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Reorienting Medical Dispute Resolution: MDP, ADR, and Litigation

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Abstract

The aim of this study is to analyze the structure of the medical dispute resolution mechanism as stipulated in Law No. 17 of 2023 on Health and to examine its implications for the legal protection of patients, medical personnel, health workers, and health care facilities.
The methods used in this study include a normative legal approach, incorporating both a statutory and conceptual framework, through a systematic review of Law No. 17 of 2023 on Health, Government Regulation No. 28 of 2024, Ministry of Health Regulation No. 3 of 2025, Ministry of Health Regulation No. 4 of 2025, Constitutional Court Decision No. 156/PUU-XXII/2024, and relevant scientific literature.
The novelty of this research lies in the formulation of the Multi-Layer Medical Dispute Resolution Model, which integrates the identification of medical incidents, complaints and clarifications, disciplinary enforcement by the Professional Disciplinary Council, alternative dispute resolution, and the potential for administrative, civil, and criminal liability into a single normative framework.
The results of the research indicate that prioritizing out-of-court dispute resolution mechanisms forms a multi-layered model oriented toward dialogue, professional evaluation, and redress; however, its effectiveness is largely determined by the clarity of procedures, the capacity of dispute resolution institutions, and the guarantee of balanced access for the parties so that legal protection and access to justice are realized proportionally.
The conclusion emphasizes that the normative design of the Health Law has the potential to strengthen legal protection in the field of medical disputes, provided it is accompanied by the strengthening of subsidiary regulations, institutional frameworks, and implementation practices that ensure non-litigation mechanisms truly serve as corrective and restorative measures, rather than mere procedural formalities that hinder the fulfillment of the parties' legal rights.
Keywords: Medical Disputes; Health Law; Alternative Dispute Resolution

Abstrak

Tujuan penelitian *ini adalah menganalisis konstruksi mekanisme penyelesaian sengketa medis sebagaimana diatur dalam Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan serta menelaah implikasinya terhadap perlindungan hukum bagi pasien, tenaga medis, tenaga kesehatan, dan fasilitas pelayanan kesehatan.*
Metode penelitian *menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan pendekatan konseptual melalui penelaahan sistematis terhadap Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan, Peraturan Pemerintah Nomor 28 Tahun 2024, Peraturan Menteri Kesehatan Nomor 3 Tahun 2025, Peraturan Menteri Kesehatan*

Nomor 4 Tahun 2025, Putusan Mahkamah Konstitusi Nomor 156/PUU-XXII/2024, serta literatur ilmiah yang relevan.
***Kebaruan** penelitian terletak pada perumusan Multi-Layer Medical Dispute Resolution Model yang menghubungkan identifikasi peristiwa medis, pengaduan dan klarifikasi, penegakan disiplin oleh Majelis Disiplin Profesi, alternatif penyelesaian sengketa, serta kemungkinan pertanggungjawaban administratif, perdata, dan pidana dalam satu konstruksi normatif.*
***Hasil penelitian** menunjukkan bahwa pengutamaan mekanisme penyelesaian sengketa di luar pengadilan membentuk model berlapis yang berorientasi pada dialog, evaluasi profesional, dan pemulihan, namun efektivitasnya sangat ditentukan oleh kejelasan prosedur, kapasitas lembaga penyelesaian sengketa, serta jaminan akses yang seimbang bagi para pihak agar perlindungan hukum dan akses keadilan tetap terwujud secara proporsional.*
***Kesimpulan** menegaskan bahwa desain normatif Undang-Undang Kesehatan berpotensi memperkuat perlindungan hukum di bidang sengketa medis sepanjang diikuti penguatan regulasi turunan, kelembagaan, dan praktik implementasi yang memastikan bahwa mekanisme non-litigasi benar-benar menjadi sarana korektif dan restoratif, bukan sekadar formalitas prosedural yang menghambat pemenuhan hak-hak hukum para pihak.*
***Keywords :** Sengketa Medis; Hukum Kesehatan; Alternatif Penyelesaian Sengketa*

1. INTRODUCTION

Healthcare services constitute a form of public service that directly concerns the fundamental human right to the highest attainable standard of health and therefore encompasses humanitarian, professional, ethical, and legal dimensions.[1] In the therapeutic relationship between patients and medical professionals, clinical decisions invariably involve risks, whether inherent in medical interventions or arising from the possibility of human error.[2] This complexity renders the legal relationship between patients and medical professionals highly susceptible to dissatisfaction, allegations of negligence, and harm, which may ultimately lead to medical disputes in the form of ethical, disciplinary, civil, or criminal complaints.

In Indonesian practice, medical disputes often stem from information asymmetries and unequal bargaining positions between patients and medical professionals, inadequate medical-record documentation, and the parties' limited understanding of professional standards and their respective legal rights.[3] When alleged malpractice occurs, patients or their families tend to resort to criminal proceedings as the primary option, without first distinguishing whether the incident constitutes an acceptable medical risk, a breach of professional discipline, a contractual default, or a tortious act under civil law.[4] This pattern not

[1] Muhammad Darwis, "Dissecting Justice: The Legal Significance of Medical Records and Informed Consent in Malpractice Cases" 6, no. 3 (2025), https://doi.org/10.55942/pssj.v6i3.1092.
[2] I Ketut Raka Subudhi and Luh Nyoman Alit Aryani, "Penyelesaian Sengketa Medis Atas Kasus Pelayanan Buruk Fasilitas Pelayanan Kesehatan Menurut Perspektif Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan," *JUNCTO: Jurnal Ilmiah Hukum* 6, no. 1 (2024): 87–98, https://doi.org/10.31289/juncto.v6i1.3707.
[3] Elzan Syahza Stesia Ramadhani and Hudi Yusuf, "Analisis Yuridis Terhadap Sengketa Medis Di Indonesia," *Jurnal Intelek Dan Cendikiawan Nusantara* 1, no. 5 (2024): 7964–71, https://jicnusantara.com/index.php/jicn/article/view/1405.
[4] Ontran Sumantri Riyanto, "Dekonstruksi Pertanggungjawaban Hukum Dalam Sengketa Medis: Perspektif Restorative Justice Sebagai Paradigma Baru Perlindungan Ham Bagi Tenaga Medis," *Juris Humanity: Jurnal Riset Dan Kajian Hukum Hak Asasi Manusia* 3, no. 2 (2024): 78–89, https://doi.org/10.38035/jihhp.v5i3.4451.

only risks criminalising the medical profession but also creates legal uncertainty and places an undue burden on judicial resources.

Before the enactment of Law Number 17 of 2023 on Health, the regulatory regime governing medical dispute resolution was dispersed across various legislative instruments and ethical norms, including civil, criminal, and administrative law; the professional disciplinary law applicable to medical and dental practice; and the medical code of ethics. This regulatory fragmentation created the impression that no single comprehensive and systematic framework existed. Consequently, law-enforcement authorities, medical professionals, healthcare facilities, and patients often operated with only a partial understanding of the available dispute-resolution mechanisms. As a result, litigation was frequently prioritised even where disputes would have been more appropriately resolved through ethical, disciplinary, administrative, or alternative dispute-resolution mechanisms.

The enactment of Law Number 17 of 2023 on Health marks a fundamental shift in the organisation of health law, including the framework for resolving medical disputes[5] and the enforcement of professional discipline among medical personnel and healthcare workers. However, an understanding of this framework cannot be confined to the statutory provisions alone. It must be systematically interpreted in conjunction with Government Regulation Number 28 of 2024 on the Implementing Regulation of Law Number 17 of 2023 on Health, Minister of Health Regulation Number 3 of 2025 on the Enforcement of Professional Discipline for Medical Personnel and Healthcare Workers, and Minister of Health Regulation Number 4 of 2025 on amendments to the organisation and working procedures of the Secretariat of the Indonesian Health Council, the Indonesian Health Collegium, and the Professional Disciplinary Council. Within this hierarchical framework, the Health Law establishes the policy foundation for dispute resolution and legal protection; Government Regulation Number 28 of 2024 provides the institutional framework for the Professional Disciplinary Council; while Minister of Health Regulations Numbers 3 and 4 of 2025 provide more operational rules on disciplinary-enforcement procedures and organisational support for the Council's functions.

The prioritisation of out-of-court dispute-resolution mechanisms through mediation, arbitration, or other forms of alternative dispute resolution remains relevant to medical disputes because such disputes possess technical, relational, and evidentiary characteristics that differ from those of ordinary civil and criminal disputes.[6] However, following the issuance of the implementing regulations, medical dispute resolution should no longer be understood merely as a choice between litigation and non-litigation. It is also connected to the process of professional disciplinary enforcement through the Professional Disciplinary Council (Majelis Disiplin Profesi MDP), particularly where a complaint alleges violations of professional

[5] Haniv Aulia and Hudi Yusuf, "Tinjauan Yuridis Penyelesaian Sengketa Medik Berdasarkan Undang-Undang Nomor 17 Tahun 2023," *Jurnal Intelek Insan Cendikia* 1, no. 9 (2024): 4887–95, https://jicnusantara.com/index.php/jiic/article/view/1388.

[6] I Ketut Raka Subudhi and Luh Nyoman Alit Aryani, "Penyelesaian Sengketa Medis Atas Kasus Pelayanan Buruk Fasilitas Pelayanan Kesehatan Menurut Perspektif Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan," *JUNCTO: Jurnal Ilmiah Hukum* 6, no. 1 (2024): 87–98, https://doi.org/10.31289/juncto.v6i1.3707.

standards, service standards, standard operating procedures, or the professional obligations of medical personnel and healthcare workers.

Government Regulation Number 28 of 2024 positions the MDP as a council established by the Minister for the enforcement of professional discipline and to support the duties and functions of the Indonesian Health Council in improving the quality and technical professional competence of medical personnel and healthcare workers. The MDP is accountable to the Minister and carries out disciplinary-enforcement functions pursuant to provisions determined by the Minister. These provisions are further operationalised through Minister of Health Regulation Number 3 of 2025, which governs the scope of professional discipline, categories of disciplinary violations, complaint mechanisms, examination procedures, review procedures, the imposition of disciplinary sanctions, the issuance of recommendations, professional development, and supervision. Accordingly, the MDP does not function merely as an ethics forum or a mediation forum; rather, it is a disciplinary-enforcement body with its own procedures and legal consequences.

This regulatory arrangement raises important normative issues requiring analysis, particularly concerning the limits of, and relationship between, the MDP's authority and that of other institutions empowered to address alleged legal violations in healthcare services. These issues include the legal status of MDP examination findings and decisions; the nature, purpose, and enforceability of MDP recommendations; and the possible use of such recommendations by healthcare facilities, professional organisations, administrative authorities, investigators, public prosecutors, and judges. It is also necessary to examine whether, and to what extent, MDP disciplinary proceedings overlap with mediation or other alternative dispute-resolution mechanisms, and whether resolution through those mechanisms may affect, defer, or nevertheless preserve the parties' access to civil claims and/or reports of alleged criminal offences.

Minister of Health Regulation Number 4 of 2025 is also important to this analysis because it updates the organisational structure and working procedures governing the MDP. The regulation demonstrates that the effectiveness of disciplinary enforcement depends not only on the substantive and procedural authorities stipulated in Government Regulation Number 28 of 2024 and Minister of Health Regulation Number 3 of 2025, but also on institutional support, secretariat functions, administrative coordination, and working arrangements that enable the MDP to handle complaints and conduct examinations in an accountable manner. Accordingly, an analysis of medical dispute resolution must integrate the substantive legal framework, institutional structure, and disciplinary-enforcement procedures.

Previous studies on medical disputes in Indonesia have generally focused on discrete aspects of the issue. An article by Saadah Kurniawati et al., entitled "Medical Dispute Resolution under Indonesian Law," normatively examines the regulatory configuration of medical disputes prior to Law Number 17 of 2023, which was considered not to have provided a systematic framework for choosing between litigation and non-litigation mechanisms.[7] The

[7] Saadah Kurniawati and Fahmi Fahmi, "Penyelesaian Sengketa Medis Berdasarkan Hukum Indonesia," *INNOVATIVE:*

article entitled "Civil Law Aspects of Medical Dispute Resolution" examines the application of tort-based claims and forms of compensation in medical-dispute judgments, without integrating ethical, disciplinary, and administrative mechanisms.[8] Sudarmanto and Meilan Arsanti, in their article "Evidentiary Challenges in Medical Disputes: An Analysis of Cikarang District Court Decision No. 120/Pdt.G/2019/PN Ckr," highlight evidentiary obstacles arising from the quality of medical records and reliance on expert witnesses.[9] In the field of mediation, the study entitled "Resolving Medical Negligence Disputes through Mediation," together with several other writings on medical dispute resolution in Indonesia, underscores the potential of mediation as a forum for dialogue and restorative justice. However, these studies also note weak institutional support and the fragmentation of the legal framework before the enactment of the Health Law.[10]

Unlike previous studies, this research addresses the gap in normative analysis concerning the relationship between the authority of the Professional Disciplinary Council (Majelis Disiplin Profesi MDP) and the legal accountability mechanisms applicable to medical personnel and healthcare workers following the enactment of Law Number 17 of 2023 on Health. It focuses on the legal status and binding effect of MDP recommendations, including their implications for the handling obligations of relevant institutions, the choice to use alternative dispute-resolution mechanisms, and the scope and procedures governing the parties' access to civil and criminal litigation. Accordingly, the novelty of this study lies in developing an integrated normative analysis to clarify jurisdictional boundaries, the relationship among dispute-resolution mechanisms, and guarantees of access to justice and legal certainty for patients, medical personnel, and healthcare workers under the new health-law regime.

Unlike earlier studies, this study does not examine the prioritisation of alternative dispute resolution or civil and criminal liability in isolation. Rather, it comprehensively analyses the legal construction of medical dispute resolution in the regulatory regime following Law Number 17 of 2023 on Health. The analysis treats Law Number 17 of 2023, Government Regulation Number 28 of 2024, Minister of Health Regulation Number 3 of 2025, and Minister of Health Regulation Number 4 of 2025 as an integrated hierarchical and functional framework. In particular, the study examines the MDP's authority to receive, verify, and examine complaints alleging disciplinary violations; determine violations and impose disciplinary sanctions; issue recommendations; and provide for a review mechanism.

The novelty of this study lies in its normative analysis of the legal status and

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Journal Of Social Science Research 3, no. 2 (2023): 12234–44.

[8] Lintang Zandra Camellia and Adhitya Widya Kartika, "Aspek Keperdataan Dalam Upaya Penyelesaian Sengketa Medis Antara Pasien Dengan Tenaga Medis Berdasarkan Undang-Undang Kesehatan," *Jurnal Hukum & Pembangunan* 54, no. 3 (2024): 573–94, https://doi.org/10.21143/jhp.vol54.no3.1647.

[9] Sudarmanto Sudarmanto and Meilan Arsanti, "Problematika Pembuktian Dalam Sengketa Medis (Analisis Putusan PN Cikarang NO. 120/Pdt. G. 2019/PN Ckr)," *Adagium: Jurnal Ilmiah Hukum* 3, no. 1 (2025): 76–87, https://ejournal.mejailmiah.com/index.php/adagium/article/view/64.

[10] Hemestiana Matilda Sun and Hudi Yusuf, "Penyelesaian Sengketa Kelalaian Medik Melalui Mediasi Dan Majelis Kehormatan Disiplin Kedokteran Indonesia (MKDKI)," *Jurnal Intelek Insan Cendikia* 1, no. 9 (2024): 4958–67.

consequences of MDP recommendations in relation to dispute resolution through mediation or other alternative dispute-resolution mechanisms, administrative measures taken by institutions or healthcare facilities, and the parties' access to civil and criminal litigation. Through this focus, the study is expected to make a conceptual contribution by mapping jurisdictional boundaries and the interrelationship among medical dispute-resolution mechanisms, while also offering a practical contribution in the form of legal interpretations aimed at ensuring legal certainty, professional protection, patient safety, and continued access to justice for all parties.

2. METHOD

This study employs a normative legal research method, examining law as a body of applicable written norms through two principal approaches: the statutory approach and the conceptual approach.[11] The statutory approach is applied through a systematic examination of provisions governing medical dispute-resolution mechanisms under the Health Law, its implementing regulations, and other relevant legal instruments. The conceptual approach is used to elaborate and compare key concepts including medical disputes, professional misconduct, medical risk, alternative dispute resolution, and restorative justice within the context of health law. The primary legal materials comprise the Health Law, sector-specific health legislation, and relevant civil, criminal, administrative, and professional disciplinary provisions. The secondary legal materials consist of scholarly journal articles, health-law textbooks, and academic writings addressing medical dispute resolution and its implications for medical personnel, healthcare workers, and healthcare facilities.[12]

Data were collected through library research by identifying and systematically cataloguing relevant legislation and scholarly literature.[13] The collected data were subsequently analysed using a descriptive-analytical method to delineate the normative construction of medical dispute-resolution mechanisms, followed by critical analysis to assess the coherence, adequacy, and juridical implications of prioritising non-litigation approaches, as adopted under the Health Law, for the legal protection of parties involved in medical disputes.

3. DISCUSSION

3.1. Medical Disputes and Their Legal Foundations in Health Law

Medical disputes are disagreements arising within the legal relationship between patients and medical personnel, healthcare workers, and/or healthcare facilities, resulting from healthcare services alleged to have harmed patients.[14] This relationship arises from a distinctive therapeutic relationship grounded in patient trust, reliance on professional

[11] Budi Juliardi et al., *Metode Penelitian Hukum* (CV. Gita Lentera, 2023).
[12] Muhammad Syarif et al., *Metode Penelitian Hukum* (Get Press, 2024).
[13] Ahsan Yunus Irwansyah, *Penelitian Hukum Pilihan Metode & Praktik Penulisan Artikel (Edisi Revisi)*, *Yogyakarta: Mirra Buana Media, Cet*, vol. 4 (Yogyakarta: Mirra Buana Media, 2021).
[14] Muhammad Darwis, "Dissecting Justice: The Legal Significance of Medical Records and Informed Consent in Malpractice Cases" 6, no. 3 (2025), https://doi.org/10.55942/pssj.v6i3.1092.

competence, and information asymmetry between healthcare providers and recipients.[15] Accordingly, medical disputes cannot be understood merely as ordinary private conflicts; rather, they involve professional standards, patient safety, quality of care, legal accountability, and the public interest in the provision of healthcare.

Medical disputes must be clearly distinguished from malpractice and medical negligence. A medical dispute is an umbrella term for any disagreement arising in connection with healthcare services, including dissatisfaction with therapeutic communication, explanations of medical procedures, service administration, financing, treatment outcomes, or alleged violations of professional standards. Not every medical dispute constitutes malpractice; likewise, not every adverse medical outcome can be characterised as negligence. Medical interventions may result in complications or unsuccessful outcomes even where medical personnel have acted in accordance with professional standards, standards of care, and standard operating procedures. In such circumstances, the event is, in principle, a medical risk inherent in professional practice, rather than an error that automatically gives rise to legal liability.[16]

The classification of disputes is crucial because it determines the appropriate forum, the applicable standard of review, the available remedies, and the legal consequences. The distinctions among these domains may be illustrated as follows.

Table 1. Classification of Incidents and Chains of Legal Responsibility in Health Care

Classification of the Event	Key Parameters	Relevant Legal Domain/Forum	Potential Legal Consequences
Medical Risk	Medical intervention carried out in accordance with professional standards, standards of care, and standard operating procedures; the associated risks have been adequately explained	Clinical evaluation and risk management by the healthcare facility	Does not automatically give rise to sanctions or legal liability
Communication and informed-consent issues	Inadequate disclosure of the diagnosis, benefits, risks, alternatives, or consent for the medical procedure	Internal healthcare-facility mechanisms, mediation, civil proceedings, or disciplinary processes, as	Service improvement, remedial measures, compensation, or disciplinary review

[15] Muhammad Darwis and Rahmat Amir, "Transaksi Trapeutik Sebagai Pertanggungjawaban Dokter Terhadap Pasien," *Jurnal Litigasi Amsir* 10, no. 1 (2022): 61–71, http://journalstih.amsir.ac.id/index.php/julia/article/view/155.
[16] Ndeadmin, "Sengketa Medis," Pandewal, 2021.

		warranted by the facts	
Ethical Violation	Violation of professional values, honour, or standards of conduct	The relevant ethics body or committee, in accordance with organisational or professional procedures	Ethical sanctions; these do not automatically establish civil negligence or criminal liability
Professional Disciplinary Violation	Violation of professional standards, standards of care, or professional disciplinary obligations	Professional Disciplinary Council (MDP)	Disciplinary decisions and/or sanctions, together with recommendations issued within its statutory authority
Breach of Contract	Failure to perform obligations arising from the therapeutic relationship or agreed healthcare services	Civil court or alternative dispute resolution (ADR)	Specific performance, rescission/termination, and/or damages.
Unlawful act	An unlawful act, fault, damage, and a causal relationship.	Civil court or alternative dispute resolution (ADR)	Damages and other forms of civil remedies
Negligence that satisfies the elements of a criminal offense	Intent or negligence that fulfills all elements of a criminal offense and can be proven under criminal procedural law	Investigation, prosecution, and criminal trial proceedings	Criminal punishment, provided that the elements of the offense and the evidentiary requirements are satisfied

This distinction confirms that a professional evaluation is not the same as an ethical assessment; the imposition of disciplinary sanctions is not the same as civil liability; and patient harm does not, by itself, establish a criminal offense.[17] In this context, informed consent remains important because a failure to provide adequate information may give rise to a dispute even where the clinical intervention itself was properly performed. Similarly, medical records, expert opinions, and professional standards serve as evidentiary instruments for distinguishing acceptable risks from alleged professional misconduct.

Before the enactment of Law No. 17 of 2023 on Health, the regulation of medical-dispute resolution was dispersed across various health-sector laws, civil and criminal law provisions, ethical norms, and professional-disciplinary mechanisms. Article 29 of Law No. 36 of 2009 on

[17] Ndeadmin.

Health, for example, provided only that an alleged negligence by a health worker in the performance of their profession had to be resolved first through mediation.

That framework did not establish a clear relationship between mediation, disciplinary assessment, professional recommendations, administrative measures, and litigation. This fragmentation enabled patients or their families to proceed directly through civil or criminal channels without first obtaining an adequate professional assessment, while also creating legal uncertainty for medical practitioners and other health workers.[18]

The Health Law restructures that framework by establishing a dispute-resolution regime that connects professional-disciplinary mechanisms, alternative dispute resolution, restorative justice, and formal legal proceedings.[19][20] This change is not merely institutional; it also shifts the starting point for handling disputes from a litigation-oriented approach toward professional assessment and proportionate resolution. However, analysis of this regime cannot stop at the statutory level. The provisions of the Health Law must be read together with Government Regulation No. 28 of 2024 as its implementing regulation, Minister of Health Regulation No. 3 of 2025 on the Enforcement of Professional Discipline for Medical Personnel and Health Workers, and Minister of Health Regulation No. 4 of 2025 governing the organization and working procedures of the Professional Discipline Council (Majelis Disiplin Profesi or MDP). PP No. 28 of 2024 implements Law No. 17 of 2023, while Permenkes No. 3 of 2025 regulates, among other matters, disciplinary violations, complaints, examinations, sanctions, recommendations, guidance, and supervision.[21][22]

The Health Law establishes an integrated set of norms that should not be interpreted in isolation. Broadly, these provisions regulate the enforcement of professional discipline, prioritize restorative justice, require an MDP recommendation in handling certain alleged legal violations, and connect professional review with formal legal mechanisms. In particular, Article 308 requires that recommendations from the Professional Discipline Council (Majelis Disiplin Profesi or MDP) be sought in relation to alleged criminally punishable acts in healthcare delivery and civil claims concerning patient harm; Article 306 prioritizes restorative justice where an alleged criminal offense remains after disciplinary sanctions have been served.[23] Accordingly, these provisions should be understood as a framework for coordination across

[18] Kurniawati and Fahmi, "Penyelesaian Sengketa Medis Berdasarkan Hukum Indonesia."

[19] Trisna Widjayanti, "Manajemen Risiko: Penyelesaian Sengketa Medis Pada Undang-Undang Kesehatan No 17 Tahun 2023," *Kumparan.Com*, April 2023.

[20] *Vide* Law No. 17 of 2023 on Health

[21] *Vide* Government Regulation No. 28 of 2024 on the Implementing Regulation of Law No. 17 of 2023 on Health, particularly the provisions concerning the Professional Discipline Board (Majelis Disiplin Profesi), including Article 712 and related provisions on the enforcement of professional discipline for medical personnel and health workers.

[22] *Vide* Minister of Health Regulation No. 3 of 2025 on the Enforcement of Professional Discipline for Medical Personnel and Health Workers, State Gazette of the Republic of Indonesia 2025 No. 23. This regulation covers professional discipline, types of disciplinary violations, complaints, examination procedures, reviews, sanctions, recommendations, guidance, and supervision

[23] *Vide* Law No. 17 of 2023 on Health, State Gazette of the Republic of Indonesia 2023 No. 105, Supplement to the State Gazette of the Republic of Indonesia No. 6887, particularly Articles 304 through 310. This law remains in force and governs the enforcement of professional discipline and dispute resolution in the health sector

distinct legal domains, rather than as an absolute substitution of civil and criminal proceedings by disciplinary mechanisms.

Table 2. Normative Framework and Legal Implications of Articles 304–310 of the Health Law

Article	Normative Substance	Principal legal issue	Analytical implications
Article 304	Establishment of a council for the enforcement of professional discipline	The position of the MDP within the health-law framework and its distinction from ethical bodies	The MDP is a professional disciplinary enforcement body; it is neither a court nor an ethical body of a professional organization
Article 305-306	Disciplinary enforcement, examination, decisions, and disciplinary consequences	The relationship between disciplinary sanctions and administrative, civil, and criminal liability	Disciplinary sanctions operate within the professional sphere; they neither automatically preclude nor establish liability in other legal domains
Article 307	The prioritization of restorative justice	The limits of restorative justice where serious harm has occurred or a criminal offense is alleged	Its implementation must ensure voluntary consent, equality of the parties, and protection of victims
Article 308	The requirement to obtain an MDP recommendation in specified cases	Whether the recommendation constitutes an absolute prerequisite that constrains legal proceedings and access to justice	It should be understood as a mechanism for professional assessment that remains subject to due process and the right of access to justice
Article 309-310	The continuation of legal proceedings and the relationship between dispute-resolution mechanisms	When a matter may proceed to civil or criminal proceedings, or be pursued in parallel	This requires a systematic interpretation to ensure that ADR, disciplinary proceedings, and litigation do not negate one another

The table is based on a systematic interpretation of the Health Law[24]

Government Regulation No. 28 of 2024 operationalizes the regulation of the MDP under the Health Law. It provides that the Minister establishes the MDP for the purpose of enforcing professional discipline. The MDP is accountable to the Minister and is established to support

[24] *Vide* Law No. 17 of 2023 on Health, State Gazette of the Republic of Indonesia 2023 No. 105, Supplement to the State Gazette of the Republic of Indonesia No. 6887, particularly Articles 304 through 310.

the duties and functions of the Indonesian Health Council (Konsil Kesehatan Indonesia) in enhancing the quality and technical professional competence of medical personnel and health workers. Within this framework, the MDP is authorized to receive and verify complaints; examine alleged professional-disciplinary violations; determine whether a violation has occurred; issue decisions and impose disciplinary sanctions; and provide recommendations concerning medical personnel or health workers alleged to have committed unlawful acts, or who are required to account for health-service actions that have caused harm to patients.[25]

The position of the MDP must be distinguished from that of ethics bodies and professional organizations. Ethics bodies focus on compliance with professional values, honour, and conduct, whereas professional organizations perform representative, supervisory, and professional-development functions in accordance with their respective organizational rules. By contrast, the MDP is a professional-disciplinary adjudicatory body established by the Minister under the Health Law and Government Regulation No. 28 of 2024, operating through procedures prescribed by legislation. Accordingly, an ethical violation does not automatically establish a disciplinary violation; conversely, a disciplinary decision does not, by itself, establish breach of contract, a tortious act, or a criminal offence.

Minister of Health Regulation No. 3 of 2025 further specifies the enforcement of professional discipline for medical personnel and health workers. Its scope includes professional discipline, categories of disciplinary violations, complaints, examination procedures, review, disciplinary sanctions, recommendations, professional development, and supervision. This framework demonstrates that the MDP is neither a purely consultative forum nor a substitute for judicial proceedings. Rather, it is an administrative-professional mechanism authorized to assess alleged violations against the applicable parameters of professional competence, professional standards, service standards, and standard operating procedures.

The legal status of an MDP recommendation is particularly significant because it lies at the boundary between professional assessment and general law enforcement. Such a recommendation cannot be equated with a court judgment that conclusively determines civil or criminal liability. Instead, it constitutes the result of a professional-disciplinary assessment that may inform the institutions or authorities handling alleged legal violations in healthcare delivery. The MDP's statutory functions include receiving and verifying complaints, examining alleged disciplinary violations, determining whether a violation occurred, issuing decisions and sanctions, and providing recommendations in cases involving suspected unlawful conduct or patient harm.

Accordingly, civil liability must still be established through the elements of breach of contract or an unlawful act, while criminal liability remains governed by the principles of legality, the presumption of innocence, evidentiary requirements, and the respective authority

[25] *Vide* Regulation of the Minister of Health of the Republic of Indonesia No. 3 of 2025 on the Enforcement of Professional Discipline for Medical Personnel and Health Workers, State Gazette of the Republic of Indonesia, 2025 No. 23. This regulation covers professional discipline, types of disciplinary violations, complaints, examination procedures, reviews, sanctions, recommendations, guidance, and supervision.

of investigators, public prosecutors, and courts. The MDP's assessment is directed to whether the relevant healthcare conduct conformed to professional standards, service standards, and standard operating procedures; it does not replace those separate judicial determinations.

3.1.1.The Constitutionality of MDP Recommendations and Access to Justice

Article 308 of the Health Law is a central provision governing the relationship between disciplinary review and parties' access to judicial remedies. Normatively, it requires an MDP recommendation to be sought before specified cases involving alleged unlawful conduct by medical personnel or health workers are handled. The recommendation should therefore be understood as an initial assessment grounded in professional discipline and applicable standards, rather than as a decision that displaces the authority of law-enforcement institutions. The MDP's assessment is limited to whether the conduct complied with professional standards, service standards, and standard operating procedures; it does not determine whether a criminal or civil-law violation occurred.

The constitutionality of Article 308 was reviewed in Constitutional Court Decision No. 156/PUU-XXII/2024, delivered on 19 January 2026. The petition principally challenged the requirement to obtain a prior recommendation from the MDP on the ground that it could obstruct patients or their families from pursuing civil or criminal remedies.[26] The Constitutional Court dismissed the petition and held that Article 308 of the Health Law is not inconsistent with the 1945 Constitution.

This decision must, however, be interpreted with caution. The dismissal does not mean that an MDP recommendation may operate as an absolute barrier to judicial access. Article 308 must continue to be construed consistently with Article 28D(1) of the 1945 Constitution, which guarantees recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law; and Article 28H(1), which recognizes every person's right to obtain healthcare services.[27] Accordingly, the procedure for requesting and issuing an MDP recommendation must comply with due-process principles, including procedural certainty, adequate notice, the parties' right to be heard, objective and impartial review, reasoned and accountable decisions, and resolution within a reasonable time.

From an access-to-justice perspective, an MDP recommendation may broaden access to justice if the process is transparent, accessible, independent, and expeditious. It can provide a technical assessment of applicable professional standards, clarify the clinical circumstances for patients, and reduce the risk that medical risks arising despite standard-compliant treatment are improperly criminalised. Conversely, if the mechanism operates without transparency, affords patients inadequate opportunities to participate, or causes unjustified delay, an MDP

[26] *Vide* Decision of the Constitutional Court of the Republic of Indonesia No. 156/PUU-XXII/2024, concerning the constitutional review of Law No. 17 of 2023 on Health against the 1945 Constitution of the Republic of Indonesia, decided on 19 January 2026. The decision examined the constitutionality of Article 308 of the Health Law particularly the requirement to obtain a recommendation from the Professional Discipline Board (Majelis Disiplin Profesi or MDP) against Article 27(1), Article 28D(1), and Article 28H(1) of the 1945 Constitution. The Constitutional Court dismissed the petition and held that the challenged provision does not conflict with the 1945 Constitution.

[27] *Ibid*

recommendation may instead become a procedural barrier to the pursuit of justice.[28]

Accordingly, an MDP recommendation should be positioned as a limited and functional procedural requirement. The MDP is authorized to conduct disciplinary assessments and issue recommendations on the basis of professional examination, but it does not assume the investigator's authority to determine whether a criminal event has occurred, the public prosecutor's authority to institute prosecution, or the court's authority to hear and decide civil or criminal cases.

3.1.2.Interrelationship Among Legal Domains

A meaningful analysis of medical disputes must go beyond merely identifying that a case may fall within ethical, disciplinary, administrative, civil, or criminal domains. The more substantive question is to determine when an incident can be adequately resolved within a single domain, when it should be referred to another, and when multiple mechanisms may proceed in parallel.

Table 3. Mapping of Resolution Stages and the Interrelationship of Accountability Mechanisms in Healthcare Service Disputes

Stage/Domain	Primary function	Conditions for use	Relationship with other domains
Internal evaluation by the healthcare facility	Clinical clarification, patient safety, and risk management	There is a complaint, an adverse event, or a suspected problem in the provision of healthcare services	May result in service improvements, clarification, or referral to mediation or the Medical Disciplinary Board (MDP)
Mediation or Alternative Dispute Resolution (ADR)	Dialogue, restoration, compensation, and relational resolution	The dispute concerns communication, information, remedial measures, or civil-law interests	It does not automatically preclude disciplinary proceedings or the right to pursue litigation
MDP proceedings	Assessment of disciplinary violations based on professional standards and standards of care	There is an alleged disciplinary violation by medical personnel or other healthcare professionals	The decision or recommendation may serve as professional evidence or information in administrative, civil, or criminal proceedings
Administrative proceedings	Oversight of licensing, standards of care, and healthcare-facility governance	There is an alleged violation of administrative requirements or standards of care	It may proceed concurrently with MDP proceedings or civil litigation

[28] *Ibid*

Civil claim	Redress for infringed rights and losses based on breach of contract or an unlawful act (tort)	The elements of duty, fault, loss, and causation may be pleaded	An MDP assessment may be considered as supporting material, but it is not automatically binding on the court
Criminal proceedings	Law enforcement in relation to an alleged criminal offence	There is an allegation of intent or negligence that satisfies the elements of a criminal offence	MDP proceedings do not replace criminal investigation, prosecution, or proof in criminal proceedings

The table shows that several mechanisms may operate in parallel, but they do not necessarily produce the same conclusions. Each domain has distinct subject matters, evidentiary standards, objectives, and legal consequences. An MDP decision concerning a disciplinary violation may constitute relevant professional information in civil or criminal proceedings, but it does not automatically bind the court to find a breach of contract, an unlawful act, or a criminal offence. Conversely, a finding that no disciplinary violation occurred does not necessarily preclude civil liability, particularly where the dispute arises from a failure to provide information, a contractual breach, or a violation of administrative obligations subject to different standards of proof.[29][30]

Under this framework, the principal change introduced by Law Number 17 of 2023 is not the closure of access to litigation or the transfer of judicial authority to the MDP. Rather, the change lies in strengthening professional assessment, screening cases against disciplinary standards, and prioritizing proportionate resolution before, or concurrently with, the use of formal legal mechanisms.[31][32][33] In this context, Government Regulation Number 28 of 2024 and Minister of Health Regulation Number 3 of 2025 operationalize the framework by regulating the institutional structure of the MDP, examination procedures, disciplinary sanctions, recommendations, and review mechanisms.

3.2. Medical Dispute Resolution Mechanisms and Their Implications

Medical dispute resolution following the enactment of Law Number 17 of 2023 on

[29] Ndeadmin, "Sengketa Medis."

[30] Kurniawati and Fahmi, "Penyelesaian Sengketa Medis Berdasarkan Hukum Indonesia."

[31] *Vide* Government Regulation of the Republic of Indonesia No. 28 of 2024 on the Implementing Regulation of Law No. 17 of 2023 on Health, particularly the provisions concerning the Professional Discipline Board (Majelis Disiplin Profesi), including Article 712 and related provisions on the enforcement of professional discipline for medical personnel and health workers

[32] *Vide* Regulation of the Minister of Health of the Republic of Indonesia No. 3 of 2025 on the Enforcement of Professional Discipline for Medical Personnel and Health Workers, State Gazette of the Republic of Indonesia 2025 No. 23. This regulation contains provisions on professional discipline, types of disciplinary violations, complaints, examination procedures, reviews, sanctions, recommendations, guidance, and supervision

[33] *Vide* Regulation of the Minister of Health of the Republic of Indonesia No. 4 of 2025 on the Amendment to Minister of Health Regulation No. 13 of 2024 concerning the Organization and Work Procedures of the Secretariat of the Indonesian Health Council, the Indonesian Health Collegium, and the Professional Discipline Board (Majelis Disiplin Profesi), State Gazette of the Republic of Indonesia 2025 No. 389. The regulation was enacted on 27 May 2025

Health should no longer be understood as a linear choice between mediation and court proceedings. Its legal framework demonstrates several interrelated layers of mechanisms: identification of the medical incident, clarification and complaint handling, disciplinary examination by the Medical Disciplinary Board (MDP), alternative dispute resolution, administrative measures, and the potential for civil and criminal liability.[34][35][36][37] Accordingly, the contribution of this analysis is to develop a Multi-Layer Medical Dispute Resolution Model, a layered framework for resolving medical disputes that places each forum according to its subject of examination, objectives, assessment standards, and legal consequences.

This layered model is based on the principle that not every adverse outcome of healthcare treatment constitutes negligence or malpractice. The first stage involves identifying the medical event through an examination of medical records, informed consent, professional standards, standards of care, standard operating procedures, the patient's clinical condition, and the risks inherent in the medical intervention. Medical records and informed consent are essential instruments for determining whether the event constitutes an acceptable medical risk, a complication, a therapeutic-communication issue, a disciplinary violation, or an alleged error with legal implications.[38]

If the initial assessment indicates a complaint or suspected irregularity, the case proceeds to the second layer: complaint handling and clarification. A complaint may be submitted by the patient, the patient's family, or another interested party through the healthcare facility's mechanisms and/or professional disciplinary-enforcement mechanisms. This stage should not be understood as a process for prematurely exonerating or blaming medical personnel; rather, it serves to document the facts, provide information, clarify the care provided, and determine the appropriate forum. The completeness of medical records, transparency of information, and patients' access to explanations concerning medical interventions determine whether a dispute can be resolved promptly or escalates into a legal

[34] Rafan Darodjat; Mursal Maulana, "Paradigma Baru Alternatif Penyelesaian Sengketa Medis," Hukum Online, 2024.
[35] Subudhi and Aryani, "Penyelesaian Sengketa Medis Atas Kasus Pelayanan Buruk Fasilitas Pelayanan Kesehatan Menurut Perspektif Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan," 2024.
[36] *Vide* Government Regulation of the Republic of Indonesia No. 28 of 2024 on the Implementing Regulation of Law No. 17 of 2023 on Health, particularly Articles 712 through 718 concerning the Professional Discipline Board (Majelis Disiplin Profesi or MDP). Article 712 provides for the establishment of the MDP by the Minister, its accountability to the Minister, and its support for the functions of the Indonesian Health Council; Article 718 delegates the regulation of selection procedures, the appointment and dismissal of members, and the MDP's working procedures to a Ministerial Regulation.
[37] *Vide* Regulation of the Minister of Health of the Republic of Indonesia No. 3 of 2025 on the Enforcement of Professional Discipline for Medical Personnel and Health Workers, particularly its provisions on types of disciplinary violations, complaints, examinations, sanctions, recommendations, guidance, supervision, and review. Article 23 permits a complainant and/or respondent to seek a review within 10 working days, based on newly discovered evidence, an alleged error in applying a disciplinary violation, or an alleged conflict of interest between the examiner and the examined party
[38] Subudhi and Aryani, "Penyelesaian Sengketa Medis Atas Kasus Pelayanan Buruk Fasilitas Pelayanan Kesehatan Menurut Perspektif Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan," 2024.

dispute.[39][40][41]

The third layer is a professional disciplinary assessment by the MDP when there is an alleged disciplinary violation by medical personnel or healthcare professionals. The MDP is established by the Minister to enforce professional discipline, is accountable to the Minister, and supports the duties and functions of the Indonesian Health Council in improving the quality and technical professional competence of medical personnel and healthcare professionals.[42] Within this framework, the MDP's function is not to determine criminal guilt or to impose liability on parties in civil disputes, but rather to assess professional compliance with applicable professional standards, standards of care, and disciplinary obligations.

Minister of Health Regulation Number 3 of 2025 operationalizes this function by regulating the types of disciplinary violations, complaints, examination procedures, disciplinary sanctions, the issuance of recommendations, professional development, supervision, and review mechanisms.[43] Accordingly, MDP proceedings function as a form of professional assessment that may clarify whether the conduct of medical personnel or healthcare professionals falls within the scope of acceptable professional risk or instead constitutes a disciplinary violation. MDP decisions and recommendations may provide important information for the parties and other institutions; however, they do not automatically establish breach of contract, an unlawful act, or a criminal offence.

The fourth layer consists of alternative dispute resolution outside the courts. Article 310 of Law Number 17 of 2023 on Health provides that, where medical personnel or healthcare professionals are alleged to have committed an error in the performance of their profession that causes harm to a patient, the dispute arising from that alleged error must first be resolved through alternative dispute resolution outside the court.[44] This provision shifts the previous

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[39] Subudhi and Aryani.

[40] Nur Alim, "Mekanisme Penyelesaian Perselisihan Medis Dengan Prinsip Restorative Justice Di Indonesia= Medical Dispute Resolution Mechanisms Using the Principles of Restorative Justice In Indonesia" (Universitas Hasanuddin, 2025), https://repository.unhas.ac.id/id/eprint/52607/.

[41] *Vide* Regulation of the Minister of Health of the Republic of Indonesia No. 3 of 2025 on the Enforcement of Professional Discipline for Medical Personnel and Health Workers, particularly its provisions on types of disciplinary violations, complaints, examinations, sanctions, recommendations, guidance, supervision, and review. Article 23 provides that a complainant and/or respondent may file a review within 10 working days on the grounds of new evidence, an alleged error in the application of a disciplinary violation, or an alleged conflict of interest

[42] *Vide* Government Regulation of the Republic of Indonesia No. 28 of 2024 on the Implementing Regulation of Law No. 17 of 2023 on Health, particularly Articles 712 through 718 concerning the Professional Discipline Board (Majelis Disiplin Profesi or MDP). Article 712 regulates the establishment of the MDP by the Minister, its accountability to the Minister, and its support for the functions of the Indonesian Health Council; Article 718 delegates the regulation of the selection process, the appointment and dismissal of members, and the MDP's working procedures to a Ministerial Regulation

[43] *Vide* Regulation of the Minister of Health of the Republic of Indonesia No. 3 of 2025 on the Enforcement of Professional Discipline for Medical Personnel and Health Workers, particularly the provisions concerning types of disciplinary violations, complaints, examinations, sanctions, recommendations, guidance, supervision, and review. Article 23 provides that a complainant and/or respondent may file for review within 10 working days on the grounds of newly discovered evidence, an alleged error in applying a disciplinary violation, or an alleged conflict of interest

[44] *Vide* Law of the Republic of Indonesia No. 17 of 2023 on Health, particularly Articles 304 through 310, especially Article 310 concerning the prior use of alternative dispute resolution outside the courts. Article 310 requires that disputes arising from an alleged error by medical personnel or health workers that causes harm to a patient be

arrangement, which specifically referred to mediation, toward a broader alternative dispute resolution (ADR) framework. Under Article 1(10) of Law Number 30 of 1999, ADR may be pursued through consultation, negotiation, mediation, conciliation, or expert appraisal, based on procedures agreed upon by the disputing parties.[4546]

ADR and restorative justice should be distinguished. ADR is a mechanism or forum for resolving disputes outside the courts, through procedures agreed upon by the parties, such as consultation, negotiation, mediation, conciliation, or expert appraisal. By contrast, restorative justice is a justice paradigm oriented toward acknowledging the impact of an incident, repairing the victim's harm, ensuring accountability by the party responsible, and, where appropriate, restoring relationships between the parties. It emphasizes restoration, reconciliation, and active participation rather than a purely punitive approach.[47] Accordingly, mediation may serve as an instrument of restorative justice where the process recognizes the patient as a participant whose voice is heard, facilitates voluntary acknowledgment of responsibility, enables meaningful reparation, and adequately addresses the parties' unequal positions. However, mediation that merely seeks to end a complaint or secure a formal release of liability cannot, by itself, be regarded as an application of restorative justice. Restorative processes require voluntary and meaningful participation, accountability, repair of harm, and safeguards against further harm or unequal bargaining power.

Negotiation is the most informal form of ADR because the patient and the medical practitioner or healthcare facility communicate directly to obtain clarification, an apology, service improvement, compensation, or other forms of redress. Its effectiveness depends on transparency of information and on the parties' ability to reduce the imbalance in medical knowledge. In healthcare disputes, patients may seek explanations or apologies in addition to compensation; meaningful disclosure and communication can therefore be central to an early resolution.[4849] In medical disputes, negotiation should be supported by adequate documentation and by an opportunity for the patient to obtain assistance or representation, so that any agreement is not produced through pressure or an inadequate understanding of the patient's medical condition.

Mediation involves a neutral third party who assists the parties in identifying their interests, exploring settlement options, and formulating an agreement. It is particularly relevant to disputes primarily concerning communication, explanations of medical treatment,

resolved first through alternative dispute resolution outside the courts.

[45] Widjayanti, "Manajemen Risiko: Penyelesaian Sengketa Medis Pada Undang-Undang Kesehatan No 17 Tahun 2023."

[46] *Vide* Law of the Republic of Indonesia No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, Article 1 point 10, defines alternative dispute resolution as a mechanism for resolving disputes or differences of opinion through procedures agreed upon by the parties outside the courts, including consultation, negotiation, mediation, conciliation, or expert appraisal.

[47] Ummi Maskanah, "Implementation of Restorative Justice in Medical Dispute Resolution," *Jurnal Aisyah Jurnal Ilmu Kesehatan* 8, no. 2 (2023): 10–23, https://doi.org/10.30604/jika.v8i2.1988.

[48] Maulana, "Paradigma Baru Alternatif Penyelesaian Sengketa Medis."

[49] Subudhi and Aryani, "Penyelesaian Sengketa Medis Atas Kasus Pelayanan Buruk Fasilitas Pelayanan Kesehatan Menurut Perspektif Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan," 2024.

forms of redress, or the continuation of the therapeutic relationship. The mediator must remain independent and impartial and must not assume the role of a medical expert, the MDP, or a judge. Where a dispute involves contested technical issues, mediation may be supported by an independent expert assessment so that the parties can make an informed settlement. In clinical disputes, expert opinions may be relevant to breach of duty, causation, the patient's condition and prognosis, and the valuation of a claim.

Conciliation and expert appraisal may be used where the dispute requires a more structured professional opinion. Conciliation enables a third party to assist in formulating or proposing settlement terms, whereas expert appraisal is particularly useful for explaining professional standards, standards of care, standard operating procedures, medical causation, and the nature of the clinical risks involved in the disputed event.[5051] Expert appraisal does not replace the MDP's authority to enforce professional discipline, nor does it bind a court in civil or criminal evidentiary proceedings. Nevertheless, it can assist the parties in making rational and informed decisions within an ADR process.

Arbitration may be used where the parties have concluded a valid written arbitration agreement and seek an out-of-court decision that is final and binding. Under Law Number 30 of 1999, arbitration is a means of resolving civil disputes outside the general courts on the basis of a written arbitration agreement, while an arbitral award is final and binding upon the parties. Although arbitration may offer confidentiality and flexibility, it is not necessarily appropriate for every medical dispute because it requires the parties' consent, entails costs, and depends on an institution capable of independently addressing complex medical and legal issues. Mediation and expert appraisal are therefore more likely to be suitable for disputes that require dialogue, clinical clarification, or restoration of the therapeutic relationship.

The priority given to ADR under Article 310 should not automatically be interpreted as a direct application of the ultimum remedium principle. Rather, the provision establishes a normative priority to resolve certain disputes outside the courts before litigation is pursued.[52] The ultimum remedium principle is relevant only as a conceptual argument explaining why criminal law should not be invoked prematurely against medical treatment that remains within the sphere of acceptable professional risk or has not yet received an adequate technical assessment. In other words, Article 310 does not eliminate the possibility of criminal proceedings; rather, it promotes proportionality in selecting the appropriate forum and obtaining a professional assessment before resorting to the State's coercive legal instruments. Article 310 requires the prior use of out-of-court dispute resolution for disputes arising from alleged professional errors that cause patient harm, while allegations that independently fulfil criminal elements may still be processed through criminal law.

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[50] Maskanah, "Implementation of Restorative Justice in Medical Dispute Resolution."

[51] *Vide* Law of the Republic of Indonesia No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, Article 1 point 10, concerning the resolution of disputes or differences of opinion through procedures agreed upon by the parties outside the courts, including consultation, negotiation, mediation, conciliation, or expert appraisal

[52] Susanti Adi Nugroho and M H Sh, *Penyelesaian Sengketa Arbitrase Dan Penerapan Hukumnya* (Kencana, 2017).

The fifth layer consists of follow-up measures determined by the nature of the conduct and its legal elements. Where a dispute primarily concerns violations of administrative standards, governance, licensing, or standards of care applicable to a healthcare facility, administrative action may be taken by the competent authority. Government Regulation Number 28 of 2024 implements Law Number 17 of 2023 and addresses, among other matters, healthcare facilities, professional management, supervision, healthcare-service standards, and facility licensing.[53] Conversely, criminal proceedings are relevant only where there is an allegation of intent or negligence that fulfils the elements of a criminal offence and is proven through criminal procedural mechanisms. Disciplinary proceedings before the MDP and resolution through ADR do not replace criminal investigation, prosecution, or proof before a criminal court.

3.2.1.Multi-Layered Medical Dispute Resolution Model

Layer	Stage and forum	Key question	Outcome	Relationship to the next layer
I	Identification of medical events in healthcare facilities	Does the event represent a medical risk, a clinical complication, a communication failure, or a suspected deviation from the standard of care?	Medical records, clinical explanations, internal reviews, and informed-consent documentation	Determining the need for clarification, a complaint, an alternative dispute resolution process, or a disciplinary investigation
II	Complaint and clarification	What is the patient's complaint, which parties are relevant, and what information remains disputed?	Complaint submission, clarification, access to relevant documentation, and mapping of the disputed issues	May lead to internal resolution, alternative dispute resolution, proceedings before the Medical Disciplinary Panel (MDP), or administrative action
III	Disciplinary enforcement by the Medical Disciplinary Panel (MDP)	Disciplinary enforcement by the Medical Disciplinary Panel (MDP)	Disciplinary decisions, sanctions, recommendations, and/or reconsideration proceedings	It constitutes a professional assessment and does not replace judicial proceedings or alternative dispute

[53] Maulana, "Paradigma Baru Alternatif Penyelesaian Sengketa Medis."

				resolution mechanisms
IV	Alternative dispute resolution: consultation, negotiation, mediation, conciliation, or expert determination	Can the dispute be resolved through a voluntary agreement, equitable access to information, and fair redress?	Settlement agreement, expert recommendations, clarification, compensation, or service improvement	If these mechanisms fail or prove inadequate, the matter may proceed through the appropriate legal channel
V	Administrative, civil, and/or criminal proceedings	Is there an administrative violation, a breach of contract or tortious act, and/or elements of a criminal offence?	Administrative sanctions, civil judgments, or criminal judgments	May proceed following alternative dispute resolution and, in certain circumstances, may overlap with disciplinary proceedings

The model demonstrates that the relationship among the Medical Disciplinary Panel (MDP), alternative dispute resolution (ADR), and litigation is not mutually exclusive. The MDP conducts disciplinary assessments based on professional standards; ADR addresses the disputed dimensions of a case and the potential for consensual redress; whereas litigation examines legal liability under administrative, civil, or criminal law. These three mechanisms may overlap and, in certain circumstances, proceed concurrently. However, the outcome reached in one forum should not automatically be treated as determinative in another.[54][55][56]

3.2.2.Patient Protection in the APS

Prioritising alternative dispute resolution (ADR) may be beneficial, as it enables the parties to obtain clarification, achieve a more timely resolution, and pursue forms of redress

[54] *Vide* Government Regulation of the Republic of Indonesia No. 28 of 2024 on the Implementing Regulation of Law No. 17 of 2023 on Health, particularly the provisions concerning the Professional Discipline Board (Majelis Disiplin Profesi), including Article 712 and related provisions on enforcing the professional discipline of medical personnel and health workers

[55] *Vide* Regulation of the Minister of Health of the Republic of Indonesia No. 3 of 2025 on the Enforcement of Professional Discipline for Medical Personnel and Health Workers, State Gazette of the Republic of Indonesia 2025 No. 23. This regulation contains provisions on professional discipline, types of disciplinary violations, complaints, examination procedures, reviews, sanctions, recommendations, guidance, and supervision

[56] *Vide* Regulation of the Minister of Health of the Republic of Indonesia No. 3 of 2025 on the Enforcement of Professional Discipline for Medical Personnel and Health Workers, State Gazette of the Republic of Indonesia 2025 No. 23. This regulation contains provisions on professional discipline, types of disciplinary violations, complaints, examination procedures, reviews, sanctions, recommendations, guidance, and supervision

that may not always be available through a court judgment.[57] However, these advantages must not obscure disparities in medical information, economic circumstances, access to documentation, negotiating capacity, or the institutional power held by healthcare facilities over patients. Accordingly, fair alternative dispute resolution must rest on free and informed consent, rather than merely the formal execution of a settlement agreement.

Normatively, patient protection in alternative dispute resolution should, at a minimum, require: 1) Patients must be granted access to their medical records and provided with comprehensible explanations of their condition, the treatment provided, its associated risks, and the alleged deviations at issue;[58] 2) Patients must be afforded a reasonable period to consider any proposed settlement and must not be coerced into accepting an agreement as a condition for receiving continued healthcare services; 3) Patients should be permitted to be accompanied by legal counsel, family members, support persons, or independent experts, particularly where there are disparities in knowledge or complex claims for damages; 4) The mediator or facilitator must remain neutral and be capable of managing disparities in the parties' bargaining power;[59] 5) Any settlement agreement must clearly specify the subject matter of the dispute, the form of redress, the respective obligations of the parties, and its legal consequences. It must not be used to arbitrarily deprive patients of their right to legal protection; 6) If alternative dispute resolution does not result in an agreement, patients should retain access to administrative remedies, MDP proceedings, civil litigation, or criminal proceedings, as warranted by the facts and applicable legal elements.

Subject to these safeguards, alternative dispute resolution should not be construed as an instrument for limiting patients' rights, but rather as a means of expanding the substantive and procedural avenues available for dispute resolution. Procedural justice in medical disputes is determined not merely by whether a settlement is reached, but by whether patients have a meaningful opportunity to access information, articulate their experiences and losses, obtain appropriate assistance, and make decisions free from undue pressure.[60]

3.2.3.Independence and accountability of the Medical Disciplinary Panel (MDP)

Institutional dimension	Regulatory framework	Normative issues	Safeguards that must be maintained
Establishment of the Medical Disciplinary Panel (MDP)	The Minister establishes the Medical Disciplinary Panel (MDP)	The risk of institutional dependence on the executive branch	Transparent, merit-based selection

[57] Darwis, "Dissecting Justice: The Legal Significance of Medical Records and Informed Consent in Malpractice Cases," 2025.
[58] Muhammad Darwis, "Analisis Hukum Terhadap Kedudukan Rekam Medis Dan Informed Consent Sebagai Alat Bukti Dalam Kasus Malpraktek" (Institut Ilmu Sosial dan Bisnis Andi Sapada, 2024).
[59] Kurniawati and Fahmi, "Penyelesaian Sengketa Medis Berdasarkan Hukum Indonesia."
[60] Ndeadmin, "Sengketa Medis."

Accountability	The Medical Disciplinary Panel (MDP) is accountable to the Minister	A distinction must be maintained between administrative accountability and interference with the substantive merits of decisions	Prohibition of interference in adjudicative proceedings and transparency in the reasoning underpinning decisions
Appointment of members	Further regulated by the Minister	The risk of conflicts of interest or the dominance of particular interests	Open selection procedures, balanced representation, and mandatory declarations of conflicts of interest
Disciplinary examination	Minister of Health Regulation (Permenkes) No. 3 of 2025 on the Enforcement of Professional Discipline for Medical Personnel and Health Workers	Certainty that both the complainant and the respondent have an equal right to be heard	Impartial examiners, clear evidentiary procedures, and access to relevant documents
Judicial review	It may be submitted by the complainant and/or the respondent to the Minister	The risk that the objection mechanism may lack effectiveness if it remains within the executive branch's structure	Limited grounds for judicial review, independent examiners, and reasoned decisions

Minister of Health Regulation No. 3 of 2025 provides an avenue for the complainant and/or respondent to seek a review within no later than 10 working days after the disciplinary decision is pronounced. Grounds for filing include new evidence, an alleged error in applying the relevant disciplinary violation, or an alleged conflict of interest between the examiner and the examined party. This remedy may be filed only once and constitutes the final remedy in the enforcement of professional discipline.[61] The existence of this review mechanism demonstrates that an internal channel for correction is available. Normatively, however, its effectiveness should be assessed through the transparency of the review process, the independence of the parties handling the review, the openness of the reasoning behind

[61] *Vide* Minister of Health Regulation No. 4 of 2025 amending Minister of Health Regulation No. 13 of 2024 on the Organization and Working Procedures of the Secretariat of the Indonesian Health Council, the Indonesian Health Collegium, and the Professional Discipline Council (State Gazette of the Republic of Indonesia Year 2025 No. 389)

decisions, and equal access for both the complainant and the respondent.

Accordingly, the independence of the MDP is not merely a question of who establishes the institution. It also depends on how its selection process, membership composition, conflict-of-interest management, examination procedures, objection mechanisms, and accountability for decisions are designed and implemented. An independent and accountable MDP can protect medical personnel and health workers from hasty legal judgments while ensuring that patient complaints receive professional, objective, transparent, and accountable examination.

3.2.4.Model implications

The Multi-Layer Medical Dispute Resolution Model demonstrates that prioritizing alternative dispute resolution (APS) does not close off the litigation path, while MDP examination does not replace judicial authority. APS is the dispute-resolution mechanism prioritized under Article 310; restorative justice is a recovery-oriented approach that may be applied within APS where voluntary participation, acknowledgment of harm, victim recovery, and accountability requirements are met.[62] Meanwhile, the MDP performs a disciplinary-enforcement function to ensure that assessments of professional conduct are based on applicable professional standards and relevant clinical evidence.

For patients, this model ensures avenues to obtain information, recovery, assistance, professional assessment, and, where necessary, access to administrative, civil, or criminal mechanisms. For medical personnel and health workers, it ensures that clinical conduct is not immediately criminalized without an examination of its professional context. For healthcare facilities, it encourages stronger medical-record systems, complaint-handling systems, risk management, and clinical governance as integral components of patient safety.

Accordingly, the novelty of this subsection lies in its construction of an interlayered relationship: identification of the medical incident → complaint and clarification → MDP disciplinary enforcement → alternative dispute resolution (APS) → administrative, civil, and/or criminal liability.

The model does not require every case to follow the same route. Instead, it directs each matter to the appropriate forum according to the nature of the incident, the patient's recovery needs, applicable professional standards, and the fulfillment of the relevant legal elements in each area.

4. CONCLUSION

Medical-dispute resolution following Law No. 17 of 2023 on Health should be understood as a multi-layered legal system, rather than a simple choice between non-litigation and litigation. The system is integrally shaped by the Health Law, Government Regulation No. 28 of 2024, Minister of Health Regulation No. 3 of 2025, and Minister of Health Regulation No. 4 of 2025. Within this system, the Professional Discipline Board (Majelis Disiplin Profesi or

[62] *Vide* Law of the Republic of Indonesia Number 17 of 2023 on Health (State Gazette of the Republic of Indonesia Year 2023 No. 105; Supplement to the State Gazette No. 6887), particularly Articles 304–310, establishes the legal framework for professional discipline enforcement for medical and health personnel through the Majelis Disiplin Profesi (MDP)

MDP) serves as a disciplinary-enforcement body that assesses whether medical personnel and health workers comply with professional standards, service standards, and standard operating procedures. It is not an ethics body, a professional organization, or a court. Accordingly, MDP decisions and recommendations should be treated as professional assessments relevant to case handling, but they do not automatically establish civil or criminal liability, nor do they bind law-enforcement authorities or judges. The principal finding of this research is the construction of a Multi-Layer Medical Dispute Resolution Model, which positions the identification of a medical incident, complaint and clarification, MDP disciplinary examination, alternative dispute resolution, and administrative, civil, and/or criminal follow-up as interconnected mechanisms that do not negate one another. The prioritization of alternative dispute resolution under Article 310 of the Health Law should be understood as a procedural priority intended to promote proportionate recovery, rather than as a restriction on patients' access to justice. The effectiveness of this model depends on safeguards for due process, the independence and accountability of the MDP, access to medical records, balanced bargaining positions in alternative dispute resolution, and continued access to litigation where there is a legal basis for liability. Thus, patient protection, legal certainty for medical personnel and health workers, and patient safety can be achieved only when each dispute is directed to the forum appropriate to the nature of the incident and its legal elements.

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