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RECONSTRUCTING MDP AUTHORITY TO ENSURE LEGAL CERTAINTY FOR MEDICAL AND HEALTH PERSONNEL

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ABSTRACT

Law No. 17 of 2023 concerning Health and Government Regulation No. 28 of 2024 concerning Implementing Regulations of Law No. 17 of 2023 concerning Health have produced a new paradigm in Indonesian health law. However, the birth of this new law is not enough; it is necessary to reconstruct the authority of the Professional Disciplinary Council by expanding and strengthening its quasi-judicial role in the health sector. The purpose of this study is to analyze the expansion and strengthening of the authority of the Professional Disciplinary Council, both in its implementation and in its implications, based on health law, by examining the reconstruction of its authority to provide ideal and implementable legal certainty. This study uses a normative or doctrinal and comparative juridical research approach, implemented through descriptive and prescriptive research types, sharpened by historical and analytical techniques, and analyzed using qualitative data analysis methods. The analysis concluded that it is essential to strengthen the legal construction of the Professional Disciplinary Council cannot create legal certainty because the legal construction is built on the foundation of the authority of the Indonesian Medical Disciplinary Council which emphasizes the limitations of its jurisdiction; and the reconstruction of the authority of the Indonesian Medical Disciplinary Council by providing suggestions for best practices taken from ideal and implementable quasi-judicial institutions, which end up in the recommendation to establish a quasi-judicial institution in the health sector.

KEYWORDS: Reconstruction, Quasi-Judicial, Best Practices, Supervision.

1. INTRODUCTION

Article 4 paragraph (1) of Law Number 17 of 2023 concerning Health regulates the rights and obligations of every person, both individuals and corporations. Every person has the right to: (1) live a healthy life physically, mentally and socially; (2) receive balanced and responsible information and education about health; (3) receive safe, quality and affordable health services in order to achieve the highest level of health; (4) receive health care in accordance with health service standards; (5) obtain access to Health Resources; (6) determine the health services needed for themselves independently and responsibly; (7) obtain a healthy environment for achieving a level of health; (8) accept or reject some or all of the assistance that will be given to them after receiving and understanding complete information about the action; (9) obtain confidentiality of personal health data and information; (10) obtain information about their health data, including actions and treatments that have been or will be received from Medical Personnel and/or Health Personnel; (11) receive protection from Health risks.

This new law and government regulation clarify and strengthen the authority of the Professional Disciplinary Council, which is greater than that of the Indonesian Medical Disciplinary Honorary Council (MKDKI). In terms of its scope of authority, this Council encompasses medical and health personnel, as stipulated in Article 304 paragraph (1) of Law of the Republic of Indonesia Number 17 of 2023 concerning Health. In the same law, as stipulated in Article 304 paragraphs (2) and (4), in terms of its form, this Council can be permanent or ad hoc and is established by the Minister of Health. Another difference is the introduction of restorative justice and a review of the Council's functions and authority. Law enforcement officials prioritize resolving disputes through restorative justice mechanisms for medical and health personnel who have implemented disciplinary sanctions and are suspected of committing a crime, as further outlined in Article 306 paragraph (3).

Other supporting regulations are the Regulation of the Minister of Health Number 3 of 2025 which stipulates the types of violations of professional discipline of medical and health workers which include a. carrying out incompetent practices; b. not referring patients to competent medical or health workers; c. referring patients to incompetent medical or health workers; d. ignoring professional responsibilities; e. terminating a pregnancy that is not in accordance with the provisions of laws and regulations; f. abuse of professional authority; g. abuse of alcohol, illegal drugs, and dangerous substances; h. fraud/failing to provide honest, ethical, and adequate explanations; i. revealing patient health secrets; j. committing inappropriate/inappropriate/sexual acts; k. refusing or stopping actions without reason; l. excessive examination or treatment; m. prescribing or giving drugs that are not intended for treatment; n. not making or not keeping medical records; o. making medical statements that are not based on the results of examinations; p. participating in torture or cruel acts; and/or q. advertising oneself and engaging in price wars in Article 4 paragraph (1) of the Regulation of the Minister of Health Number 3 of 2025). Then in the same year, the types of violations by medical and health workers were described through the Decree of the Minister of Health of the Republic of Indonesia Number HK.01.07/MENKES/775/2025 concerning the Description of Types of Professional Disciplinary Violations by Medical and Health Workers.

Based on the above overview of the history of the Professional Disciplinary Council, a jurisprudential study of past general court decisions on the MKDKI, a study of legislation, and a comparative study of literature in New Zealand and Sweden, the author sees the need to strengthen and expand authority by reconstructing and simultaneously proposing best practices for quasi-medical justice to ensure legal certainty for medical and healthcare personnel. The problem formulation in this dissertation is: (1) What is the legal analysis of the expansion and strengthening of the authority of the Professional Disciplinary Council, both in terms of implementation and implications? (2) How should the authority of the Professional Disciplinary Council be constructed to achieve legal certainty?

2. MATERIALS AND METHODS

This research adopts a normative (doctrinal) juridical research design, which focuses on the examination of legal norms, principles, and doctrines governing the authority of the Professional Disciplinary Council. In addition, a comparative approach is employed to compare relevant regulatory frameworks and institutional models, particularly those related to professional disciplinary mechanisms, in order to identify similarities, differences, and best practices. This research is conducted using descriptive and prescriptive research types. The descriptive component aims to systematically describe the existing legal construction of the Professional Disciplinary Council and the Indonesian Medical Disciplinary Council,

while the prescriptive component is intended to formulate normative recommendations for the reconstruction of authority to enhance legal certainty. These approaches are further sharpened through historical analysis, which traces the development of disciplinary authority in the health sector, and analytical reasoning, which evaluates the coherence and adequacy of the existing legal framework.

3. RESULTS AND DISCUSSION

3.1. Professional Discipline Council (MDP) From the Perspective of Legislation and Its Implementation

Implementation and enforcement of discipline, the Professional Disciplinary Council for the medical and health professions is governed by the Law of the Republic of Indonesia Number 17 of 2023 concerning Health, this Council is known as the "Council" which is regulated in Part Eleven, Paragraph 1, Article 304 to Article 309 of the Law of the Republic of Indonesia Number 17 of 2023 concerning Health. Then the naming of the Council is regulated in Part Eight Paragraph 1 Article 712 to Article 720 of the Government Regulation of the Republic of Indonesia Number 28 of 2024 concerning the Implementing Regulations of Law Number 17 of 2023 concerning Health which is referred to as the "Professional Disciplinary Council."

In terms of its authority, the Panel has the authority to impose disciplinary sanctions in its decisions and to recommend criminal and civil sanctions as stipulated in Article 306 in conjunction with Article 308 of Law of the Republic of Indonesia Number 17 of 2023 concerning Health. The Panel can be permanent or ad hoc and is established by the Minister of Health as stipulated in Article 304 paragraphs (2) and (4) of the same law.

Law of the Republic of Indonesia Number 17 of 2023 concerning Health also stipulates that the Panel's decision may be reviewed by the Minister of Health if: new evidence is discovered; disciplinary violations are misapplied; or there is a suspected conflict of interest between the examiner and the examinee (Article 307), and the legal subject includes the patient or their family as regulated in Article 305 paragraph (1).

Regulation of the Minister of Health of the Republic of Indonesia Number 3 of 2025 concerning the Enforcement of Professional Discipline for Medical and Health Personnel contains significant changes aimed at improving the quality of service, protecting the public, and upholding the dignity of the medical and health professions. The changes in question focus on enforcing professional discipline through the Professional Disciplinary Council (Radex 2025). In this Regulation of the Minister of Health, the scope of disciplinary violations is not absolute, as the Minister of Health may determine other types of Professional Disciplinary Violations as stipulated in Regulation of the Minister of Health Number 3 of 2025 and BNRI of 2025 No. 342 concerning the Enforcement of Professional Discipline for Medical and Health Personnel, in Article 4 paragraph (2).

Then, Decree of the Minister of Health of the Republic of Indonesia Number HK.01.07/MENKES/775/2025 concerning the Description of Types of Professional Disciplinary Violations by Medical and Healthcare Personnel was issued. This outlines disciplinary violations in Article 4 of Ministerial Regulation Number 3 of 2025 concerning the Enforcement of Discipline by Medical and Healthcare Personnel, enriching the disciplinary enforcement for medical and healthcare personnel.

Based on data on patient safety incidents and alleged professional disciplinary violations in healthcare facilities reported to the Professional Disciplinary Council during 2023, this primary data was processed over the period from 2023 to June 2025. The sources of these complaints are divided into two types, which are direct complaints and social media. As shown in Table 1, there are 21 direct complaints made by patients to the Ministry of Health. Meanwhile, complaints via mass media/social media are reports submitted by patients to the mass media/social media outlets of the Ministry of Health's Communications Bureau, reaching 30 incidents.

Table 1: Data On Patient Safety Incidents And Alleged Professional Discipline Violations In Healthcare Facilities 2023-2025.

Source	Amount
Direct Complain	21
Social media	30
Total	51

Following further analysis, these complaints are divided into several categories, namely patient death, infection/complication, procedural error, disabled/serious injuries, and unsatisfied/medical

information dispute (Table 2). The data shows a tendency of increasing number of reported malpractice cases over the years. For example, in cases of malpractice related to infection or complications, the number of reports in 2024 was only one, but increased sharply in 2025 to nine reports.

Table 2: Complaint Reason Data Year 2023-2025.

	2023	2024	2025	TOTAL
Patient Death	6	5	13	24
Infection/Complication Post Procedure	0	1	9	10
Procedural error Medic/Administration	1	0	7	8
Disabled/ serious injuries Consequences of Medical Procedures	2	1	4	7
Unsatisfied/Medical information dispute	0	0	2	2

Physicians are the most frequently reported group of medical professionals, particularly in general medicine, surgery, and obstetrics. In addition to physicians, the nursing profession has also experienced an increase in alleged malpractice, with the primary causes being administrative negligence and actions without valid medical approval. This increase demonstrates the importance of the role of supervisory and disciplinary enforcement agencies in providing constructive solutions (Widjaja 2025).

The increasing number of alleged malpractice highlights the vital role of the Professional Disciplinary Council (MDP) as an institution with a strategic role in resolving allegations of medical malpractice within the profession. As an institution referred to as primum remedium, the MDP serves as the first step before a case is handled through criminal or civil law. This approach is expected to prevent conflict escalation and resolve issues more expeditiously and without compromising the interests of both parties (Widjaja 2025).

3.2. Other Quasi-Judicial Implementations in The Indonesian Legal System as a Comparison

Quasi-judicial institutions, including the KPPU (Commission for the Supervision of Monopolistic Practices), the BPSK (Finance and Development Supervisory Agency), and the DKPP (Elections and Development Supervisory Agency), are an integral part of the Indonesian legal system. These institutions exist to complement and strengthen the judicial system, focusing on specific areas and providing more effective resolution mechanisms.

1. Business Competition Supervisory Commission (Kppu)

The legal basis for the establishment of the KPPU is Law Number 5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition (Business Competition Law). The KPPU's formation process is mandated by Law Number 5 of 1999, specifically Article 34, which states that the organizational structure, duties, and functions of the KPPU are determined by Presidential Decree. The KPPU was established as an independent institution, reflected in its member selection process, fixed terms of office, and decision-making authority. KPPU members are appointed by the President with the approval of the House of Representatives (DPR), providing a mechanism of checks and balances. KPPU members serve a fixed term and cannot be easily dismissed, except for legally valid reasons. The KPPU has the authority to make independent decisions in handling business competition cases.

The KPPU's quasi-judicial powers include conducting investigations and examinations, summoning witnesses and experts, ruling on cases, and imposing sanctions. The KPPU has the authority to investigate and examine alleged business competition violations, similar to the investigation and examination process in court. The KPPU has the right to summon witnesses and experts to provide testimony during the examination process. The KPPU (Commission for Competition) has the authority to decide on business competition cases and impose administrative sanctions on violators. KPPU decisions are binding and can be appealed to the Commercial Court. The sanctions imposed by the KPPU are administrative, not criminal. If criminal elements are found in competition violations, they will be handled by authorized law enforcement officials.

The KPPU can conduct investigations on its own initiative (ex officio) or based on reports from the public, business actors, or government agencies. Objecting parties can file an objection to a KPPU decision with the district court and an appeal with the Supreme Court. This mechanism is crucial to ensure justice and legal certainty. If the punished

party does not voluntarily comply with the KPPU decision, the KPPU can file a request for enforcement with the district court. The KPPU also monitors and evaluates the implementation of its decisions to ensure the effectiveness of law enforcement.

2. The Election Organizer Honorary Council (Dkpp)

The Election Organizer Honorary Council (DKPP) is an independent institution tasked with maintaining the integrity of election administration in Indonesia. The DKPP has the authority to examine and decide on complaints regarding alleged violations of the code of ethics by election organizers. More specifically, the DKPP was established to maintain the neutrality of election organizers, preventing violations of the code of ethics, handling public complaints, upholding the honor of election organizers, and improve the quality of election administration. The DKPP has the authority to receive and examine any complaints submitted by the public or related parties regarding alleged violations of the code of ethics by election organizers, such as members of the General Elections Commission (KPU), the Elections Supervisory Agency (Bawaslu), and their staff. Upon receiving a complaint, the DKPP will conduct an investigation to determine the truth of the alleged violation.

The investigation may include witness examinations, evidence collection, and clarification from the reported party. If, after the investigation, a violation of the code of ethics is proven, the Elections Supervisory Agency (DKPP) has the authority to impose sanctions on the election organizers involved. These sanctions can range from verbal warnings and written warnings to dismissal from office. In addition to taking action against violations that have already occurred, the DKPP also has the authority to take preventative measures to prevent future violations of the code of ethics.

The DKPP's primary legal basis is Law Number 7 of 2017 concerning General Elections. This law defines the DKPP as an independent institution tasked with maintaining and enforcing the code of ethics for election organizers. Complaints can be submitted in writing or verbally and must include the identity of the complainant and the accused, a description of the incident, and supporting evidence. There is a specific time limit for submitting reports to the DKPP, as stipulated in DKPP regulations. The DKPP conducts both closed and open (trial) investigations. During the investigation process, the DKPP upholds the principle of the presumption of innocence. Violations of the code of ethics handled by the Elections Supervisory Agency (DKPP) include bias, abuse of authority, violation of oaths of office, and other actions that violate the integrity and professionalism of election organizers.

The DKPP's decisions are final and binding, and must be implemented by the relevant parties. The DKPP is a quasi-judicial institution that is crucial in maintaining the integrity and quality of elections in Indonesia. Its authority to examine and rule on violations of the election organizers' code of ethics demonstrates strong quasi-judicial characteristics. However, to maximize its role, the DKPP needs to continue strengthening its independence, effectiveness, and capacity, as well as improving coordination with related institutions.

3.3. Legal Analysis of Reconstructing MDP Authority to Ensure Legal Certainty for Medical and Health Personnel.

Law Number 17 of 2023 concerning Health has reconstructed and created new authorities for medical disputes between medical personnel and health workers and patients. The results can now be seen in the progress in handling medical disputes compared to the past.

The current authority of the Council is greater than that of the Indonesian Medical Disciplinary Honorary Council (MKDKI), as it has the authority to issue recommendations regarding criminal sanctions and civil liability. This extensive authority of the Council is further emphasized in the regulations regarding the examination period by the Council, which states that if the Council does not issue a recommendation within a maximum of 14 (fourteen) working days of receiving the request, the Council is deemed to have issued a recommendation for an investigation into the criminal offenses listed in Article 308 paragraphs (7) and (8) of Law Number 17 of 2023.

Submitting the medical dispute resolution process to a general court means that the dispute will be based on general law as stipulated in the Criminal and Civil Codes. However, the medical dispute resolution process should be based on specific law, or lex specialis, as stipulated in medical legislation (Soge 2024).

When viewed from a Civil Law perspective, medical contracts have different characteristics than contracts under General Civil Law. First, the characteristics of medical contractual agreements are always based on the maximal effort theory. Medical contractual agreements are inspanningsverbintennis, meaning that the performance in these contracts is maximal effort, not a result agreement

(*resultaatsverbintennis*). Medical contractual agreements must adhere to professional standards, service standards, and professional standards, as well as medical knowledge and experience (Alnasser, Williams, and Gosling 2025). Several court decisions related to this issue include Court Decision Number 325/Pdt.G/2017/PN.Sby; Court Decision Number 329/Pdt.G/2012/PN.Jkt.Tim; Court Decision Number 225/PDT.G/2014/PN.BDG; and Court Decision Number 72/Pdt.G/2020/PN Mks (Supreme Court of the Republic of Indonesia, n.d.-a).

Second, medical engagement is based on informed consent (Tarantini et al. 2025). The legal relationship between the parties in informed consent means that one party gives consent and the other party is obliged. Several court decisions that reflect the existence of informed consent are, Court Decision Number 97/Pdt.G/2013/PN.Plg; Court Decision Number 85/PDT/2014/PT.PLG; Court Decision Number 2811 K/Pdt/2012 (Supreme Court of the Republic of Indonesia, n.d.-b). Third, not all failures in providing medical treatment are included in medical malpractice because there are several things such as, the nature of the medical action agreement is inspanningverbintenis with maximum action (Miziara and Miziara 2022). There are several court decisions that support this characteristic, namely Court Decision Number 102/PDT.G/2016/PN.Jkt.Brt; Court Decision Number 577/PDT/2017/PT.DKI; Court Decision Number 146/Pdt.G/2019/PN.Ptk; and Court Decision Number 182/Pdt.G/2016/PN.JKT.TIM (Supreme Court of the Republic of Indonesia, n.d.-c). Fourth, one of the factors that causes failure in medical procedures is the presence of medical risks because all medical procedures still contain unavoidable medical risks (Tetteh 2019). Several court decisions reflect these characteristics, namely Court Decision Number 23/PDT/2018/PT.DKI; Court Decision Number 146/Pdt.G/2019/PN.Ptk; Court Decision Number 22/PDT/2020/PT.Ptk; and Court Decision Number 864/Pdt.G/2019/PN Jkt.Brt. (Supreme Court of the Republic of Indonesia, n.d.-d)

Fifth, there is also a medical accident factor where the doctor has performed medical treatment in accordance with applicable standards and procedures, but external factors such as a power outage occur in the hospital environment (van Beuzekom et al. 2010). The final characteristic that can be the cause of the failure of medical treatment is the contribution of patient error. This contribution is in the form of patients who do not follow the referral recommendations set by the hospital, patients do not ignore the advice given by the doctor during the consultation or patients who choose to seek treatment elsewhere even though they do not receive a recommendation from the doctor. The court decisions that contain this characteristic are Court Decision Number 23/PDT/2018/PT.DKI; Court Decision Number 182/ Pdt.G/2016/PN.JKT.TIM; Court Decision Number 225/PDT.G/2014/PN.BDG in conjunction with High Court Decision Number 369/Pdt/2015/PT Bdg in conjunction with Cassation Decision Number 1550 K/Pdt/2016 (Supreme Court of the Republic of Indonesia, n.d.-e).

In medical contracts, unlawful acts (*onrechtmatige daad*) can be implemented. However, these unlawful acts differ from those in general, namely (Andrianto, 2023):

In specific unlawful acts, the element of negligence or omission that must be proven is a violation of professional standards, service standards, or standard operating procedures when providing treatment to a patient. Proof can be provided by comparing the doctor with other doctors of equal competence under similar circumstances. Furthermore, it can analyze whether the fulfillment of the patient's medical needs is proportional or excessive. If the medical treatment does not meet the maximum effort, it can potentially constitute medical malpractice. Several court decisions reflect this characteristic, including Court Decision Number 72/Pdt.G/2020/PN Mks; Court Decision Number 329/Pdt.G/2012/PN.Jkt.Tim; and Court Decision Number 225/PDT.G/2014/PN.BDG in conjunction with High Court Decision Number 369/Pdt/2015/PT Bdg in conjunction with Cassation Decision Number 1550 K/Pdt/2016 (Supreme Court of the Republic of Indonesia n.d.-a; n.d.-c; n.d.-f).

The final characteristic is that unlawful acts specifically permit medical procedures that are inconsistent with morality and propriety, such as abortions intended to save the mother's life, in accordance with the life-saving doctrine. One of the court decisions that reflects this characteristic is Court Decision Number 63/Pdt.G/2021/PN Kpn (Supreme Court of the Republic of Indonesia n.d.-g).

Several court decisions show that judges cannot distinguish between disciplinary evidence and non-legal violations. Judges consider the decisions of the Medical Ethics Honorary Council (MKEK) and the Indonesian Medical Disciplinary Council (MKDKI) as evidence and/or facts of violations of medical practice law. To date, there is still no clear concept regarding guarantees for objective and professional court examinations and trials regarding medical malpractice. It is appropriate that law enforcement be combined with the enforcement of professional

discipline and/or the enforcement of medical practice ethics. Therefore, quasi-judicial institutions in the medical field are crucial for resolving medical disputes.

However, further reconstruction is needed by strengthening and expanding the authority of quasi-judicial institutions in the medical field, which must be translated into legislation, the content of which is expected to provide justice, certainty, and legal benefits (Andrianto 2023).

First, the Professional Disciplinary Council has limited advisory power in general courts. Second, because it was established by the Minister of Health of the Republic of Indonesia, its independence remains questionable by some stakeholders in health law. Third, the review of medical disputes is conducted by the Minister of Health, creating uncertainty regarding who and their competence are responsible for reviewing the results of the MDP decisions. Fourth, given that MDP decisions are not executory in criminal or civil law in Indonesia, it is necessary to strengthen and expand the authority of the MDP. This will ensure legal certainty for the parties, predictability, and transparency.

3.4. Several Comparisons with Other Countries to Reconstruct the Authority of the Professional Disciplinary Council Comparison of Medical Dispute Resolution by Doctors in New Zealand

The Health Practitioners Disciplinary Tribunal (HPDT) in New Zealand is an independent adjudicating body that hears and determines disciplinary proceedings against healthcare practitioners (Health Professional Disciplinary Tribunal 2017). It operates under the provisions of the Health Practitioners Competence Assurance Act 2003. The Minister of Health does not directly oversee the Health Practitioner Disciplinary Tribunal in New Zealand. The HPDT is responsible for handling complaints of ethical or professional misconduct against healthcare practitioners covered by the New Zealand Health Professions Act. It has the power to examine evidence, hear witnesses, make decisions, and impose sanctions.

Its jurisdiction extends to healthcare professionals, including doctors, nurses, midwives, pharmacists, dentists, physiotherapists, psychologists, and others. This body can impose sanctions on healthcare practitioners in the form of penalties, fines, suspension or cancellation of registration, requirements for future education or training for healthcare practitioners, supervision of practice, or other appropriate measures aimed at protecting the public welfare.

In New Zealand, medical disputes between doctors and patients are typically resolved by the Health and Disability Commissioner (HDC). The HDC is an independent body tasked with protecting the rights of healthcare consumers and people with disabilities. They handle complaints about healthcare services and can investigate alleged violations of patients' rights (Schulz 2022).

Decisions from the HDC or other mediation bodies are usually advisory in nature, and while they don't have the same legal force as a court, they can influence the outcome of medical disputes. If a case is referred by the HDC or Director of Proceedings, it can be brought to the Health Practitioners Disciplinary Tribunal (HPDT). Meanwhile, if there is a dispute regarding compensation, it can involve the Accident Compensation Corporation (ACC), which handles compensation claims for healthcare-related injuries in New Zealand. This is the body that provides compensation for work-related injuries, accidents, and injuries that occur during medical treatment. This is stated in the New Zealand Accident Compensation Act No. 49 2001 Section 57 Clause 1. The ACC is a no-fault system regulated by New Zealand's unique system (Medical Protection 2014).

3.5. Comparison Of Medical Dispute Resolution By Doctors In Sweden

The Patients Advisory Committee (*Patientnämnden*) is the primary body addressing patient complaints, providing free consultations, advice, and support (1177 2024). This body also serves as a bridge between patients and healthcare providers, as stipulated in the Patient Safety Act 659 of 2010, Section 8, Clause 4 in Sweden.

The Health and Social Care Inspectorate is a national oversight body in Sweden (Inspektionen for vard och omsorg 2023). It is a government agency under the Ministry of Health and Social Affairs, as defined in the Act Concerning Support and Service for Persons with Certain Functional Impairments. It is responsible for ensuring the quality and safety of healthcare and social care services. This body conducts inspections, evaluations, and makes recommendations to improve service standards for service providers (Inspektionen för vård och omsorg n.d.). In addition, this agency has the authority to investigate serious incidents and impose sanctions, as outlined in the Swedish Regulation with Instruction for the Inspectorate for Health and Social Care, No. 176 of 2013, Sections 1–3. The agency's general functions include investigation, mediation, standard enforcement, disciplinary action, and

recommendations for improvement.

In resolving compensation, Sweden also implements a no-fault compensation system under the Patient Insurance (LÖF), which is mandatory for healthcare providers. This is because potential damages can be substantial. If an individual feels that an IVO decision is unfair or unlawful, they have the right to file a lawsuit and request a judicial review.

The comparative analysis of medical dispute resolution in New Zealand and Sweden demonstrates an emphasis on institutional independence, functional separation between complaint handling and disciplinary adjudication, and the use of no-fault compensation mechanisms to protect patients while maintaining professional accountability. These models provide important lessons for Indonesia, where the authority of the Professional Disciplinary Council remains institutionally limited and insufficiently judicial in nature. The New Zealand and Swedish experiences suggest that strengthening the Professional Disciplinary Council through enhanced independence, clearer adjudicatory powers, and a quasi-judicial structure would contribute to better legal certainty. These approaches will not only align Indonesia's disciplinary framework with comparative best practices but also better balance patient protection, professional accountability, and procedural fairness for healthcare professionals.

3.6. Reconstruction Of The Professional Disciplinary Council To Achieve Legal Certainty And Best Practices

Based on these assumptions, several of the best proposals are proposed, namely a state-organized assembly that also functions as a quasi-judicial body, similar to the Business Competition Supervisory Commission (KPPU), which has proven to be a strong quasi-judicial body in terms of its legal status, authority, procedures, and status. The employee salary and welfare budget would be independent, not regulated by the Minister of Finance, but would be self-governing, adhering to the regulations of the Minister of Administrative and Bureaucratic Reform.

Quasi-judicial proceedings with rules of reason in the medical field are also necessary because in medical actions, what needs to be considered is the doctor's best efforts, which involve many aspects. Therefore, quasi-judicial proceedings in the medical field in medical disputes involving doctors must have a principle of rules of reason (rules of reason) for the medical action, taking into account the above factors. It is necessary to take the KPPU model for quasi-judicial proceedings in the medical field in conducting its judicial process because the principle of rules of reason is an analytical approach that considers the constraints and real impacts of an action, not only based on rigid rules.

In this approach, the court evaluates whether an action is substantively detrimental due to intent by considering the various factors mentioned above. Furthermore, it allows for a comprehensive analysis of the macro-level impact on the actual legal system, rather than relying solely on formal legal assumptions. This principle also provides judges with flexibility to consider the specific circumstances of each case. This approach also allows for legal development that is more responsive to the realities of medical science, ever-changing health technologies, and non-medical barriers such as remote areas. It also prevents over-enforcement that can hinder innovation and actually lead to a lack of benefits, justice, and legal certainty.

Therefore, adopting laws from the three countries mentioned above and adopting the Business Competition Supervisory Commission's model best reflects best practices for conducting quasi-judicial medical trials. Steps to strengthen and expand the executive powers of the MDP include inter-institutional harmonization. A strong coordination system needs to be established between quasi-judicial institutions and law enforcement officials, particularly in following up on findings and recommendations. Public advocacy and support from civil society, the media, and academics need to be more actively involved in overseeing the implementation of quasi-judicial institution recommendations. Limited adjudicatory authority needs to be expanded. Furthermore, health law certification for judges, from first instance courts to the Supreme Court, is needed to address the knowledge gap between MDP judges and general court judges (Kurnia Toha, 2025), as well as a common understanding of the unique characteristics of health law. The appropriate position for the Professional Disciplinary Council in the Indonesian legal system is as an institution under the President of the Republic of Indonesia that has characteristics that are a mixture of executive and other institutions (legislative or judicial) (Gunawan Wijaya, 2025).

4. CONCLUSIONS

From the legal analysis of the strengthening and expansion of the authority of the Professional Disciplinary Council (MDP), it is necessary to strengthen the recommendations of the MDP in general courts. However, the independence of the MDP remains problematic, as it is formed by the

Minister of Health and has been questioned by various stakeholders in health law. Considering the extent of the MDP's authority, the independence of the MDP must be protected from political and other external interventions. To realize this independence, Minister of Health Regulation Number 3 of 2025 should be strengthened with clear rules regarding transparency in the selection of MDP members, a code of ethics and code of conduct for MDP members, mechanisms for handling conflicts of interest, and legal protection for MDP members in carrying out their duties. The lack of clarity regarding the authority and competence of the Minister of Health in reviewing medical disputes further undermines transparency and accountability. Furthermore, MDP decisions currently lack executory force, despite the MDP being the most competent institution for adjudicating medical disputes. Therefore, legal strengthening and expansion are necessary to enhance its legal effect and institutional credibility.

Comparative models from New Zealand and Sweden demonstrate the importance of empowered, independent quasi-judicial bodies that are institutionally integrated with compensation mechanisms. Therefore, efforts are needed to reconstruct the authority of the Professional Disciplinary Council to ensure legal certainty by strengthening regulations, creating procedural rules based on rules of reason, reconstructing the legal standing and authority of the MDP, as well as harmonization between relevant institutions.

To achieve this reconstruction, systematic changes are recommended, including the establishment of Special Civil Law and Special Criminal Law in the medical sector; the judicial review of Health Law Number 17 of 2023 by the Constitutional Court; the repositioning of the Professional Disciplinary Council under the authority of the President; harmonization among institutions related to health law; the implementation of competency certification by the Supreme Court for judges adjudicating medical disputes; the establishment of a Professional Disciplinary Council Watch; and the expansion of the authority of the MDP to include compensation recommendations. However, an independent government body must be established to implement and oversee compensation mechanisms to provide more certainty, continuity, assurance, and control over medical negligence compensation, as practiced in New Zealand, Sweden, and Denmark.

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