

Determination Penalty Dismissal Doctor for Misconduct Ethics Medical Determination of Dismissal Sanctions for Violations of Medical Ethics

Jerry Tobing¹, Redyanto Sidi², Beni Satria³

Article Info

Page : 153-157

ISSN : 3026-5290

Vol 1 No 2 2023

Corresponding Author

Jerry Tobing, Study Program Students Master of Health Law, Postgraduate Program at Panca Budi Development University, Medan

Email: jerryfjtobingtobing@yahoo.co.id

Abstract

An ethical violation that is considered serious is always composed of the accumulation and escalation of ethical violation behavior with a weight below (moderate and light). Therefore, the determination of ethical sanctions upholds justice if it is also applied accumulatively and escalably. This ensures that any ethical violation will receive sanctions that focus on behavioral development, because the main purpose of imposing sanctions is actually a change in character and behavior for the better, as well as the main objective of the Indonesian Doctors Association (MKEK IDI) Medical Ethics Honorary Council (MKEK IDI). development of doctor's behavior and character to be nobler. the division of ethical sanctions into three categories: category 1 (behavior coaching), category 2 (condemnation without dismissal), and category 3 (condemnation with temporary dismissal), which are suitable for each minor, moderate, and serious ethical violation, as well as the system of implementation. accumulative ones.

Keyword: Sanctions, Ethical Violations, Medicine

1. INTRODUCTION

Law and society are two different entities. Both have their respective roles and functions in life. However, the two cannot be separated from each other, because they both need each other. The existence of law also requires the existence of society. In contrast, a lawless society is simply a collection of wild animals. That's why law and society cannot be separated. This means that the existence of law really requires the existence of society to carry out its functions. Meanwhile, society needs law to create a good and orderly life system. Indonesian society needs quality medical services that are not only based on the availability of up-to-date medicines and equipment as well as qualified knowledge and skills, but also the intrinsic value of the noble profession of medicine which is very important, namely the crystallization of noble medical ethical values that are embodied by all individual doctors to their patients. and the wider community. Therefore, the intrinsic value of noble medical ethics must always be carved and carved beautifully, in the form of professional social control for each individual doctor so that they display the nobility of ethics and professional behavior consistently in their daily lives. The court process and the provision of ethical sanctions are certainly an inseparable part of the form of professional social control for each individual doctor. However, in order for the atmosphere of professional spirituality to be maintained and professional brotherhood to be well maintained, doctors need to have a sense of belonging, comfort, and obtain justice that applies at the time the ethical sanctions and post-sanctions are determined for them. The medical profession, as a profession that has various noble traditions and results in high respect in society, needs to continue to preserve these proud traditions in order to maintain the trust of the public which continues to give them high respect to this day. But on the other hand, doctors are still humans who are bound, in the wrong place and forgetful. So the formation and maintenance of the character of doctors so that they continue to run straight according to the noble values of the profession cannot be solely imposed on the lecture process at the medical faculty. After graduating and becoming a doctor, the role of supervision, care and formation of the noble character of doctors shifts from universities to professional organizations. One of the organs in the Indonesian medical professional organization which was formed and mandated to supervise, maintain and shape the noble character of doctors is the Medical Ethics Honorary Council (MKEK).

Meanwhile, it is generally revealed that the defendant doctor often commits minor ethical violations, whether consciously or not, and of course the MKEK Examination Council in its considerations looks at the history of the defendant doctor. This gradation appears to be built from the accumulation of previous ethical violations. Then, because they started to get used to it, felt safe and comfortable with this accumulation, ethical violations escalated to become increasingly serious in scale. This can be explained where it appears that serious ethical violations will arise from the accumulation and escalation of light and moderate ethical violations. Meanwhile, moderate ethical violations also arise from the accumulation and escalation of minor ethical violations. This is due to the close relationship between ethics and personal character and how this character expresses itself in the duties and responsibilities of the medical profession. To maintain the spirit of guardianship and the formation of the noble character of doctors, MKEK's court and coaching activities need to be designed with slight changes from the old governance contained in the MKEK's Organization and Work Procedure Guidelines so that it can better support and ensure that there is behavioral coaching that can accompany sanctions in the form of conviction to dismissal. This goal is the spirit of the work cycle and dedication of some of the colleagues entrusted to MKEK. So it is fitting that all activities carried out by MKEK have a bearing on developing the professional behavior of all Indonesian doctors. No exception is the activities of the judiciary, which is the special and autonomous authority of the MKEK carrying out the jurisdiction to handle public complaints regarding the ethics of an individual or group of Indonesian doctors. The research method used in this research is a transcendental research method, with the approach used being analytical-philosophical in nature. This study focuses on a set of ideal values, which should be a reference/benchmark in a process of forming, formulating and implementing legal rules. A problem is an event or situation that raises questions in the heart about one's position, one is not satisfied with just looking, but one wants to know more deeply. Based on the things that have been stated in the background, the issues that will be discussed are the regulation of sanctions for the medical code of ethics and the imposition of sanctions for dismissal from the Indonesian Doctors Association against Dr. X

2. RESEARCH METHODOLOGY

From the experience of reviewing cases submitted to MKEK, it was revealed that generally those who were later given sanctions for serious ethical violations had been accustomed to committing minor and moderate ethical violations before, whether they realized it or not. The opposite is of course a consideration for the MKEK Examination Council which handles alleged ethical violations. If the accused doctor has a clean history and has never been indicated for minor or moderate ethical violations before, then the accused doctor is unlikely to be sanctioned with a serious ethical violation. In general, serious ethical violations are closely related to character and behavior which in the study appear to deviate greatly from the provisions expected in the Indonesian Medical and Telkomsel Ethics Code, both regarding doctor-patient ethics, employee ethics, ethics with professional organizations, and so on. Likewise, in cases that are sanctioned for ethical violations, therefore, the gradation in deciding whether an ethical violation is serious, moderate and light needs to take into account the process of accumulation and escalation of other ethical violations within and outside the context of the case being complained of. As a result, the resulting MKEK decision can reflect the character of the defendant doctor which is built from various actions and habits that have daily moral values. In accordance with the process of accumulation and escalation which then becomes a serious/moderate ethical violation, the rationale for imposing ethical sanctions also needs to consider the principles of accumulation and escalation. Therefore, it is necessary to construct appropriate sanctions for minor ethical violations, where these sanctions are purely aimed at improving the behavior of the accused doctor. Then adequate sanctions are constructed for moderate and serious ethical violations, with the aim of providing a convicting effect so that similar mistakes are never thought to be repeated in the future.

By considering the process of accumulation and escalation as a complex process in the character of the accused doctor in terms of the violations he has committed, the imposition of sanctions also needs to be carried out in an accumulation manner. This is intended so that the aim of each level of sanctions, namely guidance and conviction, can be effective so that it can be expected that there will be changes in the character and attitude of a doctor after undergoing ethical sanctions. That is the main aim of the process at MKEK which is oriented towards development and not destruction. In accordance with the previous division of three grading categories of ethical violations in the form of mild, moderate and serious ethical violations, the inventory of alternative sanctions provided through this proposal also needs to be divided into three categories. The proposal is:

1. Category 1 sanctions consist of various sanctions that are purely aimed at fostering behavior towards violators.
2. Category 2 sanctions, consist of sanctions that have the character of convicting the violators, but without the consequence of dismissal from membership which has the implication of total loss of rights and authority as a doctor for a certain period of time.
3. Category 3 sanctions, consist of sanctions that have a convicting nature in the form of temporary dismissal from membership, which has the implication of total loss of rights and authority as a doctor for a certain period of time.

Then, as explained previously regarding the accumulation and escalation of ethical violations, the proposed 3 orbits also have a format for giving sanctions that apply accumulatively. As a result, a person who is determined to have seriously violated ethics will receive at least one sanction from category 1 (behavioral development), one sanction from category 2 (conviction without dismissal), and one sanction from category 3 (conviction with dismissal). We can reflect that if a person who violates serious ethics is only given a temporary sanction of dismissal, for example, and there is no provision for him to be included in a behavior development program (category 1 sanction), then what are the opportunities for this colleague to experience changes in his behavior and not repeat the same mistakes in the future? coming? Therefore, this sanctions accumulation system is considered wiser.

Category 1 Sanctions: Methods and Application

What methods are appropriate to represent the essence of the objective of category 1 sanctions which are purely to foster ethical and professional behavior? Our suggestion is that these sanctions are active in helping to shape the character and behavior of the defendant in a better direction, and not passive as previously explained by Ortala MKEK 2008, such as verbal warnings and written warnings. Some methods that can be considered to represent the goals of behavior coaching are:

1. Make self-reflections and promises to yourself in writing
2. Attend ethical workshops determined by MKEK
3. Follow the ethics module that is currently running at the FK appointed by MKEK.
4. Participate in a role model shadowing program for 3 (three) months.
5. Professional service social work for 3 (three) months

A letter of apology and/or rectifying the news if it concerns information in the mass media or social media while actively correcting the understanding of the general public regarding the erroneous information that is being spread and other methods that are considered good and suitable to represent the essence of the aim of sanctions, namely pure behavioral guidance. The implementation of category 1 sanctions will be the territory of the MKEK Development Division according to the jurisdiction determined by MKEK Ortala. If the Examining Panel determines that an ethical violation that occurred is in the mild category, and only this sanction is decided, then it is best to convey the decision in private, because opening the results of the decision risks giving rise to an exaggeration of the problem by irresponsible outside parties who intend to bring down the doctor. which is related. It's different if the ethical violation has to be disclosed to other parties, including if it is the spread of fake news (hoax) or is detrimental to the medical profession in the eyes of the public.

Category 2 Sanctions: Methods and Application

Category 2 sanctions aim to provide a disciplinary effect but do not result in expulsion from membership. Some relevant methods for category 2 sanctions that can be considered are as follows:

1. Participate in a role model shadowing program for 4-12 months
2. Social work professional service for 4-12 months Temporary suspension from positions at IDI and organizations under IDI as well as prohibition from serving for 1 management period after the decision
3. And other methods that are considered good and suitable represent the essence of the objective of sanctions, namely conviction without expulsion from membership.

In accordance with the accumulation-escalation principle, those who are given category 2 sanctions will also undergo at least one form of category 1 sanction. The existing forms of sanctions need to be scrutinized by the Examining Council so that they can work together to produce better understanding and

changes in behavior in the future. The open nature of category 2 sanctions decisions is of course only needed for limited groups because the execution of these sanctions involves cooperation with external parties.

3. RESULT AND DISCUSSION

Application of Category 3 Sanctions

Category 3 sanctions are the heaviest sanctions category of all existing categories, with the aim of providing punishment that is deemed necessary until membership is forced to be dismissed. The consequence of dismissal of membership is that doctors who receive sanctions will lose all rights, authority and requirement clauses as Indonesian doctors and IDI members for a certain period of time and all their rights and authority as doctors and IDI members will be revoked. The loss of rights and authority results in: (1) loss of rights and authority to practice medicine, including the temporary revocation of all recommendations for practice permits which will be followed up later by the practice permit issuing authority to temporarily deactivate the relevant Practice Permit, (2) loss of rights and authority to become administrators and members of IDI and all organizations under IDI including the Association of Specialist Doctors (PDSp), the Association of Primary Care Doctors (PDPP), and the Association of Doctors of Certain Interests (PDSm), (3) lose the right and authority to hold a public position or organization which requires that it be held by an active doctor who will be followed up by the relevant agencies/organizations, (4) the registration certificate (STR) and status at the Indonesian Medical Council (KKI) become inactive which will be followed up by the KKI. Dismissal from membership that can be decided by the MKEK Examination Council is temporary. The duration of membership dismissal can be decided wisely by the Examination Council by considering all aspects with an alternative period of between 3-12 months. The Examination Council may submit a recommendation for dismissal of permanent membership as an addendum to the imposition of a sanction of dismissal of temporary membership. The recommendation for dismissal of permanent membership will be decided at the IDI Congress as the highest decision-making forum at IDI.

Imposing Sanctions of Dismissal from the Indonesian Doctors Association Against Dr. X

The XXXI Congress of the Indonesian Doctors Association (IDI) in Banda Aceh on March 23-25 2022 is now in the spotlight. This was because one of the recommendations submitted by the IDI Medical and Telran Ethics Council (MKEK), dismissed former Minister of Health X Agus Putranto from IDI membership. The decision was read out on Friday, March 25 2022 evening at the Banda Aceh Convention Hall building. As a doctor registered as an IDI member, Doctor This sanction was increased to "Heaviest" which was confirmed at the IDI XXXI Congress in Banda Aceh 2022. In the results of the IDI XXX Congress it was written that to ensure certainty, the Congress emphasized that every MKEK decision, especially serious violations, could not be postponed or canceled by the management. IDI in new levels. At a different point, it was written specifically regarding the heavy sanctions against Doctor serious ethical misconduct and the chairman of PB IDI will immediately enforce the MKEK decision which was postponed in order to maintain the glory and honor of the noble profession of medicine. If Dr. TAP does not show good faith then the congress will order the IDI Executive Board to carry out his permanent dismissal as a member of IDI."

The continuation of this decision stipulates that if Doctor The previous sanctions imposed in 2018 were actually still one level below the heaviest sanctions. It was written that there were four indications that caused Doctor

1. Continue to be the head of the profession even if those involved know that it is not permissible.
2. Changing the name of the association without going through the Congress and instead registering it with a notary
3. Requesting to appeal to members of the PDSRI (Central Radiology Specialist Doctors Association) not to heed or attend meetings with the general chairman of PB IDI when there is a meeting with PB IDI
4. Trying to move to West Jakarta, even though you live and work or practice in Central Jakarta.
5. Avoid summons and execution.

Quoting documentation entitled "The History of MKEK and Principles for Determining Sanctions for Violations of Medical Ethics" presented at the Central IDI wise symposium, it is written that there are four categories of sanctions imposed by IDI on its members. The first category is purely coaching, the second category is conversion without termination of membership, the third category is conversion with temporary

termination of membership, and the fourth category is termination of permanent membership document also states that if a member is sentenced to sanctions in the third and fourth categories, their authority and rights will be abolished. The difference is, for the third category, sanctions are temporary. Meanwhile, the fourth category indicates permanent sanctions. The loss of rights and authority has implications for the loss of the right and authority to practice medicine. This means that all recommendations for practice permits are revoked. Other implications are:

1. Loss of rights and authority to be an IDI administrator and member in all organizations under IDI
2. Loss of the rights and authority that a public office implies being held by an active doctor
3. The registration certificate and status at the Indonesian Medical Council (KKI) have become inactive
4. This authority will be followed up later by the KKI.

4. CONCLUSION

The division of ethical sanctions into three categories: category 1 (behavior coaching), category 2 (conviction without dismissal), and category 3 (conviction with temporary dismissal), which are suitable for minor, moderate, and serious ethical violations respectively, as well as their enforcement systems the accumulative one. This is in line with the theory of accumulation and escalation of ethical violation behavior, upholds justice, and is more in line with the main aim of MKEK, which is to develop the behavior and character of doctors to become nobler. As a doctor registered as an IDI member, Doctor This sanction was increased to "Heaviest" which was confirmed at the IDI XXXI Congress in Banda Aceh 2022. In the results of the IDI XXX Congress it was written that to guarantee certainty, the Congress emphasized that every MKEK decision, especially serious violations, could not be postponed or canceled by IDI administrators at previous levels.

REFERENCES

- Agulstina, Elnny, Health Law Professional Ethics, Raja Grafindo, 2019
- Hendrik, Health Ethics and Law, Sinar Graphics, Jakarta, 2018
- Nasution, Bahdelr Johan, Health Law, Sinar Graphics, Yogyakarta, 2017
- Prawiroharjo P, Librianty N. Ethical Review of the Use of Social Media by Doctors. J Ethics Ked Ind. 2017 Oct 11;1(1):31. <https://doi.org/10.26880/Jelki.V1i1.7>.
- Prawiroharjo P, Melilia Pdi. Doctors Give: An Overview According to the 2012 Indonesian Medical Code of Ethics (Kodeki). J Ethics Ked Ind. 2017 Oct 11;1(1):13. <https://doi.org/10.26880/Jelki.V1i1.4>.
- Prawiroharjo P, Purwadianto A. Sanction Accumulation System: Proposed Changes to Categorization and Accumulation of Sanction Determination for Violations of Medical Ethics. Not yet published.
- Prawiroharjo P, Santosa F, Lefrandt R, Sidipratomo P, Purwadianto A. Can the Decision of the Ethics Court of the Medical Ethics Honorary Council be Open? J Ethics Ked Ind. 2018 Jun 12;2(2):45. <https://doi.org/10.26880/Jelki.V2i2.15>.
- Purwadianto A, Editor. Guidelines for the Organization and Work Procedures of the Medical Ethics Honorary Council. Jakarta: Indonesian Doctors Association Medical Ethics Honorary Council; 2008.
- Rozaliyani A, Meilia Pdi, Librianty N. Principles for Determining Sanctions for Violations of Medical Ethics. J Ethics Ked Ind. 2018 Mar 19;2(1):19. <https://doi.org/10.26880/Jelki.V2i1.11>
- Sadi, Muhammad, Health Law Ethics, Theory and Application, Prenadamedia, Jakarta, 2018
- Santosa F, Prawiroharjo P. Empowerment of the Mkek Development Division through Proactive Work and Providing Sanctions in the Form of Guidance.
- Setiadmogo, Agung, Introduction to Health Law, Raja Grafindo, Bandung, 2020