

Implementation of Law No. 17 of 2023 on Dispute Resolution between Patients and Health Workers in Complications of Eye Surgery

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Abstrak

Medical complications, particularly in eye surgery, are inherent risks that may lead to disputes between patients and healthcare providers. In Indonesia, Law Number 17 of 2023 and Government Regulation Number 28 of 2024 emphasize non-litigation mechanisms, especially mediation, as the primary approach to resolving medical disputes. This framework aims to protect both parties while reducing the burden of litigation. This study analyzes the implementation of these regulations in resolving disputes arising from ophthalmic surgical complications, focusing on legal certainty, justice, and balanced protection. This research employs a normative legal method using statutory and literature approaches. The analyzed regulations include Law Number 17 of 2023, Law Number 29 of 2004, Law Number 36 of 2009, Law Number 30 of 1999, and Supreme Court Regulation Number 1 of 2016. Secondary data from textbooks, journals, case reports, and court decisions were examined using qualitative descriptive analysis. The findings indicate that mediation serves as a mandatory initial step in resolving medical disputes. Non-litigation pathways are considered faster, more cost-effective, and less confrontational than litigation. Professional disciplinary bodies play a crucial role in assessing alleged negligence proportionally. Legal protection for healthcare providers is ensured without neglecting patients' rights. Overall, the regulation strengthens a restorative justice approach, maintains the therapeutic relationship, and balances rights and obligations, although challenges remain in technical implementation and public awareness.

Keywords: *Alternative dispute resolution, Health law, Legal protection, Medical malpractice*

Abstrak

Komplikasi medis, khususnya dalam operasi mata, merupakan risiko inheren yang dapat menyebabkan perselisihan antara pasien dan penyedia layanan kesehatan. Di Indonesia, Undang-Undang Nomor 17 Tahun 2023 dan Peraturan Pemerintah Nomor 28 Tahun 2024 menekankan mekanisme non-litigasi, terutama mediasi, sebagai pendekatan utama untuk menyelesaikan sengketa medis. Kerangka kerja ini bertujuan untuk melindungi kedua belah pihak sekaligus mengurangi beban litigasi. Studi ini menganalisis implementasi peraturan tersebut dalam menyelesaikan sengketa yang timbul dari komplikasi bedah oftalmik, dengan fokus pada kepastian hukum, keadilan, dan perlindungan yang seimbang. Penelitian ini menggunakan metode hukum normatif dengan pendekatan hukum dan literatur. Peraturan yang dianalisis meliputi Undang-Undang Nomor 17 Tahun 2023, Undang-Undang Nomor 29 Tahun 2004, Undang-Undang Nomor 36 Tahun 2009, Undang-Undang Nomor 30 Tahun 1999, dan Peraturan Mahkamah Agung Nomor 1 Tahun 2016. Data sekunder dari buku teks, jurnal, laporan kasus, dan keputusan pengadilan diperiksa menggunakan analisis deskriptif



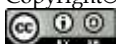
kualitatif. Temuan menunjukkan bahwa mediasi berfungsi sebagai langkah awal yang wajib dalam menyelesaikan sengketa medis. Jalur non-litigasi dianggap lebih cepat, lebih hemat biaya, dan kurang konfrontatif daripada litigasi. Badan disiplin profesional memainkan peran penting dalam menilai dugaan kelalaian secara proporsional. Perlindungan hukum bagi penyedia layanan kesehatan dipastikan tanpa mengabaikan hak pasien. Secara keseluruhan, peraturan tersebut memperkuat pendekatan keadilan restoratif, mempertahankan hubungan terapeutik, dan menyeimbangkan hak dan kewajiban, meskipun tantangan tetap ada dalam implementasi teknis dan kesadaran publik.

Kata kunci: Penyelesaian sengketa alternatif, Hukum kesehatan, Perlindungan hukum, Malpraktik medis

Introduction

Health law is a field that continues to develop along with the increasing complexity of health services (Risawati, 2024). Medical complications are one of the risks that cannot be completely avoided in medical practice in the field of health law, including in eye surgery procedures. Even if medical procedures have been performed in accordance with professional standards and operational procedures, unexpected results can still occur and often cause disappointment and loss for patients (Thevi et al., 2017). The legal relationship between doctor and patient is basically a relationship based on trust, but in practice, it is not impossible that the relationship ends in a medical dispute (Nasution, Satria, Tarigan, 2022). This situation often triggers disputes between patients and health workers, especially when patients or their families believe there is negligence or violation of their rights to health services (Engelhard et al., 2018). Legally, the relationship between doctor and patient is a contractual relationship that involves the rights and obligations of both parties (Dalimunthe, Ismaidar, Simarmata, 2025). Despite maximum efforts made to prevent errors, negligence can have serious consequences for patients and can lead to legal liability (Satria, 2024). Patient rights such as informed consent, access to information, and fair treatment are still often ignored in practice. Effective legal protection is the key to realizing safe, accountable, and fair health services (Naurah, Saragih, Pratiwi, 2025).

In Indonesia, medical dispute resolution still faces challenges. Prior to the enactment of Law Number 17 of 2023 concerning Health, the legal framework for resolving disputes between patients and health workers was largely based on Law Number 29 of 2004 concerning Medical Practice, Law Number 36 of 2009 concerning Health, as well as civil and criminal mechanisms. However, previous provisions are often considered to have failed to provide legal certainty and balanced justice for both parties, both patients and health workers (Law of the Republic of Indonesia Number 17 of 2023 concerning Health, 2023). Improving legal protection requires preventive regulation, ethical enforcement, and coordinated institutional oversight to reduce harm and ensure justice. As illustrated in a recent analysis, inadequate regulation often leaves individuals vulnerable to abuse, highlighting the need for integrated protections that protect rights. (Sakina et al., 2025). Law Number 17 of 2023 was passed in the spirit of health system reform, including strengthening the mechanism for resolving medical disputes. One important aspect is the emphasis on dispute resolution through non-litigation channels, such as mediation and conciliation, before filing a lawsuit with the court in accordance with article 310 of Law Number 17 of 2023 concerning Health (Law of the Republic of Indonesia Number 17 of 2023 concerning Health, 2023). This aims to reduce the criminalization of health workers while still protecting the right of patients to receive compensation in the event of losses due to medical treatment (Law of the Republic of Indonesia Number 17 of 2023 concerning Health,



2023). In the context of eye surgery, which is a high-risk procedure, this regulation is particularly relevant because postoperative complications are often unpredictable even if the procedure is performed to standard. However, the implementation of Law Number 17 of 2023 still raises questions, especially regarding the extent to which this regulation is able to balance the interests of patients and health workers in disputes arising from medical complications. Research on the application of this law in practice is still limited, so more in-depth studies are needed. Based on this background, this study aims to analyze the implementation of Law Number 17 of 2023 in resolving disputes between patients and health workers related to complications of eye surgery, as well as evaluating its effectiveness in providing legal certainty, justice, and protection for both parties.

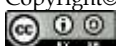
Methods Research

This study uses normative legal research methods with a legislative approach and a literature review. The normative legal method was chosen because this study focuses on analyzing the implementation of Law Number 17 of 2023 concerning Health in resolving disputes between patients and medical personnel arising from complications of eye surgery. The legislative approach is applied by analyzing relevant laws and regulations, including Law Number 17 of 2023 concerning Health, Law Number 29 of 2004 concerning Medical Practice, and Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, as well as Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court.

Literature studies are conducted by collecting data from secondary sources, such as textbooks, scientific journals, court rulings, case reports, and online databases related to medical dispute resolution and the application of health law. These materials provide theoretical and practical perspectives on how ophthalmological surgical complications are managed within a legal framework. The collected data was analyzed using a qualitative descriptive method. This analytical technique is used to systematically describe, interpret, and evaluate the provisions of health law and their practical implications. By identifying the relationship between legal norms, case studies, and dispute resolution practices, this study aims to provide a comprehensive understanding of the implementation of Law Number 17 of 2023 in ensuring legal certainty, justice, and protection for patients and health workers in medical disputes related to eye surgery complications.

Results and Discussion

Legal disputes related to complications from eye surgery, particularly cataract procedures, are becoming more frequent due to allegations of medical negligence that cause harm to patients. In a global context, research in India shows that about 36% of cases submitted to consumer dispute resolution commissions are proven to be medical negligence, with serious complications such as endophthalmitis recorded as the main cause of lawsuits. (Srivastava et al., 2020) This condition suggests that eye surgery procedures, although common, still contain medical risks that can lead to legal disputes if the results do not meet the patient's expectations. In addition, patient comorbidities, such as diabetes or hypertension, often worsen postoperative conditions and contribute to disputes. In carrying out their profession, doctors are required to comply with the medical code of ethics, namely the latest medical science, general ethics, medical ethics, law, and religion (Zarzani, Ismaidar, Sirait, 2024). As public awareness of patients' rights to safe and quality health services increases, doctors are required to be more careful. However, these demands can also encourage



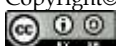
excessive defensive medical practices, which can potentially hinder optimal service delivery (Srivastava et al., 2020).

Dispute Resolution Mechanism Based on Law Number 17 of 2023

Law Number 17 of 2023 concerning Health, together with Government Regulation Number 28 of 2024 in Article 312 paragraphs 1, 2, and 3, explicitly stipulates that mediation is a mandatory initial stage in every medical dispute resolution process, including those related to post-eye surgery complications. These provisions were created in an effort to reduce reliance on litigation, which is often time-consuming, expensive, and creates an antagonistic relationship between patients and healthcare workers. Through the mediation mechanism, it is hoped that a more efficient, transparent, fast, cheap, and flexible process will be created, so that the parties not only focus on determining faults, but also emphasizing the restoration of relations and a fair settlement. Another advantage of mediation is that it provides space for patients, families, and healthcare workers to determine their own resolution mechanisms according to the needs and context of the case, with the help of a neutral mediator who facilitates communication. Therefore, mediation is considered capable of providing a mutually beneficial solution that protects the legal interests of both parties while supporting the goal of protecting public health (Awangga, 2025; Siregar et al., 2024).

The resolution of medical disputes through non-litigation channels is prioritized as a strategic step in the Indonesian health legal system (Anggraeni et al., 2025). This approach is expected to reduce the burden of cases in court, which often accumulate and take a long time to resolve. In addition, out-of-court settlements allow for a more efficient, fast, and interest-oriented process for the parties involved, compared to litigation mechanisms that tend to be formal, rigid, and result in winners and losers. For patients, non-litigation channels can provide easier and more affordable access to justice, while for healthcare workers, these mechanisms can avoid the potential for disproportionate criminalization or stigmatization. Therefore, prioritizing out-of-court settlements is not only a procedural effort, but also a more humane and solution-oriented form of legal protection for both parties, while supporting the achievement of the goals of Law Number 17 of 2023 in strengthening the national health system (Awangga, 2025; Siregar et al., 2024; Utama et al., 2024).

In resolving medical disputes, especially those related to alleged negligence of health workers, the Honorary Professional Discipline Council plays a central role as the first line of defense before cases are brought to criminal or civil court (Ardi et al., 2023). Complaints can be filed by aggrieved parties, whether patients, their families, or other relevant stakeholders, when they feel that medical measures have caused harm or are carried out in a manner that is not in accordance with professional standards. This complaint can be filed in two forms, either in writing, such as through official letters and written reports, or orally, by directly submitting a complaint to the competent authority. Once received, the complaint will not be ignored but will undergo a structured examination process. Responsibility for this process rests with a Disciplinary Assembly specially formed for this purpose. The Council is made up of members of the Honorary Council of Professional Disciplines, who bring not only medical and professional expertise but also legal insight through the involvement of legal experts. This composition ensures that complaints are reviewed in a balanced and objective manner, based on ethical and legal considerations. (Atmoko, 2022) Sanctions imposed by the Professional Honorary Discipline Council are administrative, such as written warnings, recommendations for revocation of practice licenses, or mandatory training. (Estrada, 2024)



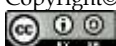
In accordance with the provisions stipulated in Law Number 17 of 2023 concerning Health, in Article 308 paragraphs 1 and 2, every alleged medical violation cannot be directly categorized as malpractice or violation of the law. Instead, the allegation must first go through a careful examination and evaluation process by the Professional Honorary Disciplinary Council. This board acts as an initial filter in charge of carefully assessing whether the actions of medical personnel fall within the scope of professional discipline violations or have exceeded those limits. This structured mechanism aims to prevent premature criminalization of healthcare workers while ensuring that patients continue to receive fair and appropriate protection of their rights. By conducting an objective and proportionate evaluation, the board helps maintain professional accountability while protecting medical personnel from unfounded allegations that could damage their reputation and practice. (Sutanto, 2024) Investigators are required to seek recommendations from the Professional Honorary Disciplinary Council before proceeding with criminal proceedings against medical personnel. This recommendation must be given within a maximum of 14 days. If this deadline is exceeded, it is considered that the board has approved the investigation process. (Iskandar et al., 2024)

This mechanism is designed to ensure that the principles of legal certainty and protection are applied fairly to patients and healthcare workers. In the medical field, not all complications that arise during treatment are caused by negligence or malpractice. Many complications are actually inherent risks that accompany medical procedures, even when they are performed according to established standards. Without a clear screening system, there is a tendency for any unfavorable results to automatically be considered a form of negligence, which can create fear among healthcare workers and potentially hinder the delivery of optimal healthcare services. By involving the Honorary Council as the first layer of review, this mechanism serves as a safeguard. The Board acts to carefully evaluate and distinguish between cases where complications occur as a natural consequence of medical intervention and cases where there is actual negligence as a result of a violation of professional standards or legal provisions. Through this process, it is hoped that objectivity, fairness, and proportionality will be achieved in handling disputes. Patients still get justice and protection, while healthcare workers will not be unfairly accused of risks beyond their control. (Sutanto, 2024; Syarief, 2023).

Legal Protection for Health Workers and Patients

Protection for Health Workers: Article 310 of Law Number 17 of 2023 explicitly provides a strong legal basis to ensure that medical personnel and health workers receive protection when carrying out their professional duties. This provision emphasizes that as long as health workers carry out their duties in accordance with professional standards, service standards, applicable Standard Operating Procedures (POS), and professional ethics, they should not be subjected to unfair or criminalized accusations. The protection provided includes several important aspects. First, including the principle of presumption of innocence, ensuring that health workers are not automatically considered guilty when complications or adverse outcomes occur. Second, it establishes a limit of liability, meaning that liability is only imposed if there is clear evidence of a violation. Third, guaranteeing the right to due process, ensuring that each case is reviewed proportionately and objectively through appropriate legal and disciplinary mechanisms. (Sutanto, 2024; Syarief, 2023; Utama et al., 2024).

Patients retain the full right to claim liability whenever they suffer losses that may be related to negligence or malpractice in the provision of healthcare services. However, the



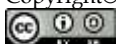
liability claim cannot be filed arbitrarily, but must follow the legal and procedural mechanisms that have been formally established. The mechanism includes an initial mediation process between the parties involved in an effort to resolve the dispute peacefully, as well as obtaining recommendations and evaluations from the relevant boards or professional bodies. Only after these stages are completed, the matter can be brought to court (Prayuti et al., 2025; Sutanto, 2024; Utama et al., 2024). Restorative justice-based settlement is recommended to prioritize relationship recovery and loss, rather than mere punishment (Anton et al., 2024; Sutanto, 2024; Utama et al., 2024). The implementation of mediation is often hampered by suboptimal technical regulations and a lack of understanding in the field. Legal protection must balance the rights of patients and health workers so as not to cause fear in defensive practices or practices (Irawati et al., 2021).

Conclusion

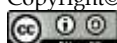
The study concludes that the implementation of Law Number 17 of 2023 concerning Health provides a stronger legal basis for resolving medical disputes, especially in the case of complications of eye surgery. By mandating mediation as an initial stage and emphasizing non-litigation mechanisms, the law aims to create a more efficient, affordable, and solution-oriented settlement. The involvement of the Honorary Professional Disciplinary Council ensures that not all complications are automatically categorized as negligence, making the process more objective and proportionate. In addition, Article 310 guarantees legal protection for health workers who carry out their duties in accordance with professional standards while maintaining patients' rights to accountability and compensation. Despite this progress, challenges remain, including limited public awareness, uneven technical implementation, and the need for competent mediators. Strengthening these aspects is essential to fully realize the law's objectives, which are justice, legal certainty, and balanced protection for both patients and healthcare workers.

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