

The Strategy Dispute Resolution of Health Care Worker in Indonesia

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Abstract:- The main objectives of study were to determine the causes of medical disputes and provide a detailed analysis of the medical dispute resolution mechanism. The research method used a qualitative approach with a focus on judicial normative analysis and legal analysis. This study used a normative legal approach to analyze relevant legal norms in resolving medical disputes through mediation. The result showed it can be concluded that 1) the cause of medical disputes is due to communication failure, medical misdiagnosis and treatment, non-compliance with ethical and legal standards, dissatisfaction with outcomes and inadequate resources and 2) Medical dispute resolution in Indonesia has undergone a significant transformation introducing a mediation mechanism as a mandatory initial step in dispute resolution, with the aim of creating a more efficient and transparent process.

Keywords:- Health, Law, Medical Disputes, Normatif and Resolution.

I. INTRODUCTION

Medical disputes are disputes that arise between patients and medical personnel or health facilities related to the medical services provided. These disputes can arise for various reasons, such as patient dissatisfaction with the results of services, medical errors, or non-compliance of procedures carried out with applicable medical standards. Medical disputes can have a significant impact on the reputation of medical personnel and health facilities, as well as affect public trust in health services. A dispute is an event that occurs due to differences in views or interests between one person or group. The background to a medical dispute is often complex and multifaceted. According to Emanuel and Emanuel, medical disputes are often rooted in poor communication between doctors and patients, unrealistic expectations from patients, and misunderstandings about the risks of medical procedures. Legal arrangements for medical disputes in various jurisdictions tend to adopt a framework that facilitates the resolution of disputes in a fair and expeditious manner, as explained in "Medical Malpractice and Compensation in Global Perspective" by Oliphant and Wright.

In dealing with medical disputes, it is important for medical personnel and health facilities to have an effective strategy. A good strategy not only helps resolve disputes

fairly and timely, but also prevents future disputes. Some of the important reasons for a strategy in dealing with medical disputes include legal protection, namely ensuring that medical personnel and health facilities are legally protected and comply with applicable regulations, improving the quality of service, namely with clear procedures and standards, the quality of medical services can be improved and errors can be minimized, patient trust, namely transparent and fair dispute handling can increase patient trust in health services, reducing costs, namely fast and efficient dispute resolution can reduce costs incurred for litigation and compensation, and also reputation, namely minimizing the negative impact on the reputation of medical personnel and health facilities. Several factors that often cause medical disputes include poor communication, namely unclear information or ineffective communication between medical personnel and patients can lead to dissatisfaction and misunderstanding. medical errors, namely errors in diagnosis, treatment, or medical procedures performed can cause harm to patients.

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Where are the impacts and changes that occur in the process of resolving medical disputes after the implementation of the latest Health Law. This study highlights the important role of new regulations in forming a clearer and more transparent legal framework for handling medical disputes in Indonesia. Health Law strengthens patient rights, encourages mediation as an alternative dispute resolution, and provides stricter guidelines for the legal process. The solutions offered require the government and health institutions to adapt to regulatory changes, ensure compliance with the provisions of the law, and increase capacity in resolving medical disputes. It is hoped that this report can provide in-depth insights for stakeholders in the health and legal sectors to improve efficiency and fairness in

handling medical disputes after the enactment of health law at 2023.

One of the strategies used in resolving disputes between medical personnel in accordance Health Law is through restorative justice. LMA-MKI is the first mediation institution in the health sector. After the enactment of Health law, new provisions emerged, one of which was an effort to resolve disputes in the health sector. In the new regulation, the resolution of health disputes prioritizes the restorative justice approach.

The health law revokes 11 previously applicable laws and integrates them. The Health Law is a legal umbrella that integrates all provisions governing health and medicine. The Health Law provides protection for medical and health personnel who carry out their duties according to procedures. The health law also regulates the enforcement of discipline and the resolution of disputes between medical and health personnel. If a dispute occurs between medical and health personnel and patients and their families. Dispute resolution outside the courts is carried out in accordance with statutory regulations. The Indonesian Medical and Health Arbitration Media Institute (LMA-MKI) is important as a forum for medical resolution outside the courts. LMA-MKI aims to be an alternative for resolving medical and health disputes through mediation and arbitration, which upholds neutrality, integrity, and prioritizes the principle of "win-win solution" in accordance with health law.

Health dispute resolution is a serious challenge in Indonesia. This phenomenon includes various conflicts and disagreements that occur in the context of health services in this country. There are several factors that contribute to the complexity of this problem (Arisa and Purwanti, 2022). First, access to equitable health services is still a major issue. There is a significant disparity between urban and rural areas (Adisusianto, which is limited to remote areas. This problem raises the potential for disputes related to the right of community access to quality health services. This also causes social jealousy and conflict between the lower and upper middle classes. This also gives rise to a sense of hostility that can become a social problem. Second, health service standards that are not always met can trigger disputes. Sometimes, patients and their families may not be satisfied with the quality or results of the services provided. This can lead to disagreements and trigger disputes related to demands for compensation or policies to improve the quality of service.

The existence of a health dispute resolution strategy is important because medical disputes are a problem that cannot be ignored in Indonesia. This phenomenon includes various conflicts and disagreements that occur in the context of health services in this country. There are several factors that contribute to the complexity of this problem (Arisa and Purwanti, 2022). First, access to equitable health services is still a major issue. There is a significant disparity between urban and rural areas (Adisusianto, which is limited to remote areas. This problem raises the potential for disputes related to the community's right to access quality health

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In addition, there are also ethical issues in resolving health disputes. Conflicting views regarding medical care, patient rights, and the obligations of health workers can give rise to complex conflicts. For example, conflicts related to medical decision-making in life-threatening situations. Often medical personnel are blamed for making decisions that do not produce good results. In fact, health workers cannot always be blamed for poor results but because of processes that are not in accordance with norms and ethics (Saputra and Alkhusari, 2021). Regarding health disputes related to malpractice, many questions arise in the general public. Health Law which means changing the mechanism for resolving health problems, especially in relation to malpractice.

The novelty of this study lies in its focus on conflict resolution strategies that lead to disputes for health workers. The strategy for resolving medical disputes is to create a fair, efficient, and transparent dispute resolution system that is able to protect patient rights and maintain the reputation and integrity of medical personnel and health facilities. This strategy aims to minimize the occurrence of disputes by improving the quality of medical services and effective communication between medical personnel and patients. The main objective of this study is to determine the factors causing medical disputes and to provide dispute resolution strategies with medical dispute resolution mechanisms. In addition, this study aims to propose recommendations that can be applied to improve the dispute resolution process in health services. Based on this study, it is expected that the public will gain a proper understanding of the situation of resolving health disputes in Indonesia and the steps to resolve them so that in the future they can have in-depth knowledge related to health dispute resolution issues.

II. METHODS

The research method used is a qualitative approach with a focus on judicial normative analysis and legal analysis (Nasution, 2023; Rahayu et al., 2020; Sari et al., 2022). The qualitative approach allows researchers to explore the context and meaning of the health service dispute phenomenon. Furthermore, judicial normative analysis focuses on the study of legal texts and court decisions related to this dispute. This aims to understand the legal framework governing health service disputes. This study used a normative legal approach to analyze relevant legal norms in resolving medical disputes through mediation, with a particular focus on the jurisdiction of health mediators. Through an analysis of regulations, doctrines, and legal principles, this study aims to identify

legal provisions that support the effectiveness of mediation in medical disputes.

On the other hand, legal analysis based on positive law involves research on the legal regulations in force in Indonesia related to health services. This step includes a review of the Health Law, government regulations, and related policies. Furthermore, through the analysis of cases of legal disputes that occur, the facts, legal arguments, and court decisions are explored to gain insight into how such disputes are handled legally. This method aims to provide a comprehensive understanding of health service disputes in Indonesia, as well as provide recommendations that have the potential to influence the improvement and development of related laws and policies. This approach is expected to contribute positively to the development of the health service legal system in this country.

The legal materials that have been processed will then be analyzed using qualitative descriptive analysis and gap analysis. Qualitative descriptive analysis is a legal analysis that in principle will describe or explain a phenomenon, incident or event related to social interaction in society in order to obtain meaning in the real context. While gap analysis is an analysis used to compare the gap between the norms related to this research. After the legal materials are analyzed, the next stage is drawing conclusions by means of deductive thinking, namely drawing conclusions based on general matters and conclusions are drawn that can solve the problem. The legal findings in this analysis are in the form of legal policies that can be taken in resolution of health disputes according to Health Law.

III. RESULTS AND DISCUSSION

A. Factors Causing Medical Disputes and Regulatory Mechanisms

The mechanism for resolving health disputes has changed since Health Law of 2023. From this change, it is suspected that many levels of society will be affected. This study was conducted as an effort to analyze the impact of the latest Health Law. The results of the study stated that the obligations of health workers have actually been clearly limited according to statutory regulations, but they often face problems due to the public's lack of understanding of the Health Law and the role of medicine. In addition, another problem that arises is the fact that the role of the Ministry of Health in resolving medical disputes is too large to the point of creating potential conflicts with professional organizations. In addition, the less open legal framework also creates potential problems in the future.

Health Law concerning health states that every dispute in health services or if referring to the language of the law, Health Workers are suspected of making mistakes arising from the error must be resolved first through alternative dispute resolution outside the courts. Several causes of medical disputes are explained as follows.

➤ *Communication Failure and Inadequate Information:*

Effective communication is key to the doctor-patient relationship. Ambiguity in communicating the diagnosis, risks of the procedure and expectations regarding the outcome of treatment can lead to dissatisfaction. Example: A patient undergoes surgery with the understanding that recovery will be quick, but is not informed of the risk of complications that could prolong the recovery process. This leads to frustration and a claim against the doctor.

➤ *Medical Diagnostic and Treatment Errors:*

Errors in diagnosis or therapy are a common cause of medical disputes, often due to misunderstanding or negligence. Example: A patient with serious symptoms is diagnosed as a mild case without further investigation, resulting in the patient's condition worsening due to the lack of appropriate intervention.

➤ *Non-compliance with Ethical and Legal Standards:*

Violation of medical ethics and legal standards raises doubts and distrust, triggering disputes.

➤ *Dissatisfaction with Results. Treatment:*

Unrealistic expectations from patients or differences in perception of treatment outcomes can lead to dissatisfaction that can lead to disputes.

➤ *Inadequate Resources:*

An under-resourced health system can contribute to a decline in the quality of care, increasing the risk of medical errors.

Health Law concerning Health provides new insights into the regulation of medical disputes in Indonesia, by introducing the concept of alternative dispute resolution outside the courts. According to Prof. Basuki, there are several factors that cause medical disputes, ranging from differences in perception and interpretation of medical facts and data, prejudice against violations of rights and obligations, to communication failures between patients and medical personnel. The importance of effective communication in the medical-patient relationship is recognized as an important step to reduce the potential for disputes.

The provisions concerning health which regulate criminal penalties for medical or health personnel who commit negligence show that the law also provides protection to patients from serious errors that can cause serious injury or death. With clear criminal sanctions, the law provides a strong warning to health workers to always be careful and comply with professional standards in carrying out their duties. In accordance with Article 310, health workers or medical personnel should not be immediately considered to have committed a crime if a report is received. On the contrary, they actually have their rights, namely to be treated fairly and considered as suspects. The Justice System which states that all suspected perpetrators of crimes are considered innocent until there is evidence to the contrary. These two laws actually agree that medical personnel who have the same legal position as the general public cannot be

considered guilty on the basis of accusations alone (Haryati and Anita, 2021).

Every profession must avoid what is known as criminalization. The concept of criminalization refers to the process by which a behavior or action that was previously considered a social or political problem is changed into a violation of the law or a criminal act (Nugraha, 2023). This often happens when the government or legal institution decides to enact new laws or regulations that make an action or behavior illegal, even though it was not previously considered a crime. Often the criminalization of health workers arises because of feelings of revenge because of someone's emotions with negative thoughts such as medical personnel being immoral, not serious and so on. However, it should be understood that these thoughts that arise could be mere allegations until proven true. Therefore, it is necessary to remember that the law is only based on facts, not feelings. If there is any doubt, then the law used is the law that benefits the person or the principle of *In Dubio Pro Reo* and is strengthened in positive law, namely criminal procedure law. What is different is that in disputes related to health services, non-legal channels are prioritized. This is also stated in article 310 which suggests that the resolution of health service disputes must be based on non-legal channels. In this case, according to the Health Law, the resolution of this health service dispute is decided by a panel formed by the Ministry of Health.

B. The Strategy of Health Worker Dispute Resolution

They are based on scientific evidence and have the potential to have a positive impact on society. In addition, professional organizations are responsible for ensuring that their members comply with established standards of ethics, competence, and professional behavior, thus ensuring that the services provided to the public are of high quality and safe. Meanwhile, the government is responsible for creating an environment that supports quality professional practice. This includes providing adequate health facilities and infrastructure, ensuring equal accessibility to health services, and creating policies and regulations that facilitate the growth and development of health professions. In terms of decision-making, the government should consider input and suggestions from professional organizations, so that the resulting policies can reflect the real needs and conditions in the field. In addition, open communication and mutual understanding are the keys to an ideal relationship between professional organizations and the government. Both should work together to overcome challenges and seize opportunities in the health sector. Thus, a close and synergistic relationship between professional organizations and the government will produce an effective, efficient, and effective health system for the community.

➤ *The Strategies for Resolving Medical Disputes between Health Workers in Indonesia Include:*

- *Mediation*

Mediation is a method recommended in the Health Law to resolve medical disputes. In mediation, the disputing

parties can express their problems and choose their own resolution method.

- *Disciplinary Council*

Health workers or their families who feel aggrieved can report it to the Disciplinary Council. The Disciplinary Council will determine whether there has been a violation of professional discipline committed by the health worker.

- *Restorative Justice*

Law enforcement officers can prioritize dispute resolution using restorative justice.

- *Medical and Health Mediation and Arbitration Institution*

This institution was formed as an implementation about strategy of health worker dispute resolution.

This provision emphasizes that any dispute arising between medical personnel or health workers and patients, which is suspected of being due to professional error that is detrimental to the patient, must be resolved through alternative dispute resolution channels, especially mediation, before involving the court process. This approach reflects the recognition of mediation as an effective and efficient means of resolving conflicts, with an emphasis on restoring relationships and finding joint solutions that satisfy both parties.

In the context of medical law and practice, mediation offers a number of advantages over traditional litigation. First, mediation provides a more open and flexible space for both parties to express their views and concerns more freely and without the pressure of court formalities. This often opens up opportunities for a better understanding of the root of the problem and allows for the search for more creative and personal solutions. Second, the mediation process tends to be faster and less expensive than the court process. This is particularly important in the context of medical disputes, where a speedy resolution can reduce the emotional and financial burden on both parties, and enable the healthcare professional to resume their practice more quickly. Third, mediation offers an opportunity to maintain or even repair the relationship between the healthcare professional and the patient. In many cases, medical disputes arise from misunderstandings or poor communication, rather than from deliberate professional misconduct. Through dialogue facilitated by a mediator, both parties can resolve misunderstandings and work together to prevent similar mistakes from happening in the future. The importance of mediation in resolving medical disputes is also in line with the principles of Islamic law which emphasize the importance of peace and reconciliation.

One of the main changes is the emphasis on mediation as the initial step in the dispute resolution process. According to Budi and Sari (2023), mediation is designed to encourage better communication between patients and medical personnel, with the hope of resolving conflicts before they go to court. This is especially important considering that medical disputes often have significant emotional and financial impacts on both parties. In addition, Hidayat (2023) notes

that this law provides clearer legal protection for patients and medical personnel, creating a safer climate for providing and receiving health services. Health Law establishes more transparent and accountable procedures for handling medical disputes, which were previously often carried out informally and without standardization (Iskandar, 2022). With this legal framework, it is hoped that there will be a reduction in the number of disputes that drag on in court. However, the implementation of this law is not without challenges. Although the new law provides clearer guidance, many parties still do not fully understand this new mechanism (Rahman *et al.*, 2023). Effective education and socialization are needed so that all stakeholders, including patients and medical personnel, can understand and utilize the mediation procedures stipulated in the law.

Previously, many medical disputes were brought directly to court, which could prolong the process and add to the burden on the justice system. With the provisions that encourage mediation, it is hoped that dispute resolution can be carried out more quickly and efficiently. Mediation provides space for patients and medical personnel to communicate directly, allowing them to find mutually beneficial solutions (Budi and Sari, 2023).

Patients are given the right to receive transparent explanations regarding medical procedures, as well as the right to file complaints. Meanwhile, medical personnel are protected from unfounded lawsuits as long as they follow the correct procedures in their practice (Hidayat, 2023). This creates a safer climate for medical personnel to carry out their duties, while providing a sense of security to patients regarding their rights. This law also establishes a more standardized procedure for resolving medical disputes. With clear guidelines, all parties can understand the steps to be taken in the dispute resolution process. This not only minimizes confusion but also ensures that each dispute is handled in a consistent manner (Iskandar, 2022). This standardized process is expected to reduce the legal uncertainty that often accompanies medical disputes.

One of the main challenges is the lack of understanding among stakeholders regarding the new procedures set out in the law (Rahman *et al.*, 2023). Both patients and medical personnel may not fully understand their rights and obligations in the mediation process. Therefore, effective socialization and education regarding this law are essential to ensure that all parties can take advantage of the new dispute resolution mechanism. Finally, to optimize the positive impact of health law, there needs to be a training program for mediators and health service providers. Mediators who are trained and understand the legal and medical aspects will be better able to assist in the mediation process (Kurniawan, 2021). This training should include good communication techniques, an understanding of medical ethics, and in-depth knowledge of relevant laws. With these various influences, Health Law is expected to increase the effectiveness of medical dispute resolution in Indonesia. The success of this law is highly dependent on the commitment of all parties in understanding and implementing the existing provisions. Good implementation of this law will not only increase

public trust in the health system, but will also help create a better environment for future health services.

IV. CONCLUSION AND SUGGESTIONS

Based on the results of the data analysis, it can be concluded that 1) the cause of medical disputes is due to communication failure, medical misdiagnosis and treatment, non-compliance with ethical and legal standards, dissatisfaction with outcomes and inadequate resources and 2) The strategic of medical dispute resolution in Indonesia has undergone a significant transformation with the enactment of health law introducing a mediation mechanism as a mandatory initial step in dispute resolution, with the aim of creating a more efficient and transparent process. The emphasis on mediation is expected to reduce the burden on the justice system, as well as provide better legal protection for patients and medical personnel. Although there is a clearer legal framework, challenges in understanding and implementation still need to be overcome.

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