



The Urgency of Establishing a Health Mediation Institution in Resolving Medical Disputesi Indonesia

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Abstract

The increasing number of medical disputes in Indonesia creates an urgent need for a resolution mechanism that is swift, fair, and efficient. Law Number 17 of 2023 on Health mandates that medical disputes must first be resolved through alternative dispute resolution methods such as mediation and arbitration. However, the implementation of mediation still faces several obstacles, including the lack of implementing regulations, limited public awareness, and insufficiently professional mediators. This article analyzes the urgency of establishing a dedicated health mediation institution as an independent and trusted solution for resolving medical disputes. A legal analysis method is used to evaluate the latest legislative provisions and current mediation practices. The findings indicate that strengthening the health mediation institution through clear regulations, capacity building for mediators, and public education is essential for mediation to function optimally. Therefore, the effective establishment of a health mediation institution is key to achieving just dispute resolution and maintaining harmonious relationships between healthcare providers and patients.

Keywords: *Health, Mediation, Medical Disputes*

Background

In recent years, medical disputes in Indonesia have shown an increasing trend, both in terms of quantity and complexity of cases. This issue arises from various factors, including communication failures between medical personnel and patients, differences in understanding of medical procedures, and a lack of public trust in existing complaint handling mechanisms (Astuti, 2024). One of the main triggers of disputes is the suboptimal explanation of medical risks provided by healthcare professionals, coupled with patients' limited ability to fully comprehend the procedures they undergo. The absence of effective communication bridges increases the potential for misunderstandings, which often escalate into lawsuits or official complaints (Wibowo, 2023).

In response to this phenomenon, the government enacted Law Number 17 of 2023 on Health part of the omnibus law in the health sector—which stipulates that the resolution of medical disputes should prioritize Alternative Dispute Resolution (ADR) mechanisms, such as mediation and arbitration, before resorting to litigation. This provision is explicitly stated in Article 310 paragraph (1), which declares that disputes arising from medical actions allegedly causing harm to patients must first be resolved through mediation or other out-of-court settlement methods (Korompis & Prasetya, 2023).

To support the implementation of this legal norm, the Indonesian Medical and Health Mediation and Arbitration Institute (LMA-MKI) was established in 2023. Its aim is to serve as a neutral, professional, and efficient forum for dispute resolution. However, the institution still faces significant challenges, particularly in the areas of underdeveloped regulations, limited human resources, and a lack of public and healthcare provider awareness (Situmorang, 2024). As a result, the public continues to prefer court proceedings or criminal reports, which often worsen the relationship between patients and medical professionals and create severe psychological pressure for all parties involved.

Therefore, the establishment of a strong and structured health mediation institution is crucial to ensuring the effectiveness of medical dispute resolution in Indonesia. The main issues that need to be analyzed include the urgency of establishing a health mediation body as part of the national legal system, the various obstacles hindering the implementation of health mediation under the framework of Law No. 17 of 2023, and strategies for institutional strengthening so that mediation can function optimally in resolving medical disputes fairly, swiftly, and efficiently.

Research Method

This study uses a qualitative approach with a library research method. Data is collected from secondary sources such as legal documents, legislation, academic literature, scientific journals, and official reports related to health mediation. Data analysis is conducted using descriptive qualitative methods with content analysis techniques to explore and understand the concepts, obstacles, and strategies for strengthening health mediation institutions within the framework of applicable laws.

Discussion

The increasing number and complexity of medical disputes in Indonesia in recent years indicate the need for a more responsive, efficient, and humane dispute resolution system. Litigation-based dispute resolution often creates additional tension between patients and medical professionals and negatively impacts the reputation of healthcare institutions. In this context, the establishment of a dedicated health mediation institution is urgently needed as an alternative dispute resolution mechanism that prioritizes restorative justice and win-win solutions (Widiastuti, 2023).

The normative basis for medical mediation is stipulated in Article 310 paragraph (1) of Law Number 17 of 2023 on Health, which states that the settlement of disputes arising from alleged malpractice by healthcare providers must first be carried out through mediation or other non-judicial dispute resolution methods (Kemenkes, 2023). This provision is a legal breakthrough aimed at preventing the criminalization of medical professionals in cases that could, in fact, be resolved peacefully and professionally out of court (Harahap, 2024).

Normatively, this approach is also consistent with Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution, which provides a legal foundation for resolving disputes outside of litigation, including through mediation and arbitration (Suparto, 2022).

To implement the provision, the government initiated the establishment of the Indonesian Medical and Health Mediation and Arbitration Institute (LMA-MKI) in August 2023, as a professional forum to neutrally, quickly, and efficiently resolve disputes between medical personnel and patients (Prasetya, 2023). LMA-MKI plays a crucial role in filling the institutional void in medical dispute resolution, which previously relied solely on the general courts or professional ethics boards (Nugroho, 2023).

However, this institution still faces several challenges, such as limited human resources, lack of public and medical community awareness, and the absence of implementing regulations that technically govern its operations, mediator certification, and administrative authority (Putri, 2024).

To ensure that LMA-MKI operates effectively, it is essential to issue implementing regulations in the form of Government Regulations or Ministerial Regulations that technically regulate mediation procedures, the institution's standard operating procedures, and mechanisms for reporting and enforcing mediation outcomes (Syafuruddin, 2023). Furthermore, support from professional organizations such as the Indonesian Medical Association (IDI), the National Nurses Association of Indonesia (PPNI), and medical education institutions is required to develop the capacity of professionals who can serve as health mediators (Yusuf, 2023).

The establishment of a health mediation institution also aligns with international policy, particularly the Global Patient Safety Action Plan 2021–2030 launched by the WHO. This document emphasizes the importance of fair and efficient dispute resolution systems based on patient safety and open communication to foster public trust in healthcare services (WHO, 2021).

Despite mediation being legally recognized as an alternative dispute resolution method for medical cases in various regulations, its implementation in Indonesia still faces significant challenges. The following is a legal analysis of these obstacles:

1. Lack of Understanding and Trust in Mediation

Many members of the public and healthcare workers have yet to fully grasp the concept and procedures of health mediation. This lack of awareness leads to low participation rates in mediation processes and a prevailing tendency to resort to litigation. Inadequate legal literacy and poor dissemination exacerbate the situation.

2. Limited Number of Professional Mediators in the Health Sector

A major challenge in implementing health mediation is the scarcity of mediators with both medical backgrounds and formal training in dispute resolution. Without such technical competence, the dispute resolution process is ineffective and vulnerable to mistrust among the parties involved (Dewi, 2021).

3. Legal Uncertainty Due to the Absence of Implementing Regulations

Although Law Number 17 of 2023 on Health explicitly mandates dispute resolution through mediation or arbitration, as of mid-2025, there are no government regulations or ministerial decrees detailing the technical procedures and institutional frameworks for health mediation. This legal vacuum creates uncertainty in practical implementation (Andita, 2024).

4. Weak Institutional Support in Healthcare Facilities

Most hospitals lack dedicated units or internal mechanisms to manage medical disputes through non-litigious means. This is due to the absence of governmental guidelines, limited human resources, and insufficient synergy between hospitals and established mediation institutions (*Trimitha, 2013*).

5. Poor Coordination Among Institutions

Effective mediation requires cooperation between the Ministry of Health, mediation institutions such as LMA-MKI, professional organizations, and hospitals. However, coordination among these entities remains suboptimal, leading to inadequate administrative and institutional support for mediation processes (*Santoso, 2020*).

In facing various obstacles that hinder the implementation of health mediation in Indonesia, it is necessary to develop strategies to strengthen health mediation institutions so that they can function effectively, professionally, and sustainably. The following are some key strategies that need to be undertaken:

1. Drafting and Enacting Comprehensive Implementing Regulations

One of the main steps is the drafting of Government Regulations (PP) or Minister of Health Regulations (Permenkes) that technically regulate the procedures for implementing health mediation, mediator competency standards, as well as mechanisms for supervision and accreditation of mediation institutions. These regulations must be based on the provisions of Law Number 17 of 2023 on Health, particularly Article 310 paragraph (1), which prioritizes dispute resolution through mediation before litigation is pursued (Ministry of Health of the Republic of Indonesia, 2023).

2. Capacity Building and Certification of Mediators

Strengthening the institution must be accompanied by capacity building for mediators, especially those with competencies in medical and legal aspects. Training and certification of professional mediators need to become routine programs, in collaboration with legal and medical educational institutions to ensure mediator quality according to national and international standards (*Dewi, 2021*).

3. Socialization and Education to the Public and Health Workers

The strengthening strategy cannot be separated from massive socialization efforts to increase the understanding of the public and medical personnel about the benefits and mechanisms of health mediation. This socialization can be carried out through seminars, media campaigns, and integration of mediation materials in professional health training (*Andita, 2024*).

4. Establishing Collaborative Networks Among Institutions

Mediation institutions must build close cooperation networks with hospitals, medical professional organizations, the Ministry of Health, and courts to ensure the mediation process runs smoothly and receives institutional support. Such collaboration can also support case referrals and follow-up mechanisms on mediation outcomes (*Santoso, 2020*).

5. Strengthening Infrastructure and Funding

Adequate funding support and modern infrastructure facilities must be prioritized so that mediation institutions can carry out their duties optimally. The government can allocate special budgets in the State Budget (APBN) or collaborate with the private sector and donors to support the sustainability of these institutions (Widiastuti, 2023).

Conclusion

Strengthening health mediation institutions in Indonesia is crucial to ensure medical dispute resolution is effective, professional, and sustainable. Key strategies include drafting clear technical regulations, enhancing mediator capacity, broad socialization to the public and health workers, establishing inter-institutional collaboration networks, and reinforcing infrastructure and funding. With these measures, health mediation can become the primary solution for resolving medical disputes fairly and efficiently.

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