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Medical Dispute Resolution Regarding Alleged Negligence by Dentists in Independent Practice

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Abstract

Medical disputes between dentists and patients present legal challenges, particularly in independent dental practices located in disadvantaged areas where access to professional legal and ethical institutions is limited. This study analyzes the effectiveness of resolving medical disputes between dentists and patients, with particular attention to legal effectiveness, legal certainty, and alternative dispute resolution. This study employs a normative juridical method with a qualitative approach and is classified as sociological legal research with a descriptive-analytical character. Data were obtained through interviews with two independent dentists, two patients, two community leaders, and one Indonesian dental association representative, supported by observations and document studies. The findings show that two identified disputes were resolved through informal verbal mediation facilitated by community figures, without written agreements or referral to professional disciplinary institutions. Mediation was relatively fast, inexpensive, and oriented toward mutually acceptable solutions. However, limited institutional access, community preferences for familial settlement, mediator neutrality, and weak legal enforceability of verbal agreements constrained its effectiveness. The study concludes that strengthening institutional support and written, enforceable mediation procedures is necessary to improve legal certainty and dispute-resolution effectiveness in independent dental practices.

Keywords

Health Law, Independent Dental Practice, Medical Dispute Resolution, Medical Negligence, Non-Litigation Mediation.

1. Introduction

Dental services constitute an important component of community healthcare, particularly through independent dental practices that provide accessible treatment outside institutional healthcare facilities. Based on Higher Education Database data in 2022, Indonesia had 32 dental education programs across several provinces, with a total of 33,620 students recorded between 2018 and 2021. In addition, data from the Indonesian Medical Council in 2024 indicated that 42,789 dentists held active Registration Certificates (*Surat Tanda Registrasi*/STR), with more than 64% practicing independently, either individually or in groups (Ministry of Health of the Republic of Indonesia, 2022; Directorate General of Health Workforce, 2024). These figures demonstrate the substantial role of independent dental practices in the provision of community healthcare. Nevertheless, independent practice also exposes dentists to complex legal consequences, particularly when patients perceive treatment outcomes as inadequate or inconsistent with their expectations. Dental malpractice has therefore become an increasingly important legal issue, especially regarding dentists' criminal liability under the changing Indonesian health-law framework (Fauziah et al., 2025).

The legal relationship between dentists and patients arises from a therapeutic contract and statutory obligations. Medical treatment provided by a dentist constitutes an agreement that may be established orally or in writing, while the statutory relationship creates professional obligations that must be fulfilled in providing healthcare services. In practice, however, this relationship does not always proceed smoothly. Patient dissatisfaction may arise when symptoms persist, treatment outcomes do not meet expectations, or healthcare conditions deteriorate, including cases involving disability or death. Such circumstances may lead patients to perceive that a dentist has committed a medical error, potentially escalating into a medical dispute and subsequent legal proceedings (Kurniawati & Fahmi, 2023). Increasing public legal awareness has further strengthened the need for an appropriate dispute-resolution mechanism that protects patient rights while simultaneously providing legal certainty for dentists.

Law Number 29 of 2004 concerning Medical Practice regulates dentist liability and patient rights, and Law Number 17 of 2023 concerning Health further strengthens them. The legal framework requires addressing medical disputes through non-litigation mechanisms before proceeding to litigation, with mediation serving as an important means of achieving a peaceful resolution. Through mediation, patients and dentists can express their concerns, interests, and proposals and work together to reach a mutually acceptable solution (Ummah et al., 2019; Pramesuari, 2024). This mechanism is particularly relevant to medical disputes because they involve not only legal interests but also professional relationships and the ongoing relationship between healthcare providers and patients.

However, the implementation of this legal framework in independent dental practices presents important practical challenges. Cases identified in Empat Lawang Regency between 2023 and 2025 show that patients and dentists resolved disputes through informal mediation, including free follow-up examinations and explanations of medical risks. These settlements were facilitated by community figures and completed within a relatively short period, but they were conducted verbally without written minutes and were not escalated to professional disciplinary institutions. Furthermore, the implementation of Article 310 of Law Number 17 of 2023 in Empat Lawang faces limitations related to facilities and infrastructure, community preferences for familial settlement, and the absence of a Medical Ethics Honorary Council (*Majelis Kehormatan Etik Kedokteran*/MKEK) at the regency level. These conditions indicate a gap between the normative requirement for medical dispute resolution and its practical implementation at the local level.

Existing studies have examined medical dispute resolution, mediation, and the legal framework governing relationships between healthcare providers and patients (Ummah et al., 2019; Kurniawati & Fahmi, 2023; Pramesuari, 2024). However, limited attention has focused on medical disputes involving dentists in independent practices, particularly in disadvantaged areas where access to professional legal and ethical institutions is limited. Moreover, previous discussions tend to emphasize the normative framework of dispute resolution rather than examining how mediation operates in practice and whether it provides sufficient legal certainty and enforceability for both parties. This gap is particularly significant in Empat Lawang Regency, where the available evidence demonstrates that informal mediation is commonly used but remains constrained by mediator neutrality, institutional accessibility, and the enforceability of verbal agreements.

This study aims to analyze the effectiveness of resolving medical disputes between dentists and patients through non-litigation mechanisms in Empat Lawang Regency, with particular attention to legal effectiveness, legal certainty, and the implementation of Alternative Dispute Resolution (ADR). This study contributes to the literature by providing an empirical legal analysis of dispute resolution in independent dental practices and identifying practical limitations in the implementation of mediation, thereby supporting the development of a more effective, certain, and enforceable dispute-resolution framework that balances patient rights with the legal protection of dentists.

2. Methods

This research employs a normative juridical method with a qualitative approach, treating law as both an applied, prescriptive science and an empirical fact. The study relies on normative premises by utilizing laws and regulations to evaluate the effectiveness of legislation, establish relationships between various events, and conduct interviews for data collection. The use of this approach enables the research to examine legal provisions while also considering their application in practice (Aksa et al., 2025). This type of study is classified as sociological legal research, conducted through direct surveys at the research location and data collection through interviews. Meanwhile, based on its nature, this research is descriptive-analytical, providing a detailed, clear, and systematic overview of the primary research problems. This approach describes the implementation of medical dispute resolution between dentists and patients is implemented under applicable legal provisions (Anesa, 2022).

The types and sources of data were obtained from primary and secondary data. Primary data are obtained through direct interviews with parties related to the core issues discussed in the research. Secondary data are obtained indirectly from various sources, including books on criminal law, civil law, health law, and legal protection for medical personnel, as well as statutory regulations, legal journals, previous theses, internet sources, and legal dictionaries. The research was located in Empat Lawang Regency, South Sumatra. The informants consisted of two independent practicing dentists, two patients, two community leaders, and one board member of the Indonesian Dental Association (*Persatuan Dokter Gigi Indonesia*/PDGI) Lubuk Linggau Branch. Data collection used structured in-depth interviews, observations, and review of existing documents.

Data analysis was conducted qualitatively through descriptive elaboration of the data obtained from the research. The determination of this analytical method was tailored to the data categories and the researcher's objectives. The analysis focused on describing and interpreting the information obtained from interviews, observations, and documents in relation to the research problems. Conclusions were drawn using inductive reasoning, which involves deriving a general statement or case conclusion from specific statements or observations (Anesa, 2022).

3. Results and Discussion

3.1. Medical Dispute Resolution Mechanisms

Litigation is a legal process in which a court issues a binding decision for the disputing parties. The legal basis for resolving medical disputes through civil litigation includes Article 32 letter q of Law Number 44 of 2009 concerning Hospitals, Article 66 of Law Number 29 of 2004 concerning Medical Practice, and Articles 1238, 1239, 1365, and 1466 of the Indonesian Civil Code. In cases involving breach of contract or tort, litigation may result in compensation. However, litigation is characterized by high costs, substantial psychological burdens, lengthy procedures, and formal and complex processes. It may also damage the reputation of healthcare professionals, increase healthcare costs, discourage dentists from taking professional risks, and deteriorate relationships between dentists and patients or their families. Therefore, mediation is considered a more appropriate alternative for resolving medical disputes (Hidana et al., 2020; Lestari & Irwanto, 2020).

Non-litigation resolution involves settling legal disputes outside court through negotiation, conciliation, mediation, arbitration, and other forms of Alternative Dispute Resolution (ADR). Mediation is particularly relevant to medical disputes because it allows patients and medical personnel to express their concerns and interests while jointly determining an appropriate resolution (Eggleton, 2023; Aksa et al., 2025). Article 310 of Law Number 17 of 2023 concerning Health requires medical disputes to be pursued through mediation, conciliation, or arbitration before proceeding to litigation. Similarly, Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution provides a legal basis for resolving civil disputes outside the courts through procedures agreed upon by the parties, including consultation, conciliation, negotiation, and mediation (Mayang et al., 2023; Kurniawati & Fahmi, 2023).

This mechanism is particularly important in Empat Lawang Regency, a 3T (*Terdepan, Terluar, dan Tertinggal*) area in South Sumatra, where the Provincial Honorary MKEK in Lubuk Linggau is approximately 120 km away, and transportation access remains limited. This condition creates a gap between legal norms and their practical implementation. Dentists in independent practice are particularly vulnerable because they lack the institutional legal support available in hospitals. Given the limited research on independent dental practices in 3T areas, non-litigation resolution is considered the most relevant approach because mediation can de-escalate conflicts and facilitate mutually acceptable solutions through a mediator (Hidana et al., 2020; Hafizah & Fitriasih, 2022; Anesa, 2022).

Table 1. Summary of Medical Dispute Cases, 2023-2025

Practice	Case 1 (2024)	Case 2 (2026)
Brief Chronology	Patient protested persistent pain after a dental filling.	Patient complained of continuing tooth pain two weeks after tooth extraction.
Resolution	Mediation and free follow-up check.	Mediation and explanation of medical risks.
Mediator	Village Head (*Lurah*)	Community Elder
Duration	3 days	2 days

In Empat Lawang, two medical dispute cases involving independently practicing dentists were identified between 2023 and 2026, as illustrated in Table 1. The first case involved persistent pain after a dental filling in 2024, while the second concerned ongoing tooth pain two weeks after a tooth extraction in 2026. Both disputes primarily arose from patient concerns and misunderstandings regarding medical risks and the normal healing process. The cases were resolved verbally through mediation, involving local community figures, with resolutions including follow-up care and explanations of medical risks. Neither case was documented

through written minutes or escalated to the Indonesian Medical Disciplinary Board (*Majelis Kehormatan Disiplin Kedokteran Indonesia/*MKDKI) or Provincial MKEK.

Civil disputes can be resolved through two pathways, namely litigation and non-litigation. Litigation occurs through judicial proceedings, whereas non-litigation resolution takes place outside court, including through mediation. Mediation is commonly used in civil disputes because it of more private and can prioritize the interests of both parties' interests, including their legal and psychological needs, through discussions facilitated by a mediator. However, no specialized institution currently exists to resolve medical disputes outside the judicial process (Anesa, 2022; Utama et al., 2024). In relation to the identified dispute cases, patient rights in situations involving losses arising from allegedly inappropriate healthcare services are regulated by Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection. These rights include the right to have opinions and complaints heard regarding the goods or services received, the right to obtain advocacy, protection, and appropriate dispute-resolution efforts, and the right to receive compensation, restitution, or replacement when the services received do not correspond to the agreement or applicable standards.

From a legal perspective, a dentist involved in a dispute with a patient may potentially be considered to have committed an unlawful act (*tort*) under Articles 1365 and 1366 of the Civil Code. Nevertheless, the two cases examined did not fulfill the elements of an unlawful act. No indication of an unlawful act emerged, and the dentists held valid practice licenses. Furthermore, no fault was established because the patients' pain was highly likely related to an inflammatory process inherent in the underlying condition. No physical or financial loss was identified, as the patients could still discuss and address their complaints directly with the treating dentists. The causal relationship between the patients' alleged losses and the dentists' actions also required further examination and remained open to resolution through discussion (Zaluchu & Yusra, 2022; Belantar & Triana, 2024; Widjaja, 2025). This finding also reflects the difficulty of proving whether a doctor or dentist committed an error during a medical procedure without an MKDKI decision, which may serve as supporting evidence in determining professional responsibility (Iskandar et al., 2024).

Patient protection in therapeutic transactions is further regulated under Law Number 29 of 2004 concerning Medical Practice. Patients are entitled to receive comprehensive information regarding medical procedures, obtain healthcare services according to their medical needs, receive explanations concerning the dentist's professional assessment, refuse medical procedures, and obtain their medical records. When patients refuse a medical procedure, dentists must explain the possible consequences of that refusal. These rights are specifically reflected in Article 52 of Law Number 29 of 2004, including the right to obtain complete information concerning medical procedures, seek a second opinion from another doctor or dentist, receive services according to medical needs, refuse medical procedures, and obtain medical records (Vashist et al., 2014; Chintia et al., 2020; Sinaga, 2021; Fadhlan et al., 2023).

In the examined cases, the dentists stated that they provided treatment to the best of their knowledge, skills, and experience and did not guarantee that patients would experience no continuing pain after dental procedures. At the same time, patients have obligations to provide complete and honest health information, comply with dentists' instructions, and follow applicable healthcare facility regulations. These circumstances demonstrate that mediation is an appropriate mechanism for addressing the disputes while balancing the rights and obligations of both patients and dentists (Swinfen et al., 2023).

3.2. Legal Effectiveness, Legal Certainty, and ADR Implementation

A medical dispute is a conflict between two or more parties that occurs within a medical environment and arises when a conflict remains unresolved, causing one party to feel aggrieved or dissatisfied with another party perceived as responsible for the loss. Thus, a medical dispute is a continuation of an unresolved conflict, often focusing on the outcome of healthcare services while overlooking the process by which the services were provided. Medical disputes may arise from allegations of malpractice reported by patients or their families, where malpractice in the medical context refers to negligence by a doctor or dentist in providing healthcare services that results in adverse consequences for the patient (Aksa et al., 2025; Ciptawan & Anggraeni, 2025).

The relationship between a doctor or dentist and a patient is not merely a contractual relationship governed by Article 1320 of the Civil Code; it also involves moral obligations based on trust and good faith. This relationship is reflected in informed consent, which regulates the agreement between the patient and doctor or dentist regarding medical or dental procedures. In Indonesia, Law Number 29 of 2004 concerning Medical Practice regulates informed consent, and Article 51 establishes the obligations of doctors and dentists in providing medical services while also recognizing patients' obligations in receiving such services (Trisnadi, 2016; Sinaga, 2021).

The effectiveness of law enforcement in Empat Lawang can be assessed through the implementation of Article 310 of Law Number 17 of 2023 concerning Health. The findings indicate that the provision has not been implemented effectively for several reasons. From the facilities and infrastructure perspective, the costs and time required to pursue formal dispute resolution are disproportionate to the relatively small monetary value of the disputes. From the community perspective, the cultural preference for familial and non-litigation settlement remains stronger than the preference for litigation. From the institutional and apparatus perspective, there is no MKEK at the regency level, while the Provincial MKEK has not conducted sufficient outreach to regional areas. These conditions show that the effectiveness of legal enforcement depends not only on the substance of legal provisions but also on supporting facilities, community attitudes, and institutional capacity, consistent with Susilo and Anggraeni's (2025) perspective on legal effectiveness.

Regarding legal certainty, dentists experience uncertainty concerning verbal agreements reached during dispute resolution. They remain concerned that patients may subsequently initiate criminal proceedings under Article 273 of Law Number 17 of 2023, despite the disputes having previously been resolved informally. The absence of written documentation and clear enforceability of these agreements creates uncertainty regarding the legal consequences of the settlement. It is inconsistent with the principle of legal certainty associated with Radbruch's theory (Radbruch, 2006).

The existing ADR model generally fulfills the principles of Alternative Dispute Resolution because it is relatively fast, inexpensive, and oriented toward achieving a win-win solution (Darma et al., 2020). Nevertheless, its implementation remains limited by problems concerning mediator neutrality and legal enforceability. Community leaders who act as mediators tend to prioritize maintaining social and village stability rather than ensuring substantive neutrality between the disputing parties. Furthermore, because the agreements are made verbally, they cannot be effectively executed or enforced when one party subsequently fails to comply with the agreed resolution. Thus, although mediation provides a practical and accessible mechanism for resolving medical disputes in Empat Lawang, its effectiveness remains constrained by institutional limitations, legal uncertainty, mediator neutrality, and the absence of legally enforceable written agreements.

4. Conclusion

The findings demonstrate that medical disputes between dentists and patients in Empat Lawang Regency are predominantly resolved through non-litigation mechanisms, particularly mediation. Two cases identified between 2023 and 2026 were settled through verbal mediation facilitated by community figures, without written minutes or referral to the MKDKI or the MKEK. The disputes did not indicate established unlawful acts because no professional fault, direct physical or financial loss, or definitive causal relationship was identified. Although Article 310 of Law Number 17 of 2023 concerning Health provides a normative basis for mediation, its implementation remains ineffective due to limited facilities, community preferences for familial settlement, and the absence of an MKEK at the regency level. The ADR model is relatively fast, inexpensive, and oriented toward a win-win solution, but legal certainty remains weak because agreements are verbal and mediator neutrality is not fully guaranteed.

These findings suggest strengthening medical dispute-resolution mechanisms in disadvantaged areas through accessible institutional support, clearer procedures, neutral mediation, and written agreements with enforceable legal consequences. Nevertheless, this study is limited by its small number of cases, limited informants, and focus on a single regency, which restricts the generalizability of the findings. Future research should examine medical dispute resolution across multiple 3T regions, involve larger and more diverse groups of informants, and investigate comparative models of formal and community-based mediation to develop a more effective and legally certain ADR framework.

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Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

Data Disclosure Statement
The data that support the findings of this study are available from the corresponding author upon reasonable request.