

# The Existence of The Honorary Council for Medical Ethics (MKDKI) in The Dynamics of Health Regulation in Indonesia and its Role in Resolution of Medical Disputes in the 2023 Health Law

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**Abstract.** The right to health is a fundamental human right and cannot be separated from the dignity of every individual. The state must be present in protecting this right. It is proven by the state establishing Law (UU) number 17 of 2023 as the state's implementation of protecting the right to health for all its citizens. In efforts to provide health services, problems sometimes arise which lead to medical disputes. In this article, we will dissect the most common way of settling clinical debates by material regulations and guidelines and examine the job and position of MKDKI during the time spent settling clinical questions in Indonesia. The strategy utilized in this examination is standardizing juridical. The consequences of this exploration show that the most common way of settling clinical questions in Indonesia depends on Wellbeing Regulation number 17 of 2023. The position of the MKDKI with changes in regulations regarding health, as long as there are no government regulations governing the process of resolving medical disputes by the Assembly, then the MKDKI is equated with the Assembly because there is equality of duties and authority.

**Keywords:** Position of MKDKI, Justice, Legal Protection, Medical Disputes

## 1 Introduction

Wellbeing is something fundamental for human existence which is remembered for essential basic liberties and the state is answerable for guaranteeing this right. The Constitution of the Unitary Condition of the Republic of Indonesia, to be specific in Article 28 H passage (1) of the 1945 Constitution expresses that each individual has the privilege to live in physical and profound success, to live and have a decent and solid living climate and has the option to get wellbeing administrations. [1]

The health service and care system are a complex matter. In practice, health services and care do not always run smoothly. This arises due to various aspects starting from the existence of various medical service providers, government regulations, the health insurance system, and various economic and social factors. Sometimes disagreements arise between consumers of health services or in this case patients and health service providers. Apart from that, there is minimal information regarding treatment costs, ethical considerations in treatment, and legal

issues regarding medical privacy. Then, the different interests of patients, health service providers, and other stakeholders often intersect, creating the potential for conflict, so that in this case medical disputes become unavoidable.

A medical dispute is a dispute that occurs between a patient or the patient's family and a health service provider. The existence of medical disputes can lead to a lack of public trust in health service providers. If a medical dispute arises, there is an effort to resolve the problem, namely by making efforts to resolve the medical dispute. In general, things that can be done to resolve medical disputes can start by identifying the root of the problem. Apart from that, to protect all parties, legal action can be taken.

Science and technology in the world of health are developing rapidly, causing many legal issues to emerge in the world of health, so this makes it an important task for legal instruments that regulate health service providers, including efforts to resolve disputes, to be regulated. It is intended to ensure the creation of legal certainty for all parties to the dispute. In the judicial process in Indonesia, two judicial processes can be carried out, namely through the court (litigation) and outside the court (non-litigation). In the judicial process through the courts, it can be carried out through criminal courts. Likewise, the medical dispute judiciary regulated in Law (UU) number 17 of 2023 which has just been passed allows for the resolution of medical disputes through litigation or non-litigation.

Article 310 of Regulation Number 17 of 2023 concerning Wellbeing states that assuming a Clinical Faculty or Wellbeing Staff is associated with committing an error in completing their calling that makes hurt the Patient, the dispute that arises as a result of the mistake is resolved first through alternative dispute resolution outside of court.[2] In terms of resolving disputes outside of court, this can be done by the patient or family submitting a complaint to the Assembly as stated in Article 305 paragraph (1) of Law Number 17 of 2023 concerning Health.

Nowadays, people are quite familiar with and aware of their rights and obligations as well as legal protection. This influences people's mindset in everyday life. For example, the relationship between medical personnel and/or health workers and patients, which is a relationship in the civil aspect, can develop to touch the criminal aspect. The emergence of criminal aspects or criminal matters between medical personnel and/or health workers and patients can occur if suspicions arise in the patient and/or patient's family that there has been an act of malpractice committed by medical personnel and/or health workers.

Medical disputes are not always caused by malpractice, sometimes this occurs due to misunderstanding or miscommunication between medical personnel and/or health workers and patients and/or their families. [3] Patients and/or the patient's family often believe that the losses they experienced were caused by errors from health services. The fact is that to prove the occurrence of losses that arise allegedly due to errors from the health service, it must be properly examined using medical logic and legal logic to prove whether this problem falls into the classification of malpractice, a violation of the medical code of ethics, or a violation of medical discipline. [4]

Article 1 passage (15) of the Indonesian Clinical Gathering Guideline Number 20 of 2014 concerning Techniques for Dealing with Instances of Supposed Discipline Infringement of Specialists and Dental specialists expresses that the Specialist's Discipline Privileged Chamber (MKDKI) is the establishment that has the power to decide if there have been blunders dedicated

by specialists and dental specialists. in the use of clinical and dental trains and deciding assents. [5] With the establishment of the MKDKI, it is hoped that all medical disputes can be analyzed and attempted to be resolved so that there is no buildup of cases in general courts and disputes that arise can be resolved immediately.[5]

However, many patients and/or patient families take a shortcut by directly filing a lawsuit or reporting it to the authorities or the general court. For example, in the Supreme Court Decision Number 1366 K/Pdt/2017, there were several differences in the views of the judges in deciding cases at the district and appeal court levels regarding the existence of the MKDKI. It creates inconsistencies in the process of resolving medical disputes. This inconsistency is a result of the regulations of Law No. 29 of 2004 concerning Medical Practice which does not explain the existence of MKDI in a medical dispute investigation process.

So, in this article, we will analyze the process of resolving medical disputes by the newly implemented health legislation, namely Law (UU) number 17 of 2023, and discuss the role and position of MKDKI in the process of resolving medical disputes in Indonesia.

## **2 Methods**

This research is a normative juridical qualitative with a sociological juridical research approach using legislation and conceptual research.[6] A statutory approach is used in reviewing legislation, related regulations, and implementation of policies for the medical dispute resolution process in Indonesia. The conceptual approach examines the legal principles and legal system for resolving medical disputes in Indonesia. The data in this research was obtained through primary legal materials, namely legislation and secondary legal materials in the form of scientific literacy related to this topic.

## **3 Findings and Discussion**

Health is something that is essential for human life and is included in fundamental human rights. The UN General Gathering in Goal 217 A (III) on December 10 1948 reported the presence of a Widespread Statement of Common freedoms comprising of 30 articles made to safeguard each person all through the world's basic liberties. Article 25 section (1) of the UN All inclusive Announcement of Basic freedoms expresses that:

*“Each individual has the privilege to a way of life satisfactory for the wellbeing and prosperity of himself and his family, including the right to food, dress, lodging and medical care along with vital social administrations, and the right to security in case of joblessness, disease, handicap, widowhood, arriving at advanced age or different conditions that outcome in an absence of food, which is outside of his reach”.*[7]

The right to wellbeing is a major common liberty and is indistinguishable from the respect of each and every person, the option to partake in the most elevated feasible principles of physical and psychological well-being. These principles involve various aspects, including equal access to quality health services, avoidance of discrimination in health services, and the right to make one's own decisions regarding personal health care.

The right to health is a foundation for the goals of sustainable development, social welfare, and economic stability of a country. Guaranteeing the right to health is the duty of every independent country, where the state has a responsibility both morally and legally to protect and fulfill the health rights of its citizens. The right to health is a key to creating a healthier, fairer, and more just society for all individuals. The Unitary Condition of the Republic of Indonesia in its constitution ensures the execution of the right to wellbeing for each resident. This is reflected in Article 34 passage (3) which expresses that the State is liable for giving sufficient wellbeing administration offices and public assistance offices.[8]

Then, in practice, this is reflected in various health regulations and policies that regulate universal and quality health services. The system of guaranteeing the right to health managed by the state is important to ensure that no citizen is marginalized. Thus, guaranteeing the right to health by the state is not only the key to creating a healthier society, but is also an essential step in achieving the goals of sustainable development and universal human rights.

Providing guarantees for the right to health is the duty and responsibility of the state and is fundamental to creating a healthy and quality society. The government has full responsibility to ensure that all citizens have equal access to quality health services. This can be applied by making regulations and creating a health service system that can be accessed by all levels of society, affordable financing, and protecting the rights of medical personnel, health workers, and patients, including the right to medical information and maintaining privacy. Apart from that, the state also takes part in disease prevention and health campaigns. Guaranteeing the right to health by the state is an important step in ensuring that health care does not become an exclusive right of certain groups, but is a universal right guaranteed to every citizen. It is by the principles of human rights which underlie justice and equality.

Community health development requires health efforts, health resources, and health management to improve the highest level of public health based on the principles of welfare, equity, non-discrimination, participatory and sustainable in the context of developing quality and productive human resources, reducing disparities, and strengthening services, increasing health resilience, ensuring a healthy life, and advancing the welfare of all citizens and the nation's competitiveness to achieve national development goals.[8] This is the nation's effort and ideals to create a healthy and prosperous society. In this context, the practice of health services is the core of various activities in the implementation of national health efforts.

### **3.1 Law Number 17 of 2023**

In implementing health service efforts for all Indonesian people, the state is also present by making regulations as a form of preventive and repressive effort, namely by ratifying several legislative products. One of them is the passing of Law Number 17 of 2023 concerning Health (here in after referred to as the health Law). With the passing of this Health Law, 11 (eleven) laws are revoked and declared invalid, namely as follows:

- a. Law No.4 of 2019 concerning midwifery;
- b. UU no. 6 of 2018 concerning Health Quarantine;
- c. UU no. 28 of 2014 concerning Nursing;
- d. UU no. 36 of 2014 concerning Health Workers;
- e. UU no. 18 of 2014 concerning Mental Health;
- f. UU no. 20 of 2013 concerning Medical Education;

- g. UU no. 44 of 2009 concerning Hospitals;
- h. UU no. 36 of 2009 concerning Health;
- i. UU no. 29 of 2004 concerning Medical Practice;
- j. UU no. 4 of 1984 concerning Infectious Disease Outbreaks;
- k. UU no. 419 of 1949 concerning Hard Drugs Ordinance (*Staatsblad* 1949 Number 419). [9]

With the enactment of Law Number 17 of 2023 concerning Health, it consists of 20 chapters and 458 articles. With this new regulation, the government hopes that there will be improvements in several aspects, namely:

- a. From focusing on treating to preventing;
- b. From difficult access to health services to easy;
- c. From a health industry dependent abroad to being independent at home;
- d. From a vulnerable health system during an outbreak to being resilient in the face of disasters;
- e. From inefficient financing to transparent and effective;
- f. From insufficient health workers to sufficient and equal;
- g. From complicated and lengthy licensing to fast, easy and simple;
- h. From health workers who are vulnerable to discrimination to being specially protected;
- i. From fragmented information systems to integrated ones
- j. From lagging health technology to being at the forefront. [10]

In terms of the process of ratifying the Health Bill into the Health Law, the DPR-RI plenary meeting was attended by several ministers who were government representatives, namely Minister of Health Budi Gunadi Sadikin, Minister of State Apparatus Empowerment and Bureaucratic Reform Abdullah Azwar, and Deputy Minister of Law and Human Rights Eddy O.S. Hiarij. The ratification of Law Number 17 of 2023 concerning Health was also marked by rejection by two factions, namely the Democratic Party faction and the PKS Party faction, then the NasDem Party faction accepted it accompanied by notes. However, the majority agreed. The majority of these factions are from the PDIP faction, the Golkar Party faction, the Gerindra Party faction, the PKB faction, the PPP faction, and the PAN faction.[11]

### **3.2 Medical Disputes**

Health services are all forms of activities and/or a series of service activities provided directly to individuals or the community to maintain and improve the level of public health in the form of promotive, preventive, curative, rehabilitative, and/or palliative. However, in practice, conflicts or disputes often arise in health service efforts because of the interactions between parties who have their respective interests.

In the Big Indonesian Dictionary, dispute is disagreement or conflict. [9] A dispute is a dispute or conflict that occurs between individuals or groups who have the same relationship or interest in an object of ownership which gives rise to legal consequences for one another. A dispute has been going on for a long time and has surfaced and involves/becomes aware of the existence of a problem. [10]

Medical disputes are disputes that occur between patients and/or the patient's family and medical personnel and/or health workers and/or health service providers. Medical disputes

generally arise due to problems with professional ethics, professional discipline, and law in general, such as civil violations or criminal acts. In general, the cause of medical disputes is a feeling of dissatisfaction that arises from the patient and/or the patient's family because medical personnel provide services that are inadequate or even not by the expectations of the patient and/or the patient's family so that the patient and/or the patient's family tries to dig up evidence. mistakes made by medical personnel to be used as evidence to support arguments for dissatisfaction with the patient and/or the patient's family.

### **3.3 Medical Dispute Resolution Process in Law Number 17 of 2023**

With the demise of the Health Law, the application of 11 (eleven) laws relating to health service efforts was abolished. In connection with the formation of Law no. 17 of 2023 concerning Health which uses the Omnibus Law method, this has had a significant positive impact, namely as follows:

- a. The Health Law will provide solutions to various problems in the health sector. Such as health services which are still dominated by curative approaches, availability and distribution of Health Resources (HR), readiness to face health crises, aspects of pharmaceutical and Medical Device independence;
- b. All regulations in the Health Law can advance the health of the Indonesian people by providing the best health services. In this way, people have ample opportunities to access quality health services in their own country and can improve the image of the Indonesian nation in the eyes of the international world.
- c. The Health Law also pays attention to legal protection for health service actors in specific cases, namely doctors. This is based on the many legal actions received by health workers but there is no legal umbrella to protect them.

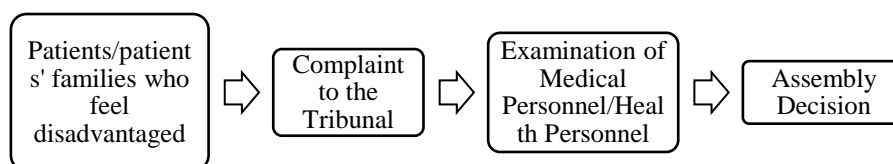
In the Health Law, regulations regarding the medical dispute resolution process are explained in Article 304 - Article 310 of the Health Law. In this regulation, the Minister forms a Council which can be permanent or ad hoc and will carry out tasks in the field of professional discipline. [14] Until this article was written, no Government Regulation specifically discussed the duties and functions of the Assembly.

In terms of efforts to resolve medical disputes or medical disputes, this can only be done by patients or their families whose interests have been harmed by the actions of medical personnel or health workers by complaining about what they have experienced to the panel. This is regulated in Article 305 of the Health Law. Furthermore, to make a complaint, Article 305 paragraph (2) of the Health Law states the minimum requirements that must be met when making a complaint, namely as follows:

- a. identity of the complainant;
- b. name and address of the practice of the Medical Personnel or Health Personnel and the time the action was carried out; And
- c. reason for complaint.

After the complaint is made, by Article 304 paragraph (3) of the Health Law, the Assembly will examine, analyze, and determine whether there are violations of professional discipline committed by Medical Personnel or Health Personnel.

Based on Article 306 of the 2023 Health Law regarding the patient/family complaint process to the assembly, it can be schematized as follows:



**Fig. 1.** Law Regarding the Patient/Family Complaint Schematized

In this case, the Panel's decision is administrative and sanctions in nature. When a disciplinary violation is found, the Medical Personnel or Health Personnel will receive disciplinary sanctions as stated in Article 306 paragraph (1) of the Health Law, namely as follows:

- a. written warning;
- b. the obligation to attend education or training at an education provider in the Health sector or the nearest teaching hospital that has the competence to conduct such training;
- c. temporary deactivation of STR; and/or
- d. recommendation for revocation of SIP. [15]

The results of the examination are binding for Medical Personnel and Health Personnel. Then, if there are parties who reject the decision, a review can be submitted to the Minister, supported by several things, which are stated in Article 307 of the Health Law, namely as follows:

- a. discovery of new evidence;
- b. there is an error in the application of a disciplinary violation; or
- c. there is an alleged conflict of interest between the examiner and the examinee. [15]

In efforts to resolve disputes through the courts, whether in civil or criminal cases, this requires a recommendation from the Assembly as regulated in Article 308 of the Health Law. The following is an explanation of recommendations in criminal and civil cases.

**Table 1.** Recommendations in Criminal and Civil Cases

CRIMINAL	CIVIL
<ol style="list-style-type: none"> <li>1. Medical personnel or health workers who are suspected of committing unlawful acts in carrying out their duties which may be subject to criminal sanctions, must request a recommendation from the panel;</li> <li>2. The recommendation is given after the Civil Servant/Police</li> </ol>	<ol style="list-style-type: none"> <li>a. Medical personnel or health workers who are held responsible for actions/deeds related to the implementation of their duties which cause civil harm to patients, must be asked for a recommendation from the panel.;</li> <li>1. The recommendation is given after the Medical Personnel, Health Personnel or their</li> </ol>

<p>Investigator submits a written request;</p> <p>3. The recommendation is in the form of a recommendation whether or not an investigation can be carried out;</p> <p>4. When the panel does not issue a recommendation, it means that the panel agrees to carry out an investigation into criminal acts against Medical Personnel or Health Workers.</p>	<p>attorney submits a written request regarding a lawsuit against him/her;</p> <p>2. The recommendation is in the form of a recommendation that the implementation of the practice carried out be declared in accordance with or not in accordance with professional standards, service standards and standard operational procedures.</p>
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Providing recommendations by the Assembly within a period of 14 (fourteen) working days after the panel receives the request for recommendation. Where the panel does not have the authority to make recommendations, this is when the criminal investigation of Medical Personnel or Health Personnel is not related to the implementation of Health Services.

With the panel's recommendations, it can simplify the process of resolving medical disputes, because there is clarity regarding disputes brought by patients or patient families to medical personnel or health workers. It is related to whether the medical dispute constitutes malpractice or not. However, in the concept of a professional court, the Assembly can still carry out its duties and functions as an enforcer of professional discipline for Medical Personnel and Health Personnel.

### 3.4 MKDKI in Changes to Regulations on Health in Indonesia

In the process of resolving medical disputes, there are several paths that can be taken, namely through litigation or general court and non-litigation via professional institutions and alternative dispute resolution. Regulations regarding the medical dispute resolution process are explained in Article 304 - Article 310 of the Health Law. The Health Law is a new regulatory product that replaces the implementation of Law no. 29 of 2004 concerning Medical Practice (hereinafter referred to as the Medical Practice Law) to regulate the medical dispute resolution process. There are significant differences in how the Medical Practice Law and the Health Law regulate the process of resolving medical disputes, especially regarding the role and position of the Indonesian Medical Discipline Honorary Council (MKDKI).

The Indonesian Clinical Discipline Privileged Board (MKDKI) is an establishment that has the power to decide if there are botches made by specialists and dental specialists in the use of clinical and dental teaches, and decide sanctions. [16] MKDKI was formed through the Medical Practice Law, regulated in Articles 55-70 of the Medical Practice Law which discusses the role, position and responsibilities of MKDKI. In carrying out its duties and authority, it is regulated in the Indonesian Medical Council Regulation Number 20 of 2014 concerning Procedures for Handling Cases of Alleged Discipline Violations for Doctors and Dentists. In the new regulation, namely the Health Law, MKDKI is mentioned in Article 452 which discusses the position of MKDKI in the Health Law. Even with the repeal of the Health Practices Law, in accordance with the closing provisions in Article 453 of the Health Law, implementing regulations regarding MKDKI still apply as long as they do not conflict with the provisions of



the Health Law. The Health Law does not specifically mention MKDKI in its body, but there are provisions regarding the "Assembly" regulated in Articles 304 - 309 of the Health Law. In terms of duties and authority, there are similarities between the MKDKI and the Assembly as mentioned in the Health Law, namely as explained in Article 304 paragraph (3) of the Health Law which states that the Assembly determines whether there are violations of professional discipline committed by Medical Personnel and Health Personnel. [17]

In connection with the process of resolving medical disputes through professional courts, namely through the MKDKI (Medical Practice Law) or the Assembly (Health Law), there are several points of difference between the Health Practice Law and the Health Law in regulating this matter, namely as follows:

**Table 2.** Difference Between the Health Practice Law and The Health Law

<b>Health Practices Act 2014</b>	<b>Health Law 2023</b>
<ul style="list-style-type: none"> <li>a. Clearly regulated and stated regarding duties and authority;</li> <li>b. Autonomous institution of the Indonesian Medical Council;</li> <li>c. The right to make a complaint is given to every person who knows or whose interests have been harmed by the actions of a doctor/dentist in carrying out medical practice.</li> </ul>	<ul style="list-style-type: none"> <li>a. It is clearly regulated but does not specifically mention the "Assembly";</li> <li>b. The Council is formed by the Minister to carry out duties in the field of professional discipline;</li> <li>c. The right to make a complaint is only given to patients or their families whose interests are harmed by the actions of medical personnel or health workers.</li> </ul>

Then, about the procedures for implementing medical dispute resolution through the MKDKI (Medical Practice Law) or the Assembly (Health Law), in both regulations, the process of resolving medical disputes begins with a complaint. However, several things make the Health Law considered more responsive in efforts to resolve medical disputes.

First, MKDKI in the Medical Practice Law. In connection with the duties regulated in Article 64 of the Health Practices Law, namely the MKDKI receives complaints then carries out examinations and makes decisions regarding the proposed doctor and dentist disciplinary violations. The complaint process is regulated in Article 66 of the Medical Practice Law. This article often invites controversial matters, especially in paragraph (3) which states that it does not eliminate everyone's right to report suspected criminal acts to the authorities and/or sue for civil losses in court. This is considered not to provide legal certainty regarding the position of MKDKI in the medical settlement process because it gives rise to multiple interpretations as to whether the lawsuit to court must be carried out after the MKDKI decision or can be carried out simultaneously with the complaint process to MKDKI and the lawsuit to court. One example of the ambiguity that occurs regarding this matter is found in the Supreme Court Decision Number 1366K/Pdt/2017. In this decision, the plaintiff filed a lawsuit in court at the same time as the complaint process at MKDKI. It was proven in the lawsuit that the plaintiff used the legal basis of Article 66 paragraph (3) of the Medical Practice Law and in the lawsuit the plaintiff stated "That the family and legal representative still respect the role and function of MKDKI so they made a complaint to MKDKI, but until the decision of the District Court and "The appeal

decision was read out. There has been no MKDKI decision conveyed to the family or legal counsel."

Reflecting on this decision, it can also be seen that there is no clarity regarding the timing of the complaint process until the MKDKI decision is issued. This of course creates legal uncertainty and people tend to choose to complain directly to court without first filing a complaint with the MKDKI. People who should get clarity about what they are experiencing, in this case, a medical dispute, instead don't get clarity and seem to be hanging around.

Second, the Assembly regarding the Health Law. The Council is the implementer of professional discipline which determines whether there are violations of professional discipline committed by Medical Personnel and Health Personnel. It is hoped that the formation of the Assembly by the Minister will support the professionalism of Medical Personnel and Health Personnel. Similar to the MKDKI in the Medical Practice Law, the Assembly in carrying out its duties and authority begins with a complaint.

In contrast to the Medical Practice Law, the Health Law implicitly stipulates that a complaint does not eliminate the right of the injured party to file a lawsuit in court. However, in this case, the Health Law is present to regulate the procedures for investigating or examining Medical Personnel and Health Personnel who are being sued. This is proven in Article 308 of the Health Law which stipulates that a written recommendation from the Assembly is required before any criminal or civil examination relating to medical disputes.

It is required that written recommendations be considered more responsive and provide legal certainty both from the side of the patient or patient's family who is harmed and from the side of the medical staff and health workers. Because medical personnel and health workers will feel more protected in their rights and positions when involved in medical disputes. Then the recommendation can also be a filter for medical disputes, this is proven when the recommendation states that no criminal investigation can be carried out or the Medical Personnel or Health Personnel is declared to have complied with implementing the SOP, this can stop the lawsuit. Then, in the long term, it will not increase the accumulation of lawsuits in court.

Then, about the problem of the time or period of the MKDKI decision, in connection with complaints to the Assembly, the time limit for resolving the medical dispute was not explained. However, in the process of providing written recommendations from the Assembly, it is contained in Article 308 paragraph (7) of the Health Law which states that recommendations are provided no later than 14 (fourteen) working days after the application is received. This can certainly shift the public's stigma regarding the previous process or performance of the Assembly in the Medical Practice Law. With this Recommendation, the Assembly will also be involved and their opinions will be more respected in the court trial process. With this, it is hoped that it can create a fairer and more just trial process.

In the Medical Practice Law, the position of MKDKI often becomes a problem in the process of resolving medical disputes in court, because there are inconsistencies regarding the role and position of MKDKI. The patient or his family can immediately file a lawsuit in court or report a criminal act without a decision from the MKDKI first. The phenomena that occur in the process of filing a lawsuit or reporting against Medical Personnel or Health Personnel related to the role of MKDKI are as follows:

1. The patient or patient's family includes the MKDKI decision in the lawsuit. For example, in the Samarinda High Court Decision Number 152/PDT/2019/PT SMR;
2. The patient or patient's family files a lawsuit while waiting for the MKDKI decision. For example, in Supreme Court Decision Number 1366 K/Pdt/2017;
3. The patient or the patient's family did not report it to MKDKI and immediately filed a lawsuit. For example, in the Jakarta High Court Decision Number 669/PDT/2016/PT.DKI.

The occurrence of inconsistencies regarding the position of the MKDKI does not only occur in the process of submitting medical dispute resolution, but also occurs with judges in providing legal views in the process of resolving medical disputes. There are several views of judges regarding the role of MKDKI decisions in efforts to resolve medical disputes in general courts, namely as follows:

1. The judge decides the case as it should without any additional evidence in the form of the MKDKI Decision. For example, in the Bekasi District Court Decision Number 630/Pdt.G/2015/PN Bks;
2. The judge considered that a medical dispute that was sued without an MKDKI decision was a premature lawsuit, because it was brought to the general court too quickly without going through a non-litigation process at the professional court. For example, in the Bandung High Court Decision Number 462/Pdt/2016/PT BDG;
2. The judge decides a medical dispute by considering the expert opinion from the Doctor's Honorary Council. For example, in the Bandung High Court Decision Number 369/Pdt/2015/PT Bdg.

The justification behind the various translations with respect to the job of the MKDKI is contained in Article 66 passage (3) of the Clinical Provide legal counsel which expresses that a protest to the MKDKI doesn't kill anybody's more right than wrong to report thought criminal demonstrations to the specialists as well as sue for common misfortunes in court. However, with the existence of the Health Law, it is hoped that this will no longer happen because the Health Law provides clearer regulations regarding the existence of professional courts for Medical Personnel and Health Personnel. When a patient/patient's family wants to continue their dispute in general court, the legal basis that can be used is Article 308 of the Health Law. In general court proceedings, the Assembly can actively participate in the process of resolving medical disputes by providing a Recommendation from the Assembly during the initial process of examining the dispute.

## **4 Conclusion**

The medical dispute resolution process in Indonesia is based on regulations contained in Law Number 17 of 2023 concerning Health. The process for resolving medical disputes can be through a professional court, namely making a complaint to the Assembly. The Panel's decision is in the form of administrative sanctions against Medical Personnel and Health Workers if they are proven to have violated professional discipline. Then, regarding the resolution of medical disputes through general courts, both in civil and criminal cases, they must include a written

recommendation letter from the Council, the regulations of which are explained in Article 308 of the Health Law.

Regarding the position of MKDKI in the process of resolving medical disputes in Indonesia, based on Article 453 of the Health Law, implementing regulations regarding MKDKI still apply as long as they do not conflict with the provisions of the Health Law. The Health Law does not specifically mention MKDKI in its body, but there are provisions regarding the "Assembly" regulated in Articles 304 - 309 of the Health Law. In terms of duties and authority, there are similarities between the MKDKI and the Assembly as mentioned in the Health Law, namely as explained in Article 304 paragraph (3) of the Health Law which states that the Assembly determines whether there are violations of professional discipline committed by Medical Personnel and Health Personnel.

## 5 Suggestion

By analyzing and studying matters relating to the process of resolving medical disputes in Indonesia, this article will provide several suggestions which are expected to contribute ideas in efforts to implement a medical dispute resolution process that is more efficient and with legal certainty. So, in this article we will provide suggestions as follows: following:

- a. The state must be present in efforts to shorten the medical settlement process by making regulations that give full duties and authority to the MKDKI to carry out the medical dispute resolution process;
- b. The state creates a special institution or agency to supervise the implementation of medical dispute resolution by MKDKI to create more legal certainty for all parties;
- c. Forming a more massive and informative technical work of the Assembly so that it is more easily accessible to all Indonesian people.

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