

THE MEANING OF EXISTENCE OF INDONESIAN MEDICAL DISCIPLINARY HONORARY COUNCIL (MKDKI) IN MEDICAL MALPRACTICE ALLEGATION EXAMINATION AS FAIR LEGAL PROTECTION TOWARD MEDICAL PROFESSION

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ABSTRACT

The issue of medical malpractice that occurred in Indonesia simply create public confidence in general or on a particular patient to be reduced. To see that doctors are not arbitrary in their profession under the provisions of Article 55 of Law No. 29 Year 2004 on Medical Practice, Medical Council of Indonesia established the Indonesian Medical Disciplinary Honorary Council (MKDKI). MKDKI is an institution that is authorized to determine whether there is a mistake made by doctors and dentists in the application of scientific disciplines of medicine and dentistry, as well as sanctions. The problem in this study is what the meaning of existence MKDKI in medical malpractice allegation examination as legal protection of the medical profession with justice? The aim is to analyze and find the meaning of existence MKDKI in the examination of alleged medical malpractice as legal protection of the medical profession that is based on justice. This study is normative, with the approach of legislation and approach to the concept. Results and discussion is the meaning of existence MKDKI This is in addition to protect the public from the actions performed by doctors who are incompetent, improve the quality of health care and more important is to maintain the honor of the medical profession.

Keywords: MKDKI, Medical Malpractice, Legal Protection, Medical Profession

INTRODUCTION

Talking about the necessities of life is a key point that must be met by every human being. Nowadays health is a primary need for humans. Everyone wants to be healthy, so that any human activity can be run in accordance with the plan. Health is one of the basic social rights (the right to health care) and individual rights (the right of self-determination) as well as one of the elements of human well-being that should be realized in accordance with the ideals of the Indonesian nation, as is the purpose of the Pancasila and the Constitution of the Republic of Indonesia Year 1945.

Health professionals, especially doctors and dentists are required to perform the duties in accordance with professional standards. In their profession must consider the rights of patients based on noble values, virtue and glory for the sake of patients. Bearer of the profession in the medical field always carry moral and intellectual command (Veronika Komalawati: 2002).

Since the establishment of the medical history, all mankind recognize and know there are some fundamental nature (fundamental) attached absolutely to themselves a good doctor and wise, namely:

1. Godliness
2. Purity of Intention
3. Magnanimity
4. Modesty
5. Seriousness of Work
6. Scientific Integrity and Social
7. Undoubted Collegiality

Medical ethics naturally be based on the norms of conduct which govern human relations in general, and owned by its principles in the philosophy of society are accepted and developed continuously (As'ad Really: 2014). In Indonesia, the Pancasila principles are equally recognized as an ideal basis and the Constitution of the Republic of Indonesia Year 1945 as a structural base. Based on the foregoing, it is as a tangible sincerity and nobility of medical science doctors professionally Indonesia joined the Indonesian Doctors Association, hereinafter referred to IDI, or functionally bound in oeganisasi field services, education, and health and medical research. Doctors providing health care to patients should be according to the standard of the profession, but as a human being a doctor does not escape from one or blunder which in medical terms is going on medical malpractice.

To provide protection of the public or the recipients of healthcare services and improve the quality of health services from doctors and dentists established Indonesian Medical Council hereinafter abbreviated as IMC. IMC is an autonomous body, non-structural and is independent, responsible to the President of the Republic of Indonesia. IMC was established in Indonesia on April 29, 2005 in Jakarta. According to Article 55 of the Law of the Republic of Indonesia Number 29 Year 2004 regarding Medical Practice states:

1. To enforce discipline doctors and dentists in the administration of medical practice, formed the Indonesian Medical Disciplinary Honorary Council.
2. Indonesian Medical Disciplinary Honorary Council is an autonomous institution of the Indonesian Medical Council.
3. Indonesian Medical Disciplinary Honorary Council in carrying out its duties independent.

Honorary Council of Indonesian Medical Disciplinary hereinafter abbreviated MKDKI is the authorized agency to determine whether there is a mistake made doctors and dentists in the application of scientific disciplines of medicine and dentistry, and establish penalties. This medical discipline enforcement purpose is to provide protection to the public, maintain service quality of doctors and dentists, as well as to preserve the honor of the profession. MKDKI accountable to the Indonesian Medical Council. MKDKI located in the capital city of the Republic of Indonesia. MKDKI at the provincial level may be established by the Indonesian Medical Council on the proposal MKDKI. MKDKI leadership consists of a chairman, a deputy chairman and a secretary. MKDKI members designated by the minister on the proposal of professional organizations.

RESEARCH OBJECTIVE

The purpose of this study was to analyze and find the meaning of existence MKDKI in the examination of alleged medical malpractice as legal protection of the medical profession that is based on justice.

RESEARCH METHOD

This research is a normative law approach of legislation and conceptual approaches.

Prescriptive legal analysis done analytically and systematically. In analyzing this problem the author uses the theory of legal protection.

RESULTS AND DISCUSSION

1. The Meaning of Existence of Indonesian Medical Disciplinary Honorary Council

Everyone has the right to access health services safe, quality, and affordable. This statement was reinforced by Article 5 Paragraph (2) of the Law of Health. Under these provisions, the state represented by the government, are required to guarantee safe access to health services, quality, and affordable to all Indonesian citizens in order to improve social welfare. Various government efforts that have been made to ensure the availability of access to health services for citizens is to provide facilities and infrastructure in the health sector.

It is also accompanied by the availability of various relevant legal instrument of health services. Availability of this legal instrument intended to provide protection for every citizen who consume health care services provided by doctors and hospitals. Availability of this legal instrument has been recognized by the government in order to provide certainty and legal protection for every citizen who consume health care services being offered (as a patient). Various legal instruments have been set up to accommodate them.

In addition to the availability of a variety of legal instruments, the organization of health services certainly can not be done just like that. In this case required the agency / regulatory agencies representing the government in the implementation of health care for every citizen. Establishment of bodies / supervisory agencies aim to ensure that the health service delivery in accordance with applicable law and in order to improve the quality of health services from doctors and hospitals. Various agencies / regulatory agencies has been set up by the government to achieve this goal, among them is the Indonesian Medical Council (IMC), the Indonesian Doctors Association (IDI), Indonesian Medical Disciplinary Honorary Council (MKDKI), and the Honorary Council of Medical Ethics (MKEK).

MKDKI as one of the institutions established by the oversight of the implementation of health care established by mandate contained in the Medical Practice Act with a view to enforcing professional discipline doctors and dentists in Indonesia. Enforcement of discipline is an act of enforcement of rules and / or provisions of the application of science in the administration of medical practice that must be obeyed and followed by doctors and dentists. Under the existing legal provisions, clearly stated that MKDKI is an autonomous institution of IMC independent. It has a meaning that MKDKI in carrying out its duties and authorities can not be influenced by anyone. MKDKI has a very important role in the enforcement of professional disciplines doctors and dentists in Indonesia.

Disciplining doctors and dentists were performed by MKDKI aims to protect the public from the actions performed by a doctor or dentist who is not competent, as well as to improve the quality of health services and maintain the honor of the profession of medicine and dentistry. Based on the analysis author, it can be seen that in relation to disciplinary profession of doctor and dentist are MKDKI authority, whereas for ethical violations doctors and dentists is under the authority of the Honorary Council of Medical Ethics (MKEK). Both institutions are interrelated because of a breach of professional conduct may be subject to disciplinary sanctions profession. Some examples of violations of medical ethics are: imposition of the discharge, rejection patient terminal condition, waiver of informed consent, waiver of medical records, hold-restrain the patient / not immediately refer, justifies medical action that should not be (eg abortion), do not disclose medical error, disregard professional responsibilities, prescribing irresponsible, sexually deviant behavior, academic fraud, advertising themselves, and so on.

Enforcement of discipline committed by MKDKI based on the provisions of Article 55-70 of the Medical Practice Act. More detailed arrangements regarding the enforcement of discipline by MKDKI published in the Indonesian Medical Council Regulation No. 3 of 2011 on the Organization and Work Procedure MKDKI and MKDKI-P. Enforcement of professional disciplines doctors and dentists were performed by MKDKI certainly do not without a guide / reference. Guidelines / references used MKDKI is the Indonesian Medical Council Decree No. 17 / IMC / KEP / VIII / 2006 on the Medical Profession Disciplinary Enforcement Guidelines, which are then replaced with Indonesian Medical Council Regulation No. 4 of 2011 on Professional Discipline Doctors and Dentists. There are at least 28 (twenty eight) types of violation of professional disciplines doctors and dentists which is stipulated in the Indonesian Medical Council No. 4 of 2011.

According to the provisions of Article 66 of Law Practice of Medicine and Article 3 of Regulation of Medical Council of Indonesia Number 3 of 2011, in the framework of the enforcement of professional disciplines doctors and dentists, MKDKI have a duty to receive complaints, examine and decide cases of alleged violations of professional disciplines doctors and dentists. Complaints submitted may come from individuals and corporations (legal entities) are aware of the alleged breach of discipline doctors and dentists in a medical practice, or who feel that their interests harmed by the actions of doctors and dentists are in conducting medical practice (both in writing and / or oral). Concerning the procedures for handling cases of alleged violations of professional disciplines doctors and dentists were performed by MKDKI subject to the Indonesian Medical Council Regulation No. 16 / IMC / PER / VIII / 2006. In 2011, this regulation was replaced by Regulation Indonesian Medical Council No. 2 of 2011, before finally in 2014 this regulation was replaced for the second time Regulation Medical Council of Indonesia Number 20 Year 2014 on Procedures for Handling Cases of Alleged Violation of Discipline Doctors and Dentists. Described in the Indonesian Medical Council Regulation No. 20 of 2014, that there are several stages in the handling of cases of alleged violations of professional disciplines doctors and dentists, namely;

1. Stage submission of complaints.

Submission of complaints (both orally and in writing) to MKDKI / MKDKI-P by the person / legal entity aware of any alleged breach of discipline doctors and dentists in a medical practice or who feel that their interests harmed by the actions of doctors and dentists are in conducting medical practice ,

2. During the preliminary investigation.

Assembly conduct initial inspection in order to determine acceptable or not on a complaint.

3. Discipline inspection stage.

If complaints are received by MKDKI / MKDKI-P will be performed by the discipline inspection Assembly Disciplinary Inspector. In this phase of the investigation will be conducted to collect information and evidence relating to the events complained of.

4. Phase disciplinary hearing.

At this stage it will be proof of the events complained of.

5. Phase publication Discipline Examining Assembly's decision.

At this stage the Examiner Disciplinary Council will decide whether or not a professional discipline violations committed by a doctor or dentist who complained of, and sanctions.

6. Phase filing an objection.

Teradu given 30 (thirty) days to file an objection against the decision of the Disciplinary Panel of Examiner.

7. Phase publication MKDKI decision.

Examining Assembly decision Discipline discipline inspection results against alleged violations of professional disciplines doctors and dentists who complained then set as MKDKI decision.

8. The implementation stage MKDKI decision.

MKDKI decision which establishes disciplinary sanctions against teradu submitted to IMC to be implemented. Within 7 (seven) days, IMC shall issue a decision on the Implementation of Decision MKDKI IMC.

Based on the various provisions of the acquired (either statute or regulation Indonesian Medical Council), it is clearly stated that the competent authorities MKDKI is to decide whether there is any violation of professional disciplines doctors and dentists, as well as determining sanctions for violations. The decision regarding whether or not a violation of professional disciplines doctors and dentists, and penalties given to the physicians, contained in a letter MKDKI decision. Described in Article 5 letter i Medical Council Regulation No. 3 of 2011, that one of the authority held by MKDKI is to implement the decision as authority MKDKI MKDKI. But in its implementation, MKDKI can not implement the decision which contains sanctions against a doctor or dentist who otherwise have violated professional disciplines doctors and dentists. MKDKI decision containing such sanctions must be reported to the IMC to obtain the determination of execution. Set out in Article 64 Paragraph (1) of the Medical Council of Indonesia Number 20 Year 2014 on Procedures for Handling Cases of Alleged Violation of Discipline Doctors and Dentists that the Indonesian Medical Council issued decisions Indonesian Medical Council of pelaksanaan decision MKDKI within a period of 7 (seven) working days after receipt of excerpts MKDKI decision and the decision of the Indonesian Medical Council signed by the Chairman of the Indonesian Medical Council or the Chairman of the Indonesian Medical Council teradu Dental corresponding scientific fields.

Meaning MKDKI establishment is in addition to providing protection for patients who suffer a loss both physically and materially also provide legal protection doctors themselves. It originated from the rampant cases of alleged malpractice by doctors or dentists. In addition to the doctor or dentist that malpractice could also just bertanggung problem of discipline violations.

Breach of discipline doctors and dentists are violations of the rules and / or provisions penerapann pelaksanaan science with medical practices to be followed by doctors and dentists. The practice of medicine is a series of activities carried out by doctors and dentists to patients in implementing health efforts. Doctors and dentists are doctors, specialists, dentists, pharmacists and dentists spesialias graduates of medical and dental pendidikan both within and outside the country which is recognized by the Government of the Republic of Indonesia in accordance with the legislation.

2. Binding Strength Every Decision From MKDKI

MKDKI an autonomous institution established by the Indonesian Medical Council, which performs its tasks are independent. MKDKI focus only on the disciplinary action to the doctor who proved to have committed a breach of discipline in the field of medicine (Eka Jullianta W: 2012). MKDKI as a state institution with the authority to determine whether or not the mistakes made by doctors in the application of medical disciplines or dentistry.

Breach of discipline is defined as a violation of the rules and / or provisions in the application of medical disciplines or dentistry, such practice by incompetent; do not perform their professional duties and responsibilities well (in this case did not reach the standards in medical practice); and behave reprehensible that undermine the dignity and honor of their profession.

Under the terms of Article 62 of the Indonesian Medical Council Regulation (hereinafter referred to as Regulation KKI) No. 32 of 2015 on the Procedures for Handling Cases Alleged Violation of Discipline Doctors and Dentists which states:

- a. MKDKI decision is a decision in the field of professional discipline Physicians and Dentists.
- b. MKDKI decision referred to in paragraph 1 is not a decision on the field of law and therefore cannot be interpreted any violation and / or errors in the field of law.
- c. Decision MKDKI formulation also contains the words referred to in paragraph 1 and paragraph 2.

In medical negligence action, the major concern is the "cause" of the impact namely, negligence in the medical profession. At the IMC Regulation, clearly states that MKDKI Decision does not concern the field of law and therefore can not be interpreted violation or an error in law.

According to the analysis of authors Regulation of IMC is contrary if viewed in the Constitutional Court Decision No. 14 / PUU-XII / 2014, which in its legal considerations make the medicine, in particular the code of conduct and discipline of medicine as one of the references in the investigation, investigation, prosecution and examination trial. In terms of the evidence pursuant to Act No. 8 of 1981 on the Law of Criminal Procedure, (hereinafter referred to as the Criminal Procedure Code), one type of evidence valid under Article 184 paragraph 1 of the Criminal Code that interest is documentary evidence in Article 184 paragraph (1) letter c, in particular on the type of documentary evidence Article 187 letter b of the Criminal Procedure Code. Evidence is everything that has to do with an act, which by means of such evidence, it can be used as evidentiary material in order to cause the judge's conviction of the correctness of the existence of a criminal offense has been committed by the defendant. According to Article 184 Paragraph (1) Criminal Procedure Code which included evidence is:

- a. The witness testimony
- b. expert testimony
- c. Letter
- d. hint
- e. Description defendant

Proof is one of the most important parts in the process of examination of a criminal case. Proof as a central point dalamproses fair law (due process of law), which is essentially a synergy with the purpose of criminal procedural law. The purpose of criminal procedural law in essence seeking the truth. The law enforcement officials from the police, prosecutors, to judges in investigate, prosecute and adjudicate cases should always be based on truth, must be based on a hat-things that actually happened (R. Susilo: 1982).

The judge in the verdict sentencing (veroordeling) if the acts of which the accused defendant legally and convincingly proven that based on a minimum of two items of evidence as mandated by Article 183 Criminal Procedure Code. Furthermore, the provision of the evidence referred to in Article 183 of the Criminal Procedure Code a limited manner

provided by Article 184 paragraph 1 of the Criminal Code: witness testimony, expert testimony, letters, instructions, and the testimony of the defendant. Judging on the provisions of Article 183 Criminal Procedure Code can be understood that two valid evidence as stipulated in Article 184 paragraph 1 of the Criminal Code is not enough for the judge to convict the person, but from the evidence that these illegal judges also need to obtain a conviction, that an act criminal actually happened, and that the defendant was guilty of the criminal offense.

According to the author analyzes MKDKI decision as Evidence According to Article 184 Criminal Procedure Code. Notch medical discipline is in between ethics and the law, and there in certain parts overlapping. Specific part that overlaps due to what are considered acts that violate the discipline also have violated the ethics field and may also violate the law. All depends on the case. If the breach of discipline was closer to the field of ethics, because it involves the moral and mental development so it is not directly exposed to the field of law. But to involve the legal field, remains to be seen how far and how severe nature of the omission. If entering the realm of criminal law, there must be a gross negligence (*culpa lata*). As for entering the realm of civil law, there must be financial damages of all of which must be proven by the plaintiff.

Referring to the Minutes of the session of the Constitutional Court Case Number 4 / PUU-V / 2007, J. Guwandi professional disciplines doctors suggested that a new thing in Indonesia, the professional disciplines doctors were among the medical ethics and law. Professional disciplines doctors have the weight of the offense and there is also lightweight. He gave a clearer picture, the picture given yellow ethics law while it is blue, yellow and blue if it is mixed it will be green, that is referred to as a professional discipline doctors. It also depends on the nuances of color, if an older blue green will leak out the older and the infraction is considered heavy

In connection with the Decision MKDKI that will be associated with evidence in criminal procedural law, it should be examined forms of violations of medical discipline set out in the Regulation of Indonesian Medical Council No. 4 of 2011 on Discipline Professional Doctor and Dentist Article 3 paragraph (2) regarding the types of violations of discipline which consists of 28 forms. To Article 3 (2) of Regulation IMC No. 4 of 2011 regarding the forms of violation of discipline by R. Sjamsuhidajat who is an expert of the Petitioners in the petition Article 66 paragraph 3 of Law No. 29 of 2004 regarding Medical Practice of the Constitution of Republic of Indonesia Year 1945 as contained in Constitutional Court Decision No. 14 / PUU-XII / 2014. He noted that a breach of discipline professional doctors and dentists are regulated in Regulation IMC No. 4 of 2011 is taken and compiled from the criminal provisions in the Criminal Code, the Law on Medical Practice, Health Law, Code of Ethics, as well as other habits accepted by the medical profession and medical tooth.

Associated with the views expressed by the Sjamsuhidajat R., compared with provisions of violation of discipline, there is a substance that is similar to the criminal provisions in the Criminal Code, the Medical Practice Law, Health Law, the Law of Health and the Narcotics Act , Law On Higher Education and the Code of Medical Ethics Indonesia. Based on this comparison, of the 28 types of violations medical discipline set out in the Regulation IMC No. 4 of 2011, there are at least 17 types of violations medical discipline which is substantially contained also the criminal provisions of the Legislation and codes of conduct on KODEKI (Code of Medical Ethics Indonesia). Judging by the articles Abuse medical discipline, it can be concluded that any medical action that violates the provisions of the law in the legislation that result in losses related to the medical profession, including into the breach medical discipline, but violates medical discipline does not necessarily break the law,

because it may be the only medical discipline violations intersect with violation of medical ethics.

Then with regard to the consideration of the Constitutional Court in Constitutional Court Decision No. 14 / PUU-XII / 2014 held that medical discipline as the standardization of scientific must be performed by a physician in performing medical action, which is why medical discipline as a filter to qualify the actions of doctors who commit violations criminal and / or give rise to civil damages. If it is associated with IMC Regulation Number 32 of 2015, Article 62 paragraph 2, which states "MKDKI decision referred to in paragraph 1 is not a decision on the field of law and therefore can not be interpreted any violation and / or an error in law.

Expressly in Article 62 paragraph (2) of the decision MKDKI not related to the field of law and therefore can not be interpreted any violation and / or errors in the legal field. Examining the phrase can not be interpreted violation in the field of law as stated, if associated with other forms of disciplinary offenses contained in Article 3 (2) of Regulation IMC No. 4 of 2011, which has a relationship with the legal provisions are scattered on Legislation mentioned earlier, it looks a mismatch, it is inferred from the opinions expressed by R. Sjahmuhidayat which states that the forms of disciplinary offenses set out in the IMC regulation is a provision taken and compiled from the criminal provisions in the criminal Code, the Law on Medical Practice, Health Law , Code of Medical Ethics Indonesia and kebiasaankebiasaan in the medical and dental professions. In this case, the author without intending to "generalize" that every ruling MKDKI stating the doctor guilty of disciplinary offenses medicine as a form of violation of law, due to enter into the realm of criminal law remains to be seen how far and how severe nature that omission (gross negligence / culpa lata) and would need to be reviewed on a verdict MKDKI, whether this is a violation of medical discipline was violated by the doctor stated also on the criminal provisions set out in the law and also whether the losses experienced by the patient goes into a loss in the realm of provisions the criminal.

Regarding the phrase "can not be interpreted any error in law" mentioned in Article 62 paragraph 2 of Regulation IMC No. 32 of 2015, when linked with the notion of error in psychological terms (intent or negligence), it means a breach of medical discipline (whether it Similarly to the provisions set forth criminal or not) performed by physicians in providing medical action to the patient there are any intentional or negligence within the doctor. Despite the omission medical action required is gross negligence (culpa lata) at least the in the presence of disciplinary violations medicine (particularly against a violation of medical discipline as stated also in the criminal provisions), which has been evidenced by the issuance of Decision MKDKI related to it, then it should be identified the existence of an omission in the field of criminal law.

Then in the second phrase is if it is linked to the meaning of the evidence in the criminal procedure code which means "as everything that has to do with an act, which by means of such evidence, it can be used as material evidence in order to cause the judge's conviction of the correctness of their a crime that has been committed by the defendant ". Article 62 paragraph 2 of Regulation IMC No. 32 of 2015 implies that the decision MKDKI, either decide a doctor guilty of a breach of discipline of medicine and doctors who are not guilty of a breach of discipline of medicine, can not be used as evidence, particularly for proving negligence medical action. In fact, if examined regarding infringement medical discipline that consists of 28 forms with an emphasis on cause a breach associated with the consideration of the law in Constitutional Court Decision No. 14 / PUU-XII / 2014 suggests that medical discipline is scientific standardization that must be done by a doctor to perform medical

action that will be done to the patient. When viewed theoretically through the theory of causation, namely Theory adéquat (Didik Hendro P: 2009) proposed by J. von Kries, which in this theory is the origination of an event which in general terms in the normal course of events that may or capable of consequences or the incident. According to von Kries, factors worthy to be called the cause of anything events that happened was just the circumstances that are known by a person the perpetrator at the time of these actors perform actions that could lead to something a certain result (PAF Lamintang: 2013) Moeljatno quotes view D. Simons regarding adequate causal theory, argues that the origination is each behavior according to the general lines of human experience should be held recognize the possibility that because of the behavior itself can be caused by (Moeljatno: 2008).

If the theory of adequate were connected with a medical discipline that is a standardization of science to be done by the physician in performing medical action to the patient, the doctor who had been made by MKDKI guilty of disciplinary violations medicine that the doctor had been wrong to apply their knowledge in the field of medicine in providing medical action to the patient and if for medical actions resulted in harm to patients, the medical discipline violations is wherefores of the losses suffered by the patient. Attributed to negligence medical action, because it belongs to the realm of law (especially criminal law) then to be seen whether there is gross negligence / culpa lata has been done by a doctor in a medical action that is administered to the patient as well as the loss suffered by a patient including into losses listed in the criminal provisions. If the examination of medical discipline that is found some violations of discipline by weight and the shape of disciplinary offenses are also contained in the penal provisions as well as meet the cost in terms of criminal law (for example, severely injured, disabled, even to death) would not it be identified as their gross negligence / culpa lata performed by a doctor, so that it has also entered the realm of criminal law.

In criminal law, a person's fault or negligence is measured by whether the offender was able to be responsible, that is, if his actions were determined by three (3) factors, namely:

1. The state of mind of the criminal.
2. Their inner relationship between the perpetrators of such offenses by the act of doing, which can be: intentional (dolus) or negligence / negligence (culpa).
3. The absence of an excuse.

If that is associated with the presence or absence of proof about 3 (three) of these factors on the perpetrators of a crime, then the offender will be punished if the offense can be proved by evidence under Section 184 Criminal Procedure Code. In terms of evidence under Section 184 Criminal Procedure Code, Decision MKDKI can be used as evidence in a letter to it under Article 184 Criminal Procedure Code. According to the provisions of Article 187 of the Criminal Procedure Code, the letter can be considered as valid evidence according to the law is a letter made on oath or letter confirmed by oath (M. Yahya Harahap: 2009).

Referring to the form of the written evidence in Article 187 of the Criminal Procedure Code, Decision MKDKI most appropriate into the form of a letter such as the Article 187 letter b of "The letter made under the terms of legislation or letters made by officials of the things included in hairdressing like which it is responsible and which is intended for proving something or something state ". Elucidation of Article 187 b of the Criminal Code as follows is the letter that was made by officials, including the letter issued by a tribunal competent to it.

CONCLUSION

From the results of research and discussion can be concluded that the meaning of existence of Indonesian medical disciplinary honorary council in medical malpractice allegation examination as fair legal protection toward medical profession is to enforce the medical disciplines that aims to to protect the patients or the public from the actions of incompetent doctors and dentists, improve the quality of health services and the most important thing is to preserve the honor of the profession.

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