as the authority of IMDHC. However, in its implementation, IMDHC could not carry out its decision which contained sanctions against doctors or dentists who were found to have violated the professional discipline of doctors and dentists. IMDHC's decision which contains the imposition of sanctions must be reported to IMC to get an implementation determination.

The Indonesia Medical Discipline Honorary Council as the institution that has the authority to determine whether there is an error in the application of medical disciplines, has a function for the enforcement of medical and dental disciplines in the implementation of medical practice. Enforcement in question is the enforcement of rules that must be followed by doctors and dentists.

According to the Regulation of the Indonesian Medical Council No. 3 of 2011 concerning the Organization and Work Procedure of the Indonesia Medical Discipline Honorary Council and the Medical Disciplinary Board at the Provincial Level in Article 3, the Indonesia Medical Discipline Honorary Council in carrying out the enforcement of the medical discipline has duties, namely: (1) Receiving complaints, examining and deciding cases of alleged violations of discipline of doctors and dentists submitted; (2) compile guidelines and procedures for handling cases of violations of the discipline of doctors and dentists.

In connection with their duties, the Indonesia Medical Discipline Honorary Council also has the authority as stipulated in the Indonesian Medical Council Regulation No. 3 of 2011 concerning the Organization and Work Procedure of the Indonesia Medical Discipline Honorary Council and the Indonesia Medical Discipline Honorary Council at the Provincial Level in Article 5, namely:

¹¹ Anna HA. Medical Ethics and Legal Issues in Hospitals. Workshop on Integrated Management of Medical Ethics and Law Issues. 50 years of IDI. Surabaya. 23 September 2000.

¹² Nusye K Jayanti. Legal Settlement in Malpractice. Pustaka Yustisia. Yogyakarta. 2009. p 118 – 129.

¹⁰ Hermien Hadiati Koeswadi, *Hukum dan Masalah Medik*, (Surabaya: Airlangga University Press, 1984), hlm. 6 Law and Medical Issues,

- 1) Receiving complaints of violations of the discipline of doctors and dentists; Legal Settlement in Malpractice
- 2) Establish the type of complaint of violation of discipline or violation of ethics or not both;
- 3) Checking complaints of violations of the discipline of doctors and dentists;
- 4) Decides whether there is a violation of the discipline of doctors and dentists;
- 5) Determine sanctions for violations of the discipline of doctors and dentists;
- 6) Implement IMDHC decisions;
- 7) Arranging procedures for handling cases of violation of discipline doctors and dentists;
- 8) Compiling the IMDHC and IMDHC-P manuals;
- 9) Fostering, coordinating and overseeing the implementation of the IMDHC-P tasks;
- 10) Making and giving consideration to the proposal to establish IMDHC-P to the Indonesian Medical Council;
- 11) Conducting information dissemination and dissemination about IMDHC and IMDHC-P;
- 12) Record and document complaints, inspection processes, and IMDHC decisions.

The implementation of the duties and authority of the Indonesia Medical Discipline Honorary Council is in line with the function of the Indonesia Medical Discipline Honorary Council, which is to uphold the discipline of doctors and dentists. Disciplinary enforcement in medicine is based on "Bad apple theory", which is a theory used to identify doctors and dentists who have poor performance from the public, because enforcement of its main discipline is to protect patients.¹³ The Indonesia Medical Discipline Honorary Council (IMDHC) or the Medical Ethics Honorary Council (MKEK) is the first body to mediate medical disputes between patients / families of patients and doctors.

The discipline upheld by IMDHC is based on the provisions of Articles 55-70 of the PRADOK Law. More detailed arrangements regarding discipline enforcement by IMDHC are contained in Indonesian Medical Council Regulation Number: 15 / IMC / PER / VIII / 2006. In 2011, the Indonesian Medical Council Regulation Number: 15 / IMC / PER / VIII / 2006 was replaced by the Indonesian Medical Council Regulation No. 3 of 2011 concerning the Organization and Working Procedures of IMDHC and IMDHC-P. Professional discipline of doctors and dentists carried out by IMDHC is certainly not done without guidelines / references. The guideline / reference used by IMDHC is the Decree of the Indonesian Medical Council Number: 17 / IMC / KEP / VIII / 2006 concerning Guidelines for Enforcement of Medical Professional Discipline, which was then replaced with Indonesian Medical Council Regulation No. 4 of 2011 concerning Professional Discipline of Doctors and Dentists. There are at least 28 (twenty eight) types of violations of professional discipline of doctors and dentists that are regulated in Indonesian Medical Council Regulation No. 4 of 2011.

¹³ Riati Anggriani, *Ethics and Discipline of Doctors and Dentists, (Material of the Indonesian Medical Council Coordination Meeting, 2015)*, p. 12, retrieved from <http://www.kki.go.id/index.php/subMenu/1168>

If reviewed based on existing legal provisions, it is clearly stated that IMDHC is an autonomous institution from IMC which is independent. This means that IMDHC in carrying out its duties and authority cannot be influenced by anyone. IMDHC has a very important role in upholding the professional discipline of doctors and dentists in Indonesia. The discipline of doctors and dentists carried out by IMDHC aims to protect the public from actions taken by incompetent doctors or dentists, as well as to improve the quality of health services and maintain the honor of the medical and dental profession.

Legal Procedure for Settling Medical Disputes

In Law Number 29 Year 2004 concerning Medical Practices implicitly stated that medical disputes are disputes that occur because the patient's interests are harmed by the actions of a doctor or dentist who is carrying out medical practice (see Article 66 paragraph 1).

The cause of disputes between doctors and patients is if a patient is dissatisfied with the doctor in carrying out treatment efforts or carrying out the medical profession, the dissatisfaction is due to the alleged error / negligence in carrying out the profession that causes harm on the part of the patient. not fulfilled / violated by doctors.

When viewed from disputes that occur between doctors and patients, characteristics of these disputes can be drawn, namely:¹⁴

- 1) Disputes occur in the relationship between the doctor and the patient.
- 2) The object of the dispute is the healing effort carried out by the doctor.
- 3) The party that feels disadvantaged in a dispute is a patient, both losses in the form of injury / disability, and death.
- 4) Losses suffered by patients caused by negligence / error from the doctor, who is often called "medical malpractice.

Dispute resolution is the last door for the parties to the dispute to get justice and legal certainty. If a patient is not satisfied with the services provided by the doctor, then the patient can make legal efforts to hold the doctor responsible. Legal remedies that can be done by patients, among others, to complain to the Indonesian Medical Disciplinary Honorary Council (IMDHC), report to law enforcement officers (police and prosecutors) if there are indications of errors / negligence of doctors, suing civil law to the court in the event of breach or violation of the law, and resolve it through alternative dispute resolution (mediation).

In general, if a doctor's mistake / negligence occurs, the patient immediately reports the matter to the police to be legally processed. Law enforcement officials often have difficulty proving the errors / omissions of doctors. The Attorney General's Office issued a Secret Directive Circular Number: B006 / R-3 / I / 1982 dated October 19, 1982

¹⁴ Marcel Seran dan Anna Maria Wahyu Setyowati, *Ethical and Legal Dilemmas in Medical Services*, (Bandung: Mandar Maju, 2010)

regarding "Medical Professional Case" that does not proceed with the case before consultation with local Health Service officials or the Ministry of Health of the Republic of Indonesia.¹⁵

The Supreme Court also issued a Circular Letter in 1982 which essentially gave directions to the Judges, that the handling of cases of doctors or other health workers suspected of negligence or mistakes in carrying out medical actions or services so as not to be directly processed through legal channels, but first sought opinion from the Medical Ethics Honorary Council (MKEK), whose function has now been replaced by IMDHC.

The concept of dispute resolution between doctors or dentists through the Indonesian Medical Disciplinary Honorary Council (IMDHC) in Law Number 29 of 2004 concerning Medical Practice promulgated in September 2004 is to replace article 54 paragraph (3) of Law No.23 of 1992 about Health, which replaces the role of the Disciplinary Board of Health Workers. This assembly has the duty to ascertain whether professional standards have been implemented correctly.

The settlement of a lawsuit in a medical case must first go through IMDHC before it is reported to law enforcement officers, because IMDHC is a professional judicial institution.¹⁶ Regarding the procedures for handling cases of alleged violations of professional discipline of doctors and dentists committed by IMDHC subject to Indonesian Medical Council Regulation Number: 16 / IMC / PER / VIII / 2006. In 2011, this regulation was replaced by Indonesian Medical Council Regulation No. 2 of 2011, before finally in 2014 the regulation was replaced for the second time with Indonesian Medical Council Regulation No. 20 of 2014 concerning Procedures for Handling Cases of Alleged Discipline of Doctors and Dentists.

It was explained in Indonesian Medical Council Regulation No. 20 of 2014, that there were several stages in handling cases of alleged violations of professional discipline of doctors and dentists. These stages consist of:

- 1) Stage of submission of complaints. Submission of complaints (both verbally and in writing) to IMDHC / IMDHC-P by persons / legal entities who are aware of alleged violations of discipline of doctors and dentists in carrying out medical practices or who feel their interests are harmed by the actions of doctors and dentists in carrying out medical practices
- 2) Initial inspection stage. The Tribunal conducts preliminary hearings in order to decide whether or not a complaint is accepted.
- 3) Discipline inspection stage. If the complaint is received by IMDHC / IMDHC-P, a disciplinary examination will be carried out by the Disciplinary Examination Board. In this stage an investigation will be carried out to gather information and evidence relating to the event in question.

- 4) Discipline hearing stage. At this stage a verification of the event will be verified.
- 5) Stage of issuance of the decision of the Disciplinary Board. At this stage the Disciplinary Examination Board will decide whether or not there is a violation of professional discipline committed by the doctor or dentist in question, as well as stipulate sanctions.
- 6) Stage of filing an objection. The complainant is given 30 (thirty) days to submit an objection to the decision of the Disciplinary Examination Council.
- 7) Phase of issuing IMDHC decisions. Decision of the Disciplinary Examination Board as a result of disciplinary examination against alleged violations of professional discipline of doctors and dentists who were complained of was then determined as IMDHC's decision.
- 8) The implementation phase of the IMDHC decision. IMDHC's decision that sets disciplinary sanctions against complainants is conveyed to IMC to be implemented. Within 7 (seven) days, IMC is required to determine the IMC decision regarding the Implementation of the IMDHC Decree

In the event that there is a doctor who commits one of the disciplinary violations set out in the Indonesian Medical Council Regulation No. 4 of 2011, then any person / legal entity that knows or feels his interests are harmed by the actions of the doctor or dentist in carrying out medical practice, can do complaints to the Indonesia Medical Discipline Honorary Council, both in writing and / or orally.

Upon the complaint, the initial examination is then carried out to decide whether the complaint is unacceptable, rejected, or accepted. In the event that a complaint is received, the Indonesian Medical Disciplinary Honorary Board forms the Disciplinary Examination Council to determine whether or not there is a violation of the disciplines of the doctor and dentist being complained. After a disciplinary examination is carried out, the Disciplinary Examination Board will determine the decision against the contested doctor. The decision can be in the form of: (a) there is no violation of doctor and dentist discipline found; (b) it is stated that the contested doctor is proven to have violated the disciplines of the profession of doctor and dentist and stipulated sanctions in the form of: (i) written warning; (ii) recommendation to revoke Registration Certificate (STR); or (iii) the obligation to attend education and / or training.

In the next stage, the Indonesia Medical Discipline Honorary Council determined the Disciplinary Board's decision on the results of examinations of alleged violations of the discipline of doctors and dentists as a decision of the Indonesian Medical Disciplinary Honorary Council. According to the provisions of Article 60 Paragraph (1) of the Indonesian Medical Council Regulation No. 32 of 2015 it is said that the Decision of the Indonesian Medical Disciplinary Honorary Council is final and of permanent force. But in its implementation, it is not uncommon to find that against the decision of the Indonesian Medical Disciplinary Honor Council, a lawsuit was filed in the state administration court by an integrated doctor who had been

¹⁵Nusye KI Jayanti, *Legal Settlement in Medical Malpractice*, (Yogyakarta: Pustaka Yustisia, 2009)

¹⁶ Nusye K Jayanti. *Loc.cit*,p.129.

proven to have violated the discipline of the profession of doctor and dentist.

According to the Indonesian Medical Council Regulation No. 43 of 2016 concerning Guidelines for Enforcement of Administrative Sanctions for Doctors, Dentists, Specialist Doctors, and Specialist Dentists in Appendix 1, guidance on the discipline of the medical profession is the guidance and supervision carried out by the medical council development division and the medical council development division dental that has the duty and function to conduct guidance and supervision through the function of monitoring and evaluation. Supervision is a functional supervision carried out by an institution / agency / unit that has the task and function of conducting supervision through inspection, testing, investigation and evaluation.

The nature of the Disciplinary Examination Council Session is closed, while the reading of the decision of the Disciplinary Examination Council decision is open. The decision of disciplinary sanctions by IMDHC is a decision of State Administration (beschikking), the decision is final. Types of decisions can be:

- a) Not guilty
- b) Guilty with witnesses:
 - Written warning
 - Recommendation to revoke STR or SIP, temporary (max 1 Year) or forever
 - And or the obligation to attend education / training

The submission of a lawsuit against the decision letter of the Indonesia Medical Discipline Honorary Council to the state administrative court is based on the assumption that the Indonesia Medical Discipline Honorary Council is a state administrative body or official as stated in the provisions of Article 1 Number 9 of Law Number 5 of 1986 jo. Law Number 51 Year 2009.

The stipulation states that "State Administration Agency or Official is a body or official that carries out government affairs based on statutory regulations. With reference to this provision, not a few judges are of the opinion that the Indonesia Medical Discipline Honorary Council is included in the category of state administration officials or officials, because the Indonesia Medical Discipline Honorary Council was formed based on the mandate of Law Number 29 of 2004 concerning Medical Practices to enforce professional discipline of doctors and dentists in Indonesia.

Certainly it needs to be explored further, whether the decision of the Indonesian Medical Disciplinary Honorary Council has fulfilled these requirements. The decision of the Indonesian Medical Disciplinary Honorary Council which stipulates the imposition of sanctions on doctors who have been proven to have violated professional disciplines will be forwarded to the Indonesian Medical Council to be implemented, especially if the disciplinary sanctions are in the form of a recommendation to revoke a Doctor Registration Certificate, the Indonesian Medical Council shall implement the sanctions (Article 66 Paragraph (2) Regulation of the Indonesian Medical Council Number 32 Year 2015).

This is because the authority to issue and revoke doctor's Registration Certificates is the authority of the Indonesian Medical Council which is the superior agency of the Indonesia Medical Discipline Honorary Council. So according to the opinion of the Author, the decision letter of the Indonesian Medical Disciplinary Honor Council which imposed sanctions on doctors who had been proven to have committed disciplinary violations, did not yet have legal consequences for the doctor concerned.

3. Conclusion

The Role of the Autonomous Institution of the Indonesia Medical Discipline Honorary Council in Resolving Medical Disputes as an autonomous institution of IMC and an independent professional justice institution whose existence is based on Article 1 (14) of Law No. 29 of 2004 concerning Medical Practices, in charge of enforcing the rules and provisions of the application of medical science in the implementation of medical services to handle cases of alleged violations of medical or dental discipline and determine sanctions. IMDHC could not carry out its decision which contained sanctions against doctors or dentists who were declared to have violated the professional discipline of doctors and dentists. IMDHC's decision which contains the imposition of sanctions must be reported to IMC to get an implementation determination.

Legal Procedure for Settling Medical Disputes through the Autonomous Institution of the Medical Disciplinary Board through several stages, namely: The stage for submission of complaints; Initial inspection stage; Disciplinary examination stage; Stage of disciplinary hearing; The stage of issuing the Disciplinary Examination Council's decision; The stage of filing an objection; Phase of issuing IMDHC decisions and Phase of implementing IMDHC decisions.

References

- [1] Hermien Hadiati Koeswadi, *Hukum dan Masalah Medik*, Law and Medical Issues, (Surabaya: Airlangga University Press, 1984)
- [2] KKI, *Pedoman Penegakan Disiplin Kedokteran beserta Himpunan Peraturan tentang Majelis Kehormatan Disiplin Kedokteran Indonesia*, Guidelines for Medical Discipline Enforcement along with the Regulations on the Indonesian Medical Disciplinary Honorary Council, (Jakarta: Pusat Promosi Kesehatan Kemenkes RI, 2008)
- [3] KKI. *Himpunan Peraturan Tentang Majelis Kehormatan Disiplin Kedokteran Indonesia* Regulations Regarding Honorary Board of Indonesian Medical Discipline.. (Jakarta: KKI, 2006)
- [4] KKI. *Penyelenggaraan Praktik Kedokteran Yang Baik di Indonesia*. Implementation of Good Medical Practices in Indonesia. (Jakarta: KKI, 2007)
- [5] Marcel Seran dan Anna Maria Wahyu Setyowati, *Dilema Etika dan Hukum Dalam Pelayanan Medis*, Ethical and Legal Dilemmas in Medical Services (Bandung: Mandar Maju, 2010)
- [6] Merdias Almatsier, dkk., *Himpunan Peraturan Tentang Majelis Kehormatan Disiplin Kedokteran Indonesia*, Regulations Regarding the Honorary Board

of Indonesian Medical Discipline, (Jakarta: Lembaga Konsultan Peraturan Bisnis Indonesia, 2008)

- [7] Muhammad Mulyohadi Ali, dkk., *Kemitraan Dalam Hubungan Dokter-Pasien*, Partnership in Doctor-Patient Relations (Jakarta: Lembaga Konsultan Peraturan Bisnis Indonesia, 2008)
- [8] Nusye K Jayanti. *Penyelesaian Hukum dalam Malpraktik*. Legal Settlement in Malpractice. (Yogyakarta: Pustaka Yustisia. 2009)
- [9] Safitri Hariyani, *Sengketa Medik: Alternatif Penyelesaian Perselisihan Antara Dokter Dengan Pasien*, Medical Dispute: Alternative Dispute Resolution Between Doctors and Patients (Jakarta: Diadit Media, 2005)

Law and legislation

- [10] Law Number 29 of 2004 concerning Medical Practices retrieved from <http://ditjenpp.kemenkumham.go.id/arsip/ln/2004/uu29-2004.pdf>
- [11] Republic of Indonesia Law 36/2009 concerning Health. Retrieved from http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=91185
- [12] Indonesian Medical Council Regulation Number 32 Year 2015 concerning Procedures for Handling Alleged Discipline Cases of Doctors and Dentists retrieved from http://www.kki.go.id/assets/data/arsip/Perkonsil_No_32_Tahun_2015.pdf
- [13] Regulation of the Indonesian Medical Council Number 32 Year 2015 concerning Procedures for Handling Cases of Alleged Violations of Discipline of Doctors and Dentists Article 1 paragraph 3 retrieve from http://www.kki.go.id/assets/data/arsip/Salinan_Perkonsil_50_Tahun_2017.pdf
- [14] Indonesian Medical Council Regulation Number 4 of 2011 concerning Professional Discipline of Doctors and Dentists retrieved from <https://kebijakankesehatanindonesia.net/sites/default/files/KKI%20visit%20Melbourne%202011.pdf>
- [15] Regulations of the Indonesian Medical Council on the Organization and Work Procedures of the Indonesian Medical Disciplinary Board and the Medical Disciplinary Board at the Provincial level. Perkonsil No. 3 of 2011, BN No. 353 of 2012
- [16] Indonesian Medical Council Regulations on the Strategic Plan of the Indonesian Medical Council and the Indonesian Medical Disciplinary Honorary Council. Perkonsil No. 49 of 2017, BN No. 457 of 2017
- [17] Indonesian Medical Council Regulation regarding Procedures for Handling Disciplinary Complaints of Doctors and Dentists. Perkonsil No. 50 of 2017, BN No. 1787 of 2017