



Legal Protection for Mediators and Parties in Medical Dispute Mediation in Indonesia

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Abstract

This article discusses the legal protection afforded to mediators and parties involved in medical dispute mediation in Indonesia. Referring to Law Number 17 of 2023 on Health and other relevant regulations, this study examines the legal aspects governing the rights and obligations of mediators and mediation participants, including mechanisms for protection against legal risks and guarantees of confidentiality in the mediation process. Furthermore, the article analyzes challenges in implementing such legal protections and the importance of developing technical regulations and mediator certification to ensure professionalism and fairness in resolving medical disputes. This in-depth legal analysis aims to provide strategic recommendations to strengthen the medical mediation system in Indonesia.

Key words: Mediators, Medical Dispute, Mediation

*Received 15 June., 2025; Revised 27 June., 2025; Accepted 29 June., 2025 © The author(s) 2025.
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I. Background of the Problem

Medical disputes are one of the more complex types of disputes, often involving technical medical aspects as well as legal norms. In resolving these disputes, health mediation has become an important alternative to reduce litigation burdens and increase satisfaction for the parties involved. However, in practice, mediators and parties involved in medical dispute mediation face various legal risks, including confidentiality issues during the mediation process and potential claims arising from unsatisfactory mediation outcomes.

Legal protection for mediators and the parties is crucial to ensure mediation runs effectively and professionally without fear of disproportionate legal risks. Unfortunately, regulations governing this protection in Indonesia remain inadequate and do not fully address practical needs in medical mediation processes (Kemenkes, 2023). Moreover, several studies have noted that unclear legal status and responsibility mechanisms for mediators often hinder the optimal implementation of mediation (Harahap, 2024).

Within the national legal context, Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution serves as an initial foundation for mediation implementation, but its application specifically in medical disputes requires adjustments and more detailed technical regulations (Syafuruddin, 2023). Furthermore, provisions in Health Law Number 17 of 2023 provide the legal basis for health mediation, yet specific legal protections for mediators and parties have not been comprehensively regulated (Kemenkes, 2023).

Therefore, this study aims to conduct an in-depth analysis of the legal protection aspects for mediators and parties in medical dispute mediation in Indonesia, to offer constructive recommendations for strengthening regulations and ensuring fair and effective mediation implementation.

II. Research Method

This study employs a normative juridical method, which focuses on the analysis of applicable legal norms, legal doctrines, and relevant court decisions. The data used are secondary data, consisting of primary legal materials such as Law Number 17 of 2023 on Health, Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution, as well as other implementing regulations. Secondary legal materials such as legal literature, academic journals, and scholarly articles are also used to support the analysis. The research applies qualitative analysis techniques by interpreting legal provisions and comparing them with the practical implementation of medical mediation to draw normative conclusions regarding the form and urgency of legal protection for mediators and parties involved in medical dispute mediation in Indonesia.

III. Discussion

The legal context of medical dispute mediation in Indonesia recognizes mediation as a widely accepted form of Alternative Dispute Resolution (ADR). It offers a faster, more affordable, and efficient alternative compared to litigation. In medical disputes, mediation plays a crucial role due to the sensitive nature of the cases, requiring careful handling to maintain good relations between healthcare providers and patients (Suparto, 2022).

Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution serves as the primary legal basis for mediation in Indonesia. However, specifically for medical disputes, Law No. 17 of 2023 on Health introduces more detailed regulations mandating that medical dispute resolution prioritize mediation before proceeding to litigation or arbitration (Kemenkes, 2023). Article 310 paragraph (1) of the Health Law explicitly requires dispute resolution caused by medical personnel actions to be first addressed through mediation or other forms of dispute resolution outside court.

The enactment of the Health Law, which forms part of the health sector's Omnibus Law, reflects the government's commitment to improving health governance comprehensively, including fair and non-burdensome dispute resolution (Harahap, 2024). Despite the existence of this legal framework, numerous challenges remain, especially concerning legal protection for mediators and involved parties.

Mediators in medical dispute resolution act as neutral facilitators who enable dialogue between healthcare workers and patients to reach mutual agreements. Legal protection for mediators is critical to allow them to operate professionally without fear of legal repercussions related to their decisions or mediation processes that may be perceived as harmful to either party (Putri, 2024).

Law No. 30 of 1999 provides mediators with protections such as confidentiality of mediation proceedings and immunity from lawsuits regarding their opinions or actions during mediation. However, these protections are not detailed specifically for medical disputes, which involve complex medical and sensitive aspects (Syafuruddin, 2023).

One legal challenge is the lack of standardized competency and certification for health mediation mediators, leading to risks of malpractice or unprofessional conduct. This can affect mediation quality and potentially trigger lawsuits against mediators (Yusuf, 2023). Therefore, technical regulations like Minister of Health Regulations or Government Regulations governing mediator competencies, certification, and codes of ethics are necessary to strengthen legal protection in this field (Kemenkes, 2023).

Legal protection for parties involved in medical dispute mediation—patients and healthcare providers—is also essential to ensure their rights are safeguarded throughout the mediation process. Confidentiality, the right to complete information, and guarantees that agreements are voluntary and fair are key focus areas (Astuti, 2024).

Existing regulations such as the Health Law and Arbitration Law provide a basic foundation for protecting parties' rights. However, in practice, patients often feel insufficiently protected or inadequately informed about the mediation process, leading to perceptions of unfair outcomes and renewed conflicts (Situmorang, 2024). Hence, robust socialization and education efforts are vital so that parties fully understand their rights and obligations in health mediation (Widiastuti, 2023).

Furthermore, legal protection must ensure that mediation agreements have binding legal force and enforceability, preventing doubt or subsequent disputes. This requires regulations on the official endorsement of mediation results by authorized institutions such as courts or official health mediation bodies (Nugroho, 2023).

The Omnibus Law, particularly through Law No. 17 of 2023, brings important changes to medical dispute resolution by mandating mediation as a compulsory step before litigation. This is expected to expedite dispute resolution and reduce court burdens (Kemenkes, 2023).

However, the Omnibus Law also requires integration of technical regulations and robust institutions to support effective mediation. The establishment of the Indonesian Medical and Health Mediation and Arbitration Institution (LMA-MKI) responds to this need, but faces challenges such as incomplete technical regulations and limited trained human resources (Prasetya, 2023).

Thus, legal protection must extend beyond norms to institutional and resource strengthening, ensuring health mediation functions professionally and reliably. Clear regulations on mediator protection, party rights, supervision mechanisms, and standardized mediation procedures are priorities for developing a national health mediation system (Putri, 2024).

In conclusion, legal protection for mediators and parties in medical dispute mediation in Indonesia is a fundamental aspect that must be strengthened to ensure effective, fair, and professional mediation. While existing laws provide a strong basis, practical implementation still faces regulatory, competency, and public awareness challenges.

Strengthening implementing regulations, mediator competency standards, and education for parties are crucial strategies. The Omnibus Law demands regulatory harmonization and institutional development to build a reliable foundation for better medical dispute resolution in the future.

IV. Conclusion

Legal protection for mediators and parties in medical dispute mediation is a crucial element in ensuring a fair, safe, and professional dispute resolution process. Although Law Number 17 of 2023 on Health provides a legal basis for mediation, more detailed technical regulations are still needed regarding legal protection, confidentiality, and mediator immunity. Without a clear legal framework and adequate protection, the effectiveness of medical mediation is at risk of being undermined, and public trust in non-litigation mechanisms may decline. Therefore, strengthening regulations and institutional capacity is an urgent strategic step.

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