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Mediation as an Alternative to Legal Dispute Resolution in Health Services in Hospitals

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Abstract: This research aims to analyze the role of mediation as a method of medical dispute resolution in Indonesia, which is seen as more effective, fair, and cost-effective than the litigation process. This research uses a normative legal method with a descriptive-analytical approach to identify legal principles, doctrines, and regulations related to medical dispute resolution. The main focus is dispute resolution through mediation in medical malpractice cases, which involves civil, criminal, and restorative justice aspects. The novelty of this research lies in the in-depth exploration of penal mediation as an approach in resolving criminal disputes related to medical malpractice, even though it does not yet have a strong legal foundation in the Indonesian criminal justice system. The results show that mediation, both in the civil and criminal realms, can provide a more humane and satisfying solution for all parties involved. However, the implementation of penal mediation still faces legal and practical challenges, especially in providing protection of patients' rights and ensuring justice for medical personnel. In conclusion, mediation has great potential in resolving medical disputes in Indonesia, but more specific regulations are needed to optimize its implementation, especially in criminal cases. As such, this study makes an important contribution to the development of a better medical dispute resolution mechanism in Indonesia.

Keywords: Mediation; Dispute Resolution; Health Services

Abstrak : Penelitian ini bertujuan untuk menganalisis peran mediasi sebagai metode penyelesaian sengketa medis di Indonesia, yang dipandang lebih efektif, adil, dan hemat biaya dibandingkan proses litigasi. Penelitian ini menggunakan metode hukum normatif dengan pendekatan deskriptif-analitis untuk mengidentifikasi asas-asas hukum, doktrin, dan peraturan terkait penyelesaian sengketa medis. Fokus utama adalah penyelesaian sengketa melalui mediasi dalam kasus malapraktik medis, yang melibatkan aspek perdata, pidana, dan keadilan restoratif. Kebaruan (novelty) penelitian ini terletak pada eksplorasi mendalam terhadap mediasi penal sebagai pendekatan dalam menyelesaikan sengketa pidana terkait malapraktik medis, meskipun belum memiliki landasan hukum yang kuat dalam sistem peradilan pidana Indonesia. Hasil penelitian menunjukkan bahwa mediasi, baik dalam ranah perdata maupun pidana, dapat memberikan solusi lebih humanis dan memuaskan bagi semua pihak yang terlibat. Namun, implementasi mediasi penal masih menghadapi tantangan hukum dan praktik, terutama dalam memberikan perlindungan hak pasien dan menjamin keadilan bagi tenaga medis. Kesimpulannya, mediasi memiliki potensi besar dalam menyelesaikan sengketa medis di Indonesia, tetapi regulasi yang lebih spesifik diperlukan untuk mengoptimalkan pelaksanaannya, khususnya dalam kasus pidana. Dengan demikian,

penelitian ini memberikan kontribusi penting dalam pengembangan mekanisme penyelesaian sengketa medis yang lebih baik di Indonesia.

Kata Kunci : Mediasi; Penyelesaian Sengketa; Pelayanan Kesehatan

INTRODUCTION

Mediation as an out-of-court dispute resolution method is increasingly used by courts in dispute resolution procedures. In this case, mediation interacts with the legal process of a case. Mediation is a negotiation process in which a neutral third party assists the disputing parties to reach an agreement amicably. According to the Chief Justice of the Supreme Court, mediation is a method of dispute resolution in which the parties negotiate and reach an agreement with the assistance of a mediator.¹ Etymologically, the word "mediation" comes from the Latin "mediare," meaning "between," which reflects the mediator's role as a third party who mediates and resolves differences between parties.²

Health issues are a top priority for any country. Therefore, it is no surprise that countries are competing to provide the most advanced medical facilities and advance medical innovations.³ Maintaining and ensuring the health of all citizens is very important and should be the focus of the government. This is reflected in the Preamble of the 1945 Constitution of the Republic of Indonesia, which states that the purpose of the Indonesian government is to protect the entire territory of Indonesia and the nation, and to promote general welfare. The consensual relationship between medical services and the law aims to ensure patient recovery and optimal medical services.⁴ To ensure the welfare of the community in the health sector, the Indonesian government provides health insurance through a health insurance card program known as the Social Security Provider Card. This step was taken in response to the constitutional obligation of Article 28 Paragraph H (1) of the 1945 Constitution of the Republic of Indonesia, which states that everyone has the right to be protected physically and mentally, and to have their safety guaranteed. The right to life and health care is a basic human need and is recognized as a right of every citizen.⁵

The Health Law stipulates that mediation must first be conducted to legally resolve medical disputes. The increasing number of cases where patients are suing doctors shows that health workers' understanding of dispute resolution through mediation is becoming increasingly important.⁶ Mediation is seen as a fairer, more effective and satisfactory alternative

¹ Anis Muhamad, Ramlani Lina Sinulan, and Khalimi Khalimi, "Mediasi Sebagai Alternatif Penyelesaian Sengketa Pajak," *SENTRI: Jurnal Riset Ilmiah* 2, no. 11 (2023): 4667–76, <https://doi.org/10.55681/sentri.v2i11.1778>.

² Resmini Wayan and Abdul Sakban, "MEDIASI DALAM PENYELESAIAN SENGKETA PADA MASYARAKAT HUKUM ADAT Wayan," *CIVICUS: Pendidikan Pancasila Dan Kewarganegaraan* 6, no. 1 (2018): 8–13.

³ Murtiningsih Kartini and Adi Kusyandi, "Eksistensi Ptun Sebagai Wujud Perlindungan Hukum Kepada Warga Negara Dari Sikap Tindak Administrasi Negara," *Yustitia* 7, no. 2 (2021): 236–48, <https://doi.org/10.31943/yustitia.v7i2.144>.

⁴ Yuyut Prayuti et al., "Perlindungan Hukum Terhadap Dokter Dan Pasien Dalam Pelayanan Kesehatan Di Indonesia," *Jurnal Ilmiah Kajian Politik Lokal Dan Pembangunan* 10, no. 36 (2024): 25–31.

⁵ Mikho Ardinata, "Tanggung Jawab Negara Terhadap Jaminan Kesehatan Dalam Perspektif Hak Asasi Manusia (HAM)," *Jurnal HAM* 11, no. 2 (2020): 319, <https://doi.org/10.30641/ham.2020.11.319-332>.

⁶ I Syaroni and T. Widyaningrum, "Peningkatan Efektivitas Penyelesaian Sengketa Administrasi Negara Melalui

to judicial resolution. Medical disputes can occur between patients and health workers before, during and after treatment. Patient dissatisfaction with the process or outcome of health care is often caused by errors or omissions of health workers, although most disputes are not the result of intent, but rather communication problems between doctors and patients.⁷ The losses incurred are generally caused by negligence or unintended accidents. Medical disputes may involve aspects of medical ethics, medical discipline, or law. Reports of medical disputes can be submitted as ethical violations to the Medical Ethics Honor Council (MKEK) in professional organizations, or as disciplinary violations to the Medical Discipline Honor Council.⁸ If the dispute is taken to court, it could result in civil damages or criminal charges, which could result in imprisonment for the medical personnel.

METHOD

Researchers chose to conduct normative research, which is carried out by reviewing existing literature or data. Normative legal research, also called legal theory research, involves the analysis of primary sources of law through the investigation of principles, concepts, theories, and legal regulations.⁹ This research is descriptive and analytical, normative legal research is a process that aims to identify legal regulations, legal principles, and legal doctrines with the aim of solving existing legal problems. Descriptive research aims to investigate certain conditions, situations, or aspects that have been mentioned, and the results are presented in the form of a research report. Researchers can conclude that descriptive research aims to describe specific circumstances at a particular location and time.¹⁰ Generally, in this type of research, researchers already have or obtain preliminary data about the problems to be studied. Data sets that initially do not provide information that can be concluded, after going through the data processing process, will produce information that can be used.¹¹ Information is the result of processing certain data that is meaningful and can be used to make decisions on related problems.

DISCUSSION

The Concept of Fulfillment of Patient Rights in Health

Pendekatan Alternatif," *Wacana Paramarta: Jurnal Ilmu Hukum* 23, no. 1 (2024): 80–92.

⁷ Baharuddin; Siswandi Badaru, "Journal of Lex Theory (JLT)," *Journal of Lex Theory (JLT)* 1, no. 2 (2022): 122–35, [http://download.garuda.kemdikbud.go.id/article.php?article=2906157&val=25506&title=Peran Kepolisian Dalam Penegakan Hukum Terhadap Aksi Unjuk Rasa Mahasiswa Yang Anarkis Di Kota Makassar](http://download.garuda.kemdikbud.go.id/article.php?article=2906157&val=25506&title=Peran%20Kepolisian%20Dalam%20Penegakan%20Hukum%20Terhadap%20Aksi%20Unjuk%20Rasa%20Mahasiswa%20Yang%20Anarkis%20Di%20Kota%20Makassar).

⁸ Endrio Firaldo Dandel, Veibe V. Sumilat, and Roy R. Lembong, "Aspek Hukum Pelanggaran Kode Etik Mengenai Rahasia Kedokteran," *Lex Crimen* X, no. 12 (2021): 78–85, <https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/download/38541/35159>.

⁹ Tri Putri Simamora et al., "Perlindungan Hukum Terhadap Pasien Dalam Pelayanan Medis Di Rumah Sakit Umum," *Al-Adl: Jurnal Hukum* 12, no. 2 (2020): 270, <https://doi.org/10.31602/al-adl.v12i2.3091>.

¹⁰ Andro Giovani Ginting, Vici Utomo Simatupang, and Sonya Arini Batubara, "Restorative Justice Sebagai Mekanisme Penyelesaian Tindak Pidana Kekerasan Dalam Rumah Tangga," *JURNAL RECTUM: Tinjauan Yuridis Penanganan Tindak Pidana* 1, no. 2 (2019): 180, <https://doi.org/10.46930/jurnalrectum.v1i2.225>.

¹¹ Sonya Airini Batubara et al., "Tinjauan Yuridis Terhadap Tindak Pidana Abortus Provocatus Menurut Uu Nomor 36 Tahun 2009 Tentang Kesehatan," *Jurnal Darma Agung* 28, no. 3 (2020): 402, <https://doi.org/10.46930/ojsuda.v28i3.804>.

Regulation for consumers in Indonesia is regulated through Law No. 8 Year 1999 on Consumer Protection which provides legal protection to consumers.¹² Patient rights are an essential element to ensure the success of the mediation process. Mediation processes often fail due to violations of patients' rights. Patient rights are part of human rights and are based on individual rights, such as the right to self-determination and the right to personal security, including aspects of life, limb, health, honor, and personal liberty.¹³ Often, patients accept a doctor's decision without asking or requesting an explanation, when doctors and patients should be seen as partners with equal legal positions. Patients may consider themselves as decision-making agents who know the motives and consequences of decisions that should be based on valid reasons. Therefore, patients should be given sufficient information to consider when making medical decisions.

In the relationship with a doctor, the patient must fully entrust his or her fate to the doctor. This means that if the doctor commits an error or negligence, the patient often has no choice but to bear the risk of a lawsuit, because there is no legal basis. Although the provisions regarding patient rights are almost the same in all laws, there are differences, such as the Doctors Law which does not regulate the patient's right to compensation. In 2009, a hospital law was passed which contains provisions on patient rights. The following is a comparative table of patient rights stipulated in the Health Act, the Medical Practice Act, and the Hospital Act.¹⁴

Law No. 36 of 2009 on Health of the Republic of Indonesia, Law No. 44 of 2009 on Hospitals, and Law No. 29 of 2004 on Medical Practices are designed to meet the legal needs of the public for health services. Health is a human right and an element of welfare that must be realized in accordance with the ideals of the Indonesian nation that are oldest in Pancasila and the 1945 Constitution of the Republic of Indonesia. These human rights are further explained in the rights and responsibilities of everyone who obtains health services.

Medical Malpractice Dispute Resolution

The settlement of medical malpractice can be done through two channels, namely litigation and out-of-court proceedings. Legal arrangements through civil channels can be described in Article 32 letter q of Law Number 44 of 2009 concerning Hospitals, which states that medical cases can be resolved through litigation, both civil and criminal channels. A health worker or patient who suffers a loss due to a civil error in a medical transaction may file a claim for compensation.¹⁵ This compensation effort is regulated in Article 55 of Law Number 36 Year

¹² Kartina Pakpahan et al., "Perbandingan Perlindungan Hukum Pasien Korban Malpraktek Bedah Plastik Di Indonesia Dan Korea Selatan," *Jurnal IUS Kajian Hukum Dan Keadilan* 9, no. 1 (2021): 221–35, <https://doi.org/10.29303/ius.v9i1.826>.

¹³ Beni Kharisma Arrasuli and Khairul Fahmi, "Perlindungan Hukum Positif Indonesia Terhadap Kejahatan Penyalahgunaan Data Pribadi," *UNES Journal of Swara Justisia* 7, no. 2 (2023): 369, <https://doi.org/10.31933/ujsj.v7i2.351>.

¹⁴ Nova Afriani and Adzanri Adzanri, "Implementasi Hak Pasien Di Irna Penyakit Dalam RSUP Dr. M. Djamil : Studi Kelayakan Dalam Presfektif Undang-Undang Nomor 44/2009 Tentang Rumah Sakit," *Jik Jurnal Ilmu Kesehatan* 7, no. 2 (2023): 413, <https://doi.org/10.33757/jik.v7i2.848>.

¹⁵ Aris Priyadi, "Perlindungan Hukum Terhadap Pasien Dalam Sengketa Medis," *Cakrawala Hukum* 2, no. 2 (2020): 79–89, <https://e-journal.unwiku.ac.id/hukum/index.php/CH/article/download/117/102>.

2009 on Health, which states that “the impact of problems arising from the negligence of health workers may give rise to the right for everyone to obtain compensation.” This provision serves as protection for everyone affected by the negligence of health workers.¹⁶

The legal provisions regarding criminal liability are reflected in the general and special provisions of the criminal law. If the patient is disabled or dies as a result of the negligence of health workers in carrying out their duties, this can be classified as criminal malpractice. In resolving health disputes through BPSK, BPSK officers will hold a pre-trial to explain the dispute resolution options that can be pursued, such as mediation, arbitration, negotiation, or conciliation.¹⁷ At the first hearing, the BPSK chairperson will assemble a panel to determine the appropriate resolution path. Dispute resolution efforts to uphold justice in the health sector are also regulated in Article 29 of Law No. 36/2009 on Health, which states that “before a dispute is submitted to the court (litigation), the dispute should first take the non-litigation (out of court) route, namely mediation.”

Mediation Efforts in Medical Dispute Resolution

Alternative dispute resolution can generally only be applied in civil cases, but in practice, the settlement of criminal cases is often carried out through out-of-court procedures, through the discretion of law enforcement officials, as well as counseling, peace and forgiveness institutions in the community. Mediation is one of the methods used to resolve disputes more effectively and cost-effectively.¹⁸ Penal mediation, which is a means of resolving criminal disputes, is still not well known, because not all criminal offenses can be resolved through mediation, except for complaints.¹⁹ Penal mediation is a form of restorative justice, which aims to create justice for victims and perpetrators of criminal acts, and restore the position of both.²⁰

Penal mediation actually does not yet have a strong legal umbrella in the Indonesian criminal justice system. In the handling of medical malpractice disputes, penal mediation is used to alleviate the charges, where the perpetrator will still be punished in accordance with the applicable provisions, but through penal mediation, the punishment can be lightened. Penal mediation in medical malpractice criminal cases currently only serves to alleviate the charges, because there is no law regulating the implementation of penal mediation and the

¹⁶ Arif Dian Santoso, , Isharyanto, and Adi Sulistiyono, “Penyelesaian Sengketa Medik Melalui Mediasi Oleh Majelis Kehormatan Disiplin Kedokteran Indonesia (Mkdki) Untuk Dapat Menjamin Keadilan Dalam Hubungan Dokter Dan Pasien,” *Jurnal Hukum Dan Pembangunan Ekonomi* 7, no. 1 (2019): 29, <https://doi.org/10.20961/hpe.v7i1.29176>.

¹⁷ Alan M. Dunn et al., “Cloaking Malware with the Trusted Platform Module,” *Proceedings of the 20th USENIX Security Symposium*, 2011.

¹⁸ Birokrasi Jurnal et al., “Praktik Mediasi Sebagai Alternatif Penyelesaian Sengketa Batas Di Kantor Pertanahan Kota Kediri” 2 (2024).

¹⁹ Siti Wulansari and Universitas Merdeka Pasuruan, “HAK CIPTA TERKAIT FILM BAJAKAN MELALUI MEDIA ONLINE DI TELEGRAM DITINJAU DARI PASAL 9 AYAT (2) UNDANG-UNDANG REPUBLIK INDONESIA NOMOR 28 TAHUN 2014 TENTANG HAK CIPTA” 6, no. 2 (2024): 213–23.

²⁰ Hotli Hayati Nainggolan, Mutiara Anggun Lestari, and Yuka Juliyana, “Analisis Penerapan Mediasi Dalam Penyelesaian Sengketa Pelanggaran Hak Cipta E-Book PPKC Article Info ABSTRAK,” *Jurnal Hukum Dan HAM Wara Sains* 03, no. 01 (2024): 93–101.

legal force of the deed of agreement resulting from mediation. Therefore, the perpetrator will still be punished, but the punishment can be lightened.²¹

In a complaint offense in medical malpractice where the investigation is based on a complaint from the victim (patient or family), the settlement can be made through penal mediation, either before the complaint is made so that the victim (patient) or family drops the complaint, or after the complaint is filed. In this case, the role of the police is not as a mediator, but as a witness who participates in resolving criminal cases through an amicable agreement. In addition, in malpractice cases, doctors and patients often resolve the dispute through mediation.²² At the prosecution stage, the researcher found that penal mediation was conducted before the prosecution started. In this mediation process, the victim (patient) requests compensation from the perpetrator (doctor). Although there has been an agreement on compensation, the agreement does not eliminate the possibility of prosecution. Therefore, the judicial process will continue, and the compensation agreement will only be a consideration for the prosecutor in the prosecution process.

Medical Disputes that Can Be Resolved Through Mediation Institutions

Article 29 of the Health Law and Article 60 of the Hospital Law are the juridical basis for the institution of mediation in medical dispute resolution. The basic principle of mediation is as an alternative to out-of-court dispute resolution, before the case enters the subject matter of the judicial body. As there is no specific regulation regarding the existence of mediation institutions in medical disputes, the basis set out in the AAPS Law and Perma is still very relevant as a juridical basis for determining the criteria for medical disputes that can be resolved through mediation.

Article 6 paragraph (1) of the AAPS Law clearly states that differences of opinion or civil disputes can be resolved by the parties through alternative solutions, including mediation, based on good faith before proceeding to the district court. This article can be used as a legal basis to determine the criteria for resolving medical disputes that can be resolved through mediation, which are included in Civil Law and not Criminal Law, in accordance with the provisions of Article 29 of the Health Law.

If health workers are negligent in their actions, then the dispute resolution must be carried out through mediation.²³ Therefore, negligence that occurs in a legal context must be viewed as part of Civil Law, based on Articles 1365 and 1366 of the Civil Code which regulate unlawful acts.

Hospitals, as institutions where doctors/medical personnel work, are liable in the event of negligence. Article 1367 of the Civil Code can be used as the basis for the enactment of Article 46 of the Hospital Law, which regulates the liability of hospitals for errors or omissions

²¹ Hildayastie Hafizah and Surastini Fitriasih, "Urgensi Penyelesaian Dugaan Kesalahan Medis Melalui Restorative Justice," *Jurnal Usm Law Review* 5, no. 1 (2022): 205, <https://doi.org/10.26623/julr.v5i1.4884>.

²² Emilia Susanti, *Mediasi Pidana Sebagai Alternative Penyelesaian Perkara Pidana Berbasis Kearifan Lokal*, 2021.

²³ Hafid Ramadhon and Hudi Yusuf, "SENGKETA MEDIK DALAM PERSPEKTIF HUKUM KESEHATAN ANALYSIS OF MEDIATION AS AN ALTERNATIVE DISPUTE RESOLUTION FOR MEDICAL DISPUTES FROM A HEALTH LAW," no. 36 (2024): 4978–87.

committed by doctors or hospital parties.²⁴ In the event of negligence, error, or inattention by doctors or medical personnel, the problem that arises is the difficulty in proving these actions, due to the Standard Operating Procedures (SOP) that regulate every medical action, hospital services, and doctor discipline. Therefore, the role of the Indonesian Medical Discipline Honor Council (MKDKI) is needed to determine whether there is negligence, error, or lack of care in the medical actions taken.

The duties and authority of MKDKI are in accordance with those stipulated in the Medical Practice Act, which functions in enforcing discipline for doctors and dentists, not to find ethical violations.

Medical Mediation at PKU Muhammadiyah Gamping Hospital

Medical disputes at PKU Muhammadiyah Gamping Hospital arise due to several factors, including:

1. Patient dissatisfaction with the services provided by doctors, nurses, or medical staff.
2. Medical actions that do not meet the patient's expectations.
3. The occurrence of unwanted events or risks after medical actions by medical personnel.

In the context of medical law, the relationship between doctors and patients is interrelated, covering both medical and legal aspects. This relationship requires good health maintenance and services, where the patient has the right to accept or refuse medical action and has the right to obtain clear information about their health condition and treatment plan. In accordance with Article 29 letter (m) of Law No. 44 of 2009 concerning Hospitals, hospitals are obliged to respect and protect patients' rights. Article 50 of Law No. 29 of 2004 on Medical Practice also emphasizes the rights of patients, among others:

1. Receive a full explanation of the medical treatment plan.
2. Seek the opinion of another doctor (second opinion).
3. Receive medical services that meet their needs.
4. Refuse medical treatment if there is any doubt.
5. Obtain medical record information.

However, the relationship between doctors and patients does not always go smoothly. The patient's hope for recovery is sometimes not met, or the patient's condition can worsen, even leading to death. This often makes the patient feel that the doctor has been negligent. If the treatment outcome is not as expected, the patient may file a complaint against the doctor. In this case, the hospital is responsible for providing protection and legal assistance to medical staff in accordance with Article 29 letter (s) of Law No. 44 Year 2009, including resolving disputes through mediation.²⁵ The types of medical disputes that can be resolved through mediation in this hospital include:

1. Cases of patient death after treatment.
2. Cases of postoperative infection.

²⁴ Sabungan Sibarani, "Aspek Perlindungan Hukum Pasien Korban Malpraktik Dilihat Dari Sudut Pandang Hukum Di Indonesia," *Justitia et Pax* 33, no. 1 (2017): 1–22, <https://doi.org/10.24002/jep.v33i1.1417>.

²⁵ Julius Sitangihonon Sihotang et al., "Tindak Pidana Menerapkan Sistem Skema Piramida Dalam Pendistribusian Barang Oleh Pelaku Usaha," *Jurnal Darma Agung* 28, no. 3 (2020): 457, <https://doi.org/10.46930/ojsuda.v28i3.808>.

3. Problems related to the misuse of medical devices.
4. Other issues that cause complaints against hospital management.

Medical disputes can be resolved through litigation in court or mediation. In accordance with Article 29 of Law No. 36 of 2009 on Health, medical negligence must be resolved through mediation first. Article 16 paragraph (7) of Law No. 30 of 1990 on Arbitration and Alternative Dispute Resolution states that a written dispute resolution agreement is final and binding, and must be registered with the District Court within 30 days of signing. If mediation fails to reach an agreement, the dispute must be resolved through litigation in court.

Mediators in the mediation process are expected to be neutral and impartial to create a conducive atmosphere. Obstacles in mediation are often caused by a lack of cooperation from the parties involved, both medical personnel and patients, which can prevent an agreement from being reached. A successful mediation can result in an amicable agreement that improves the relationship between the disputing parties. According to Eka Budy Santoso, S.Sos, M.Pd, a mediator, although the medical dispute has been resolved, the relationship between the patient and the hospital usually remains good, and the patient can continue treatment at the hospital. The patient's response to medical services can be in the form of positive or negative comments, which are useful for the development of the hospital.

Successful mediation that results in a peace agreement requires written consent from all parties, as stipulated in Article 6 paragraph (7) of Law No. 30 of 1990. Supreme Court Regulation No. 01 of 2008 stipulates that a peace agreement can be submitted to a judge to be legalized in the form of a deed of peace, or simply with a clause of withdrawal of the lawsuit if it does not require a deed of peace.

CONCLUSION

The concept of the right to health is a right protected by the constitution and regulated in various laws and regulations, such as Health Law No. 36 of 2009, Hospital Law No. 44 of 2009, and Medical Practice Law No. 29 of 2004. These regulations were made to address the legal needs of the community regarding health services. Responsibility for medical services in our hospital rests with the director as manager. The legal basis for this is the provisions of Article 19 of the Consumer Protection Law No. 8 of 1999, which regulates the responsibility of economic actors in terms of the provision of goods and services, including medical services. The settlement of health disputes through mediation is considered the most ideal method because the settlement process is closed and not publicized. Thus, mediation provides a sense of comfort and security for the parties involved. This process avoids the possibility of revealing personal secrets and preserves the good name of the parties involved, especially for doctors and health service providers, which is very important in maintaining professional integrity and public trust.

REFERENCE

Afriani, Nova, and Adzanri Adzanri. "Implementasi Hak Pasien Di Irna Penyakit Dalam RSUP Dr.

- M. Djamil: Studi Kelayakan Dalam Presfektif Undang-Undang Nomor 44/2009 Tentang Rumah Sakit." *Jik Jurnal Ilmu Kesehatan* 7, no. 2 (2023): 413. <https://doi.org/10.33757/jik.v7i2.848>.
- Ardinata, Mikho. "Tanggung Jawab Negara Terhadap Jaminan Kesehatan Dalam Perspektif Hak Asasi Manusia (HAM)." *Jurnal HAM* 11, no. 2 (2020): 319. <https://doi.org/10.30641/ham.2020.11.319-332>.
- Arrasuli, Beni Kharisma, and Khairul Fahmi. "Perlindungan Hukum Positif Indonesia Terhadap Kejahatan Penyalahgunaan Data Pribadi." *UNES Journal of Swara Justisia* 7, no. 2 (2023): 369. <https://doi.org/10.31933/ujsj.v7i2.351>.
- Badaru, Baharuddin; Siswandi. "Journal of Lex Theory (JLT)." *Journal of Lex Theory (JLT)* 1, no. 2 (2022): 122–35. <http://download.garuda.kemdikbud.go.id/article.php?article=2906157&val=25506&title=PeranKepolisianDalamPenegakanHukumTerhadapAksiUnjukRasaMahasiswaYangAnarkisDiKotaMakassar>.
- Batubara, Sonya Airini, Cindy Cindy, Widodo Saputra Hutagalung, and Johannes Sahat Pangihutan Siahaan. "Tinjauan Yuridis Terhadap Tindak Pidana Abortus Provocatus Menurut Uu Nomor 36 Tahun 2009 Tentang Kesehatan." *Jurnal Darma Agung* 28, no. 3 (2020): 402. <https://doi.org/10.46930/ojsuda.v28i3.804>.
- Dandel, Endrio Firaldo, Veibe V. Sumilat, and Roy R. Lembong. "Aspek Hukum Pelanggaran Kode Etik Mengenai Rahasia Kedokteran." *Lex Crimen X*, no. 12 (2021): 78–85. <https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/download/38541/35159>.
- Dunn, Alan M., Owen S. Hofmann, Brent Waters, and Emmett Witchel. "Cloaking Malware with the Trusted Platform Module." *Proceedings of the 20th USENIX Security Symposium*, 2011.
- Ginting, Andro Giovani, Vici Utomo Simatupang, and Sonya Arini Batubara. "Restorative Justice Sebagai Mekanisme Penyelesaian Tindak Pidana Kekerasan Dalam Rumah Tangga." *JURNAL RECTUM: Tinjauan Yuridis Penanganan Tindak Pidana* 1, no. 2 (2019): 180. <https://doi.org/10.46930/jurnalrectum.v1i2.225>.
- Hafizah, Hildayastie, and Surastini Fitriasih. "Urgensi Penyelesaian Dugaan Kesalahan Medis Melalui Restorative Justice." *Jurnal Usm Law Review* 5, no. 1 (2022): 205. <https://doi.org/10.26623/julr.v5i1.4884>.
- Hayati Nainggolan, Hotli, Mutiara Anggun Lestari, and Yuka Juliyana. "Analisis Penerapan Mediasi Dalam Penyelesaian Sengketa Pelanggaran Hak Cipta E-Book PPKC Article Info ABSTRAK." *Jurnal Hukum Dan HAM Wara Sains* 03, no. 01 (2024): 93–101.
- Jurnal, Birokrasi, Ilmu Hukum, Firda Adita, Nurul Ihsani, Grahadi Purna Putra, Program Studi, Ilmu Hukum, et al. "Praktik Mediasi Sebagai Alternatif Penyelesaian Sengketa Batas Di Kantor Pertanahan Kota Kediri" 2 (2024).
- Kartini, Murtiningsih, and Adi Kusyandi. "Eksistensi Ptun Sebagai Wujud Perlindungan Hukum Kepada Warga Negara Dari Sikap Tindak Administrasi Negara." *Yustitia* 7, no. 2 (2021): 236–48. <https://doi.org/10.31943/yustitia.v7i2.144>.

- Muhamad, Anis, Ramlani Lina Sinaulan, and Khalimi Khalimi. "Mediasi Sebagai Alternatif Penyelesaian Sengketa Pajak." *SENTRI: Jurnal Riset Ilmiah* 2, no. 11 (2023): 4667–76. <https://doi.org/10.55681/sentri.v2i11.1778>.
- Pakpahan, Kartina, Heni Widiyani, Veronica Veronica, and Sewin Kartika. "Perbandingan Perlindungan Hukum Pasien Korban Malpraktek Bedah Plastik Di Indonesia Dan Korea Selatan." *Jurnal IUS Kajian Hukum Dan Keadilan* 9, no. 1 (2021): 221–35. <https://doi.org/10.29303/ius.v9i1.826>.
- Prayuti, Yuyut, Arman Lany, Aprisia N. Waworuntu, Sherwin F. Manueke, and M. Adib Dwitamma. "Perlindungan Hukum Terhadap Dokter Dan Pasien Dalam Pelayanan Kesehatan Di Indonesia." *Jurnal Ilmiah Kajian Politik Lokal Dan Pembangunan* 10, no. 36 (2024): 25–31.
- Priyadi, Aris. "Perlindungan Hukum Terhadap Pasien Dalam Sengketa Medis." *Cakrawala Hukum* 2, no. 2 (2020): 79–89. <https://e-journal.unwiku.ac.id/hukum/index.php/CH/article/download/117/102>.
- Ramadhon, Hafid, and Hudi Yusuf. "SENGKETA MEDIK DALAM PERSPEKTIF HUKUM KESEHATAN ANALYSIS OF MEDIATION AS AN ALTERNATIVE DISPUTE RESOLUTION FOR MEDICAL DISPUTES FROM A HEALTH LAW," no. 36 (2024): 4978–87.
- Santoso, Arif Dian, , Isharyanto, and Adi Sulistiyono. "Penyelesaian Sengketa Medik Melalui Mediasi Oleh Majelis Kehormatan Disiplin Kedokteran Indonesia (Mkdkdi) Untuk Dapat Menjamin Keadilan Dalam Hubungan Dokter Dan Pasien." *Jurnal Hukum Dan Pembangunan Ekonomi* 7, no. 1 (2019): 29. <https://doi.org/10.20961/hpe.v7i1.29176>.
- Sibarani, Sabungan. "Aspek Perlindungan Hukum Pasien Korban Malpraktik Dilihat Dari Sudut Pandang Hukum Di Indonesia." *Justitia et Pax* 33, no. 1 (2017): 1–22. <https://doi.org/10.24002/jep.v33i1.1417>.
- Sihotang, Julius Sitangihonon, Kartika Pakpahan, Hilda Siregar, Yunepa Pebi Yanti Sembiring, and Kevin Dwiputra Sitorus. "Tindak Pidana Menerapkan Sistem Skema Piramida Dalam Pendistribusian Barang Oleh Pelaku Usaha." *Jurnal Darma Agung* 28, no. 3 (2020): 457. <https://doi.org/10.46930/ojsuda.v28i3.808>.
- Simamora, Tri Putri, Sonya Airini Batubara, Indra Efrianto Napitupulu, and Robinson Tamaro Sitorus. "Perlindungan Hukum Terhadap Pasien Dalam Pelayanan Medis Di Rumah Sakit Umum." *Al-Adl: Jurnal Hukum* 12, no. 2 (2020): 270. <https://doi.org/10.31602/al-adl.v12i2.3091>.
- Susanti, Emilia. *Mediasi Pidana Sebagai Alternative Penyelesaian Perkara Pidana Berbasis Kearifan Lokal*, 2021.
- Syaroni, I, and T. Widyaningrum. "Peningkatan Efektivitas Penyelesaian Sengketa Administrasi Negara Melalui Pendekatan Alternatif." *Wacana Paramarta: Jurnal Ilmu Hukum* 23, no. 1 (2024): 80–92.
- Wayan, Resmini, and Abdul Sakban. "MEDIASI DALAM PENYELESAIAN SENGKETA PADA

MASYARAKAT HUKUM ADAT Wayan." *CIVICUS: Pendidikan Pancasila Dan Kewarganegaraan* 6, no. 1 (2018): 8–13.

Wulansari, Siti, and Universitas Merdeka Pasuruan. "HAK CIPTA TERKAIT FILM BAJAKAN MELALUI MEDIA ONLINE DI TELEGRAM DITINJAU DARI PASAL 9 AYAT (2) UNDANG-UNDANG REPUBLIK INDONESIA NOMOR 28 TAHUN 2014 TENTANG HAK CIPTA" 6, no. 2 (2024): 213–23.