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Hospital Dispute Settlement Through the Provincial Hospital Supervisory Board in Indonesian Health Law (A Study in Yogyakarta Province)

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Abstract
Hospitals as health service institutions with legal entities are places that are prone to disputes. Article 60 Law no. 44 of 2009 assigned the Provincial Hospital Supervisory Board to receive complaints and make efforts to resolve disputes employing mediation. An analysis of the forms of hospital disputes and their settlement model through the Provincial Hospital Supervisory Board is very important to be done to avoid misinterpretation and provide legal certainty about who is the authorized party to handle them. The research method used was normative juridical and empirical juridical. The results of this study are to obtain an analysis of the forms of complaints that can be submitted to the Provincial Hospital Supervisory Board including disputes over hospitals as health service facilities where medical personnel and health workers provide health services that are detrimental to patients; disputes between the hospital as a health service facility and the patient as the recipient of health services related to the implementation of the obligations of both parties; disputes between the hospital as a legal entity and the hospital workforce related to internal management; the disputes between hospital as a legal entity and the third parties related to non-medical cooperation; the disputes between hospital as a legal entity and the environment. The hospital dispute resolution model implemented by the Provincial Hospital Supervisory Board of Yogyakarta includes the hospital dispute resolution model by the Provincial Hospital Supervisory Board in collaboration with hospitals, the Hospital Supervisory Board, Provincial Health Office, Provincial Legal Representatives (Ombudsman), *YLKI*, and *PERSI*.

Keywords: Provincial Hospital Supervisory Board, Disputes Form, Dispute Settlement Model.

Abstrak
Rumah sakit sebagai institusi pelayanan kesehatan berbadan hukum menjadi tempat yang rawan terjadi sengketa. Pasal 60 Undang-Undang No. 44 Tahun 2009 menugaskan Badan Pengawas Rumah Sakit Provinsi (BPRSP) untuk menerima pengaduan dan melakukan upaya penyelesaian sengketa dengan cara mediasi. Analisis tentang bentuk-bentuk sengketa rumah sakit dan model penyelesaiannya melalui Badan Pengawas Rumah Sakit Provinsi sangat penting untuk dianalisis untuk menghindari salah tafsir dan memberikan kepastian hukum tentang siapa pihak yang berwenang untuk menangani. Metode penelitian yang digunakan adalah yuridis normatif dan yuridis empiris. Hasil penelitian ini adalah untuk mendapatkan analisis tentang bentuk-bentuk pengaduan yang dapat diajukan kepada BPRSP meliputi: sengketa rumah sakit sebagai fasilitas pelayanan Kesehatan tempat tenaga medis dan tenaga Kesehatan memberikan pelayanan kesehatan yang merugikan pasien; sengketa rumah sakit sebagai fasilitas pelayanan kesehatan dengan pasien sebagai penerima pelayanan kesehatan terkait pelaksanaan kewajiban kedua belah pihak; sengketa rumah sakit sebagai badan hukum dengan tenaga kerja rumah sakit terkait manajemen internal; sengketa rumah sakit sebagai badan hukum dengan pihak ketiga terkait kerjasama nonmedik; sengketa rumah sakit sebagai badan hukum dengan lingkungan. Model penyelesaian sengketa rumah sakit yang diterapkan oleh BPRSP DIY antara lain: Model penyelesaian sengketa rumah sakit oleh BPRSP bekerjasama dengan rumah sakit, Dewan Pengawas Rumah Sakit, Dinas Kesehatan Provinsi, Lembaga Ombudsman, YLKI, dan PERSI.

Kata kunci: *Badan Pengawas Rumah Sakit Provinsi, Bentuk Sengketa, Model Penyelesaian Sengketa.*

Introduction

According to Law Number 44 of 2009 Concerning Hospitals, a hospital is defined as a health service institution that provides comprehensive individual

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health services that provide inpatient, outpatient, and emergency services. Hospitals that provide health services will also employ administrative personnel, housekeeping personnel, and health workers as defined in Article 11 paragraph (1) of Law No. 36 of 2014 regarding Health Workers in addition to medical personnel. This suggests that medical staff will engage with other employees and workers while performing their tasks in hospitals. The requirements for authorization to carry out this work are outlined in Article 1601 BW and include payment of compensation. These qualifications may be stated in a job description by the hospital, which is the employer legally, as well as all of the staff personnel engaged as job recipients (*werknemer*) (Astuti, 2011).

The rights and obligations stated in the labor agreement represent the legal relationship between the hospital as a legal person and all the participants in it. Harmony will be created in the delivery of medical services in hospitals with the implementation of the parties' rights and obligations, provided that it does so following the agreement. On the other hand, if one or both parties fail to uphold their commitments or assert their rights, this will lead to disputes and have an impact on health services.

According to Article 1367 of the Civil Code, the Hospital Director is also legally responsible for any mistakes committed by the doctor for whom he is responsible. This theory suggests that a hospital can be held responsible for mistakes made by its doctors (subordinates), provided it can be shown that the doctor's actions were committed as part of carrying out the hospital's obligations (Astuti, 2011).

The hospital and patient relationship are covered by the legal provisions of the agreement. The legal relationship between the hospital and the doctors and the patients is based on agreements that result from those agreements. The arrangement between the patient and the hospital (doctor) is known as a therapeutic agreement (Mufidi, 2009). As an agreement, rights and obligations arise as a result of the agreement (Nuryanto, 2012). The main engagement in the therapeutic agreement is the doctor's duty to provide medical care and the patient's right to receive such care, as well as the patient's duty to compensate the doctor for his or her medical work and the doctor's right to be compensated (Sukarjono, 2009). Disputes frequently arise when these rights and obligations are enacted into law.

Misunderstandings, discrepancies in interpretation, imprecise procedures, dissatisfaction, offense, suspicion, improper, dishonest, or dishonest acts, arbitrariness or injustice, and unexpected circumstances are some of the causes of disputes in hospitals (Afandi, 2009). 405 cases in the most recent several years were reported to the Legal Aid Institute (*LBH*) for Health. The police report listed 73 instances of these in all. The data shows that incidents of lawsuits brought against hospitals and healthcare professionals who harmed patients as a result of their acts while providing care are rising daily (Arifin, 2016).

Hospital disputes can involve hospitals as legal entities as well as the medical professionals that work there, such as land disputes and environmental disputes. There are two methods of dispute resolution: litigation (court) and non-

litigation/consensual/non-adjudication (Afandi, 2009). Litigation is an open process that involves formal procedures, a lawyer, and a lot of time, and can result in either a win or a defeat. Non-litigation dispute settlement is flexible, without lawyers, and it is closed. Mediation can be used in non-litigation dispute resolution efforts.

A Hospital Supervisory Board was mandated to be established at the central and provincial levels by Hospital Law No. 44 of 2009. According to Article 60 of Law No. 44 of 2009, the Provincial Hospital Supervisory Board (*BPRSP*) is charged with receiving complaints and attempting to mediate disagreements. Before the enactment of the Hospital Act, if the parties agreed to utilize mediation to settle their differences, only the hospital, the patient, or the party who felt aggrieved were included in the mediation process, along with a mediator if necessary. However, some hospitals or individuals who are harmed by hospitals continue to pursue legal action against the court. Following the enactment of the Hospital Law, hospitals were required to submit any problems for mediation to the Provincial Hospital Supervisory Board (*BPRSP*).

The Hospital Oversight Board receives numerous dispute cases, not all of which are really under their authority. Numerous cases that should have been treated as medical discipline violations and were instead handled by the Indonesian Medical Discipline Honorary Council included ethical violations that occurred within the hospital or were treated as hospital violations but were ethical violations. Hospitals and the community in general, need to know the forms and processes used to resolve hospital disputes through the *BPRSP*. This is done with the intention that hospitals and the general public will be aware of the forms of disputes that can be submitted to and settled through the *BPRSP* and that any hospital disputes can be settled peaceably with a win-win solution, maximizing the provision of healthcare services in Indonesia.

The *BPRSP* for the Special Region of Yogyakarta was one of the *BPRSPs* that was established following Government Regulation No. 49 of 2013 About the Hospital Supervisory Board. This took place in 2015. *BPRSP* Special Region of Yogyakarta is now held by members of the fourth period, specifically the 2021–2023 service period, which was established based on the Governor of Special Region of Yogyakarta No. 320/KEP/2020 Decree and has the experience, to be able to provide information on the implementation of *BPRSP* responsibilities related to hospital dispute resolution. The forms of disputes that can be settled by the *BPRSP* are not covered by any laws or regulations. The authors of this study identified the dispute forms that *BPRSP* encountered and the hospital dispute resolution methods that *BPRSP* used to resolve disputes.

Research Problems

First, what is the legal analysis of the many forms of hospital disputes that Indonesia's Supervisory Board for Provincial Hospitals can settle? and second, what is the Indonesian Provincial Hospitals Supervisory Board's model for settling hospital disputes?

Research Methods

The problem of categorizing hospital disputes that can be settled by the Provincial Hospital Supervisory Board (*BPRSP*) was researched using a normative juridical method with a statutory approach and legal inventory specifications then were assessed qualitatively normatively. The problem of the hospital dispute resolution model through *BPRSP* in Indonesia was investigated using empirical juridical methods with a qualitative research approach. The study specifications are descriptive and use purposive sampling or criteria-based selection methods. Interviewing Special Region of Yogyakarta Provincial Hospital Oversight Board members, the Provincial Health Office's head of the Health Services Division, and the head of the Referral Health and Special Health Section was the technique used to acquire the data. Qualitative techniques and content analysis were used to analyze the data.

Discussion

1. Legal Analysis of Forms of Hospital Disputes by the Provincial Hospital Supervisory Board

The vast majority of medical disputes arise out of medical negligence. The plaintiff must prove that the defendant owed a duty of care, breached that duty, and caused damage that is not too remote. However, each of these aspects of negligence becomes more complex in medical malpractice suits (Amirthalingam, 2017). A hospital as a place for medical services is a very complex and high-risk institution, especially in a very dynamically changing regional and global environment. As a result, hospitals must be able to prioritize their tasks while still carrying out the mandates and responsibilities of the health sector's experts, particularly the medical and nursing staff (Wahyudi, 2011).

Law No. 44 of 2009 Concerning Hospitals gives special consideration to hospitals that offer medical services. The law regulates both hospitals' and patients' rights and responsibilities. The attribution of rights and responsibilities creates a legal relationship between the hospital and the patient. One of the rights of the hospital mentioned in Article 30 paragraph (1) letter f is the right to legal protection when providing medical services. Under accordance with Law No. 44 of 2009 Concerning Hospitals, various legal protections in Articles 45 and 46 are as follows:

1. Article 45 of Law no. 44 of 2009:
   (1) Hospitals are free to opt-out of providing the general public with any information about medical secrets.
   (2) Patients and/or relatives are deemed to have relinquished their medical secret rights to the public if they sue the hospital and make news of it in the media.
   (3) The Hospital's right of responsibility allows the Hospital to reveal patient medical information to the media as described in paragraph (2).
2. Article 46 of Law no. 46 of 2009:
   (1) Hospitals are not legally responsible if patients and/or their families refuse or stop treatment which can result in patient death after a comprehensive medical explanation.

(2) Hospitals are not subject to prosecution for actions taken to preserve lives.

The two articles on hospital legal protection provide that if a hospital acts following Articles 45 and 46 of Law No. 44 of 2009 concerning Hospitals, it cannot be prosecuted, held accountable, or otherwise put under any legal pressure. Hospital disputes cannot be based on the requirements stipulated in Law No. 44 of 2009 Articles 45 and 46. However, as stated in Article 47 of Law No. 44 of 2009 Concerning Hospitals, the hospital is legally responsible for all losses suffered as a result of carelessness in the conduct of healthcare workers. If the hospital violates laws and regulations as a legal entity, it must also be made legally responsible.

A hospital may be involved in a conflict or dispute as a provider of medical services and a as legal entity. Conflict Theory is another name for dispute theory. Dean G. Pruitt and Jeffrey Z. Rubin defined conflict as a sense of disparities in interests (perceived divergence of interests) or a conviction that the objectives of conflicting parties are not met concurrently (simultaneously). Additionally, Pruitt and Rubin further saw observed that conflicts may come from differences in interests or non-agreement between the parties (Salim, 2010).

There are several models of hospital dispute resolution. To fulfill the purpose effectively in medical dispute settings, a typical facilitative mediation model should have been modified to adopt another theoretical perspective (Nakanishi, 2013). There may be identified several different mediation practices can be combined to find the most suitable method for a particular situation (Kulms, 2013). There may be identified several different mediation practices can be combined to find the most suitable method for a particular situation (Kulms, 2013). Probably the most important of them are facilitative mediation, evaluative mediation, and transformative mediation (Lai, 2015). To establish a case of medical malpractice negligence, a plaintiff must plead and prove the following four elements: "(1) the applicable standard of care; (2) a breach of that standard of care; (3) an injury; [and] (4) proximate cause between the breach of duty and injury" (Wei, 2006).

The Hospital Law in Indonesia orders the establishment of a Hospital Oversight Board at the central and provincial levels. Article 60 Law no. 44 of 2009 concerning Hospitals stipulates that the Provincial Hospital Supervisory Board (*BPRSP*) has the following duties:

1. supervising and maintaining the rights and obligations of patients in their area;
2. supervising and maintaining the rights and obligations of the Hospital in its territory;
3. supervising the implementation of Hospital ethics, professional ethics, and laws and regulations;
4. reporting the results of supervision to the Indonesian Hospital Supervisory Board;
5. analyzing the outcomes of supervision and giving recommendations to the regional government to be utilized as training materials;
6. accepting complaints and attempting to mediate disputes.

One of the duties of BPRSP is to receive complaints and make efforts to resolve hospital disputes through mediation. Hospital disputes that arose had to do with the hospital's accountability for carrying out its responsibilities, rights, and obligations. Bambang Purnomo argues that health responsibility in hospitals consists of several health doctrines, namely: (Herkutanto, 1989)

1. Doctrine of Personal Liability

   According to the doctrine of personal liability, each person is responsible for their actions. If this theory applies to a hospital's responsibility, then the hospital is liable in law for any activities that result in a breach of the hospital's duties, authorities, or obligations.
2. Doctrine of Strict Liability

   The Doctrine of Strict Liability states that criminal responsibility is borne by the person concerned without the need for guilt (intentional or negligent) on the perpetrator. This teaching explains that criminal responsibility for the perpetrators is not disputed or called absolute accountability.

   The criminal law implies that the hospital did an illegal act that meets the criteria for a crime as defined by the criminal provisions in the legal relationship between hospital and patient in the provision of medical services. Hospital criminal acts against patients can take the form of purposeful mistakes or carelessness on the part of doctors or other medical personnel that result in physical harm to the victim. Due to this criminal offense, the hospital's operating license will be revoked in addition to paying fines (Bawole, 2013).
3. Doctrine of Vicarious Liability

   This theory or teaching is taken from civil law in the context of tortuous liability applied to criminal law. Vicarius Liability usually applies in criminal law regarding unlawful acts (the law of torts) based on the doctrine of respondent superior. In civil acts, an employer is responsible for mistakes made by his subordinates as long as they occur in the course of his work. This provides the possibility for the party who is harmed because of their unlawful actions to sue their employer to pay compensation if it can be proven. In terms of corporations, it is conceivable for a corporation to be held accountable for the deeds of its officers, directors, employees, proxies, mandates, or anyone else under its authority.

   Since doctors, health professionals, and all hospital employees have a working relationship with the facility, they are all required to abide by the hospital's policies and procedures when doing their duties. Working relationships with hospitals do not cause doctors and other healthcare professionals to lose their professional freedom in the sense that they continue to have the authority to use their professional judgment in certain cases and create the standard operating procedures used in hospitals. According to the vicarious liability doctrine, corporations may be held liable for errors made by medical professionals working in healthcare facilities (the corporation). As a result, all members of the legal system—including investigators, public prosecutors, judges, and advocates—strive to improve

their scientific knowledge of the law. Therefore, both public and commercial hospitals might be dropped as defendants in claims or lawsuits based on this illegal act (Bawole, 2013).

4. Doctrine of Delegation

   Doctrine of delegation is one reason to be able to impose vicarious criminal responsibility. The delegation of authority by hospitals to doctors, nurses, and other healthcare workers is a defense for imposing criminal liability on hospitals for crimes committed by their subordinates who obtain the delegation of authority.

   Delegation of authority is also within the scope of administrative law. The hospital is the party that delegates authority, and doctors/health workers and hospital workers as the party that receives the delegation of authority. Administrative law policies or provisions related to this matter regulate procedures for administering proper and appropriate health services following hospital service standards, operational standards, and professional standards. Violations of these policies or legal provisions take the form of revocation of business licenses or revocation of legal entity status for hospitals, while for doctors and other health workers it can be in the form of verbal or written reprimands, revocation of license to practice, postponement of regular salary or demotion to a lower level.

5. Doctrine of Corporate Identification

   According to the theory presented in this teaching, a corporation may only be held accountable for a crime if it can identify the person(s) responsible for doing it and can prove that it acted as the corporation's directing mind. Criminal liability may be assumed by a hospital's directing mind if it violates the law on the hospital's behalf as a corporation.

6. Doctrine of Aggregation

   The theory teaches that a person is considered to be aggressive (combining) all actions and all mental elements (heart attitudes) from various people who are relevantly related in the corporate environment to be able to ensure that all actions and mental elements are a crime as if all those actions and mental factors have been done by only one person. Hospitals can be legally responsible based on the doctrine of aggregation due to the actions of people who are elements of the hospital who in carrying out the duties of the hospital make mistakes or negligence.

If hospitals commit errors, exhibit negligence, or fail to carry out their responsibilities following the rules and laws based on these beliefs, they may be held liable and subject to punishments. Hospital activities that are careless, mistaken, or do not comply with their responsibilities, powers, and obligations in line with laws and regulations will result in disputes with other parties. The forms of hospital disputes can only be known by conducting an inventory of disputes that have been reported to *BPRSP* through interviews and then analyzing them with the doctrine in Indonesian health law because there are no laws or regulations in Indonesia that regulate the types of hospital disputes that can be reported to *BPRSP*. The study's findings demonstrate that there are a variety of complaints that

can be made to *BPRSP*, including those involving hospital health services, hospital service management problems, and institutional disputes unrelated to medical care (Alawiya et al., 2015).

Disputes in the hospital can be defined by three meanings. First, there is a medical dispute and the dispute should be settled in the hospital. It means that the hospital only has a medical dispute settlement. Secondly, there is a medical dispute, and the hospital is one of the subjects in the dispute. Third, institutional disputes unrelated to hospital medical, such as land disputes or the environment.

The first and second understandings are very likely to occur as a result of health services that occur in hospitals. The first understanding shows that there is a dispute between doctors or other health professionals as providers of health services and recipients of health services that occur in hospitals. The hospital is not a party to the dispute but a facilitator to resolve disputes. The object of this dispute is related to actions taken by doctors or other health workers in carrying out their duties based on professional standards, service standards, and standard operating procedures. In this form of dispute, the principle of vicarious liability is applied, namely, the hospital can be held liable for mistakes made by its doctors (sub-ordinates) by becoming a dispute resolution facilitator, where this principle is based on the doctrine of delegation.

The second understanding shows that the hospital as a health service facility is in dispute with the recipient of the health service. The hospital is one of the parties to the dispute. The object of this dispute is related to the hospital's obligations in providing facilities and implementing service management for patients according to the standards set out in Law no. 44 of 2009 concerning Hospitals. The hospital as a public service organization has responsibility for every health public service it organizes. This responsibility is to provide quality and affordable health services based on the principles of safe, comprehensive, non-discriminatory, and participatory, and to provide protection for the community as users of health services (health recipients), as well as for health service providers to realize the highest degree of health (Bawole, 2013). The responsibility of the hospital is to follow the doctrine of personal liability and the doctrine of corporate identification as explained above.

The third understanding is that hospitals might get into disputes about internal operations and teamwork in non-medical hospitals as legal organizations. Doctors and managers with a high organizational level, defined as being involved in a very complicated organizational complexity, are prevalent in hospitals, whether they are run by the government or the private sector. In an institution that accommodates these two professions, autonomy and integrity are two different interests towards the same goal. An organizational conflict is inevitable in the interaction of these two professions (Njoto, 2011). The object of dispute in this third understanding is related to the implementation of hospital obligations for each of its workers, cooperation disputes with third parties (procurement of goods, medicines, and medical devices), environmental pollution, and land disputes. This form of dispute can occur due to the establishment of the hospital as a legal entity. The law has made the hospital a *rechtspersoon* and therefore the

hospital is also burdened with legal rights and obligations for the actions it takes (Astuti, 2011). The principle of hospital responsibility is also based on the doctrine of personal liability and the doctrine of corporate identification.

From the description above, it can be concluded that forms of hospital disputes may include:

1. Hospital disputes as health service facilities where medical personnel and health workers provide health services that are detrimental to patients;
2. Disputes between the hospital as a health service facility and the patient as the recipient of health services are related to the implementation of the obligations of both parties;
3. Hospital disputes as a legal entity with hospital workforce related to internal management;
4. Hospital disputes as legal entities with third parties related to non-medical cooperation;
5. Hospital dispute as a legal entity with the environment.

2. Model of Hospital Dispute Resolution Through the Provincial Hospital Supervisory Board

Dispute resolution can be used in two ways, namely litigation (court) and non-litigation/consensual/non-adjudication. We all understand that going to court is a process that costs money and takes time. The conventional court system, which is naturally contradictory, often results in one party being the winner and the other party being the loser. Meanwhile, harsh criticism of the judiciary's performance of its duties was seen as being excessively clogged, time-consuming, expensive, and inattentive to the public interest, as well as being seen as being overly formalistic and technical (Afandi, 2009).

One way of resolving disputes is mediation. Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Courts stipulates that mediation is a way of resolving disputes through a negotiation process to obtain an agreement between the Parties assisted by a mediator. Article 1 point 2 Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures stipulates that a mediator is a judge or other party who has a Mediator Certificate as a neutral party who assists the Parties in the negotiation process to seek various possibilities for resolving disputes without resorting to deciding or forcing a settlement.

Furthermore, the Collins English Dictionary and Thesaurus define mediation as a bridging activity between two disagreeing parties that results in an agreement. The mediator performs this task as a party who assists in identifying possible alternative dispute resolutions. The mediator's role, in this case, is to encourage the parties to look for agreements that can put an end to conflicts. An explanation of mediation from the perspective of language (etymology) emphasizes the role of a neutral third party in mediating disputes between opposing parties (Hanifah, 2016).

Mediation is a powerful tool for resolving disputes and has numerous advantages. The advantages and benefits of using the mediation route include that disputes can be settled in a way that is beneficial to both parties because, in theory,

civil disputes are peaceful, the time spent is not prolonged, the costs are lower, the relationship between the two parties in dispute is maintained, and their problems are avoided from being overtly publicized (Rahmah, 2019).

Before disputes are brought before the court, mediation is used in civil cases. The use of mediation to resolve civil disputes in court is viewed as being less than ideal because it is frequently done merely to complete procedures, leaving many cases without mediation. The process of conducting mediation in court involves numerous steps, including the pre-mediation stage, the stages of the mediation process, and the final stage of the mediation process, which determines whether mediation is successful or not. Lack of support from the parties, a lack of facilities, and a lack of mediators are the main causes of inadequate mediation (Rahmah, 2019).

There are three essential elements of this mediation, namely (Rahmadi, 2011):

1. Mediation is a way of resolving disputes through negotiations based on a consensus approach or consensus of the parties.
2. The parties request the assistance of an impartial party known as the Mediator.
3. The mediator simply helps the disputing parties agree on a resolution; they do not have the power to make decisions on their own.

Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution also regulate mediation. According to Article 6 paragraph (3) of Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, if a dispute or difference of opinion as described in paragraph (2) cannot be resolved, the dispute or difference of opinion is resolved with the help of one or more expert advisors or through a mediator based on the written agreement of the parties. The mediator doesn't need to be a judge or a certified mediator, according to Law No. 30 of 1999 regulating Arbitration and Alternative Dispute Resolution.

Mediation can be carried out in court or outside the court. The forms of hospital disputes as stated in the discussion above can be resolved through *BPRSP*. Article 24 Government Regulation No. 49 of 2013 concerning the Hospital Supervisory Board, the Provincial *BPRS* has the following duties:

1. supervising and maintaining the rights and obligations of patients in their area;
2. supervising and maintaining the rights and obligations of the Hospital in its territory;
3. supervising the application of hospital ethics, professional ethics, and laws and regulations;
4. reporting the results of supervision to the *BPRS*;
5. performing an analysis of the outcomes of supervision and offering recommendations to the Regional Government for training materials;
6. receiving complaints and making attempts to mediate disputes.

According to the article, one of the *BPRSP's* responsibilities is to take complaints and attempt to mediate conflicts. The Decree of the Chairperson of the Indonesian Hospital Supervisory Board No. HK.02.04/III.8/006/2016 established

the processes for *BPRSP* to handle complaints. According to the Decree of the Chairperson of the Indonesian Hospital Supervisory Board Number HK.02.04/III.8/066/2016, the *BPRSP's* complaint handling process has three steps, namely:

1. Public complaints administration stage
   Recording, review, distribution, and archiving are done at this stage.
2. The process of proving public complaints stage
   At this stage, research/examination, confirmation/clarification, and reporting of research/examination results are complete
3. The follow-up and monitoring of public complaints stage
   At this stage, a follow-up is conducted in the form of suggestions for sanctions, use of the results of handling public complaints, monitoring, and coordination of follow-up actions for handling public complaints.

Complaints against hospital disputes based on the Decree of the Chairperson of the Indonesian Hospital Supervisory Board Number HK.02.04/III.8/066/2016 can be made through three channels, namely:

1. Submitting complaints to *DPRS*
   On this path, the community and/or hospitals can take action by bringing complaints to Hospital Supervisory Board (*DPRS*), which is located at each hospital. Bipartite dispute resolution is used to try to reach an agreement between the disputing parties; if this is unsuccessful, mediation is sought and facilitated by the *DPRS*. When the issue is resolved, *DPRS* notifies the Provincial *BPRS* of the findings. If no agreement is achieved at the internal level of the hospital through the *DPRS*, the matter is taken to the Provincial *BPRS* and settled through mediation. The Provincial *BPRS* informs the Indonesian *BPRS* of the outcome of the mediation at the Provincial *BPRS*.
2. Submitting Complaints to the Provincial *BPRS*
   On this path, the community and/or hospitals can take action by submitting complaints directly to the Provincial *BPRS*. The complainant and the defendant are called before the Provincial BPRS in the context of mediating conflicts. The Provincial Health Office and the Hospital Supervisory Board (*DPRS*) collaborate with the Provincial *BPRS*. The Provincial *BPRS* informs the Indonesian *BPRS* of the results of the mediation.
3. Submitting Complaints to *BPRS* Indonesia
   On this path, the community and/or hospitals can take action by submitting a complaint to the Indonesian *BPRS*. Complaints are sent to the Provincial *BPRS* by *BPRS* Indonesia. The Provincial *BPRS* attempts to mediate disagreements, and the results are communicated to the Indonesian *BPRS*. Mediation with the Indonesian *BPRS* will be conducted once again if the dispute cannot be settled at the Provincial *BPRS* level.

The study showed that the *BPRSP's* complaint-handling processes, as stipulated in the Decree of the Chairperson of the Indonesian Hospital Supervisory Board No. HK.02.04/III.8/006/2016, are indeed inapplicable. This is because each hospital's internal formation of the Hospital Supervisory Board (*DPRS*), a partner

of the Hospital Supervisory Board (*BPRS*), has not been fully achieved. The Hospital Law does not mandate the development of BPRSP in every province, and as a result, the institutional foundation of *BPRSP* is also not yet well established. According to Article 59 paragraph (1) of Law No. 44 of 2009 Concerning Hospitals, the Provincial Hospital Supervisory Board may be established at the provincial level by the governor and is responsible to the Governor. The word "*dapat*" or in English 'be able' in this article means that the formation of *BPRSP* has not been optimally pursued by the Provincial Governments in Indonesia.

The hospital dispute resolution model that can be implemented by BPRSP based on the results of interviews with *BPRSP* Special Region of Yogyakarta, includes:

1. The coordination between *BPRSP* and the Hospital Supervisory Board (*DPRS*) of each hospital

   BPRSP coordinates with the *DPRS* at the hospital and conducts hospital inspections. The Provincial Health Office receives recommendations from the *BPRSP*, which oversees hospitals and *DPRS*, before acting as a mediator in disputes that arise in hospitals and summoning the parties individually to resolve them.
2. The coordination between *BPRSP* and the Provincial Health Office

   The head of the provincial health office received complaints from the community regarding the hospital (not directly to *BPRSP*). After that, complaints are handled by the Health Services Section. *BPRSP* and the Health Services Section collaborate. Additionally, *BPRSP* strives to mediate disputes and makes suggestions to the head of the provincial health office.
3. The coordination of *BPRSP*, Ombudsman, and *YLKI*

   BPRSP coordinates with the Provincial Legal Representatives (Ombudsman), reviews the resolution of hospital cases submitted to the Ombudsman, and provides recommendations if necessary. *BPRSP* also coordinated with the Indonesian Consumers Foundation (*YLKI*), summoned the hospital that was reported to *YLKI* and summoned the reporter, then resolved the problem using mediation and provided recommendations to the Provincial Health Office to issue a decision to the hospital.
4. The coordination between *BPRSP* and *PERSI*

In collaboration with the Indonesian Hospital Association (*PERSI*), *BPRSP* rates hospitals provide feedback and honors hospitals with the label "star hospital."

Any disputes or community problems related to hospitals, whether discovered by *BPRSP* due to their oversight of hospitals and *DPRS*, as well as hospital disputes reported by the community through the Provincial Health Office, Ombudsman, *YLKI*, and *PERSI*, are all resolved using mediation by *BPRSP*. If an agreement is reached during mediation and is recorded in a peace deed, this peace deed satisfies the requirements of the consensual principle as described in Article 1338 of the Civil Code and has legal force. Because the parties to the deed of peace have achieved an agreement and are equally satisfied, fair, and have resolved their differences, the agreement is binding as law for the parties to the dispute.

Decisions on mediation are largely influenced by the qualifications, experience, and reputation of the mediator (Talib, 2013).

The hospital dispute resolution model through *BPRSP* only has one point following the Decree of the Chairperson of the Indonesian Hospital Supervisory Board Number HK.02.04/III.8/066/2016, namely *BPRSP* coordination with the *DPRS*. The existence of hospital conflict resolution models that are implemented by BPRSP demonstrates that the execution of hospital dispute resolution law is not only handled by *BPRSP* in cooperation with the DPRS as specified in the Decree of the Chairman of the Indonesian Hospital Supervisory Board Number HK.02.04/III.8/066/2016 but that it can also cooperate with other institutions that also receive complaints from the public, including Ombudsman and *YLKI*, as well as hospital-related institutions such as the Health Service and *PERSI*.

The above hospital dispute resolution model and the provisions on handling and complaint channels demonstrate that mediation under the *BPRSP* is following Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, but differs from what is highlighted in Supreme Court Regulation No. 1 of 2016. Although *BPRSP* does not mandate that mediators be judges or certified mediators as specified in Supreme Court Regulation No. 1 of 2016, mediation is conducted outside of court with the assistance of one or more expert advisors or mediators to resolve hospital disputes.

Conclusion

a. Health service disputes at hospitals, hospital service management issues, and institutional disputes unrelated to health services are among the forms of complaints that the *BPRSP* resolves. The identification of these complaint forms highlights the limitations on the forms of complaints that may be submitted, which are not covered by statutory regulations.
b. The following hospital dispute resolution models can be put into practice by *BPRSP*: hospital dispute resolution models by *BPRSP* in coordination with hospitals, the Hospital Supervisory Board (*DPRS*), and the Provincial Health Office by creating recommendations for the Head of Provincial Services' issuance of decisions; hospital dispute settlement models by *BPRSP* in coordination with the Ombudsman Institute, *YLKI*, and *PERSI*. The hospital dispute resolution model serves as an illustration for *BPRSP* throughout Indonesia so that they can establish networks with institutions that are relevant to hospital dispute resolution.

Suggestion

The hospital dispute resolution model that is expected to be easily accessible to the public is a complaint to the *DPRS* in each hospital and is resolved through *BPRSP*. According to the guidelines in the Hospital Act, *DPRS* is required to be maximally formed in each hospital and to be disciplined in submitting reports on the results of the hospital's supervision to *BPRSP*, allowing for the minimization of potential conflicts and the avoidance of disputes.

References

Afandi, D. (2009). Mediasi: Alternatif Penyelesaian Sengketa Medis. *Majalah Kedokteran Indonesia*, *59*(5).

Alawiya, N., Yuliantiningsih, A., & Puspita Sari, D. P. Y. (2015). Hospital Supervisory Board Role in Medical Dispute Settlement in Hospital (Analysis Toward Mechanism and Normative Obstacles). *Jurnal Dinamika Hukum*, *15*(3), 266–272. https://doi.org/10.20884/1.jdh.2015.15.3.395

Amirthalingam, K. (2017). Medical dispute resolution, patient safety and the doctor-patient relationship. *Singapore Medical Journal*, *58*(12), 681–684. https://doi.org/10.11622/smedj.2017073

Arifin, D. A. (2016). Kajian Yuridis Tanggung Jawab Perdata Rumah Sakit Akibat Kelalaian Dalam Pelayanan Kesehatan. *Jurnal Idea Hukum*, *2*(1). https://doi.org/10.20884/1.jih.2016.2.1.31

Astuti, E. K. (2011). Tanggung Gugat Dokter dan Rumah Sakit Kepada Pasien pada Kegagalan Pelayanan Medis di Rumah Sakit. *Jurnal Masalah-Masalah Hukum*, *40*(2), 164–171.

Bawole, G. Y. (2013). Rumah Sakit sebagai Badan Hukum Bertanggung Jawab atas Tindakan Medis yang Dilakukan Dokternya. *Lex Crimen*, *2*(5), 130–139.

Hanifah, M. (2016). Kajian Yuridis: Mediasi sebagai Alternatif Penyelesaian Sengketa Perdata di Pengadilan. *Jurnal Hukum Acara Perdata ADHAPER*, *2*(1), 1–13.

Herkutanto. (1989). *Masalah Pelayanan Dokter Kepada Pasien*. Ind-Hill-Co.

Kulms, R. (2013). *Mediation in the USA: Alternative Dispute Resolution between Legalism and Self-Determination*.

Mufidi, F. dan S. P. (2009). Penyelesaian Sengketa Medik di Rumah Sakit. *Jurnal Ilmu Hukum Wacana Paramarta*, *8*(1).

Njoto, H. (2011). Pertanggungjawaban Dokter dan Rumah Sakit Akibat Tindakan Medis Yang Merugikan dalam Perspektif UU No. 44 Tahun 2009 tentang Rumah Sakit. *Jurnal Ilmu Hukum*, *7*(14).

Nuryanto, A. (2012). Model Perlindungan Hukum Profesi Dokter. *Jurisprudence*, *1*(1).

Rahmadi, T. (2011). *Mediasi Penyelesaian Sengketa Melalui Pendekatan Mufakat*. RajawaliPers.

Rahmah, D. M. (2019). Optimalisasi Penyelesaian Sengketa Melalui Mediasi di Pengadilan. *Jurnal Bina Mulia Hukum*, *4*(1).

Salim, H. (2010). *Perkembangan Teori dalam Ilmu Hukum*. Raja Grafindo Persada.

Sukarjono, B. (2009). Liabilitas Hukum Pihak Rumah Sakit terhadap Pasien (Studi tentang Perlindungan Konsumen/Pasien dan Tanggung Jawab Pihak Rumah Sakit dalam Transaksi Terapeutik pada Rumah Sakit Islam Siti Aisyah Kota Madiun). *Sosial*, *10*(2).

Talib, I. (2013). Bentuk Putusan Penyelesaian Sengketa Berdasarkan Mediasi. *Lex et Societatis*, *1*(1).

Wahyudi, S. (2011). Tanggung Jawab Rumah Sakit terhadap Kerugian Akibat Kelalaian Tenaga Kesehatan dan Implikasinya. *Jurnal Dinamika Hukum*, *11*(3).

Wei, M. (2006). Doctors, Apologies, and the Law: An Analysis and Critique of Apology Laws. *Journal of Health Law*, *39*(4), 107–159.