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Legal Updates to the Disciplinary Sanctions Mechanism for Medical and Health Workers in Article 308 of Law Number 17 of 2023 concerning Health

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Abstract: Law Number 17 of 2023 concerning Health brings significant reforms in the governance of the medical and health professional profession, replacing the previous provisions in Law No. 36 of 2009. One important innovation is the affirmation of the authority of the Professional Disciplinary Council to provide recommendations for sanctions for disciplinary violations, as stipulated in Article 308, which is supported by its implementation through Government Regulation Number 28 of 2024 and Minister of Health Regulation No. 3 of 2025. This provision has broad legal implications because it regulates the mechanism of disciplinary sanctions, restrictions or revocation of practice permits, and their relationship to criminal and civil law enforcement. This study uses a normative legal method with a statutory and conceptual approach, as well as a comparative analysis of disciplinary regulations before and after the 2023 Health Law. The results of the study indicate that this reform provides a stronger, more structured, and accountable legal basis for the Professional Disciplinary Council, but creates the potential for overlapping authority with law enforcement officials and challenges in ensuring the principle of due process for medical and health workers. Therefore, regulatory harmonization, procedural clarity, and transparent appeal mechanisms are crucial to ensure a balance between patient protection, legal certainty, and the rights of health workers.

Keywords: Health Law Update, Medical Personnel, Health Personnel, Professional Disciplinary Council

INTRODUCTION

Law Number 17 of 2023 concerning Health emerged as a result of the urgent need to reform the governance of the health sector in Indonesia (Widjaja, 2025). This regulation replaced Law Number 36 of 2009, which was no longer fully able to address the challenges of modern developments, both in terms of medical technology, professional standards, and legal protection for health workers and the public (Siregar, 2023). The enactment of this new law not only brought about the unification of previously scattered norms but also created a

more systematic and integrated legal mechanism for the implementation of national health services (Satria, 2024). Its existence marked a paradigm shift in health law, emphasizing professional governance and ethical accountability, including the enforcement of professional discipline.

Before the enactment of Law Number 17 of 2023, the mechanism for enforcing disciplinary sanctions against medical and health workers often encountered obstacles. There was overlapping authority between professional ethics institutions, councils, and law enforcement officials, resulting in inconsistent handling of violations (Ridha, 2025). Disciplinary violation cases are often caught in jurisdictional debates between ethical, administrative, and criminal jurisdictions (Yunanto, 2024). This situation creates legal uncertainty for healthcare workers and undermines public trust in professional disciplinary enforcement agencies (Harwika, 2021). This systemic weakness demonstrates that previous positive law has not been able to provide a strong institutional foundation for enforcing discipline fairly and proportionally.

Article 308 of Law No. 17 of 2023 was then formulated to address this classic problem by establishing a more centralized legal framework through the establishment of a Professional Disciplinary Council (Daeng, 2023). This article emphasizes that any alleged disciplinary violation by medical or healthcare personnel will be processed professionally and objectively by a specially authorized institution (Linu, 2025). This new structure allows for more transparent disciplinary enforcement and ensures a balance between public protection and healthcare workers' rights (Nadeak, 2024). The enactment of this article also demonstrates the state's commitment to creating a healthcare legal system that is more adaptive to professional developments and public service needs.

Government Regulation Number 28 of 2024 was issued to implement the provisions of Article 308, particularly those relating to the formation, authority, and working procedures of the Professional Disciplinary Council. This Government Regulation provides clarity regarding disciplinary enforcement procedures, examination stages, and the issuance of recommendations for sanctions (Siregar R.A., 2024). Meanwhile, Minister of Health Regulation Number 3 of 2025 serves as a technical regulation that provides more detailed operational standards for handling disciplinary violations, coordination between professional institutions, and public reporting mechanisms (Mz, 2025). The synergy of these two regulations strengthens the legal position of the Professional Disciplinary Council as the implementer of Article 308. This hierarchical regulatory structure demonstrates that the health legal system has begun to move toward an integrated and accountable disciplinary enforcement model.

Professional discipline for medical and healthcare personnel serves as a tool to control professional behavior so that every medical procedure is carried out in accordance with competency standards and service ethics (Suhaid, 2022). The primary goal of implementing disciplinary sanctions is not merely punishment, but rather the development and restoration of professional integrity so that the public can be assured of safe and quality services (Widjaja G., 2025). Disciplinary norms are also part of the social responsibility of the medical profession, which requires every healthcare professional to maintain public trust in the healthcare system (Siregar M.K., 2024). Thus, professional discipline embodies the balance between freedom of practice and moral obligations to patients and the wider community (Asni Hasanuddin, 2023).

The implementation of disciplinary sanctions plays a crucial role in maintaining the professionalism of medical and healthcare personnel. Disciplinary violations, whether technical errors or abuse of authority, can have serious consequences for patient safety and the reputation of the profession. Therefore, a disciplinary system is established to ensure an objective and fair evaluation mechanism for every professional action. This mechanism

includes complaints, investigations, assessments, and the imposition of administrative sanctions or recommendations for revocation of practice licenses (Supraba, 2025). With a transparent and measurable system, healthcare professionals can carry out their practices responsibly without fear of abuse of authority by supervisory bodies.

The basic principles underlying the implementation of professional discipline are professionalism, accountability, and patient protection. Professionalism requires medical personnel to consistently work in accordance with established scientific and competency standards (Gosal, 2022). Accountability ensures that every action is ethically and legally accountable (Trisakti, 2023). Patient protection serves as the ultimate goal, ensuring that patients' rights to safety, information, and quality of care are guaranteed (Nurnaeni, 2024). These three principles are interrelated and form the moral and legal foundation for upholding professional discipline in the healthcare sector.

The legal reform theory proposed by Satjipto Rahardjo emphasizes that the law must adapt to social dynamics and community needs. Good law is not merely repressive but also responsive to changing values and realities (Chandra, 2024). In the context of the healthcare sector, this theory teaches that regulations on professional discipline must be continuously updated to align with technological developments, medical ethics, and public expectations for public services. Stagnant laws will lose their effectiveness because they fail to address new issues that arise in the field.

Lawrence Friedman's Law Reform Theory reinforces this view by highlighting three essential elements of the legal system: structure, substance, and legal culture. Legal reform in the healthcare sector will be ineffective if it merely improves norms without strengthening the implementing institutions (Adhilia, 2025). Institutional structures such as the Professional Disciplinary Council are key to ensuring the law's effective functioning. Furthermore, a legal culture among healthcare professionals also needs to be developed so that awareness of professional discipline and ethics grows internally, not solely due to regulatory pressure.

The link between legal reform and substantive justice is evident in efforts to balance public interest with individual rights. A sound professional disciplinary system is not only oriented toward patient protection but also ensures fair treatment for medical personnel under investigation. The principle of due process must be upheld so that every decision of the Disciplinary Council has strong moral and legal legitimacy. The effectiveness of regulations is also measured by the extent to which the public feels protected and the medical profession feels proportionally valued.

The Professional Disciplinary Council is a new legal body established to ensure the independent and measurable enforcement of discipline among medical and healthcare personnel. This institution has a strategic function as an enforcer of professional norms, tasked with assessing and providing recommendations on alleged disciplinary violations. The council's membership includes representatives from the profession, academics, and community representatives, who are expected to maintain objectivity in every examination (Kastury, 2024). The legal position of this institution demonstrates the state's efforts to separate the realms of ethics, discipline, and criminal law so that they do not collide in practice.

The relationship between the Professional Disciplinary Council and the Indonesian Health Workers Council (KTKI) is coordinative. The KTKI maintains a role in fostering and supervising health worker registration, while the Disciplinary Council focuses more on enforcing sanctions for violations of professional norms. Meanwhile, professional associations retain a role in developing codes of ethics and providing professional training (Indrawan, 2024). Collaboration between these three entities is expected to create a balanced health legal ecosystem, where each institution has a clear and complementary role.

The Professional Disciplinary Council serves as a concrete symbol of the strengthening of legal institutions in the health sector. Its existence not only enforces regulations but also fosters a professional culture that values integrity, honesty, and social responsibility. A strong institutional system will ensure that disciplinary enforcement no longer relies on the subjectivity of professional organizations but is based on fair and transparent legal mechanisms. This structure is an important foundation for the establishment of a modern and equitable health legal system.

METHOD

This study is a normative-juridical research method with a statutory and conceptual approach. The statutory approach is carried out by examining various regulations related to the disciplinary sanction mechanism for medical and health workers, such as Law Number 17 of 2023 concerning Health, in conjunction with Government Regulation Number 28 of 2024 concerning the Implementation of the Health Sector, and Minister of Health Regulation Number 3 of 2025 concerning the Health Worker Disciplinary Council. An analysis is conducted on the legal norms contained in these articles to understand their hierarchy, harmony, and legal enforceability within the national legal system. A conceptual approach is used to examine the legal concepts underlying the enforcement of professional discipline, such as the principle of due process of law, the principle of legal certainty, and the professional responsibility of medical personnel in health service practice. This approach also helps interpret the substance of Article 308 of Law Number 17 of 2023 within the framework of administrative law theory and health professional ethics, to understand its relevance and implications for disciplinary enforcement practices in the field. By combining these two approaches, this research seeks to produce a comprehensive analysis, both from a normative and philosophical perspective, so that it can provide applicable recommendations for health law reform in Indonesia.

RESULT AND DISCUSSION

Analysis of Legal Updates in Article 308 of Law No. 17 of 2023

Article 308 of Law Number 17 of 2023 concerning Health is one of the provisions that marks a paradigm shift in the professional disciplinary system for medical and healthcare personnel in Indonesia. This article contains provisions granting the Professional Disciplinary Council the authority to receive reports of alleged disciplinary violations, conduct investigations, and recommend sanctions against perpetrators. The substance of this article emphasizes that professional discipline is not merely a matter of internal professional organization ethics, but rather an integral part of national health law governance that ensures patient safety and quality of care. This provision positions discipline as an administrative legal mechanism with legal force and can directly impact the practice licenses of medical and healthcare personnel. The provisions of Article 308 clearly expand the scope of state oversight of the healthcare profession, while maintaining the autonomous role of professional institutions.

The main content and intent of Article 308 aim to strengthen the professional accountability system so that it does not stop at the ethical realm alone but is connected to administrative law enforcement authority. This provision stipulates that violations of professional discipline can be subject to sanctions based on the recommendations of the Professional Disciplinary Council, which are then submitted to the authorized agency for follow-up. This formulation demonstrates a firmer approach to professional misconduct that could potentially endanger patient safety or undermine the integrity of healthcare services. It also emphasizes that the Disciplinary Council's decision is not final in the public law sense, as it still requires administrative enforcement through licensing bodies or health authorities.

This normative structure demonstrates a reform effort to balance professional aspects with binding positive legal principles.

The reform of the professional disciplinary system reflects a fundamental shift in the state's approach to enforcing ethics and discipline in healthcare workers. Prior to Law Number 17 of 2023, ethical and disciplinary enforcement mechanisms were separate and administered by different institutions, such as the Indonesian Medical Council or the Indonesian Medical Discipline Honorary Council (MKDKI). This system often resulted in overlap between ethical enforcement carried out by professional organizations and administrative sanctions imposed by government agencies. Article 308 integrates these two aspects into a more cohesive system through the establishment of the Professional Disciplinary Council. This model seeks to avoid fragmentation in the disciplinary enforcement process while ensuring a centralized and measurable accountability mechanism.

The Professional Disciplinary Council (PDC) serves as an institution responsible for examining, assessing, and recommending sanctions against medical and healthcare personnel who violate disciplinary rules. This institutional structure demonstrates the strengthening of the quasi-judicial function within the healthcare legal system, where decisions are based on formal examination, evidence, and principles of professional justice. The establishment of this council also acknowledges the need for an objective, expeditious, and targeted internal resolution mechanism, without the need for direct involvement in the general judicial process. This institutional design demonstrates the desire of lawmakers to ensure that disciplinary enforcement is carried out transparently while still respecting the principle of professional independence.

The disciplinary enforcement mechanism, under Article 308, is regulated through systematic stages, from receiving a complaint to implementing sanctions. The process begins with a report or complaint from the public, a patient, or a fellow healthcare worker regarding an alleged violation of professional discipline. Once the report is received, the PDC conducts verification and substantive examination by hearing statements from relevant parties and examining supporting documents. If a violation is proven, the panel will recommend sanctions to the relevant authorities, such as the Ministry of Health or the Indonesian Health Workers Council. These stages reflect the principles of due process and procedural fairness, which strive to prevent abuse of authority in disciplinary enforcement.

The types of sanctions that can be imposed under Article 308 vary widely depending on the severity of the offense and the impact of the violation. These sanctions can take the form of a written warning, a temporary restriction on practice, revocation of a practice license, or a requirement to participate in professional development. These sanctions have a distinct administrative character from criminal sanctions, as their purpose is to emphasize improving professional behavior and preventing similar violations in the future. The tiered sanction arrangement also demonstrates the principle of proportionality in administrative health law. The type of sanction is determined by considering the severity of the error, the consequences, and the professional track record of the healthcare worker concerned.

A comparison between the old mechanism in Law Number 36 of 2009 and the new mechanism in Law Number 17 of 2023 demonstrates a significant shift in legal policy direction. The old mechanism provided significant leeway for professional associations and councils of individual healthcare workers to regulate discipline internally. In the new system, the regulation and implementation of sanctions are more centralized, with direct government oversight through the Professional Disciplinary Council. This change strengthens state coordination and oversight of healthcare professional standards while maintaining the role of professional organizations as partners in the development process. This fundamental difference reflects the spirit of reform to create a more efficient and legally accountable disciplinary system.

Efficiency and accountability are key aspects of the new mechanism designed in Article 308. The integrated system streamlines the inspection and decision-making process by eliminating the need for multiple layers of coordination between institutions. Transparency is also enhanced through mandatory documentation and reporting of inspection results that can be administratively audited. This new mechanism provides greater legal certainty for medical and healthcare personnel, as the rules and procedures for disciplinary enforcement have been clearly established in implementing regulations such as Government Regulation Number 28 of 2024 and Minister of Health Regulation Number 3 of 2025. These changes demonstrate the efforts of lawmakers to restructure the governance of the healthcare profession to make it more efficient and standardized nationally.

The relationship between disciplinary violations and the enforcement of criminal and civil law is a crucial part of the new system, as regulated in Article 308. This provision emphasizes that violations of professional discipline do not preclude legal proceedings if they meet the elements of a criminal offense, such as medical malpractice. Furthermore, patients can still seek civil compensation for breach of contract or unlawful acts. This arrangement clarifies the boundaries between the realm of professional ethics and the realm of positive law, preventing overlap in their handling. This structure ensures that the disciplinary mechanism is not intended to replace legal proceedings, but rather complements the professional accountability system.

Efforts to prevent overlapping authority between the Professional Disciplinary Council and law enforcement officials are carried out through coordination and a clear division of roles. The Disciplinary Council handles professional and administrative aspects, while the police, prosecutors, and courts are authorized to process criminal and civil cases. This division of authority aims to create a balance between professional development and repressive law enforcement. Strengthening inter-institutional coordination is further regulated through implementing regulations that define the limits of authority and coordination procedures between agencies. This synergy is expected to prevent duplication of investigations, double protection for perpetrators, and legal vacuums for victims or patients.

Analysis of Implications and Challenges in Legal Reform

The legal reforms through Article 308 of Law Number 17 of 2023 concerning Health have positive implications for the legal structure and governance of the medical and healthcare professions in Indonesia. This provision affirms the position of the Professional Disciplinary Council as an institution with strong legal legitimacy, not merely an internal ethical organ of a professional organization. The authority granted to the council includes examining violations, conducting professional assessments, and recommending sanctions that can be followed up administratively by authorized agencies. This clear structure reinforces the principle of accountability and places disciplinary enforcement as an integral part of the national health legal system. This implication reflects the strengthening of the state's legal authority in ensuring the quality and integrity of the healthcare profession.

Public trust in the enforcement of professional discipline has increased because the new system emphasizes transparency, documentation, and clearer oversight. The public has better access to information regarding the results of disciplinary hearings and their administrative follow-up. The existence of an open mechanism strengthens the perception that professional misconduct is no longer handled in a secretive or discriminatory manner. Formal, evidence-based examination procedures also provide a sense of justice for patients who have been harmed. This increased transparency has the potential to increase public trust in healthcare services while strengthening professional ethics among medical and healthcare professionals.

Consistent application of proportionate sanctions is one of the positive implications of this legal reform. More detailed regulations regarding the types of violations and the sanctions that can be imposed make the disciplinary process more measurable and fair. Healthcare workers who commit minor violations can receive guidance without losing their practice licenses, while serious violations can be subject to strict license revocation. This scheme reflects the application of restorative justice principles, which emphasize the moral and professional recovery of the perpetrator, rather than solely on punishment. Proportional sanction standards also contribute to the formation of a legal culture that educates and encourages professional compliance.

The main challenge in implementing Article 308 arises from the potential overlapping authority between disciplinary and law enforcement agencies. The Professional Disciplinary Council has an administrative and ethical role, while the police, prosecutors, and courts are authorized to handle both criminal and civil violations. When a violation intersects professional and legal aspects, debate often arises over which institution has the authority to process it first. This situation has the potential to create legal uncertainty and delay case resolution. A clear coordination mechanism is needed to prevent duplication of processes or conflicts of authority that could harm related parties.

The risk of violations of the rights of medical personnel during the examination process is also a critical issue that needs to be addressed. Disciplinary examinations often involve complex medical technical aspects, so errors in judgment can result in disproportionate revocation of practice licenses. Medical personnel have the right to be defended, to be heard, and to undergo an objective and non-discriminatory examination process. The principle of due process must be guaranteed to maintain substantive justice. Implementing regulations must define examination time limits, the right to appeal, and protections against abuse of authority to ensure that healthcare workers' rights are not violated in the disciplinary process.

The need for procedural clarity and standards of proof is a normative challenges that require serious attention. Proving disciplinary violations cannot always be equated with proving in criminal or civil cases, due to their more administrative nature. Proof standards that emphasize professionalism and negligence are needed, without having to wait for a court decision. These standards will help the Professional Disciplinary Council work more quickly and accurately and avoid differences in interpretation between institutions. Reinforcing procedural aspects will also provide assurance to healthcare workers that the disciplinary process is carried out based on the principles of fairness and transparency.

Harmonization of regulations between Law Number 17 of 2023, Government Regulation Number 28 of 2024, and Ministerial Regulation Number 3 of 2025 is essential to avoid differences in interpretation. These three regulations have complementary functions: the law establishes basic norms, government regulations govern institutional structures, and ministerial regulations outline technical implementation procedures. Without synchronization, the implementation of Article 308 could potentially face administrative obstacles and conflicts between professional institutions and government authorities. This harmonization also needs to include coordination with professional association regulations to ensure ethical and disciplinary sanctions do not conflict. Integrated norms will strengthen the effectiveness of law enforcement in the healthcare sector.

Establishing an appeals mechanism is crucial to maintaining the fairness and accountability of the professional disciplinary system. Medical personnel or healthcare workers who are subject to sanctions must have the right to file an objection or appeal to a higher institution. This appeals mechanism can be implemented through the Indonesian Health Workforce Council or a special, independent unit under the Ministry of Health. The existence of an appeals channel will ensure that the disciplinary panel's decisions can be

tested objectively and without arbitrariness. This procedure also serves as a means of internal oversight to maintain the integrity of the panel's decisions.

The effective implementation of Article 308 depends heavily on strengthening the institutional governance of the Professional Disciplinary Panel. This institution requires a clear organizational structure, a professional member recruitment system, and ongoing development for disciplinary examiners. The availability of human resources with a thorough understanding of both medical and legal aspects is key to ensuring the quality of examinations. Furthermore, adequate funding and administrative support must be guaranteed so that the panel can work independently without external pressure. This institutional strengthening will strengthen the credibility of examination results and increase the efficiency of sanction implementation.

Digitalization of reporting and integration of health information systems are crucial strategies to support transparency and accuracy in disciplinary enforcement. Digital systems enable the public, hospitals, and professional organizations to report violations quickly, document them, and monitor them by health authorities. Data integration between the Professional Disciplinary Council and the healthcare practice registration system will help prevent individuals currently serving sanctions from establishing new practices. The use of information technology also accelerates administrative processes and increases public trust in the institution's transparency. This modernization demonstrates the direction of legal reform that is not only normative but also adaptive to the needs of the times and the demands of healthcare professionalism.

CONCLUSION

Article 308 of Law Number 17 of 2023 concerning Health represents a significant step forward in the reform of disciplinary law for medical and healthcare personnel. This provision strengthens the legitimacy of the Professional Disciplinary Council as an independent institution authorized to enforce ethical and professional standards in healthcare practice. This reform reflects a new paradigm in law enforcement that focuses not only on sanctions but also on the development and protection of healthcare workers and the public receiving services. A clearer normative structure and an integrated institutional framework with the licensing and practice registration system guarantee transparency and accountability in disciplinary enforcement. However, several challenges remain, particularly related to the potential for overlapping authority, inconsistent procedural standards, and the risk of violations of healthcare workers' human rights during disciplinary hearings.

Coordination between institutions is urgently needed to ensure the effective and fair implementation of the disciplinary sanctions system. The government needs to strengthen the appeals mechanism and establish guidelines for coordination between the Ministry of Health, the Professional Disciplinary Council, and professional associations to prevent duplicity in case handling. The Professional Disciplinary Council needs to have national procedural standards that ensure consistent enforcement across all regions, including the use of information technology for reporting and open publication of disciplinary decisions. Regular evaluation of the implementation of Minister of Health Regulation No. 3 of 2025 is also crucial to measure policy effectiveness, prevent deviations, and adapt to the dynamics of modern healthcare practices. Professional disciplinary reform will only be successful if supported by strong institutional governance, information transparency, and a commitment to the values of justice and the balanced protection of the rights of medical personnel and the public.

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