

Mediation as an Alternative Dispute Resolution Outside the Court in the Context of Health Disputes Post-Enactment of Law Number 17 Of 2023 Regarding Health

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ABSTRACT

This paper undertakes a normative review of mediation as an alternative dispute resolution method outside the court, specifically in the realm of health disputes. The complexity of health-related conflicts involving diverse stakeholders, including patients, medical personnel, healthcare workers, and hospitals, necessitates a nuanced approach for effective resolution post the enactment of Law Number 17 of 2023 concerning Health. Resolving health disputes extrajudicially proves highly effective and beneficial, catering to the essential needs of patients, medical personnel, healthcare workers, and hospitals. The paper will elucidate the advantages of mediation as an alternative dispute resolution outside the court in the context of health disputes and the challenges associated with implementing mediation in this domain. Consequently, the research will underscore how mediation emerges as a potent tool for settling disagreements among the myriad parties entangled in health-related disputes. Anticipated outcomes of this paper include providing stakeholders, such as patients, medical personnel, healthcare workers, and hospitals, with a comprehensive understanding of mediation as an effective alternative for resolving health disputes outside the formal court system.

Keywords: Mediation, Alternative Dispute Resolution, Health.

INTRODUCTION

The state ensures the rights of every citizen to achieve a wholesome and prosperous life, both physically and mentally, to fulfill the national objectives of safeguarding all Indonesian citizens for the advancement of general welfare, as mandated in the 1945 Constitution of the Republic of Indonesia.

Indonesia is designated as a legal state, as outlined in the 1945 Constitution of the Republic of Indonesia in Article 1, Paragraph (3), asserting that "The State of Indonesia is a legal state." The essence of Article 1, Paragraph (3), is that everyone possesses equal rights before the law based on the principle of equality before the law, irrespective of differences in ethnicity, race, culture, religion, or education.

Health is acknowledged as a human right and a fundamental aspect of well-being that the state must ensure and realize in accordance with the aspirations of the Indonesian nation as articulated in Pancasila and the Preamble of the 1945 Constitution of the Republic of Indonesia. Every endeavor to actualize and enhance the health of the community to the utmost level is executed based on the principles of non-discrimination, participation, and sustainability in shaping Indonesia's human resources, fortifying the nation's resilience and competitiveness, and fostering national development.

Health embodies a holistic state of well-being encompassing physical, mental, spiritual, and social dimensions, enabling individuals to lead productive lives in social and economic contexts. As a valuable asset, persistent efforts are made to enhance health quality. The primary objective of state health initiatives is to enrich the quality of life, thereby enhancing overall well-being.

In accordance with Article 28A of the 1945 Constitution of the Republic of Indonesia, "every person has the right to live and the right to defend his or her life and living," signifying that individuals have the right to an equal opportunity to maintain their health, including receiving adequate health services. Consequently, there is a focus on improving the quality of health services. Government health policies must encompass all societal levels, as health is a human right protected by the state, as emphasized in Article 28H of the 1945 Constitution of the Republic of Indonesia.

In the pursuit of enhancing health quality, the government must formulate regulations supporting the development of the capabilities of doctors and medical personnel, along with advancements in medical technology (Sidi, 2024). Public health development necessitates health efforts, health resources, and health management to elevate the community's health to the highest possible level based on the principles of well-being, non-discrimination, equal distribution, participation, and sustainability. This is part of the development of high-quality and productive human resources, strengthening quality health services, reducing disparities, ensuring a healthy life, enhancing health resilience, and advancing the well-being of all citizens and the nation's competitiveness to achieve national development goals.

In order to enhance capacity and resilience in the realm of health, recalibrating various policies is imperative, fortifying the healthcare system comprehensively within an integrative and holistic framework encapsulated in a singular, all-encompassing law. The fortification of the healthcare

system, orchestrated by the state, occurs through the enactment of the latest legislation on health. With the advent of Law Number 17 of 2023 concerning Health, the state affirmatively assures the entitlements of each citizen to attain a life of wellness and prosperity, both physically and mentally, harmonizing with the national objectives of safeguarding all Indonesian citizens and the entirety of the Indonesian lineage to propel the collective welfare forward, as mandated in the 1945 Constitution of the Republic of Indonesia.

In the domain of health, pivotal roles are assumed by medical and healthcare custodians. Hospitals, medical practitioners, healthcare personnel, and patients embody legal subjects intricately linked to the dispensation of healthcare services, engendering both medical and legal relations. Medical practitioners, healthcare personnel, hospitals, and patients engage in a peculiar relationship where the former functions as purveyors of healthcare services, and the latter as recipients thereof (Supriadi, 2001).

In the Indonesian legal landscape, the inception of a novel legal discipline occurred in 1981, spurred by the Setianingrum case in Pati. This legal subdiscipline, known as Medical Law, nestled within Health Law, distinctly addresses the medical domain, spanning criminal, civil, and administrative law facets and encompassing doctors and their underlings (Sidi & Listiawati, 2023).

The burgeoning cognizance within society regarding the centrality of law as a constructive force contributes to an augmented comprehension of the import of legal tenets. This acquires salience when disputes precipitate due to healthcare professionals or hospitals, manifesting in diverse forms such as admonitions, patient grievances, or even legal recourse against healthcare professionals, exerting an impact on the caliber of healthcare services extended. By and large, disputes unfurl stemming from discontent with healthcare services, such as the inadequacy of information provided by doctors or lapses resulting from healthcare professionals.

Consequently, these issues may culminate in characterizations of malpractice (Handayani, 2014).

Recognizing the imperative role of law in arbitrating disputes and elevating the standard of healthcare services, meticulous adherence to healthcare service benchmarks becomes indispensable to ensure the contentment of patients. Fundamentally, healthcare services aspire to facilitate the provisioning of all requisites sought by patients, delivering contentment commensurate with patient expectations.

Disputes within the healthcare sector often arise from disharmonious relationships in the provision of healthcare to patients. These disagreements are sparked by disparities in perceptions and interests between patients and healthcare providers, necessitating legal resolution processes.

Typically, healthcare disputes can be addressed through the court or litigation. In such instances, the positions of the conflicting parties become adversarial in the court's resolution. The court or litigation resolution process is less advantageous for the involved parties, as court decisions lead to winners and losers. Additionally, the protracted legal proceedings, the onus of proof, and public court sessions strain the relationships between the parties.

Recent developments in the healthcare system frequently give rise to disputes among various stakeholders, including patients, patient families, and healthcare service providers. These disputes encompass medical, ethical, communication, and cost-related aspects. The primary goal of healthcare services is to establish an efficient and equitable healthcare system. However, the legal processes involved in dispute resolution often entail time and expense. Therefore, there is a requisite for alternatives in healthcare dispute resolution that are effective, efficient, and equitable for all parties involved.

Pursuant to Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, there exists a solution for resolving disputes between parties

through non-court settlements. Mediation serves as an alternative means in the healthcare dispute resolution process, aiding disputing parties in reaching voluntary agreements. In healthcare disputes, mediation offers an opportunity for each party to express, listen, argue, and collaboratively find solutions without engaging in the roles and processes of protracted and costly court proceedings.

In the realm of health law, the role and effectiveness of mediation as an alternative dispute resolution method play a pivotal role in the legal framework of health. Healthcare dispute resolution constitutes the most crucial aspect of health law issues, involving various parties such as patients, medical professionals, healthcare workers, and hospitals. The utilization of mediation in healthcare dispute resolution serves as an alternative option, offering a prompt, cost-effective resolution that focuses on mutually agreed-upon solutions without the need for prolonged court processes.

Mediation as an alternative dispute resolution in healthcare disputes must align with applicable laws, including regulations and mediation legal rules. The benefits of using mediation in resolving healthcare disputes include lower costs, a swift resolution process, satisfactory outcomes for the parties involved, reduced court burdens, and an enhancement in medical practices or healthcare services.

The reasons for the parties involved to bring disputes for resolution through mediation or non-litigation pathways as a means or alternative for effective and efficient consensus or deliberation, deemed as a win-win solution for all parties, while resolution through litigation or court proceedings involves winners and losers, leading to unsatisfactory outcomes for the losing party (Siregar et al., 2023).

Amid healthcare disputes between conflicting parties, the Unitary State of the Republic of Indonesia will remain intact as an independent and sovereign nation if Indonesia consistently upholds and fosters the values of togetherness (the third and

fourth principles of Pancasila). This sense of togetherness is implemented by preserving the spirit of diversity and deliberation in resolving disputes to realize Indonesian unity.

This paper aims to conduct a normative review of mediation as an alternative dispute resolution outside the court in the context of healthcare disputes. Healthcare disputes involve various parties such as patients, medical professionals, healthcare workers, and hospitals, resulting in complex situations in resolving healthcare disputes. Resolving healthcare disputes without going through the court is highly effective and beneficial, serving as a crucial necessity for patients, medical professionals, and hospitals.

This paper will discuss the benefits of mediation as an alternative dispute resolution outside the court in the context of healthcare disputes and the challenges of mediation as an alternative dispute resolution outside the court in the context of healthcare disputes. Therefore, this research will emphasize how mediation serves as an effective tool in resolving differences of opinion among various parties involved in healthcare disputes.

It is also crucial to ensure that the benefits of mediation as an alternative dispute resolution outside the court in the context of healthcare disputes do not compromise or infringe upon the rights of patients, such as the right to clear information and understanding of procedures. Additionally, it highlights the significance of mediation as an alternative dispute resolution in safeguarding the rights of patients while resolving healthcare disputes among the conflicting parties.

The research questions are:

- What are the benefits of mediation as an alternative dispute resolution outside the court in the context of healthcare disputes?
- What are the challenges of mediation as an alternative dispute resolution outside the court in the context of healthcare disputes after the enactment of Law Number 17 of 2023 concerning Health?

RESEARCH METHOD

This paper adopts a normative legal research method employing a legislative approach and literature study. The data collection technique employed involves sourcing information from legal regulations, the internet, cases, journals, court decisions, and other relevant sources pertaining to the utilization of mediation as an alternative in resolving healthcare disputes post the enactment of Law Number 17 of 2023 concerning Health.

The acquired data will undergo analysis using a qualitative descriptive method. To draw conclusive insights from the gathered and analyzed data, the subsequent process involves formulating criteria based on the general overview as foundational material for the manuscript. Qualitative descriptive analysis serves as a technique that meticulously portrays and interprets the meaning of the collected data by attentively recording and examining various aspects of the situation under scrutiny. This meticulous approach aims to provide a comprehensive and nuanced understanding of the analyzed material.

DISCUSSION

Benefits of mediation as an alternative dispute resolution outside the court context in healthcare disputes

Alternative Dispute Resolution

The term "alternative dispute resolution" (ADR), translated from the English language, is commonly referred to as ADR. However, within certain academic circles in Indonesia, the term is translated as "alternative dispute resolution" or the "choice of dispute resolution" (Arliman, 2018). Although the variance in these terms is considered a matter of social semantics, the critical aspect lies in delving into the conceptual coverage of the term "alternative dispute resolution" (Rahmadi, 2011).

Disputes are an inherent part of human existence as social beings. Interactions among humans can give rise to problems, and the ability of parties to resolve these issues

amicably can prevent the escalation of disputes. Conversely, when parties cannot reach an agreement on problem resolution, disputes may arise (Usman, 2003). Fundamentally, humans perpetually seek optimal ways to resolve disputes, but as problems become increasingly complex over time, the methods of dispute resolution undergo development.

Dispute resolution can broadly be categorized into two methods: litigation (court-based) and non-litigation dispute resolution (outside the court) (Zulaeha, 2016). Each society develops its mechanisms for reaching agreements to determine dispute resolution options. The method chosen to resolve a specific dispute has consequences for both the disputing parties and society at large. Given the ramifications of dispute resolution choices, parties need to consider the most suitable mechanism, considering the nature of the issues, parties' expectations in dispute resolution, and the associated costs (Widjaja & Yani, 2000).

The surge in court cases and criticisms against the judicial system has spurred the concept of empowering alternative dispute resolution outside the court. In 1976, Frank Sander of Harvard University anticipated a solution to this issue by preventing disputes and exploring alternative dispute resolution outside the court (Academic Manuscript, Mara, 2005). Alternative dispute resolution outside the court is a response to the trend of increasing caseloads in the courts.

Various models of dispute resolution outside the court exist, such as the theory proposed by Dean G Pruitt and Jeffrey Z. Rubin, outlining five dispute resolution approaches: contending, yielding, problem-solving, withdrawing, and inaction (Dean & Rubin, 2004).

Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, in Article 1 Paragraph (10), defines alternative dispute resolution as a dispute resolution institution or difference of opinion through procedures agreed upon by the parties. This involves resolving disputes outside the court through methods such as

consultation, negotiation, mediation, conciliation, or expert determination.

According to the definition of alternative dispute resolution, it encompasses non-litigation or out-of-court dispute resolution - a method of resolving disputes without going through the court. It serves as an alternative dispute resolution using mechanisms like negotiation, consultation, mediation, arbitration, and expert determination. In Indonesia, alternative dispute resolution is regulated by Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, while dispute resolution in court is governed by procedural law.

Mediation

Mediation emerges as a peaceful, apt, and effective method for resolving disputes, offering broader access to parties seeking a satisfactory and just resolution. It essentially entails negotiation facilitated by a third party—knowledgeable and skilled in effective mediation—who aids in the bargaining process between the disputing parties (Nurmaningsih, 2012). Moreover, mediation is described as an effort to settle disputes between parties through mutual agreement facilitated by a neutral mediator. The mediator does not make decisions or conclusions but facilitates dialogue and the exchange of opinions to reach a consensus (Nugroho, 2009).

As per the Indonesian Legal Dictionary, mediation, derived from the English term "mediation," is a peaceful dispute resolution process involving a third party's assistance in providing solutions based on mutually accepted agreements by the disputing parties (Marbun, 2006). Christopher W. Moore, cited by Bambang Sutiyoso, defines mediation as the intervention in a dispute or negotiation by a third party that is acceptable, impartial, neutral, and lacks the authority to make decisions. The aim is to assist the disputing parties in voluntarily reaching an agreement to resolve contested issues (Sutiyoso, 2008).

In accordance with Law Number 30 of 1999 concerning Arbitration and Alternative

Dispute Resolution, mediation is a procedure agreed upon by the parties for dispute resolution outside the court. Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court, in Article 1 Paragraph (1), defines mediation as a dispute resolution method through negotiation processes to reach an agreement between the parties, assisted by a mediator. The term "mediator" in Article 1 Paragraph (2) refers to a judge or another party certified as a mediator who acts as a neutral party, aiding the parties in the negotiation process to explore various possible dispute resolutions without imposing or forcing a solution.

In settling disputes through litigation or non-litigation, the judge must initially go through the mediation procedure. Failure to conduct mediation in the court process renders the judge's decision null and void. In such instances, the judge, in the considerations of the decision, must note that attempts at reconciliation through mediation were made for the registered case (Abbas, 2017).

Dispute resolution through mediation, for enhanced comprehension, is fundamentally recognized and easily understood due to the following elements: It operates as a form and procedure within alternative dispute resolution, as stipulated by Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution; It falls under the purview of non-litigation or out-of-court resolution; Involves the participation of a third party, an intermediary, or a neutral figure known as a mediator; Grounded in the agreement of the involved parties.

Healthcare Disputes

The definition of health, based on Article 1 Paragraph (1) of Law Number 17 of 2023 concerning Health, is the state of well-being of an individual, encompassing physical, mental, and social aspects, not merely the absence of illness, allowing for a productive life.

In the implementation of health services, as stated in Article 3 Letter (h) of Law Number 17 of 2023 concerning Health, the goal is to provide protection and legal certainty for

patients, health human resources, and the community. Health Law plays a role in creating a balanced structure in healthcare actions for the public organized by the government to ensure legal certainty based on applicable legal regulations.

In the provision of healthcare, efforts are needed to maintain and improve public health, based on the principles and objectives of healthcare organization, to prevent unwanted disputes from arising between patients and healthcare providers.

A dispute is a situation where one party feels that its interests are harmed by another party and expresses dissatisfaction with the second party. If such a situation leads to a difference of opinion, it is termed a dispute (Nurmaningsih, 2012).

To achieve legal certainty in the case of disputes between parties, effective dispute resolution methods are required to create justice and legal certainty for the parties involved. In the field of healthcare, disputes often arise among various parties, including medical professionals, healthcare workers, hospitals, and patients, due to discrepancies in patient expectations regarding healthcare services provided by hospitals as part of the healing process.

Health services, as defined in Article 1 Paragraph (3) of Law Number 17 of 2023 concerning Health, encompass all forms of activities or a series of services provided directly to individuals or the community to maintain and improve public health, including promotive, preventive, curative, rehabilitative, and/or palliative efforts.

Therefore, in the provision of healthcare services, when healthcare disputes occur, efforts or steps are required to resolve these disputes through mediation as an alternative dispute resolution based on good faith from the parties involved to reach a mutually beneficial agreement in their resolution.

The benefits of mediation as an alternative dispute resolution outside the court in the context of healthcare disputes

Examining the provisions outlined in Law Number 17 of 2023 concerning Health,

specifically from Article 427 to Article 448, which regulate criminal provisions, is undoubtedly undesirable for all parties involved. Based on the stipulations in Article 306 Paragraph (3), which states that medical or healthcare professionals who have faced disciplinary sanctions, as mentioned in Paragraph (1), and are suspected of criminal acts, law enforcement prioritizes dispute resolution through restorative justice mechanisms in accordance with legal regulations.

Restorative justice is a resolution process conducted outside the criminal justice system, involving victims, perpetrators, the victim's family, the perpetrator, the community, and other relevant parties who have an interest in a criminal act to reach an agreement and resolution. Restorative justice is a fair resolution involving perpetrators, victims, their families, and other related parties in non-criminal matters, collaboratively seeking a resolution for criminal acts and their consequences, prioritizing recovery over retribution (Fikri et al., 2022).

In the event of a healthcare dispute between parties, it would be preferable for the parties to choose alternative dispute resolution outside the court, as the expected outcome for all parties is a win-win solution. Further regulations have been outlined in Article 310 of Law Number 17 of 2023 concerning Health. In cases where medical or healthcare professionals are suspected of making mistakes in their profession resulting in harm to patients, disputes arising from such errors are initially resolved through alternative dispute resolution outside the court.

The examination of alternative dispute resolution regulations in addressing healthcare disputes outside the court, as outlined in Law Number 17 of 2023 concerning Health, highlights that mediation presents numerous advantages as an alternative dispute resolution method for the parties involved:

Cost-Effectiveness: Choosing mediation as an alternative for resolving disputes outside the court proves to be financially beneficial

for all parties involved. Beyond cost savings, it offers a more efficient use of time and financial resources compared to the protracted and expensive court process.

Efficient Dispute Resolution: Mediation expedites the resolution of disputes. The mediation process is typically quicker than resolving disputes through the court, which involves a prolonged resolution process. The accelerated resolution through mediation positively impacts access, quality, and healthcare services.

Court Burden Reduction: The use of mediation in healthcare dispute resolution eases the burden on the court. This is particularly crucial in addressing the backlog of cases in the court system (Siregar et al., 2023) and aligns with the prioritization of resolving healthcare disputes through alternative dispute resolution, as mandated by Law Number 17 of 2023 concerning Health.

Relationship Preservation: Mediation serves as a supportive mechanism in maintaining relationships between parties involved in healthcare disputes. The relationship between patients and healthcare service providers is paramount, and mediation plays a role in minimizing potential conflicts, ensuring the relationship remains robust, and ultimately enhancing the quality of healthcare services.

Desired Outcomes: Mediation provides greater flexibility in seeking solutions tailored to the specific needs and context of healthcare disputes. This flexibility enables disputing parties to formulate solutions and desired outcomes, fostering a win-win resolution that may not be attainable through court proceedings.

Employing mediation as an alternative dispute resolution in healthcare disputes following the enactment of Law Number 17 of 2023 concerning Health can yield favorable outcomes for the involved parties. By prioritizing the needs of patients and fostering mutually beneficial relationships, mediation serves as a vital pillar in aligning with the objectives set forth in Law Number 17 of 2023 concerning Health.

Challenges of mediation as an alternative dispute resolution outside the court in the context of healthcare disputes after the enactment of law number 17 of 2023 concerning health

In light of the preceding discussion, it is evident that mediation plays a pivotal role in alternative dispute resolution within the realm of healthcare disputes, gaining heightened relevance subsequent to the enactment of Law Number 17 of 2023 concerning Health. Within this discourse, mediation is acknowledged as an efficacious mechanism for resolving healthcare disputes outside the court.

Mediation affords a platform for conflicting parties to address disputes candidly and openly, seeking mutual agreements tailored to the specific dynamics of healthcare disputes. The mediation process introduces flexibility in devising equitable solutions to facilitate dispute resolution, allowing the involved parties to articulate their perspectives, concerns, preferences, and needs in the realm of healthcare disputes. In the context of healthcare disputes, the preservation of relationships between patients and healthcare service providers remains paramount, exerting a positive influence on the trajectory of long-term healthcare services.

After the enactment of Law Number 17 of 2023 concerning Health, mediation encounters various challenges as an alternative dispute resolution outside the court in the context of healthcare disputes. These challenges encompass:

Enhancing Awareness: Despite mediation being a component of alternative dispute resolution in legal regulations, there is a need to raise awareness among involved parties and the public regarding the mediation process in healthcare disputes. This necessitates thorough socialization efforts, particularly before healthcare disputes arise through services provided to patients.

Securing Involvement of Disputing Parties: Resolving healthcare disputes through mediation requires agreement from all

parties involved. The challenge lies in garnering agreement, as parties may incline towards asserting their rights through litigation. Successful healthcare dispute resolution hinges on the goodwill and agreement of the disputing parties to opt for alternative dispute resolution outside the court.

Empowering Patients: Mediation should provide a platform that empowers patients in the dispute resolution process. It is essential for patients to feel heard and respected when expressing issues or complaints related to healthcare services.

Building Trust: Similar to arbitration in alternative dispute resolution, mediation poses challenges related to trust, confidentiality, and security regarding disputes faced by the involved parties. Establishing confidence that information shared during mediation will be kept confidential is crucial for all parties.

Ensuring Mediator Competence: The effectiveness of the mediation process relies on ensuring that the mediator possesses the necessary competence and skills as a certified mediator. Mediators well-versed in the mediation process, from procedures to decision-making, can more effectively facilitate resolution for the disputing parties.

Ensuring Compliance with Mediation Results: Post-mediation, a significant challenge is to ensure that the disputing parties adhere to the agreed-upon outcomes. A robust mechanism is essential to guarantee the implementation of mediation results based on the parties' agreement.

In overcoming these challenges, mediation emerges as an effective instrument not only for expediting healthcare dispute resolution but also for alleviating the burden on the court system grappling with numerous cases. It provides tailored solutions grounded in the interests and needs of the disputing parties. Given these considerations, mediation stands out as a potent mechanism for resolving healthcare disputes among involved parties. It plays a pivotal role in fortifying the relationships between patients, healthcare service providers, and healthcare institutions,

thereby contributing to the provision of quality healthcare services.

CONCLUSION

Within the regulatory framework of healthcare dispute resolution stipulated by Law Number 17 of 2023 concerning Health, it is evident that mediation presents substantial benefits as an alternative dispute resolution method outside the court for the involved parties. These advantages include cost-effectiveness, expeditious and efficient dispute resolution, alleviation of the court's burden, the preservation of positive relationships, and the realization of desired outcomes. The incorporation of mediation as an alternative dispute resolution mechanism in healthcare disputes, following the enactment of Law Number 17 of 2023 concerning Health, holds the promise of achieving outcomes aligned with the preferences of the concerned parties. With a dedicated focus on addressing patient needs and cultivating mutually beneficial relationships, mediation emerges as a pivotal element in furthering the overarching objectives of Law Number 17 of 2023 concerning Health.

Nevertheless, in the aftermath of the enactment of Law Number 17 of 2023 concerning Health, mediation as an alternative dispute resolution method outside the court in the realm of healthcare disputes encounters various challenges. These challenges encompass the imperative to enhance awareness, as specified in the aforementioned law, securing the active participation of disputing parties, empowering patients in the dispute resolution process, establishing trust, ensuring mediator competence, and ensuring compliance with mediation results. Despite these challenges, mediation stands out as an effective instrument for resolving healthcare disputes among parties, contributing to the fortification of relationships between patients, healthcare service providers, and healthcare institutions, ultimately facilitating the provision of quality healthcare services.

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REFERENCES

1. Abbas, D. S. (2017). *Mediasi: dalam hukum syariah, hukum adat, dan hukum nasional*. Prenada Media.
2. Arliman, L. (2018). Mediasi melalui pendekatan mufakat sebagai lembaga alternatif penyelesaian sengketa untuk mendukung pembangunan ekonomi nasional. *Uir Law Review*.
3. Dean, P. G., & Rubin, J. Z. (2004). *Teori Konflik Sosial*. Yogyakarta: Pustaka Pelajar.
4. Fikri, R. A., Siregar, A. R. M., & Rafianti, F. (2022). Restorative justice efforts to provide a sense of justice for children. *International Journal in Management and Social Science*, 10(10), 2321-1784.
5. Handayani, T. (2014). Penyelesaian Sengketa Medis Melalui Mediasi Dihubungkan Dengan Peraturan Mahkamah Agung Nomor I Tahun 2008 Tentang Prosedur Mediasi di Pengadilan. *Jurnal Hukum Mimbar Justitia*, 6(2), 369-388.
6. Marbun, B.N. (2006). *Kamus Hukum Indonesia*, Cet. I, Jakarta, Sinar Harapan, 2006, hal. 1003
7. Nugroho, S. A. (2009). *Mediasi Sebagai Alternatif Penyelesaian Sengketa*. Telaga Ilmu Indonesia.
8. Nurmaningsih, A. (2012). *Alternatif Penyelesaian Sengketa Perdata di Pengadilan*. Jakarta: PT Raja Grafindo Persada.
9. Rahmadi, T. (2011), *Mediasi Penyelesaian Sengketa Melalui Pendekatan Mufakat*, Jakarta: Rajawali Press
10. Sidi, R. & Listiawati, D. (2023). Analisis Yuridis Pertanggungjawaban Dokter Atas Kesalahan Pengisian Rekam Medis Sebagai Suatu Malpraktek Administrasi. *Jurnal Ners*, 7(1), 392-398.
11. Sidi, R. (2024). Legal Responsibility for Medical Risks and Medical Negligence in The View of Health Law. *Journal of General Education Science*, 104-110.
12. Siregar, A. R. M., Fikri, R. A., Siregar, M. A., (2023). An alternative dispute settlement in inter-community dispute resolution.

- International Journal in Management and Social Science*, 11(6), 2321-1784.
13. Supriadi, W. C. (2001). *Hukum Kesehatan*. Bandung: Mandar Maju.
 14. Sutiyoso, B. (2008). *Hukum Arbitrase dan Alternatif Penyelesaian Sengketa*. Gama Media.
 15. *Undang-undang Nomor 17 Tahun 2023 tentang Kesehatan*.
 16. Usman, R. (2003). *Pilihan penyelesaian sengketa di luar pengadilan*. Citra Aditya Bakti.
 17. Widjaja, G & Ahmad Yani, A. (2000). *Hukum Arbitrase*, Jakarta: Raja Grafindo Persada
 18. Zulaeha, M. (2016). Mediasi Interest Based Dalam Penyelesaian Sengketa Tanah. *Jurnal Ilmiah Fakultas Hukum Universitas Udayana*, 61, 157.

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