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Non-Litigation Paradigm in Medical Dispute Resolution: An Indonesian Perspective

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Abstract

This article aims to analyze the non-litigation paradigm in resolving medical disputes between doctors and patients based on the applicable laws and regulations in Indonesia, along with its implications for improving the quality of health services. This research approach is with a normative juridical method with a statute approach and a conceptual approach. The results of the study revealed that the doctor's relationship that started from a paternalistic relationship has shifted to a partnership. This is evidenced by the regulation of therapeutic transactions and informed consent in every health service provided. Health services, which according to Law No. 17 of 2023 concerning Health are in the form of health efforts *(inspanning verbintenis)*, allow the risk of doctor-patient medical disputes. This law is also the basis for resolving medical disputes between doctors and patients. The law in article 310 stipulates that the resolution of medical disputes first through alternative dispute resolution outside the court (non-litigation). The paradigm of resolving medical disputes through non-litigation can make the doctor-patient relationship more qualitative, because of the win-win solution principle used. A good doctor-patient relationship will also have a good impact on improving the quality of health services provided. Doctors and patients are in their best position as providers and recipients of health services because the good name of doctors and patients is maintained and medical disputes can be resolved with the principle of kinship, without having to waste a lot of money, time and energy.

Keywords: Medical Disputes, Non-Litigation, Doctor-Patient

Abstrak

Artikel *ini bertujuan untuk menganalisis paradigma non-litigasi dalam penyelesaian sengketa medis antara dokter dan pasien berdasarkan peraturan perudang-undangan yang berlaku di Indonesia, beserta implikasinya terhadap peningkatan kualitas pelayanan kesehatan. Pendekatan penelitian ini dengan metode yuridis normatif dengan pendekatan statute approach dan conceptual approach. Hasil penelitian mengungkapkan bahwa hubungan dokter yang berawal dari hubungan paternalistik telah mengalami pergeseran menjadi bersifat kemitraan. Hal ini dibuktikan dengan adanya pengaturan tentang transaksi terapeutik dan informed consent di setiap pelayanan kesehatan yang diberikan. Pelayanan kesehatan yang menurut Undang-Undang No 17 Tahun 2023 tentang Kesehatan berupa upaya kesehatan (inspanning verbintenis) ini, memungkinkan terjadinya risiko sengketa medis dokter-pasien. Undang-Undang ini pula yang menjadi dasar dalam penyelesaian sengketa medis antara dokter dan pasien. Undang-Undang tersebut pada pasal 310 mengatur bahwa penyelesaian sengketa medis terlebih dahulu melalui alternatif penyelesaian sengketa di luar pengadilan (non-litigasi). Paradigma penyelesaian sengketa medis melalui non litigasi dapat menjadikan hubungan dokter-pasien menjadi lebih berkualitas, dikarenakan prinsip win-win solution yang digunakan. Hubungan dokter-pasien yang baik, akan memberikan dampak yang baik pula dalam peningkatan kualitas pelayanan kesehatan yang diberikan. Dokter dan pasien berada dalam posisi terbaiknya sebagai pemberi dan penerima layanan kesehatan dikarenakan nama baik dokter dan pasien yang sama-sama tetap terjaga dan sengketa medis terselesaikan dengan prinsip kekeluargaan, tanpa harus membuang banyak biaya, waktu dan tenaga.*

***Kata* kunci:** *sengketa medik, non-litigasi, dokter-pasien*

I. Introduction

The legal relationship between doctors and patients has existed since the time of *Hippocrates*, which originated from a paternalistic vertical relationship pattern based on the

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principle of "*father knows best*".[1] The paradigm shift from time to time makes the doctor-patient relationship have the same position. The doctor-patient relationship has become equal and is now a contractual horizontal relationship.[2] Patients are already considered as legal subjects. Doctor-patient communication is expected to result in a mutually beneficial decision, both for the doctor as a provider of health services and for the patient as a recipient of health services.[3]

Any health service in the form of medical action will be very vulnerable to medical risks as well as errors or omissions that can cause harm to the patient. This triggers medical disputes between patients and health care providers. Sometimes the relationship between doctors and patients does not always go well. Sometimes the patient's hope to get a cure from the disease he is suffering from is not fulfilled and may worsen his body condition and can even cause death. Patients or their families then consider that there may have been medical negligence or what the media calls medical malpractice.[4] Although every risk of unwanted treatment cannot be said to be medical malpractice, and the size of the medical profession's malpractice is still blurred,[5] but as a legal event, medical malpractice has occurred in Indonesia, either as reported by the mass media, which is currently or has taken legal action in court or is just ignored by the interested parties.

Medical dispute cases have increased worldwide as patients become more aware and able to access medical information.[6] Most cases of disputes that occur between doctors and patients are usually caused by a lack of information from doctors, even though information regarding everything related to medical actions performed by doctors is the patient's right, this happens because of the paternalistic pattern that is still inherent in the relationship. Efforts to resolve disputes through the general courts that have been taken so far have not been able to satisfy the patient, because the judge's decision is considered not to fulfill the patient's sense of justice. This is due to the difficulty of the patient or the Public Prosecutor or Judge to prove the doctor's guilt. The difficulty of proof is due to their lack of knowledge about technical issues surrounding medical services. The reality in the field is that medical and health workers who want to maintain their reputation and do not want to litigate tend to choose to make peace, so as not to waste a lot of money, time and energy. Given the importance of fair medical dispute resolution, it is interesting to discuss the legal dimensions of medical disputes in health services and the role of mediation as a non-litigation paradigm in resolving doctor-patient medical disputes.

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1 Hermien Hadiati Koeswadji, Hukum Kedokteran (Studi Tentang Hubungan Hukum Dalam Mana Dokter Sebagai Salah Satu Pihak) Citra Aditya Bakti, Bandung, 1998. 36

2 Soekanto, Soerjono. 1983. Aspek Hukum Dan Etika Kedokteran di Indonesia. PT. Temprin, Jakarta. 44

3 Iskandar, Dalmy. 1998. Hukum Rumah Sakit dan Tenaga Kesehatan. Sinar Grafika, Jakarta. 25

4 Anny Isfandyarie, 2006, Tanggung Jawab Hukum dan Sanksi bagi Dokter. Buku I, Prestasi Pustaka, Jakarta.

5 Y Budiningsih, P Prawiroharjo, A Purwadianto. Pemulihan Hak dan Wewenang Profesi Pascasanksi Majelis Kehormatan Etik Kedokteran. Jurnal Etika Kedokteran Indonesia 2 (3), 103

6 Shin, Hyeun-Kyoo, et al. "Medical dispute cases involving traditional Korean medical doctors: A survey." European Journal of Integrative Medicine 6.4 (2014): 497-501.

II. Research Methods

The writing of this article uses normative research methods[7] with the main problem in this research is the issue of the suitability of medical dispute resolution through the non-litigation paradigm with the prevailing laws and regulations in Indonesia and its implications for improving the quality of health services in Indonesia. This research is descriptive research that can provide data that is as accurate as possible about the process of the operation of law in medical dispute resolution. The data is analyzed normatively-qualitatively by interpreting and constructing statements contained in documents as a policy that refers to laws and regulations.[8] Normative because this research is based on existing regulations as positive legal norms, while qualitative means that data analysis is based on documents as case findings and documents from field searches at the research site. The approaches used in this research are statute approach and conceptual approach.[9]

III. Result and Discussion

1. Legal Dimensions of Medical Disputes in Health Services

There are two things that need serious attention regarding medical disputes in health services, because both have legal consequences that demand the responsibility of doctors as health workers and or hospitals/clinics as health facilities. These are medical negligence and medical omission.

a. Medical negligence

Medical negligence is an attitude or action taken by a doctor / dentist or other health worker that harms the patient. According to the literature, there are several views on medical negligence. In general, medical negligence is defined as doing something that should not be done or not doing something that should be done. Another opinion also says that negligence is not doing something that is reasonable based on ordinary considerations that generally govern human events, would have done, or has done something that is reasonable and careful would not have done. Another view states that negligence is a failure to exercise reasonable care in general. According to Oemar Seno Adji, the "*voorportaal*" (front door) to be able to determine whether there is medical malpractice, especially in terms of the element of negligence, namely:

1) The existence of accuracy (*zorgvuldigheid*), meaning that a doctor has normal abilities, an ordinary *zorgvuldigheid*, with a reasonable relationship in the purpose of treating (patients).
2) There is diagnosis and therapy, meaning that these actions are performed by doctors who are highly dependent on their knowledge, reasonable abilities and experience.
3) The standards of the medical profession take the measure:
   a) Doctors have *average* ability
   b) Equal category and condition. A specialist doctor certainly has heavier requirements than a general practitioner, or the category of doctors at the Puskesmas will be different from doctors in contemporary hospitals with complete facilities and infrastructure.
   c) The principle of proportionality and subsidiarity, which is a reasonable balance with the aim of treating the patient.

In reality, in handling patients, there are often different points of view between patients and doctors. This difference in perspective can lead to a dispute between the patient and the doctor with a lawsuit or claim that the doctor has committed medical negligence.

As explained in the previous review of medical malpractice and medical negligence, cases of alleged medical negligence in *common law* countries use a *tort* approach, which legally uses

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[7] Amirudin and Zainal Asikin, Pengantar Metode Penelitian Hukum (Jakarta: Rajawali Press, 2004), 68.
[8] Soerjono Soekanto and Sri Mamudji, Penelitian Hukum Normatif : Suatu Tinjauan Singkat, 17th ed. (Jakarta: Rajawali Pers, 2015), 14.
[9] M. Syamsudin, Operasional Penelitian Hukum (Raja Grafindo Persada, 2007), 57.

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more of a civil law approach. This is different from the legal system in Indonesia which places cases of alleged medical negligence as a violation of professional ethics, professional discipline or law in general, both civil and criminal, as Agus Purwadianto said that, "The risk of unwanted treatment in the treatment process can occur due to four things, namely: The treating doctor practices below professional standards, violates ethics, violates discipline, and violates the law."

From a civil law perspective, a lawsuit for alleged medical negligence can utilize the following articles:

a) Default, using article 1239 of the Civil Code. This article can be used if the legal relationship formed between doctor-patient is a *result-oriented* agreement (*resultaat verbintenis*).
b) Negligence using Article 1366 of the Civil Code as follows: "Every person is liable not only for damages caused by his actions, but also for damages caused by his negligence or lack of care".

In the perspective of criminal law, there is *schuld*, both in the form of intent (*opzet, dolus*) and negligence (*culpa*). Willfulness, which is often referred to as *Criminal Malpractice*, is very small in number; examples include performing abortions without medical indications and active euthanasia. Negligence committed by doctors according to the benchmark of *gross* negligence or *culpa lata* (*grove schuld, gross negligence*) as regulated in the Criminal Code in articles 359 and 360.

The following are articles of the Criminal Code that may be imposed on doctors and indicated as criminal acts are:

a) Article 351 of the Criminal Code on maltreatment.
b) Article 359 of the Criminal Code, which is the crime of causing the death of a person.
c) Article 360 of the Penal Code, which is the crime of causing serious injury to a person.
d) Article 361 of the Criminal Code, which states that due to his/her fault in the performance of his/her office or work, causing death or serious injury, he/she will be punished more severely.
e) Article 322 of the Criminal Code on violation of medical secrets.
f) Articles 346, 347, 348 of the Criminal Code relating to abortus provocatus.
g) Article 344 of the Criminal Code on euthanasia.
h) Article 304 of the Criminal Code as omission.

Doctors or dentists in carrying out medical practice have obligations as stated in Article 51 of Law No. 29 of 2004 concerning Medical Practice, namely:

a) provide medical services in accordance with professional standards and standard operating procedures as well as the medical needs of patients.
b) referring patients to other doctors or dentists who have good skills or abilities, if they are unable to perform an examination or treatment.
c) to keep everything, he or she knows about the patient confidential, even after the patient has passed away.
d) perform emergency aid based on humanity, unless he is sure that there are other people who are on duty and capable of doing so; and e. increase knowledge and follow the development of medical or dental science.

Medical negligence claims or lawsuits addressed to doctors are essentially a legal process that wants to hold them accountable for mistakes they make, both in the form of negligence and intent. In other words, it is the doctor's responsibility that is the object of a medical negligence claim or lawsuit, with the form of the doctor's responsibility in the form of compensation or other penalties according to the judge's decision.

In terms of legal relations, the responsibility of doctors can be seen from two aspects, namely:

a) Professional responsibility (*verantwoordelijkheid*)

The professional responsibility of doctors is regulated internally by the Indonesian Doctors Association (IDI) as a professional organization of doctors, as outlined in the Indonesian Medical Code of Ethics (KODEKI) and other regulations made by the Indonesian Medical Council (KKI).

b) Legal liability (*aansprakelijkheid*)
Meanwhile, the legal responsibility of doctors lies in the relationship between doctors and the individuals (patients) they treat. In addition, the doctor's relationship with the patient and even with the State (society) is based on statutory regulations. The process of medical negligence claims and lawsuits starts from proving what form of error the doctor made. Whether the error is based on professional provisions, or professional errors or on the basis of laws and regulations.

The professional ability of a doctor can be measured by proficiency (*bekwaamheid*) or competence and the right or authority to carry out the profession. From experience in the field, doctors can make mistakes in carrying out their profession because:

a) Lack of knowledge (*olvoldoende kennis*);
b) Lack of experience (*olvoldoende ervaring*);
c) Lack of understanding (*olvoldoende inzicht*)

In terms of medical services that apply in hospitals, of course, it cannot be separated from the standard procedures that apply in each hospital so that doctors or health workers are required to provide health services to patients. However, in the field, doctors or health workers are often negligent in carrying out their duties and it is not uncommon for the patient's condition to change to become sicker or die because of this negligence which results in lawsuits. Therefore, several cases that have often surfaced in the public have provided a warning that health workers in carrying out their duties must be more careful and responsible to avoid mistakes, negligence or omission, which result in lawsuits.

b. Medical omission

Medical negligence in general has not been widely recognized among the public, both the legal profession, medical negligence is one of the medical actions where in providing health services is not in accordance with applicable standard procedures, while it can be said that medical negligence is an act of doctors not really or not providing health services to patients with various reasons related to the health service system.

Medical negligence often occurs in hospitals, especially for poor people or patients on the grounds that they must fulfill several administrative requirements, medical negligence also often occurs in the Emergency Room (IGD) or Emergency Unit (ER), every patient who enters the unit is often not given adequate service so that negligence can occur, in this case, the doctor or health worker in charge of the unit must be responsible, in this responsibility it is also inseparable from the role of the hospital that carries out health services.

Cases of medical negligence that result in disability or death to the patient have a huge legal impact, however, due to the patient's ignorance or lack of understanding in the health care system, it becomes a common thing. In the Indonesian legal system, medical negligence has not been clearly stated, but in such cases, it can be assumed in some existing laws and regulations, for example:

1) Civil Code In article 1366 of the Civil Code, that every person is responsible not only for losses caused by his actions but also for losses caused by negligence or lack of caution, in the assumption of the article negligence is an action taken by health workers on duty at the hospital in providing health services to patients is certainly his responsibility, If there is a medical omission that due to things that do or do not do something that ignores the patient

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for certain reasons, for example because there is no cost, or the guarantor, resulting in disability and death for the patient, then the health worker can be sued civilly in terms of negligence of his duties and responsibilities that should be done.

2) Article 304 of the Criminal Code intentionally puts or leaves someone in a state of misery, whereas according to the law applicable to him, he is obliged to provide life, care or maintenance to that person. In such cases, health workers intentionally let patients enter the hospital and need treatment but by negligently letting patients so that patients experience disability and / or death, then the health workers can be charged with committing a criminal crime, related to facts that have meaning in the criminal field, among others, whether the actions, or actions and causes that occur meet the qualifications of a crime or not. Relating to the fact that can be used as a criminal case, which means that there are victims who are threatened or endangered and whether the incident is purely due to human factors and not nature.
3) Law No. 17 of 2023 on Health. Law No. 17 of 2023 concerning Health in the criminal provisions does not clearly regulate health crimes. Article 438 states that the head of a health care facility, medical personnel, and/or health workers who do not provide first aid to emergency patients at health facilities as referred to in Article 174 and Article 275 paragraph (1) shall be punished with a maximum imprisonment of 2 (two) years or a maximum fine of Rp 200,000,000.00 (two hundred million rupiah). In terms of this article, it does not explicitly regulate the criminal provisions that occur in the emergency department but not with general patients who are in the hospital, for this medical omission can occur in the emergency department or for general services because medical omission occurs in underprivileged patients.

The explanation above has reviewed health services in hospitals which have caused many incidents that conflict with standard health service procedures that have an impact on prosecution or lawsuits, so it is required that health workers who work in health care facilities, especially in hospitals, in carrying out their duties must comply with standard health service procedures that have been established in the hospital.

The settlement of medical disputes in terms of medical negligence committed by health workers in hospitals can be resolved by several prosecutions, both criminally and civilly, but in the course of the development of health law does not rule out the possibility of resolving medical disputes can be resolved through medical mediation, or if it must be resolved at the court level, it is very necessary to have a general court whose judges should be judges who understand specifically about health or have been specially trained for medical dispute resolution.

2. The Role of Mediation in the Resolution of Doctor-Patient Medical Disputes

A study in China showed that freat importance has been attached to the non-lawsuit model through third-party mediation, which might have been led by professional organizations, insurance companies, People's Mediation Committees, or three-level governmental authorities. Those have contributed to a rapid effective resolution of medical disputes. However, there are some deficiencies that need to be addressed and fixed up, thus calling for improvement, such as the lack of a sustainable supporting mechanism, unclear legal status of the mediation institutions and mediation agreements, patching up a quarrel by only compensation.[10]

There are two types of legal relationships between patients and doctors in health services, namely relationships due to the occurrence of therapeutic contracts and relationships due to legislation. In the first relationship, it begins with an agreement (unwritten) so that the will of both parties is assumed to be accommodated when an agreement is reached. The agreement

[10] Zhao, Min. "Evaluation of the third-party mediation mechanism for medical disputes in China." Med. & L. 30 (2011): 401.

reached may be in the form of approval of medical treatment or even rejection of a medical treatment plan. Relationships due to laws and regulations usually arise due to obligations imposed on doctors due to their profession without the need to seek the patient's consent.

Both relationships give birth to legal responsibilities, professional responsibilities and ethical responsibilities of a doctor. A doctor or dentist who commits an offense may be prosecuted in several courts, for example in the field of law there are civil courts, criminal courts and administrative courts. In addition, doctors or dentists can also be faced with the recommendations of a disciplinary panel formed by the Minister of Health.

An essential part of the therapeutic contractual relationship is communication. Complete information from the patient. This information is required by the doctor for the benefit of the association in the findings to establish a diagnosis and design treatment. Meanwhile, complete information from the doctor is needed by the patient to determine his consent in medical actions that meet the standards. The basis of the doctor's obligation is the existence of a professional contractual relationship between medical personnel and their patients, which gives rise to general obligations and professional obligations for the medical personnel. Professional obligations are outlined in the professional oath, professional ethical rules, various service standards, and various operational procedures.

Many experts are of the view that the health care relationship is a relationship based on trust. Patients believe in the doctor's ability to make every effort to cure their illness. Patients also believe that doctors will make every effort to not only cure their illness but also reduce their suffering. The amount of trust that is built in the public's view is often the result of disappointment when expectations are not realized, and this is the way to give birth to conflict or dispute. Usually, the trigger is when the disappointment is not accompanied by effective communication. So once again communication is the key word in the causes of a conflict or dispute.

Legally, the relationship between doctors and patients takes place as an active-passive biomedical relationship. In the past, if there was a problem or a difference of opinion between the patient/patient's family and the doctor or hospital, the doctor tended to blame the patient or the doctor was almost always in the right position. In various theories this is referred to as a paternalistic relationship. However, in the last 25 years, health law experts have replaced this concept with a new paradigm that describes an equal relationship between doctors and patients. Patients have the right to accept or reject what doctors/hospitals do to them. Also, the patient has the right to complete, extensive and correct information about his/her illness, the doctor's plans to be carried out, the risks that will be faced and even comparisons with other methods or forms of medical action.

Doctors and patients are the two legal subjects involved in Medical Law. Both form both medical and legal relationships. Medical and legal relationships between doctors and patients are relationships whose objects are health maintenance in general and health services in particular. The implementation of the doctor-patient relationship is always regulated by certain regulations so that there is harmony in its implementation. As is known, relationships without regulations will cause disharmony and confusion. A doctor may have behaved and communicated well, made brilliant medical decisions and/or have performed diagnostic and therapeutic actions according to standards, but all of them will have no meaning in his defense if there is no good medical record.

A good medical record is a medical record that contains all the information needed, both obtained from the patient, the doctor's thoughts, the doctor's examination and actions, communication between medical / health personnel, *informed consent*, etc., as well as other

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information that can be used as evidence in the future arranged in chronological order. Medical records can be used as a means of proving the existence of medical negligence but can also be used to prove that the entire process of medical treatment and actions carried out by doctors and other health workers in accordance with professional standards and standard operating procedures or means that medical negligence did not occur.

A Medical Dispute is a dispute that occurs between a patient or patient's family and a health worker or between a patient and a hospital/health facility. Usually what is disputed is the result or result of health services by not paying attention to or ignoring the process. Whereas in health law it is recognized that health workers or health service providers when providing services are only responsible for the process or efforts made (*Inspanning Verbintennis*) and do not guarantee / guarantee the result (*Resultalte Verbintennis*). Usually, complaints are made by the patient or the patient's family to the police agency and to the mass media. As a result, it can be expected that the press punishes health workers ahead of the court and makes health workers a target, which often damages the reputation of the name and career of this health worker.

Meanwhile, complaints to the police at the Sector Police, Resor Police and Regional Police levels are accepted and processed as if they were criminal cases. Shifting civil cases to the criminal realm, inconsistent use of articles, difficulties in proving legal facts and limited understanding of the intricacies of medicine by law enforcers at almost every level make medical disputes threatened by criminal disparities.

According to Hariyani S, conflict is a situation where two or more parties are faced with differences of interest. A conflict changes or develops into a dispute when the aggrieved party has expressed his dissatisfaction or concern either directly to the party considered to be the cause of the loss or to another party. So, a conflict can change or progress into a dispute, which also means that an unresolved conflict will turn into a dispute. Article 305 of Law Number 17 of 2023 concerning Health states that patients or their families whose interests are harmed by the actions of medical personnel or health workers in providing health services can complain to a panel formed by the Minister of Health to carry out tasks in the field of professional discipline.

In Law Number 17 Year 2023 Article 310, it is implicitly said that medical personnel or health workers who are suspected of making mistakes in carrying out their profession and causing medical disputes / disputes, are first resolved through alternative dispute resolution outside the court. Thus, a medical dispute is a dispute that occurs between users of medical services and the perpetrators of medical services, in this case between patients and doctors and health facilities. Often the individualistic response of the patient's body and unexpected complications after medical treatment become factors that cause unwanted events, even though medical treatment and supporting examinations have been carried out according to standard procedures. In America is known as Informal Dispute Resolution (IDR). IDR has been available to nursing facilities since 1995 and is a less expensive, less time-consuming alternative to the more formal appeals process adjudicated before an administrative law judge.[11]

For the doctor or health care facility, resolving medical disputes through the court / litigation means risking the reputation that has been achieved with difficulty, and can cause loss of good name. Even though they have not been found guilty or even the final verdict is declared not guilty, the good name of the doctor or health care facility has already been badly impressed because it has been publicly reported in the media that they have allegedly made a mistake and

[11] Lawhorne, Larry. "The Medical Director's Role in the State Survey and Dispute Resolution." Journal of the American Medical Directors Association 14.1 (2013): 4-5.

will become a bad stigma in the community which in turn causes the level of public trust in the doctor or health care facility to decrease.

Non-litigation settlement of medical disputes is an implementation of the mandate of the 1945 Constitution, which reads "Fair and Civilized Humanity", the 4th principle which reads "Democracy led by wisdom in deliberation / representation" and the 5th principle which reads "Social Justice for All Indonesian People". Positive law in Indonesia also allows for the use of non-litigation approaches to resolve medical disputes. Mediation in medical disputes has proven to provide more humanity and justice for the parties to the dispute, as well as saving time, energy and costs. Mediation as an alternative to medical dispute resolution deserves special attention in its application as part of people's behavior when they want to resolve disputes.

A dispute resolution that is considered ideal for the parties is one that involves the parties directly, allowing for open dialog, thus making a joint decision more likely to be reached. Mediation as an alternative to medical dispute resolution has the following characteristics:

1) The resulting value of justice is commutative justice, justice that is discussed together (the parties to the dispute).
2) The sovereignty of dispute resolution rests with the parties to the dispute, or the community plays a role or participates in a dispute resolution process.
3) Use a consensus approach, not a conflict approach.
4) Focused, oriented, *interest-based bargaining* between two disputing parties, not based on truth or rights believed or interpreted by the disputing parties.
5) The foundation of dispute resolution is more based on the values of harmony that live in the community
6) Be open to third party assistance as a mediator who acts as an aid but not as a breaker.
7) Not limited to civil disputes, but also other disputes
8) The jurisdiction can also be *court connected*.
9) Oriented towards relationship building, continuity or creating future harmony
10) The outcome is a *win win solution*, or *non-zero-sum*.

Based on these characteristics, it can be understood that mediation has an important role in resolving doctor-patient medical disputes. In addition, because the meeting of the parties is closed, it will provide a feeling of comfort, security to the parties involved so that concerns about the disclosure of secrets and good names that are needed by doctors and health care facilities can be avoided.

Doctor-patient relationships become better and harmonious, public trust in doctors remains good with the doctor's good name maintained. Doctors in carrying out their humanitarian duties also become more confident and more optimal without having to be overshadowed by the fear of a declining reputation if they are involved in medical disputes that will be known by various parties.

IV. Conclusion

Medical negligence and medical omission are two things that need serious attention regarding medical disputes in health services, because both have legal consequences that require the responsibility of doctors as health workers and or hospitals/clinics as health facilities. In terms of legal relations, the responsibility of doctors can be seen from two aspects, namely professional responsibility (verantwoordelijkheid) which is regulated internally by the Indonesian Doctors Association (IDI) as a professional organization of doctors and outlined in the Indonesian Medical Code of Ethics (KODEKI) and other regulations made by the Indonesian Medical Council (KKI), and legal responsibility (aansprakelijkheid) of doctors which lies in the

relationship between doctors and the individuals (patients) they treat, even with the State (society) based on statutory regulations. The process of medical negligence claims and lawsuits starts from proving what form of error the doctor made. Whether the error is based on professional provisions, or professional errors or on the basis of laws and regulations.

Mediation has an important role in resolving doctor-patient medical disputes. The non-litigation paradigm through mediation in resolving medical disputes can provide a feeling of comfort, security to the parties involved so that concerns about the disclosure of secrets and good names that are needed by doctors and health care facilities can be avoided. A better and harmonious doctor-patient relationship will increase public trust in doctors with the doctor's good name maintained. Doctors in carrying out their humanitarian duties also become more confident and more optimal without having to be overshadowed by the fear of a declining reputation if they are involved in medical disputes that will be known by various parties. Further socialization to the wider community about the flow of medical dispute resolution is needed. An authoritative and efficient medical dispute resolution mechanism requires the full support of the Indonesian Medical Association (IDI) by optimizing its role as a professional organization in every medical dispute resolution.

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