

## Research Article

## Medical Dispute Resolution Between Dentists and Patients Through Mediation Mechanisms

Deni Syafri<sup>1</sup>, Efrila<sup>2</sup>, Boedi Prasetyo<sup>3</sup>

Sekolah Tinggi Hukum Militer, Indonesia <sup>1,2,3</sup>

Corresponding Author, Email: [denisyafrie.drg@gmail.com](mailto:denisyafrie.drg@gmail.com)

### Abstract

Medical disputes between dentists and patients often arise due to negligence in medical treatment. This study aims to conduct a further analysis of the resolution of medical disputes between dentists and patients. This research is classified as normative juridical research using a statutory approach and legal concept analysis. The data collection technique was carried out through a literature review. The results of the study indicate that medical dispute resolution can be conducted through mediation, either through arbitration bodies, the Indonesian Medical Discipline Honorary Council (MKDKI), or the Indonesian Dental Association (IDI) as a professional organization of dentists that has the authority to act as a mediator. Through mediation, disputes are expected to be resolved fairly and efficiently without going through lengthy legal proceedings that may potentially disadvantage one of the parties. In conclusion, the resolution of medical disputes between dentists and patients should prioritize mediation efforts in order to achieve a satisfactory settlement for both parties.

**Keywords:** Dentist, Mediation, Dispute Resolution.

### INTRODUCTION

Health is an essential element in supporting development in the modern era. The government, as the organizer of public interests, strives to improve the highest possible level of health for all citizens by involving all sectors in various health initiatives. This effort is based on the understanding that every citizen has the right to obtain the highest



attainable standard of health (Djamali & Tedjapermana, 1988). Along with the advancement of science and health technology, supported by increasingly adequate health facilities, these developments have also contributed to the improvement in both the quantity and quality of healthcare professionals from year to year.

Overall, there are many healthcare professionals who possess specific authority and duties in accordance with their respective responsibilities; however, those authorized to provide treatment related to dental and oral health are dentists. Doctors and dentists, with their knowledge and skills, possess unique and distinctive characteristics. This uniqueness is reflected in their legal authority to perform medical procedures on the human body as an effort to maintain and improve human health, which constitutes a legally justified action.

As professionals, doctors bear full responsibility for all medical actions provided to patients. Good faith must serve as the foundation in carrying out all professional duties, meaning that they must exert their best efforts based on their knowledge, guided by the physician's oath, code of ethics, and professional standards in order to provide healing and assistance to patients. This responsibility encompasses ethical, professional, and legal accountability.

The relationship between a patient and a dentist is therapeutic in nature, meaning that it does not guarantee recovery but rather emphasizes the process or effort carried out in accordance with standard operational procedures (SOP). Within this context, errors or negligence may occur at any time. Such negligence can be categorized into three specific forms: malfeasance, misfeasance, and nonfeasance (Mayang et al., 2023). A therapeutic agreement refers to a personal relationship between a doctor and a patient based on mutual trust. In this relationship, the doctor will exert maximum effort to provide treatment. If a patient is unconscious and unable to give consent, the doctor may act based on voluntary representation pursuant to Article 1354 of the Indonesian Civil Code (Budianto et al., 2010).

If a dentist fails to fulfill professional responsibilities properly or violates applicable laws and regulations, such conduct may be considered malpractice (Chandrawila, 2001). The execution of duties and medical actions by dentists as part of their professional responsibilities does not eliminate the possibility of errors occurring in practice. Mistakes that deviate from plans or expectations may arise and often lead to criminal allegations or what is commonly referred to as medical disputes.

Various legal scholars have argued that there are substantial differences between medical crimes and general criminal offenses. The primary distinction lies in the focus of attention: general criminal offenses emphasize the consequences or outcomes of an action, whereas medical crimes focus more on the cause and process of the action (Achadiat, 2007). This distinction arises because dentists, in carrying out their professional duties, are bound by an obligation of best effort (*inspanningverbintenis*), rather than an obligation to achieve a specific result (*resultaatverbintenis*).

An example of a dispute between a dentist and a patient involved a patient identified as A who underwent orthodontic treatment (braces installation) performed by dentist Y. Dentist Y was not an orthodontic specialist but a general dentist. According to the agreement, patient A sought to straighten their teeth within a certain period. However, patient A was dissatisfied because the treatment results did not meet expectations. Consequently, patient A reported the case to the professional dental organization. The case was then brought before the Indonesian Medical Discipline Honorary Council (MKDKI). Ultimately, MKDKI decided that dentist Y was prohibited from practicing for six months, meaning that the dentist's Practice License (SIP) was suspended for that period.

Medical actions performed by doctors or dentists that result in unintended consequences may potentially be categorized as medical malpractice. Based on the issues described above, this research is conducted to further examine and analyze the problem formulated as follows: "How are medical disputes between dentists and patients resolved?" The objective of this study is to provide a deeper analysis regarding the resolution of medical disputes between dentists and patients.

## **METHOD**

This study employs normative juridical research, commonly referred to as the normative legal research method. This method is understood as legal research based on library materials, conducted through the examination of secondary data or literature sources (Soerjono & Mamudji, 2010). The research is carried out with the aim of providing legal arguments that serve as references or fundamental guidelines in assessing whether an event is considered right or wrong and in determining how such an event should be viewed from a legal perspective (Fadjar & Achmad, 2010). Therefore, normative research begins with a legal event that has occurred and subsequently

examines the relevant normative system, such as legal principles, statutory regulations, and other legal doctrines related to the issue under discussion.

This research is conducted based on primary legal literature through a process of reviewing legal concepts, theories, regulations, and principles relevant to the research topic. The approaches used in this study include the statutory approach (an examination of all regulations relevant to the legal issue being analyzed) and the conceptual legal analysis approach (an effort to interpret the meaning of legal terms derived from statutory provisions). Since this research applies normative legal methods, the data collection technique used is a literature review of various available legal materials.

Data processing involves systematically organizing information derived from relevant written legal materials. The process includes selecting information from available legal sources and classifying it according to categories to ensure a structured presentation of research data. The arrangement must remain logical, demonstrating correlation and relevance between one legal source and related legal literature in order to provide a comprehensive understanding based on the research findings (Nugroho et al., 2020).

## RESULT AND DISCUSSION

An idea has emerged to resolve disputes in healthcare services through a *win-win solution* approach, one of which is mediation. This effort emphasizes the role of a third party acting as a mediator who is required to remain neutral and impartial in facilitating communication and seeking solutions to the dispute (Lawalata et al., 2024). As an intermediary, the mediator must safeguard the interests of all parties fairly and equally, with the expectation that both sides will place trust in the mediator as a neutral party in the conflict (Abbas, 2017). Dispute resolution through mediation is considered capable of providing various benefits because all parties may reach a fair and mutually advantageous agreement.

Any individual who feels harmed by the actions of a doctor or dentist in medical practice has the right to submit a written complaint to the Chairperson of the Indonesian Medical Discipline Honorary Council (MKDKI). One non-litigation mechanism for resolving medical disputes is through MKDKI, which is based in Jakarta and in provinces where it has been established. MKDKI operates under the Indonesian Medical Council and consists of doctors representing professional organizations,

hospital associations, and legal experts. This institution has the authority to impose sanctions on doctors proven to have violated professional discipline. Sanctions may include written warnings, suspension or revocation of the Registration Certificate (STR), or mandatory education and training. If ethical violations are identified during examination, MKDKI will forward the complaint to the relevant professional organization.

However, a dentist cannot automatically be considered guilty while the complaint is still under review by MKDKI. From a medical perspective, the burden faced by doctors or dentists in dealing with such complaints can be substantial, particularly if the issue becomes public or gains media attention. This situation may lead to character assassination, as the public often prematurely assumes guilt even before it is legally established. Such circumstances are highly unjust for doctors or dentists, as their reputation and careers may be damaged despite the absence of proven wrongdoing.

Law Number 17 of 2023 on Health introduces a significant breakthrough in medical dispute resolution by promoting mediation as a non-litigation method. Mediation offers new hope, especially in cases involving alleged negligence by dentists. Nevertheless, mediation procedures need to be more clearly regulated and integrated with the role of MKDKI or other professional organizations. The mediation process must be well-structured to ensure legal certainty and justice for disputing parties (Mufrizal et al., 2024). Litigation-based dispute resolution, which often fails to provide legal certainty, can be replaced by alternative non-litigation mechanisms (Ratman, 2012). Therefore, non-litigation settlement of medical negligence disputes represents an important innovation that warrants further consideration.

The Indonesian Medical and Health Arbitration Board (LMA-MKI) is an institution that provides medical and healthcare dispute resolution through mediation and arbitration as alternative mechanisms. This institution was established to resolve medical and health disputes through mediation and arbitration, emphasizing neutrality, integrity, and a *win-win solution* approach (Situmorang, 2023). Law Number 17 of 2023 on Health mandates that any dispute in healthcare services, or any allegation of error by health professionals resulting in a dispute, must first be resolved through alternative dispute resolution outside the court. One such method involves the use of a mediator as a facilitator, with mediation serving as the dispute resolution system.

In medical disputes between patients and dentists, the primary issue often

concerns the final outcome of healthcare services without adequately considering the process undertaken. In health law, healthcare professionals are generally responsible for the efforts or processes carried out (*inspanning verbintenis*) and do not guarantee specific results (*resultaatverbintenis*). Complaints are frequently submitted by patients or their families to law enforcement authorities and mass media. As a result, the press may sometimes render judgments before the courts do, positioning healthcare professionals as targets of criticism, which can ultimately damage their reputation and professional careers.

There are several reasons why mediation is chosen as the initial step in resolving medical disputes: (1) medical treatment is based on optimal effort and good faith (*inspanning verbintenis*); (2) proving allegations of malpractice against a dentist is complex and requires thorough analysis of each adverse event; and (3) not all adverse events constitute medical malpractice.

Diagnostic errors cannot automatically be categorized as malpractice as long as the doctor or dentist has complied with procedures and provisions stipulated in Law Number 17 of 2023 on Health. Based on the foregoing discussion, medical disputes, which fall within the scope of special legal regulation, should also be resolved through special mechanisms. Therefore, mediation constitutes an appropriate initial step in resolving medical disputes, whether through arbitration bodies, MKDKI, or the Indonesian Dental Association (IDI) as the professional organization authorized to act as a mediator in healthcare service disputes. Mediation can reduce tension, accelerate dispute resolution, and preserve good relations between patients and dentists. It also allows for more creative and flexible solutions compared to court proceedings, which tend to be formal and rigid.

## CONCLUSION

In resolving medical disputes, a non-litigation approach through the establishment of a specialized body, such as a Medical Dispute Resolution Board, can significantly assist patients in asserting their rightful claims. At the same time, this approach ensures a balanced sense of justice for dentists. Mediation has emerged as a new hope in resolving medical disputes, particularly in cases involving alleged negligence by dentists. Nevertheless, mediation procedures need to be more clearly regulated and integrated with the role of the Indonesian Medical Discipline Honorary

Council (MKDKI) or relevant professional organizations. To ensure that the mediation process runs effectively, more detailed regulatory provisions are required so that all parties involved in the dispute can obtain legal certainty and fairness.

## Bibliography

- Abbas, D. R. S. (2017). *Mediasi: dalam hukum syariah, hukum adat, dan hukum nasional*. Prenada Media.
- Achadiat, C. M. (2007). *Dinamika etika & hukum kedokteran dalam tantangan zaman*.
- Budianto, A., Utama, G. I., & Razak, A. (2010). *Aspek jasa pelayanan kesehatan dalam perspektif perlindungan pasien*. Karya Putra Darwati.
- Chandrawila, W. (2001). *Hukum Kedokteran*. Mandar Maju, Bandung.
- Djamali, R. A., & Tedjapermana, L. (1988). *Tanggung jawab hukum seorang dokter dalam menangani pasien*. Abardin.
- Fadjar, M., & Achmad, Y. (2010). *Dualisme Penelitian Hukum Normatif dan Empiris*. Yogyakarta: Pustaka Pelajar.
- Lawalata, J. N., Djogo, A. T. L., & Panjaitan, J. D. (2024). Mediasi Penal Sebagai Upaya Penyelesaian Kasus Malpraktik Di Bidang Medis. *Jurnal Cahaya Mandalika ISSN 2721-4796 (Online)*, 5(1), 109–123.
- Mayang, P. S., Khairani, K., & Elvandari, S. (2023). Penyelesaian Sengketa Medik Terhadap Adanya Dugaan Kelalaian Medik oleh Dokter Gigi dalam Perspektif Hukum Kesehatan. *UNES Law Review*, 6(2), 6847–6862.
- Mufrizal, F. M., Risdawati, I., & Rahmayanti, R. (2024). Yurisdiksi Mediator Kesehatan Dalam Penyelesaian Sengketa Medis Melalui Alternative Penyelesaian Sengketa. *Jurnal Ners*, 8(2).
- Nugroho, S. S., Haryani, A. T., & Farkhani, F. (2020). Metodologi riset hukum. In *Surakarta: Oase Pustaka*. Surakarta: Oase Pustaka.
- Ratman, D. (2012). *Mediasi nonlitigasi terhadap sengketa medik dengan konsep win-win solution*. Elex Media Komputindo.
- Situmorang, R. (2023). Penyelesaian sengketa medis dan kesehatan melalui arbitrase dan alternatif penyelesaian sengketa sebagai implementasi Pasal 310 UU No. 17 Tahun 2023 tentang Kesehatan. *Repository Universitas Jayabaya*, 1(1), 1–10.
- Soerjono, S., & Mamudji, S. (2010). *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: RajaGrafindo Persada.