

## The Implication of Law on the Existence of Human Rights Association of the Indonesian Medical Discipline in the Legal Enforcement System in Indonesia

Andin Rusmini, Sudarsono, Iwan Permadi, Abdul Rachmad Budiono  
Universitas Brawijaya

### Abstract

The Indonesian Medical Disciplinary Council is an institution authorized to determine whether or not there is a mistake made by doctors and dentists in the application of medical and dental disciplines, and establish sanctions.

The position of the Indonesian Medical Discipline Honor Board is as part of a proportional system of law enforcement in Indonesia, against the actions of doctors suspected of committing a violation of the code of ethics or of medical malpractice. Where the authority possessed by the Honorary Council of Indonesian Medical Discipline can provide legal protection for the public as a consumer and usually have a weak position.

Honorary Council of Indonesian Medical Discipline has a role in Law Enforcement in Indonesia. Honorary Council of Indonesian Medical Discipline plays a role in determining whether or not a doctor's guilt from his actions violate the code of ethics. In the event of any negligence or violation of the law in the fault of the physician, the Indonesian Medical Disciplinary Council shall submit this matter to the organization of the physician concerned. If the general practitioner will be returned to the Indonesian Doctors Association (IDI) organization or if the doctor is a dentist, it will be returned to the Indonesian Dentists Association (PDGI) organization. Where then the organization will submit this matter to the realm of the general court, whether Criminal, Civil or Administrative Court, depending on the errors or cases of the doctor.

**Keywords:** Existence, Honorary Council of Indonesian Medical Discipline, Law Enforcement

## PENDAHULUAN

### A. Background

At this time of increasing knowledge, the mindset of people is now beginning to experience a shift. Society in this case the patient judged that the relationship between them with his doctor is balanced. Where the patient has the right to get good service from the doctor. The public's knowledge of the physician's duty to perform his duties with caution is to be the patient's right to get the best service from the treating physician. Nowadays professional demands on the profession of doctors are getting higher. Due to the many news about the violation of the code of ethics and the occurrence of malpractice doctors, which causes public confidence in the profession of doctors to be reduced. The number of events that cornered this, which makes the doctor's profession become more careful in doing his duty as a doctor.

The concept of dispute settlement between doctor or dentist through Indonesian Medical Discipline Honor Board existing in Law Number 29 Year 2004 regarding Medical Practice enacted in September 2004 is to replace article 54 paragraph (3) Act No.23 year 1992 about Health that is Replacing the role of the Assembly of Health Care Discipline. This Assembly has the duty to ascertain whether the professional standard has been properly implemented. The Indonesian Medical Discipline Honor Board is an autonomous institution established by the Indonesian Medical Council (KKI) which in its duties is independent. To maintain the neutrality of the members of the Medical Council Discipline of Indonesia consists of 3 (three) doctors and 3 (three) dentists from each professional organization, a doctor and a dentist representing the hospital association, and 3 (three) persons Law scholar. In chapter 66 that reads: <sup>1</sup>

1. Any person who knows or interests are harmed or the actions of a doctor or dentist in carrying out medical practice may complain in writing to the Chairman of the Honorary Board of Medical Discipline of Indonesia.
2. Complaint must at least contain; A) Identity of complainant, b). Name and address of the practitioner's office or dentist and the time of action taken, and c). The reason for the complaint.
3. Complaints as referred to in paragraphs (1) and (2) shall not eliminate the right of any person to report any alleged criminal acts to the authorities and / or sue for civil damages in court.

The problems that arise in medical practice can be put forward as follows :

### 1. Philosophical

#### a. Ontological

---

<sup>1</sup> Undang-Undang RI No. 20 Tahun 2013 Tentang Pendidikan Kedokteran dan Undang-Undang RI No. 29 Tahun 2004 Tentang Praktik Kedokteran, Citra Umbara:Bandung. Hal 70

The Indonesian Medical Disciplinary Council is the institution authorized to determine whether or not there is a mistake made by doctors and dentists in the application of medical and dental disciplines, and establish sanctions (By **Pasal 1 angka 14 UU Praktik Kedokteran**).

To enforce the discipline of doctors and dentists in the conduct of medical practice, established the Honorary Board of Discipline of Indonesian Medicine (**Pasal 55 ayat (1) UU Praktik Kedokteran**). The Honorary Council of Indonesian Medical Discipline has a duty to determine whether or not there is an error in the application of medical discipline and to impose sanctions on it. The Indonesian Medical Disciplinary Council is an autonomous institution of the Indonesian Medical Council ("KKI"). This is called within **Pasal 55 ayat (2) UU Praktik Kedokteran**.<sup>1</sup>

#### b. Epistemological

The Indonesian Medical Discipline Honor Board uses **Pasal 64 UU Praktik Kedokteran** In resolving cases of doctors who violate the code of ethics.

If in the investigation is found an ethics violation, the Indonesian Medical Discipline Honor Board continues the complaint on the professional organization (Indonesian Doctors Association or Indonesian Dentist Association), pursuant to article 68 "If in the investigation is found an ethical violation, the Indonesian Medical Discipline Honor Board continues the complaint on the professional organization".

If a suspected case of malpractice is complained of by the public and found to be a violation of the law, it is recommended that the case be taken directly to the court for review. Because the Medical Practice Law only focuses on medical discipline alone, so the problem of civil or criminal lawsuits is submitted to the general court by using expert witness testimonium when necessary, as well as abroad.<sup>2</sup>

The discipline of a physician through the Honorary Council of the Indonesian Medical Discipline is limited to discipline and ethics only, which for the patient or the family is obviously not easy to know and understand. So that the proof of whether or not discipline or ethical violations become "difficult to understand" by the patient or family. In addition, the decisions taken in this discipline are merely administrative in nature which is not directly related to the patient only with the physician. Without any solution to the patient or family, so the patient or family "less satisfied" with the decision given. Legal blurring in article 69 Act number 29 of 2004 on Medical Practice, Indonesian Medical Discipline Honor Board only regulates sanctions for violation of discipline and ethics only. No Regulation For sanctions and law enforcement against doctors who violate the law.

#### c. Axiological

The duties and obligations of the Honorary Council of Indonesian Medical Discipline are Suitable sounds **Pasal 64 UU Praktik Kedokteran**. Honorary Council of Indonesian Medical Discipline duty:<sup>3</sup>

- a. *Receive complaints, examine, and decide cases of discipline of doctor and dentist being filed; and*
- b. *Prepare guidelines and procedures for handling cases of discipline of doctors or dentists.*

MKDKI's decision is a disciplinary and binding sanction. In accordance with Article 69 it reads:<sup>4</sup>

1. *The Indonesian Medical Discipline Honor Board binds doctors, dentists and the Indonesian Medical Council.*
2. *The decision referred to in paragraph (1) may be declared guilty or disciplinary sanction.*
3. *Disciplinary Sanctions as referred to in paragraph (2) may be :*
  - a. *Written warning.*
  - b. *Recommendation for revocation of registration certificate or license of practice and / or obligation to attend education or training at institute of medical or dental education..*

<sup>1</sup> Nusye KI Jayanti, *Penyelesaian Hukum Dalam Malapraktik Kedokteran*, Pustaka Yustisia, Yogyakarta, 2009 hal

<sup>2</sup> Nusye KI Jayanti, *Penyelesaian Hukum Dalam Malapraktik Kedokteran*, Pustaka Yustisia, Yogyakarta, 2009. Hal 34

<sup>3</sup> Undang-Undang RI No. 20 Tahun 2013 Tentang Pendidikan Kedokteran dan Undang-Undang RI No. 29 Tahun 2004 Tentang Praktik Kedokteran, Citra Umbara:Bandung. Hal 61

<sup>4</sup>*Ibid*, hal 65

The problematic is the lack of clarity of the existence of Honorary Council of Indonesian Medical Discipline in law enforcement system in Indonesia.

## **B. Research methods**

### **1. Types of research**

Type This research is legal research (legal research). Legal research is a series of actions or processes to discover the law due to the occurrence of legal vacuum, obscurity of norms or conflict of norms or finding legal principles. The function of legal research is to obtain the truth of coherence, namely to seek coherence or compatibility between something to be studied and rules or principles that are used as a reference. Scientific logic in legal research is built on scientific discipline and the workings of legal science whose object is law. The function of legal research is to obtain the truth of coherence, namely to seek coherence or conformity between something to be in carefully and the rules or principles used as a reference. Scientific logic in legal research is built on scientific discipline and the workings of legal science whose object is law.<sup>1</sup>

### **2. Research Approach**

According to Johny Ibrahim, "there are 4 (four) forms of research approach. This research uses 4 (four) form of research approach mentioned above:

- a) *Phylosophical Approach*
- b) *Statute Approach*
- c) *Conseptual Approach*
- d) *Comparative Approach*

### **3. Source of Legal Material**

There are 3 (three) main sources of legal material in this dissertation research, in the form of documents to be traced, researched and analyzed, wich is:

1. The primary legal material used in this research is the legal material in the form of legislation that is traced based on the hierarchy of the 1945 Constitution to the regulations and the provisions at the level of hospitals and professional organizations. The meaning of this type of legal material is:
  - 1) Law number 29 of 2004, on medical practice..
  - 2) Law number 36 of 2009, on health.
  - 3) Law number 36 year 2014, about health personnel.
  - 4) Law number 8 of 1999, concerning informed consent guidelines..
  - 5) Criminal law and criminal law.
  - 6) Decree of director general of medical service number HK. 00.06.6.5.1866, dated 21 April 1999 on the guidelines for informed consent.
  - 7) Regulation of the Minister of Health of the Republic of Indonesia number 290 / Menkes / Per / IX / 2008, concerning the approval of medical action.
  - 8) Indonesian Medical Council Regulation (KKI), an institution that is a product of Law number 29 of 2004 on Medical Practice .
  - 9) Circular Letter of Indonesian Medical Council (KKI) number 21 / KKI / kep / 2005 year 2005 about Indonesian Doctor Competency Standard.
  - 10) Results of the Indonesian Doctors Association (IDI) 2012 Conference on the Code of Ethics for Medicine (KODEKI).

---

<sup>1</sup>Johny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, (Malang: Banyumedia Publ., 2006) hal. 57

- 11) Regulations on Standard Medical Services (SPM).
- 12) Regulations on Standards of Hospital Operational Procedures (*Hospital Standard Operational Procedure/SOP*).
- 13) *Universal Declaration of Human Rights (United Nations, 1948)*

2. Secondary Legal Material, is the legal material obtained from the literature with the primary legal material on aspects of legal theory about the existence of MKDKI in law enforcement system in Indonesia.
3. Tertiary legal material is a legal material that provides information about primary and secondary legal materials with guidance or explanation of the existence of Honorary Council of Indonesian Medical Discipline in law enforcement system in Indonesia.

#### **4. Legal Material Collection Method**

The method of collecting legal materials in this research is by library research, that is all the legal material obtained related to the problem to be discussed is described, systematized, then the legal material is analyzed to interpret the applicable law, that is concerning the standard and formulation of the format, Content and procedures of validation of the informed consent of the ideal and juridical qualifications (Legal Substance), with the aim of knowing the existence of the Indonesian Medical Discipline Honor Council in the system of law enforcement in Indonesia.

#### **5. Material Legal Analysis**

All the legal materials that have been traced and collected are grouped according to the priority scale of the problem to be analyzed:

1. *Descriptive analysis*
2. Content analysis

### **DISCUSSION**

#### **A. Legal Implications for the Existence of Honorary Council of Indonesian Medical Discipline on Law Enforcement system in Indonesia**

The legal implication of the existence of Honorary Council of Indonesian Medical Discipline, the Indonesian Medical Discipline Honorary Council has a role in determining whether or not a doctor is guilty of his actions, especially violating the code of ethics. If there is any negligence or violation of the law in the mistake made by the doctor, the Indonesian Medical Discipline Board of Honor will submit this matter to the organization of doctors, either IDI Organization or PDGI. Where MKDKI has the authority to contribute to enforce laws and regulations in Indonesia.

Indonesian Medical Disciplinary Board of Honor as contained in article 69 paragraph (2) The disciplinary sanction given by the Indonesian Medical Discipline Honor Board as referred to be :

- a. Written warning
- b. Recommendation for revocation of registration letter or license of practice
- c. Obligation to attend an education or training at a medical or dental education institute.

The Indonesian Medical Discipline Honorary Council, through the Ministry of Health may file a dismissal / termination against a physician who commits negligence or violates the law with special powers which the Indonesian Medical Disciplinary Council has. This is the effort of the Indonesian Medical Discipline Honorary Council to enforce the law in Indonesia and provide a sense of justice for patients and families of patients who have endangered lives or eliminated the lives of patients for negligence in doing medical action.

Of the many professions, not all professions have institutions that have the authority as well as the Honorary Council of Medical Discipline of Indonesia this. Institutions that can sanction the revocation of practice permits, so as to provide syock therapy for other doctors, in order to maintain the code of ethics and perform its obligations to patients.

The legal certainty that society expects is worth it. Certainty according to Arief Sidharta that the word "certainty" is closely related to the principle of truth, which is something that can be strictly documented in a legal-formal manner. Through deductive logic, the rules of positive law are placed as major premises, whereas concrete events become minor premises. Through a closed logic system will

immediately be obtained conclusion. The conclusion must be something that can be predicted, so that everyone is obliged to hold on to it, with this grip that society becomes orderly. Therefore, certainty will lead people to order.<sup>1</sup>

The existence of the Indonesian Medical Disciplinary Board of Honor is expected to fulfill the public's thirst for legal certainty in cases of ethical violations or medical malpractices they are experiencing. The Indonesian Medical Discipline Board of Honor as one of the parts of law enforcement in Indonesia is very important in providing a sense of justice and legal certainty to patients who have been harmed morally and materially, as well as against doctors suspected of violating ethics or medical malpractice. The existence of Honorary Council of Indonesian Medical Discipline is very helpful in law enforcement system in Indonesia. Honorary Council of Indonesian Medical Discipline plays a role in determining whether or not a doctor's guilt from his actions violate the code of ethics. In the event of any negligence or violation of the law in the fault of the physician, the Indonesian Medical Disciplinary Council shall submit this matter to the organization of the physician concerned. If the general practitioner will be returned to the Indonesian Doctors Association (IDI) or if the doctor is a dentist, it will be returned to the Indonesian Dentist Association (PDGI) organization. Where then the organization will submit this matter to the realm of the general court, either the Criminal Court, the Civil Code or the Administrative Court, depending on the errors or cases of the doctor.

## **B. Legal Implication from the position of Honorary Council of Indonesian Medical Discipline to Law Enforcement system in Indonesia**

The legal implications that can occur from the position of the Honorary Council of Indonesian Medical Discipline are as stated in Chapter VIII Act No. 29 of 2004 on Medical Practice, The Indonesian Medical Council established the Indonesian Medical Discipline Honorary Council. The Indonesian Medical Discipline Board of Honor is domiciled as an institution charged with receiving complaints, examining and deciding cases of discipline of doctors and dentists submitted by the public.

The position of the Indonesian Medical Discipline Honor Board here is as the only institution of the medical organization in Indonesia. Where the Honorary Council of Indonesian Medical Discipline contributes to the enforcement of existing rules in Indonesia, by handling cases of code violation according to the guidelines and procedures in handling cases of ethical violations committed by doctors and dentists.

The legal implication of the position of the Honorary Council of Indonesian Medical Discipline in the law enforcement system in Indonesia is the Indonesian Medical Discipline Board of Honor plays a role in determining whether or not a doctor is guilty of violating the code of conduct. In the event of any negligence or violation of the law in the fault of the physician, the Indonesian Medical Disciplinary Council shall submit this matter to the organization of the physician concerned. Then the case of violation of the law will be forwarded to law enforcement officers and doctors who violate the law or malpractice will be processed according to the law in Indonesia.

The position of the Indonesian Medical Discipline Honor Board is as part of a proportional system of law enforcement in Indonesia, against the actions of doctors suspected of committing a violation of the code of ethics or of medical malpractice. Where the authority possessed by the Honorary Council of Indonesian Medical Discipline can provide legal protection for the public as consumers and usually have a weak position.

Honorary Council of Indonesian Medical Discipline in Draft of Medical Practice (already promulgated in September 2004 to become Law No. 29 on Medical Practice), it is proposed that there is a formation of Disciplinary Institute of Medical Personnel that is a special court within the general judicature duty to resolve every medical dispute. After being discussed in the DPR, the chapter on the Trial of Professional Medical Personnel in the general court is not included in the Act. In an effort to enforce discipline to doctors and dentists in the implementation of medical practice, through the Act No. 29 of 2004 on Medical Practices established the Honorary Council of Indonesian Medical Discipline, as listed in Chapter VIII Act No. 29 of 2004 on Medical Practice.

The Indonesian Medical Discipline Honorary Council is an autonomous institution of the Indonesian Medical Council (KKI) and in carrying out its duties is independent and responsible to the Indonesian Medical Council. The decision of the Indonesian Medical Council (KKI) is as follows<sup>2</sup>:

---

<sup>1</sup> Sidharta Arief, Meuwissen *Hukum, Ilmu Hukum, Teori Hukum dan Filsafat Hukum*, PT Refika Aditama, Bandung, 2007. hal. 8.

<sup>2</sup>*Loc Cit*, hal 56

- a. Whereas the implementation of Article 56, Article 57 and Article 70 of Law Number 29 Year 2004 regarding Medical Practice need to regulate the organization and working procedures of the Honorary Council of Indonesian Medical Discipline and Honorary Council of Indonesian Medical Discipline at Provincial level;
- b. That the Honorary Council of Indonesian Medical Discipline and Honorary Council of Indonesian Medical Discipline at the provincial level as an autonomous institution of the Indonesian Medical Council and independent in carrying out its duties;
- c. That the Honorary Council of Indonesian Medical Discipline and Honorary Council of Indonesian Medical Discipline at the provincial level serves to enforce the discipline of medicine and dentistry in the implementation of medical practice;

### **C. Implikasi Hukum dari Kewenangan Majelis Kehormatan Disiplin Kedokteran Indonesia terhadap sistem Penegakan Hukum di Indonesia**

The legal implications of the authority of the Indonesian Medical Disciplinary Board of Honor are the Indonesian Medical Disciplinary Council as contained in article 69 paragraph (2) have special authority to provide disciplinary sanctions to doctors and dentists who violate ethics. The sanction given by the Indonesian Medical Discipline Honor Board is as intended to be :

- a. *Written warning.*
- b. *Recommendation for revocation of registration letter or license of practice.*
- c. *Obligation to attend an education or training at a medical or dental education institute.*

According to Hassan Shadhily translates authority (authority) as a right or power to give orders or acts to influence the actions of others, for something done according to the desired.<sup>1</sup>

Indonesian Medical Discipline Honor Council in accordance with its authority pursuant to Law Number 29 Year 2004 About Medical Practice contained in Article 69 paragraph (2) Honorary Council of Indonesian Medical Discipline has special authority to provide disciplinary Sanction to doctors and dentists who violate Ethics. With the authority possessed by the Honorary Council of Indonesian Medical Discipline, the Indonesian Medical Discipline Honor Board exercises its right or power to impose disciplinary sanctions to doctors and dentists who violate ethics. From the action of this Indonesian Medical Discipline Honor Board, it influences to other doctors to act to perform medical practice in accordance with the standard operational procedure which has been determined by the medical organization, so that the actions performed by the doctor are protected from ethical or malpractice violation.

According to Ridwan H. R semantically the term power derives from the word "power" means ability or ability (to do something, power) while "authority" is<sup>2</sup> :

1. *Right and power to act or do something ;*
2. *Power makes decisions rule and delegates responsibility to others.*

The authority possessed by the Indonesian Medical Disciplinary Board of Practice in giving sanctions and guilty decisions on whether or not a physician suspected of violation or negligence / medical malpractice is very giving a sense of justice and legal certainty for the victim (patient) and the victim's family. With the existence and authority of the Indonesian Medical Discipline Honor Board in enforcing the rules against the doctors who committed the violation, it will greatly affect both law enforcement and law in Indonesia. Without the existence of internal institutions such as the Honorary Council of Indonesian Medical Discipline, the enforcement of rules against doctors will be difficult to control and realized. Errors without any sanctions, then will not provide a deterrent effect, either to the perpetrator or for fellow physician profession.

### **D. Legal Implications of the Honorable Indonesian Medical Disciplinary Functions to the Law Enforcement system in Indonesia**

The legal implications of the Indonesian Medical Disciplinary Council's function of law

---

<sup>1</sup>Tim Penyusun Kamus-Pusat Pembinaan dan Pengembangan Bahasa, 1989, Kamus Besar Bahasa Indonesia, Balai Pustaka, Jakarta, h. 1170

<sup>2</sup>*Ibid*, hal 101



enforcement system in Indonesia are the Indonesian Medical Disciplinary Council of Honor for the enforcement of medical and dental disciplines in the conduct of medical practice. Enforcement of discipline as referred to in paragraph (1) is the enforcement of rules and / or application of science in the implementation of services to be followed by doctors and dentists.

The function of the Honorary Council of Indonesian Medical Discipline can be seen in **Pasal 64 UU Praktik Kedokteran**, which is:<sup>1</sup>

*Honorary Council of Indonesian Medical Discipline duty:*

- a. *Receive complaints, examine, and decide cases of discipline of the doctor and dentist being filed; and*
- b. *Preparing guidelines and procedures for handling cases of disciplinary offenses of doctors or dentists.*

The Indonesian Medical Discipline Honor Board functions to receive complaints, examine and decide cases of discipline of physicians and dentists submitted by the public. The Indonesian Medical Discipline Honor Board will handle cases of code violation according to the guidelines and procedures in handling cases of ethical violations committed by doctors and dentists.

The function of the Indonesian Medical Discipline Assembly in law enforcement system in Indonesia is to enforce the code of ethics rules for doctors and dentists, and to play a role in law enforcement in Indonesia. Where the Honorary Council of Indonesian Medical Discipline sanctions doctors and dentists who violate the code of ethics and submit cases of violation of the law for doctors who perform medical negligence / malpractice.

#### 4.5 Legal Implication of the Duties of Honorary Council of Indonesian Medical Discipline on Law Enforcement system in Indonesia

The task of the Indonesian Medical Discipline Honor Board can be seen in **Pasal 64 UU Praktik Kedokteran**, which is:<sup>2</sup>

*Honorary Council of Indonesian Medical Discipline duty:*

- a. *Receive complaints, examine, and decide cases of discipline of the doctor and dentist being filed; and*
- b. *Preparing guidelines and procedures for handling cases of disciplinary offenses of doctors or dentists.*

Legal implications that can occur from the Duties of Indonesian Medical Discipline Assembly to the Law Enforcement System in Indonesia is if the Medical Discipline Board of Honor Indonesia is given the authority to be able to give sanctions to suspend a doctor who allegedly violated the code of ethics or who do malpraktik against his patient, then the Assembly The honor of Indonesian Medical Discipline has a role in law enforcement in Indonesia. Where the current authority of the Indonesian Medical Discipline Honor Board is only to decide guilty or innocent and to impose sanctions on doctors who commit ethical offenses. Although the decision of the Indonesian Medical Discipline Honor Board is binding on doctors, dentists, and the Indonesian Medical Council whose contents can be declared innocent or disciplinary sanction.

The disciplinary sanctions can be (**Pasal 69 UU Praktik Kedokteran**):<sup>3</sup>

- a. *Written warning;*
- b. *Recommendation for revocation of registration letter or license of practice; And / or*
- c. *Obligation to attend education or training in medical or dental education institutions.*

The Government should revise the authority of the Indonesian Medical Discipline Honor Board against Article 69 in Law Number 29 Year 2004, by granting additional authority to the Indonesian Medical Discipline Honor Board to be able to sanction doctors suspected of violating ethical codes or

---

<sup>1</sup>Undang-Undang RI No. 20 Tahun 2013 Tentang Pendidikan Kedokteran dan Undang-Undang RI No. 29 Tahun 2004 Tentang Praktik Kedokteran, Citra Umbara:Bandung. Hal 51

<sup>2</sup>Undang-Undang RI No. 20 Tahun 2013 Tentang Pendidikan Kedokteran dan Undang-Undang RI No. 29 Tahun 2004 Tentang Praktik Kedokteran, Citra Umbara:Bandung. Hal 51

<sup>3</sup>*Ibid*, hal 52

malpractice Against his patients. The duties of the Indonesian Medical Discipline of Honor, which specifically examines complaints related to the discipline of doctors and dentists, the basic reference rule of discipline in question is Indonesian Medical Council Regulation No. 4 of 2011 on Professional Discipline of Doctor and Dentist ("Regulation of KKI 4/2011"). The legal basis used is :<sup>1</sup>

1. Law Number 29 Year 2004 regarding Medical Practice;
2. The Organizational Guidelines and Procedures of the Honorary Council of Indonesian Medical Ethics;
3. Indonesian Medical Council Regulation Number 4 Year 2011 Calm Professional Discipline Doctor And Dentist.

The Indonesian Medical Discipline Honor Board is tasked with examining and making decisions on complaints relating to the discipline of doctors and dentists (**Pasal 67 UU Praktik Kedokteran**). The Indonesian Medical Discipline Honor Board in its duty is to give verdicts to doctors and dentists who violate ethics. However, for the case of doctors and dentists who perform medical negligence or malpractice actions of the Indonesian Medical Disciplinary Council will immediately submit the case to law enforcement officers. Where doctors and dentists who perform medical negligence or malpractice, will be processed according to the law in force in Indonesia.

The authority possessed by the Indonesian Medical Discipline Honor Board pursuant to Law No. 29 of 2004 on Medical Practice is limited to sanctions to doctors and dentists who violate ethical conduct is not for malpractice cases. Medical negligence by doctors. However, there is a lack of norms in the authority of the Indonesian Medical Discipline Honorary Council, where the Indonesian Medical Disciplinary Council has no authority to sanction doctors and dentists who are in evidence for cases handled by the Indonesian Medical Disciplinary Board , As well as those handled by law enforcement officers (Police, Public Prosecutor's Office until finally being found guilty or not guilty by a Judge in the Court). So that doctors suspected of violating the code of ethics and who do malpraktik can still practice and serve other patients.

It is not considered ethical if a person is suspected of violating a code of conduct or malpractice against his patient, but still able to practice and serve other patients. If the physician in the period of proof of the doctor re-violate the code of ethics or re-do malpractice or medical negligence to other patients who are seeking treatment, this would certainly be boomang for the Indonesian Medical Discipline Honor Board. This can reduce the public's confidence in the expertise possessed by a doctor and the Honorary Council of Indonesian Medical Discipline will be considered unequivocal and will be viewed by the public as an institution that is only concerned with the interests of doctors and its corps only.

#### **4. Comparison of Handling of Violations of the Medical Ethics Code in the State of Singapore and the State of Brunei Darussalam.**

*Dr Susan Lim is a \$ 26 million bill doctor's case of a staggering \$ 40 million total. Then widen to court the code of professional ethics. And today it is revealed to extend into the political realm of two countries. In today's court Dr Susan Lim is known to have requested the Minister of Foreign Affairs of Singapore to intervene in solving legal matters between himself and the Singapore Medical Council (SMC). Behind SMC stands two Health Ministers, Singapore and Brunei, who want to enforce legal and professional codes of ethics. A complicated scandal to maintain the relationship of two countries in which Sultan Hassanal Bolkiah's brother-in-law became a patient of Breast Cancer who died while still being handled by Dr Susan Lim during the period 2001-2007.*

*On March 28, 2011, the High Court held a second hearing. The court was held to respond to a complaint by Dr Susan Lim to stop the SMC's follow-up investigation which resulted in the revocation of the doctor's medical license and the fine. Dr Susan Lim was not present but was disclosed to have conveyed a message that the Singapore Foreign Minister should intervene as the scandal interferes with Singapore's relationship with Brunei. Dr. Susan's message was delivered by letter to the Singapore Foreign Minister George Yeo in January 2010. But in March 2010 the request was denied by the Minister for reasons not to intervene in legal matters. Senior Lee Lee Beng's lawyer representing Dr. Susan Lim denied allegations that his client was marking up. And it will be proved in the next court.*

*On March 28, 2011, the High Court held a second hearing. The court was held to respond to a complaint by Dr Susan Lim to stop the SMC's follow-up investigation which resulted in the revocation of the doctor's medical license and the fine. Dr Susan Lim was not present but was disclosed to have conveyed a message that the Singapore Foreign Minister should intervene as the scandal interferes with*

---

<sup>1</sup> disusun oleh Konsil Kedokteran Indonesia (KKI), lembaga yang merupakan produk dari UU nomor 29 tahun 2004 tentang Praktik Kedokteran, hal 31



*Singapore's relationship with Brunei. Dr. Susan's message was delivered by letter to the Singapore Foreign Minister George Yeo in January 2010. But in March 2010 the request was denied by the Minister for reasons not to intervene in legal matters. Senior Lee Lee Beng's lawyer representing Dr. Susan Lim denied allegations that his client was marking up. And it will be proved in the next court.*

Prof. The advisor of Brunei's health minister, and his successor as head of SMC, accused Susan of violating the code of ethics until malpractice. So the case widened from protesting the bill to criminal offense through the SMC hearing hearing. Demands **Singapore Medical Council (SMC) kepada dr. Susan Lima berujung pada denda max \$10rb dan penangguhan praktek 3thn.**

Associated with the existence of this medical scandal is very interesting when listening to a commentator from Brunei who borrow Anton Chekhov words. About the different crime advocates with doctors, namely, "Advocates just rob your money, while doctors rob you of your money, and kill you too". The enforcement of existing laws in the State of Singapore and the State of Brunei Darussalam is very good to apply also in Indonesia. Due to the internal institutions that are owned by the State of Singapore and the State of Brunei Darussalam really dare to crack down on doctors who do code of ethics or malpractice / negligence done by doctors. Although the doctor is a senior and prominent physician, there is even pressure from his own government and various parties, but the internal agencies of the State of Singapore and the State of Brunei Darussalam can still carry out their duties and obligations in applying justice for doctors, moreover justice for patients and families of patients.

## CLOSING

### A. Conclusion

Based on the description of the previous chapters, it can be concluded that :

1. The legal implications of the existence of the Honorary Council of the Indonesian Medical Discipline play a role in determining whether or not a doctor is guilty of his actions, especially those that violate the code of ethics. If there is any negligence or violation of the law in the mistake made by the doctor, the Indonesian Medical Discipline Board of Honor will submit this matter to the organization of doctors, either IDI Organization or PDGI. Where MKDKI has the authority to contribute to enforce laws and regulations in Indonesia.
2. The special authority possessed by the Indonesian Medical Disciplinary Board of Honor as contained in article 69 paragraph (2) The disciplinary sanction given by the Indonesian Medical Disciplinary Board of Honor as referred to be :
  - a. Written warning
  - b. Recommendation for revocation of registration letter or license of practice
  - c. Obligation to attend an education or training at a medical or dental education institute.
3. The Honorary Council of the Indonesian Medical Discipline, through the Ministry of Health may file a dismissal / termination against a physician who commits a negligence or violates the law with special authority that MKDKI owns. This is a MKDKI effort to enforce the law in Indonesia & provide a sense of justice for patients and families of patients who have endangered lives or eliminate the lives of patients due to negligence in doing medical action.

### B. Suggestions

1. Appreciation of society on the high value of health will be higher. So in the relationship with the doctor, the patient is hoping that doctors can maximize medical services for life expectancy and cure his illness.
2. From the point of law enforcement, it is expected to uphold justice for patients and families, as well as for the physician himself.
3. To acts that are not only a violation of the ethics of the physician profession, but more to the alleged malpractice of the physician, the public may report to law enforcement (through criminal law), or civil claim of compensation, Or follow article 98 of KUHAP As well as civil liability for damages.

## REFERENCES

### Books:

- Johny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, (Malang: Banyumedia Publ., 2006)  
Karl R. Popper, *Masyarakat Terbuka dan Musuh-Musuhnya*, (The Open Society and Its Enemy), diterjemahkan oleh: Uzair Fauzan, Cetakan I, Yogyakarta, Pustaka Pelajar, 2002  
M. Jusuf Hanafiah, *Etika Kedokteran dan Hukum Kesehatan*, Jakarta: EGC, 1999  
Nusyehi Jayanti, *Penyelesaian Hukum Dalam Malapraktik Kedokteran*, Pustaka Yustisia, Yogyakarta, 2009  
Peter Mahmud Marzuki, 2008, *Pengantar Ilmu Hukum*, Kencana Prenada Media Group, Jakarta  
Sidharta Arief, *Meuwissen Hukum, Ilmu Hukum, Teori Hukum dan Filsafat Hukum*, PT Refika Aditama, Bandung, 2007

Yunanto Ari dan Helmi, *Hukum Pidana Malapraktik Medik Tinjauan dan Perspektif Medikolegal*, Andi, Yogyakarta, 2010

**Undang-Undang:**

Undang-Undang RI No. 20 Tahun 2013 Tentang Pendidikan Kedokteran dan Undang-Undang RI No. 29 Tahun 2004 Tentang Praktik Kedokteran, Citra Umbara:Bandung

Undang-Undang RI No. 20 Tahun 2013 Tentang Pendidikan Kedokteran dan Undang-Undang RI No. 29 Tahun 2004 Tentang Praktik Kedokteran, Citra Umbara:Bandung

**Internet dan lain-lain:**

[http://www.kompasiana.com/ragile/skandal-dr-susan-lim-meluas-ke-hubungan-politik-singapore-brunei\\_5500a536a333119f6f511ae7,09-12-2016](http://www.kompasiana.com/ragile/skandal-dr-susan-lim-meluas-ke-hubungan-politik-singapore-brunei_5500a536a333119f6f511ae7,09-12-2016), pukul 11.30 WIB

<http://opickmohammed.blogspot.co.id/2013/04/penegakan-hukum-terhadap-dugaan-tindak.html>, di akses tanggal 11-12-2016, pukul 11.31 WIB.

disusun oleh Konsil Kedokteran Indonesia (KKI), lembaga yang merupakan produk dari UU nomor 29 tahun 2004 tentang Praktik Kedokteran

Tim Penyusun Kamus Pusat Pembinaan dan Pengembangan Bahasa, 1989, Kamus Besar Bahasa Indonesia, Balai Pustaka, Jakarta