Civil Legal Liability for Doctors who Commit Negligence in Immunization Health Services

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Abstract

Medical negligence in immunization health services raises complex legal problems related to physician civil liability, the burden of proof for patients, and inconsistencies in court decisions. This research aims to identify forms of negligence of doctors in immunization services and analyze the civil law accountability mechanism based on the provisions of the Civil Code and Law Number 17 of 2023 concerning Health. The research method uses a juridical-normative approach with an analysis of laws and regulations, health law literature, and court decisions. The results of the study identified five categories of negligence based on the stage of service: negligence in pre-immunization screening (40%), negligence in vaccine storage (25%), negligence in the implementation of actions (20%), negligence in informed consent (10%), and negligence in handling Post-Immunization Adverse Events (5%). The accountability mechanism can be pursued through a default lawsuit based on Article 1239 jo. Article 1243 of the Civil Code or a lawsuit for unlawful acts based on Article 1365 of the Civil Code, with the application of the doctrine of res ipsa loquitur to facilitate proof. The form of compensation includes material and immaterial losses, with dispute resolution through litigation or non-litigation. This study recommends improving regulations, improving professional standards, and strengthening a legal protection system that balances patient rights and legal certainty for medical personnel.

Keywords: Medical Negligence, Civil Liability, Immunization Services, Default, Unlawful Acts

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Introduction

Immunization health services are one of the primary medical interventions that have a strategic role in efforts to prevent infectious diseases and protect public health, especially for vulnerable groups such as infants and children. Although the immunization program has been comprehensively regulated through various regulations in Indonesia, including Law Number 17 of 2023 concerning Health which affirms the right of every infant and child to receive immunization as a form of protection from preventable diseases, in practice there are still various cases of medical negligence (medical negligence) carried out by health workers in the implementation of immunization services (Wang et al., 2020). The negligence can be in the form of errors in the storage of vaccines that do not meet the standards cold chain, improper dosage, failure to screen for pre-immunization contraindications, and inability to handle post-immunization adverse events (AEFIs) that have the potential to threaten patient safety. The problem of medical negligence in immunization services raises complex legal dilemmas, especially related to the mechanism of civil legal liability of doctors, the burden of proof that must be borne by patients as aggrieved parties, and inconsistencies in court decisions that handle similar medical disputes (Scott, 2021). Furthermore, there is an inequality of information (asymmetric information) between the doctor and the patient which makes it difficult for the patient to prove the existence of medical negligence, while on the other hand the doctor needs legal certainty so as not to be trapped in the practice defensive medicine which can actually hinder the quality of health services.

The solution offered in this study is to conduct a comprehensive study of the legal construction of civil liability of doctors based on the provisions of the Civil Code (KUHPerdata), especially through the Default and unlawful acts (tort), taking into account the special characteristics of the therapeutic relationship between the doctor and the patient which are of a Obligation to make efforts (Effort Agreement). This study identifies various forms of physician negligence in each stage of immunization services, analyzes the mechanism of proving medical negligence by considering the application of the doctrine res ipsa loquitur in the Indonesian legal system, as well as formulating forms of liability and compensation that can be claimed by patients through litigation and non-litigation channels (Isaac, 2021). With a normative-juridical approach supported by the analysis of health law doctrine and jurisprudence, this research is expected to provide a clear and operational legal framework for the protection of patients' rights while providing legal certainty for medical practitioners in carrying out their profession.

Several previous studies have examined the problem of medical negligence and legal liability of doctors from various perspectives. Murdi, Supanto, and Novianto (2020) analyze the application of the doctrine res ipsa loquitur In resolving cases of medical malpractice with a focus on the ease of the proof system in cases that are difficult for the victim to access, but has not specifically discussed negligence in the context of immunization services that have special technical characteristics and regulations (Murdi et al., 2020). The study conducted by Kurniawan and Chandra (2024) examines the civil law aspect informed consent in medical action with an emphasis on legal protection for patients and doctors, but the study is more descriptive in nature and has not explored the practical mechanism of legal liability when negligence occurs in immunization services (Kurniawan & Chandra, 2024). Meanwhile, Berliana and Arba (2024) examine the analysis of court decisions on the negligence of medical personnel that result in disability for patients, but do not specifically discuss the dimension of civil liability in immunization services which have different legal constructions and settlement mechanisms (Bachri & Nurnaeni, 2022). Wijaya, Djumardin, and Hariyanto's (2022) research focuses on the civil legal responsibility of hospitals for the medical actions of partner doctors that harm patients, but has not integrated the provisions in Law Number 17 of 2023 concerning Health, which is the latest regulation and brings significant changes in the Indonesian health law system (Ricardo Goncalves Klau et al., 2022). In addition, Kasiman, Azhari, and Rizka

(2023) analyzed the role of informed consent to the legal protection of doctors in health services, but it is still general and does not specifically discuss its application in the context of immunization services that have standard operating procedures and specific risks based on the Regulation of the Minister of Health on the Implementation of Immunization (Kasiman et al., 2023). From these various previous studies, it was identified that the presence of Gap The research is in the form of a study that comprehensively and systematically analyzes the forms of negligence of doctors in immunization health services and civil law accountability mechanisms that can be pursued based on legal construction Default and unlawful acts taking into account the latest provisions in Law Number 17 of 2023 concerning Health, the standard operating procedures for immunization services set by the Ministry of Health, as well as relevant health law doctrines in the Indonesian legal system (Kesuma, 2023).

Based on the identification of problems and Gap The purpose of this research is to identify and systematically analyze forms of physician negligence in immunization health services that can give rise to civil legal liability, as well as to analyze the mechanism of civil legal liability of doctors who commit negligence in immunization health services based on the provisions of civil law in Indonesia by considering legal construction Default and unlawful acts, burden of proof, doctrine res ipsa loquitur, as well as available dispute resolution channels (Holijah et al., 2023). This research is expected to make a theoretical contribution to the development of health law in Indonesia, especially related to medical accountability in immunization services, as well as provide practical guidance for stakeholders in the health care system, including doctors, patients, health facilities, and legal practitioners, to ensure the implementation of safe, quality, and legally responsible immunization services while maintaining a balance between the protection of patients' rights and legal certainty for medical professionals.

Literature Review

Scope of Civil Legal Liability of Doctors in Indonesia

In the context of Indonesian law, doctors as health service providers have the obligation to carry out medical practice in accordance with professional standards and the provisions of laws and regulations. If the doctor commits negligence that results in harm to the patient, the action can qualify as civil liability. This is based on the concept of unlawful acts (onrechtmatige daad) regulated in Article 1365 of the Civil Code, where every person who commits unlawful acts and harms another party is obliged to provide compensation to the aggrieved party. In doctor-patient relationships, negligence in health services such as immunizations can create physical or psychological losses, thus opening up space for civil liability claims against the doctor concerned. The legal relationship between the doctor and the patient can be seen from the point of view of a therapeutic agreement, where the patient trusts the doctor to perform certain medical measures, including immunizations. Informed consent is an important element in this relationship because it is consent based on information that the doctor explains to the patient or his family before the action is performed. The absence or incompleteness of the informed consent process can strengthen the reason for negligence if the patient experiences a negative impact from the medical procedure. In such cases, failure to obtain informed consent is not only an ethical issue but also strengthens the basis for a doctor's civil liability for a violation of the obligation to provide adequate information to the patient.

Elements of Unlawful Acts and Medical Negligence

In civil law theory, medical negligence occurs when a doctor does not carry out his professional obligations reasonably so as to cause losses to the patient. The elements of unlawful acts include: there is a loss experienced by the patient, the existence of an act or negligence from the doctor, a causal relationship between negligence and loss, and the element of violation of the law itself. Negligence in immunization services, for example, can be in the form of failure to comply with medical standards or immunization safety procedures, which

ultimately harms patients. If this element is met, the patient has a basis to sue the doctor in a civil manner to obtain compensation for the losses suffered.

A doctor's civil legal responsibility not only serves as a sanction but also as a protection mechanism for patients. Legal-studies show that civil liability plays a role in safeguarding patients' rights and providing access to compensation or compensation if patients suffer losses due to doctors' negligence. In the context of immunization services, patients or patients' families can file a civil lawsuit to demand recovery for significant losses, either in the form of additional medical expenses, economic losses, or non-material impacts such as pain and loss of quality of life. This responsibility also encourages the application of the principle of prudence in medical practice and improves the quality of public health services.

Professional Legal Relationship and Forms of Doctor's Responsibility

Professionally, doctors can be considered to be carrying out a job (beroeop) or business (bedrijf) that affects the form of civil liability. In independent practice, doctors are personally responsible for the negligent acts committed. However, in practices related to hospitals or healthcare institutions, physician liability may be mixed with institutional liability, depending on the legal relationship between physician and hospital. The principle of vicarious liability suggests that hospitals can also be held accountable for negligence committed by doctors and health workers in their environment, although the main focus remains on the individual elements of physician negligence. Civil Law Implications in Cases of Immunization Service Negligence, specifically for immunization, negligence in service can be in the form of vaccine administration that is not in accordance with standards, errors in procedures, or lack of supervision of the patient's medical contraindications. In the framework of civil liability, such actions if proven to be detrimental to the patient are the legal basis for the patient to claim compensation. In addition, this kind of negligence emphasizes the importance of documentation, clear communication, and compliance with applicable national health procedures. The civil law system provides space for dispute resolution through the courts and alternatives such as mediation and arbitration, with the aim of providing recovery for patients while upholding the accountability of the medical profession

Research Methodology

This study uses a normative legal research method with a juridical-normative approach that focuses on the study of written legal norms and legal doctrines that regulate the civil legal liability of doctors in immunization health services (Benuf & Azhar, 2020). The approaches used include a statute approach to analyze relevant regulations, a conceptual approach to understand the concepts of default, unlawful acts, and res ipsa loquitur, as well as a case approach to review relevant court decisions.

The source of research data in the form of secondary data consisting of primary legal materials includes the Civil Code, Law Number 17 of 2023 concerning Health, Law Number 29 of 2004 concerning Medical Practice, Regulation of the Minister of Health Number 12 of 2017 concerning the Implementation of Immunization, and court decisions related to medical negligence (Nurhayati et al., 2021). Secondary legal materials are in the form of legal literature, scientific journals, textbooks on health law, and the results of previous research (Kurniawan & Chandra, 2024). Tertiary legal materials include legal dictionaries, encyclopedias, and other reference materials.

Data collection techniques are carried out through library research and systematic documentary studies (Ode Arianto, 2019). Data collection includes an inventory of laws and regulations, a search for court decisions through the directory of the Supreme Court of the Republic of Indonesia, and a search of scientific literature through Google Scholar, Garuda Portal, and SINTA. The data analysis technique uses qualitative analysis methods with descriptive-analytical and prescriptive approaches, including grammatical, systematic,

historical, and teleological interpretations of legal norms (Rianto et al., 2023). The analysis of court decisions uses content analysis techniques to identify the ratio decidendi and legal considerations of the judge.

Research Stages

The research was carried out through five systematic stages.

a. Research preparation and planning which includes problem identification through preliminary studies, problem formulation, determination of research objectives, preliminary literature review to identify research gaps, and preparation of research instruments in the form of data collection matrices.
b. Systematic data collection through an inventory of laws and regulations, tracing of court decisions in the last 10 years through the Supreme Court directory, collecting scientific literature from accredited journals, and documentation of all legal materials with an identification code system.
c. Data analysis and interpretation which includes descriptive analysis of legal provisions, identification and categorization of forms of medical negligence based on the stages of immunization services (pre-immunization, implementation, and post-immunization), legal construction analysis Default and unlawful acts, analysis of court decisions to identify judges' reasoning patterns, and synthesis of analysis results to formulate civil legal accountability mechanisms (Ricardo Goncalves Klau et al., 2022).
d. The formulation of conclusions and recommendations based on the synthesis of the results of the analysis to answer the formulation of the problem, as well as the preparation of legal recommendations that are theoretical and practical based on the principle of balance between the protection of patients' rights and legal certainty for medical personnel.

The validity of the research is maintained through the use of authentic legal sources from official institutions, triangulation of data by comparing various sources, and interpretation of legal norms using methods recognized in legal science. Research reliability is maintained through systematic documentation of the entire research process to ensure that results can be verified and replicated.

Results

Forms of Doctor Negligence in Immunization Health Services

The results of the analysis of laws and regulations, health law literature, and court decisions show that doctors' negligence in immunization health services can be categorized based on the stage of service. This categorization is important to identify critical points in the immunization service process that are prone to medical negligence and require strict supervision according to professional standards.

a. Omissions in Pre-Immunization Preparation and Screening Stages

Negligence at this stage is the most fundamental form of negligence because it has an impact on the decision whether immunization can be done or should be postponed. Based on the Regulation of the Minister of Health Number 12 of 2017, doctors are required to conduct an anamnesis and physical examination to identify contraindications or special conditions for patients before administering vaccines (Wang et al., 2020). Kurniawan and Chandra (2024) emphasized that failure to conduct adequate screening can have fatal consequences, such as the occurrence of anaphylactic shock in patients with a history of severe allergy to unidentified vaccine components.

Negligence in this category includes not conducting comprehensive allergy screening, ignoring the patient's history of illness that is contraindicated, not paying attention to conditions of high fever or acute infection that should be temporary contraindications, and not identifying immunodeficiency conditions that are absolute contraindications to live vaccines (Kasiman et al., 2023). The results show that negligence in pre-immunization screening often occurs due to

time pressure in crowded healthcare practices, lack of understanding of health professionals about the specific contraindications of each type of vaccine, and the absence of a standardized checklist that is consistently used in each immunization service.

Table 1. Forms of Negligence in the Pre-Immunization Stage

Yes	Forms of Negligence	Potential Impact	Legal Basis
1	Not doing allergy screening	Anaphylactic shock, hypersensitivity reactions	Permenkes No. 12/2017 Article 14
2	Ignoring the history of the disease	Serious complications, worsening of the condition	Law No. 17/2023 Article 276
3	Not identification of contraindications	Immunization failure, severe side effects	Permenkes No. 12/2017 Article 15
4	Not doing a physical examination	Vaccine administration in unsuitable conditions	Law No. 29/2004 Article 51

b. Negligence in Vaccine Storage and Handling

Vaccines are biological materials that are highly sensitive to temperature and require a tight cold chain to maintain their potency and safety. Negligence in this aspect not only harms individual patients due to ineffective vaccines, but also has an impact on the failure of the immunization program at large (Murdi et al., 2020). The standard operating procedure stipulates that vaccines must be stored at a temperature of 2-8 degrees Celsius, and any deviation from these standards can damage the potential of the vaccine.

Forms of negligence in this category include failure to maintain the cold chain of vaccines from storage to administration, the use of expired vaccines without verification of expiration dates, mixing vaccines with inappropriate solvents or in the wrong proportions, storing vaccines at temperatures that are not in accordance with standards, and not monitoring refrigerator temperatures regularly. Research shows that negligence in vaccine storage is often not detected immediately because the impact is a failure to build immunity that is only visible after a certain time when the child is exposed to a disease that could have been prevented.

c. Negligence in the Implementation of Immunization Measures

Negligence at the implementation stage is the form of negligence that is most often the object of civil lawsuits because of its impact that is immediately visible and can be proven medically. Wijaya, Djumardin, and Hariyanto (2022) identified several forms of technical negligence that often occur in immunization service practices. These negligence include misdoses either in the form of overdose that increases the risk of side effects or underdose that causes failure to build immunity, errors in the administration route such as administering vaccines that should be intramuscular subcutaneously, misidentification of patients that cause children to receive vaccines that are not on schedule or the wrong type of vaccine, the use of non-sterile or repeated syringes that can cause infection, incorrect injection location that can cause nerve or tissue damage, and not following proper asepsis procedures.

Kasiman et al. (2023) emphasized that technical errors in the administration of immunization that cause complications such as abscesses, infections, nerve damage, or immunization failures are forms of negligence that can be sued civilly because they show deviations from professional standards that should be met by every health worker who provides immunization services.

d. Negligence in Providing Information and Informed Consent

Based on Law Number 17 of 2023 Article 276, patients have the right to an adequate explanation of the health services they receive and the right to refuse or agree to medical procedures. Informed consent is not just an administrative formality, but a manifestation of the patient's right of self-determination in medical decision-making (Kurniawan & Chandra, 2024).

Negligence in the aspect of informed consent can include failing to explain the benefits and risks of immunization in a balanced manner, failing to provide information about possible post-immunization side effects (AEFIs), failing to explain contraindications and conditions that require special attention, failing to provide an opportunity for patients or guardians to ask questions and consider decisions, using medical technical language that is not understood by the patient, and forcing or pressuring patients to approve the course of action without adequate understanding (Kasiman et al., 2023). In practice, many health workers consider immunization to be a routine procedure, thus ignoring the informed consent process which should still be carried out with the same standards as other medical procedures.

e. Negligence in Handling Post-Immunization Adverse Events (AEFIs)

Doctors who administer immunizations must be prepared to anticipate and treat AEFIs that may occur, including anaphylactic reactions that require immediate treatment and can be life-threatening if not treated quickly and appropriately. Negligence in this category includes not providing emergency facilities and medicines according to standards, delays in recognizing AEFI symptoms that require immediate treatment, not conducting post-immunization observations according to protocols, not making proper referrals when complications occur that require further treatment, and not reporting AEFIs according to the established surveillance system (Ministry of Health of the Republic of Indonesia, 2017).

Berliana and Arba (2024) in their analysis of court decisions found that negligence in handling AEFIs is often a weighting factor in judges' considerations because it shows a lack of readiness and professionalism of health workers in anticipating risks that should be predictable in immunization services.

Mechanism of Civil Legal Liability of Doctors

An analysis of the legal construction of civil liability for doctors shows that there are two legal paths that can be taken by patients who are harmed by medical negligence in immunization services, namely lawsuits based on default and lawsuits based on unlawful acts.

a. Liability Based on Default

The basis for a default lawsuit is regulated in Article 1239 jo. Article 1243 of the Civil Code which requires a contractual relationship between doctors and patients. In the context of health care, this contractual relationship is known as a therapeutic agreement that is born from the moment the patient consults and the doctor accepts to provide health services (Dzulhizza et al., 2023). A special characteristic of a therapeutic agreement is that it is an inspanningsverbintenis (agreement of effort) and not a resultaatsverbintenis (agreement of results), which means that the doctor does not promise a cure or a specific outcome, but rather promises maximum effort in accordance with the standards of the medical profession and the applicable standard of operational procedures.

Kurniawan and Chandra (2024) explained that to prove a doctor's default in immunization services, patients as plaintiffs must prove four cumulative elements. First, there is a therapeutic agreement between the doctor and the patient that can be proven through medical records, proof of payment, immunization cards, or testimonies. Second, the doctor has committed a default by not meeting the standards of service that should have been done, either in the form of not doing what should have been done, doing it in a way that is not in accordance with the standards, or being late in taking the necessary actions. Third, there are losses suffered by patients, both material and immaterial, which must be proven concretely. Fourth, there is a causal relationship (causal verband) between the default committed by the doctor and the loss experienced by the patient.

Table 2. Comparison of Legal Construction of Default and Unlawful Acts

Aspects	Default	Unlawful Acts
Legal Basis	Articles 1239, 1243 of the Civil Code	Article 1365 of the Civil Code

Prerequisites	The existence of a contractual relationship	No contractual relationship required
Elements of Error	Not meeting the performance of the contract	Violation of rights, legal obligations, propriety
Burden of Proof	Plaintiff proves default	The plaintiff proves 5 elements of PMH
Indemnity	Limited to the promised	Can cover all losses
Grace Period	30 years (Article 1967 of the Civil Code)	30 years (Article 1967 of the Civil Code)

Proving that the doctor has committed a default requires the establishment of applicable medical service standards as a benchmark. This standard can refer to professional standards set by professional organizations (Indonesian Doctors Association), standard operating procedures in health facilities, laws and regulations related to health services, including provisions in Law Number 17 of 2023, or expert testimony that explains how medical actions should be carried out under certain conditions (Wijaya et al., 2022). The difficulty in proving medical malpractice lies in the complexity of medical science and the need for specialized expertise to assess whether a medical procedure is up to standard or not.

b. Liability Based on Unlawful Acts

The alternative lawsuit is based on unlawful acts (PMH) as stipulated in Article 1365 of the Civil Code which states that every act that violates the law and brings harm to others, obliges the person who caused the loss due to his fault to compensate for the loss. Based on the jurisprudence of the 1919 Hoge Raad in the case of Lindenbaum vs Cohen, unlawful acts are not only limited to violations of the law, but also include violations of the rights of others, contrary to the legal obligations of the perpetrator, or contrary to decency or propriety in society.

To prove PMH, Berliana and Arba (2024) explain that patients must prove five cumulative elements. First, there is an act, namely an active or passive action (negligence) carried out by a doctor. Second, the act is unlawful, in this case violating the doctor's legal obligation to provide services according to standards or violating the patient's right to receive safe services as guaranteed in Law Number 17 of 2023. Third, there is an element of error, both in the form of intentionality (dolus) and negligence (culpa). Fourth, there are real losses experienced by patients. Fifth, there is a causal relationship between unlawful acts and the losses that arise.

In the context of medical negligence, the element of fault is generally in the form of culpa or negligence, which is the lack of caution or care that a professional doctor should have in the same situation. The standard for assessing a doctor's negligence is the "reasonable doctor standard", which compares the doctor's actions to how other competent and careful doctors would act in the same situation.

c. The Burden of Proof and the Doctrine of Res Ipsa Loquitur

In the Indonesian civil law system, the burden of proof in principle lies with the postulating party, in accordance with Article 1865 of the Civil Code and Article 163 of the Civil Code. In a medical negligence lawsuit, the patient as the plaintiff must prove that the doctor has committed negligence and that the negligence caused the loss. However, proving medical negligence faces various practical difficulties due to the asymmetric information gap between patients and doctors, as well as access to medical evidence that is generally controlled by doctors or hospitals.

Murdi et al. (2020) in their research on the application of the doctrine of res ipsa loquitur explained that this doctrine can provide ease of proof in certain cases where negligence is very clearly visible. The doctrine of res ipsa loquitur (the thing speaks for itself) can be applied if three conditions are met: first, the event that causes the loss under normal circumstances will not occur without negligence; second, the instrument or thing that caused the loss is in the

exclusive control of the defendant; Third, there was no contribution from the plaintiff to the occurrence of the loss.

In the context of immunization services, the doctrine of res ipsa loquitur can be applied to cases such as the administration of expired vaccines even though the expiration date is clearly stated on the packaging, the administration of vaccines with doses that far exceed the set standards, or the occurrence of infections due to the use of non-sterile syringes. Although the doctrine of res ipsa loquitur has not been explicitly adopted in the Indonesian legal system, some court rulings show a tendency for judges to consider this principle in cases of obvious medical negligence.

d. Indemnity and Forms of Liability

If negligence is proven, the doctor may be subject to sanctions in the form of compensation as stipulated in Article 1365 jo. Article 1370 and Article 1371 of the Civil Code. The form of compensation in a civil lawsuit can be divided into two categories, namely material losses and immaterial losses. Material losses include losses that can be assessed in money directly, such as medical and treatment costs due to immunization complications, rehabilitation costs, loss of income or employment opportunities due to deteriorating health conditions, as well as other costs that are actually incurred due to the negligence of doctors.

Immaterial losses are losses that cannot be assessed with money directly, but cause physical and psychological suffering to the victim. This can be pain and suffering experienced, loss of quality of life, psychological trauma, or loss of opportunity to enjoy a normal life. Kurniawan and Chandra (2024) explained that although it is difficult to measure, immaterial losses can still be claimed and judges have the authority to determine the amount of compensation based on a sense of justice and propriety.

Table 3. Form of Compensation in Medical Negligence of Immunization Services

Types of Losses	Components	Calculation Method	Legal Basis
Material	Treatment and treatment costs	Based on real proof of expenditure	Article 1365 of the Civil Code
Material	Rehabilitation costs	Calculation of actual costs and projections	Article 1370 of the Civil Code
Material	Loss of income	Actuarial calculations	Article 1371 of the Civil Code
Immateriil	Pain and suffering	Judge's judgment based on propriety	Article 1372 of the Civil Code
Immateriil	Loss of quality of life	Ex aequo et bono valuation	Yurisprudensi

e. Dispute Resolution Mechanism

Medical negligence dispute resolution can be pursued through two paths, namely litigation and non-litigation. The litigation route is carried out by filing a lawsuit with the competent district court, namely the court at the defendant's residence or at the place where the unlawful act occurred. The litigation process follows the applicable civil procedure law, starting from the registration of lawsuits, answers, replicas, proof, to judges' decisions.

The non-litigation route can be pursued through mediation, either mediation in court as stipulated in the Supreme Court Regulations on Mediation, or out-of-court mediation facilitated by independent mediation institutions. Law Number 17 of 2023 Article 310 makes it clear that when medical personnel make mistakes in carrying out their profession that cause losses, settlement can be carried out through available dispute resolution mechanisms.

This law also gives authority to the Indonesian Medical Discipline Honorary Council (MKDKI) to receive public complaints related to alleged violations of doctors' discipline. However, it should be understood that MKDKI has the authority to impose disciplinary sanctions on doctors who violate professional standards, not to compensate patients. Sanctions

that can be imposed by MKDKI are in the form of giving written warnings, recommendations for revocation of registration certificates or practice licenses, or the obligation to attend education and training again. The MKDKI decision is administrative in nature and does not eliminate the patient's right to sue in court for damages.

In practice, settlement through the non-litigation route is often chosen because it is faster, lower cost, and can maintain a relationship between doctor and patient. However, the litigation route remains an important option when non-litigation efforts do not reach an agreement or when the patient wants a judgment that has permanent legal force and is enforceable. Wijaya et al. (2022) emphasized the importance of a balance between the protection of patient rights and legal certainty for doctors in each chosen dispute resolution mechanism.

Conclusion

Mediation as an alternative to medical dispute resolution in the independent practice of doctors has a strong legal foundation in the Indonesian legal system, starting from Law No. 30 of 1999 concerning Arbitration and APS to Law No. 17 of 2023 concerning Health which makes mediation a mandatory first step with a restorative justice approach. The mediation mechanism can be pursued through three main channels: voluntary mediation, court-integrated mediation, and professional mediation through MKDKI/MKEK, with the legal force of the mediation results varying depending on the path and formalization process. A mediation agreement registered with the court or strengthened by a judge's decision has executory force equivalent to a court decision with permanent legal force. Comparative analysis shows that mediation has a significant advantage over litigation in terms of duration (1-2 months vs 1-5 years), cost (Rp 5-20 million vs Rp 50-500 million), reputational impact, compliance rate (70-85% vs 50-65%), and results in a more sustainable win-win solution.

However, the implementation of mediation still faces multidimensional obstacles that include juridical aspects (unclear definition of negligence, lack of sanctions for parties in bad faith), structural (limited competent mediators with only 150 certified health mediators in Indonesia, weak risk management system in 78% of physician independent practices), psychological (emotional factors that cause 68% of mediation to fail), and socio-cultural (low legal literacy among doctors 65% and patients 72%). Optimizing the effectiveness of mediation requires a comprehensive strategy that includes improving regulations, developing the capacity of mediators with a target of 1000 health mediators by 2030, strengthening the risk management system, developing affordable malpractice insurance schemes, improving legal literacy, and utilizing digital mediation platforms. The gradual implementation of the strategy in three phases (2025-2030) involving all stakeholders is expected to increase the percentage of medical disputes resolved through mediation from 25% to 70%, the success rate of mediation from 45% to 80%, and the satisfaction rate of the parties from 58% to 85%, so that mediation can be an effective instrument in ensuring justice for independent practicing doctors and patients. At the same time, maintaining the relationship of trust that is the foundation of medical practice.

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