IPSO JURE JOURNAL

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

Legal Responsibility in Handling Medical Cases: Assessing Health Insurance Policies in Indonesia

Ninda Mulya Ike Ardilla[1], Indah Susilowati[2]
Institut Ilmu kesehatan Bhakti Wiyata Kediri, Indonesia[1,2]

Received: February 15, 2025
Revised: March 01, 2025
Accepted: March 10, 2025
Published: March 22, 2025

Corresponding Author:
Author Name : Ninda Mulya Ike Ardilla
Email : ninda.mulya@iik.ac.id

Abstract: *The increase in medical dispute cases in Indonesia reflects the disparity between patient expectations of health services and the standards applied by medical personnel. The main factors causing disputes include medical negligence, lack of informed consent, and limited transparency in the treatment process. Regulations such as Law No. 29 of 2004 on Medical Practice and Law No. 36 of 2009 on Health have regulated the responsibilities of medical personnel, but their implementation still faces challenges. On the other hand, national health insurance schemes such as BPJS Kesehatan also face obstacles in ensuring a balance of legal protection for patients and medical personnel. The INA-CBGs payment system often does not reflect the complexity of medical cases, thus impacting the quality of health services. The inconsistency of regulations between Law No. 40 of 2014 on Insurance and Law No. 36 of 2009 on Health also causes legal uncertainty in the resolution of medical disputes. This study uses normative juridical methods with legislative, conceptual, and case approaches to analyze related regulations and legal practices. The results of the study show the need for policy reforms that balance economic efficiency and legal protection. With the strengthening of regulations, transparency, and fairer dispute resolution mechanisms, it is hoped that the health law system in Indonesia can run more effectively and fairly.*

Keywords: medical disputes, legal liability, health insurance, regulation, policy reform.

INTRODUCTION

In recent years, the increase in medical dispute cases in Indonesia reflects the disparity between patient expectations for health services and the standards applied by medical personnel. According to data from the Indonesian Medical Council (KKI), cases related to alleged medical malpractice continue to increase,

IPSO JURE JOURNAL

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

showing a gap in the legal protection system for patients and medical personnel.[1] The main factors that often trigger medical disputes are negligence in medical procedures, lack of informed consent, and lack of transparency in the treatment process.[2] In fact, in the principle of medical ethics, every medical action must be based on the principle of prudence and the fulfillment of the patient's right to clear and accurate information (Law Number 29 of 2004 concerning Medical Practice). Unfortunately, weak supervision and the complexity of applicable laws often make resolving medical disputes a long and convoluted process.

On the other hand, patient dissatisfaction with health services is also triggered by limited resources in the Indonesian health system, including in national health insurance schemes such as BPJS.[3] Many patients complain about the quality of the services they receive, especially in terms of waiting times, drug availability, and the competence of medical personnel in first-level health facilities. This imbalance often causes a negative perception of medical personnel, which then leads to lawsuits when results that do not meet patient expectations occur. In this context, evaluation of legal responsibility regulations in handling medical cases is crucial. There needs to be policy adjustments that not only protect the rights of patients, but also provide fair legal protection for medical personnel, so that the health system in Indonesia can run more effectively and fairly.

However, in practice, the health insurance system in Indonesia, especially BPJS Kesehatan, often faces challenges in ensuring balanced protection between patients and medical personnel. One of the main problems is the limited rate of claim payment to health facilities, which has an impact on the quality of medical services provided. Based on Presidential Regulation Number 82 of 2018 concerning Health Insurance, BPJS Kesehatan uses the *Indonesia Case-Based Groups* (INA-CBGs) payment system, which groups financing based on medical diagnoses and procedures. However, these schemes often do not reflect the complexity of the actual medical case, thus burdening health facilities and medical personnel in providing optimal services. As a result, in some cases, patients feel that they are not getting adequate services, while medical personnel are under financial and ethical pressure because they have to adjust medical procedures to the limitations of the claims rates provided.

Furthermore, regulations related to health insurance have also not fully provided legal certainty in the case of medical disputes. Law No. 40 of 2004 concerning the National Social Security System (SJSN) does emphasize the importance of health protection for all citizens, but does not specifically regulate the dispute resolution mechanism between patients, medical personnel, and insurance providers.[4] In many cases,

[1] Rahayu, A., Rokhmat, R., Silitonga, V. D., & Suswantoro, T. A. (2024). Payung Hukum Terhadap Profesi Dokter Dalam Menghadapi Perselisihan Medis. *Jurnal Cahaya Mandalika ISSN 2721-4796 (online)*, *3*(1), 784-810.

[2] Widjayanto, I., Rizal, Y., Tjahyono, T. V., & Hakiki, B. A. (2024). Tinjauan Hukum Perdata atas Tanggung Jawab Dokter dalam Malapraktik Medis dan Relevansi terhadap Perlindungan Pasien. *Proceeding Masyarakat Hukum Kesehatan Indonesia*, *1*(01), 168-183.

[3] Laelatussofah, S. (2024). *Rekonstruksi Regulasi Perlindungan Hukum Sumber Daya Manusia Kesehatan Pada Penanganan Pasien Di Rumah Sakit Berbasis Keadilan* (Doctoral dissertation, Universitas Islam Sultan Agung (Indonesia)).

[4] Ni Nyoman Ayu Ratih Pradnyani, M. H. (2020). *Tanggung jawab hukum dalam penolakan pasien jaminan kesehatan nasional*. Scopindo Media Pustaka.

IPSO JURE JOURNAL

IPSO JURE

Journal

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

patients who are dissatisfied with the health services covered by BPJS Kesehatan tend to bring their cases to the legal realm or social media, without understanding the limits of the responsibilities of medical personnel in the insurance system. This shows the need for a more comprehensive policy revision, where governments need to ensure that health insurance schemes not only focus on cost efficiency, but also provide clear legal protections for all parties involved in the health system.

Although Law (UU) Number 40 of 2014 on Insurance aims to strengthen the insurance protection system in Indonesia, its implementation in the health sector still faces various challenges, especially in handling medical disputes involving health insurance. This law mandates that insurance companies are obliged to implement the principles of prudence and transparency in every policy issued.[5] However, in the context of BPJS Kesehatan and private insurance, there is often a discrepancy between the promised coverage of protection and the reality of services in the field. Many patients feel disadvantaged due to claim rejection or service restrictions that are not explained in detail in the insurance policy or BPJS scheme. In addition, the discrepancy between Law No. 40 of 2014 and Law No. 36 of 2009 concerning Health is also a challenge in providing legal certainty in dispute cases involving the responsibilities of medical personnel and insurance companies.

Furthermore, Law No. 40 of 2014 regulates the supervision of the insurance industry carried out by the Financial Services Authority (OJK), but the supervision of health insurance schemes, especially BPJS Kesehatan, is still not optimal in ensuring legal certainty for patients and medical personnel. In practice, many cases of medical disputes cannot be resolved fairly due to the lack of an independent and accountable dispute resolution mechanism in the health insurance system. This shows that even though regulations already exist, implementation and harmonization between regulations are still weak, thus causing legal uncertainty for all parties involved. Therefore, more comprehensive policy reforms are needed, by ensuring that health insurance policies are not only oriented towards economic efficiency, but also prioritize aspects of legal protection and justice in the national health system.

The imbalance between health insurance policies and the implementation of legal protection regulations in medical cases indicates the need for more comprehensive policy reforms.[6] Although the national health insurance system has been regulated in various regulations, including Law No. 40 of 2014 concerning Insurance and Law No. 24 of 2011 concerning BPJS, its implementation still faces many obstacles, especially in guaranteeing the rights of patients and medical personnel in medical disputes. In some cases, patients who feel aggrieved due to insurance claim denial or service limitations often do not get a clear legal solution, so they choose to take a long and costly legal path. This is exacerbated by the fact that

[5] Armaylisem, J., Prastyanti, R. A., & Utomo, H. D. (2025). Penyelesaian Sengketa Klaim Asuransi Umum Melalui Arbitrase Di Indonesia Menurut Undang-Undang Nomor 30 Tahun 1999 Tentang Arbitrase Dan Alternatif Penyelesaian Sengketa. *Jurnal Inovasi Hukum*, *6*(1).

[6] Yusuf, H. (2024). Perkembangan Hukum Kesehatan Dan Mekanisme Penyelesaian Sengketa Medik. *Jurnal Intelek Insan Cendikia*, *1*(9), 5234-5241.

IPSO JURE JOURNAL

IPSO JURE

Journal

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

medical personnel are often the most vulnerable parties in medical disputes, as health insurance policies have not optimally provided protection for aspects of their professional responsibility.

In addition, the dispute resolution mechanism in the health insurance system is still ineffective and tends to favor the administrative aspect rather than the substance of legal protection for patients and medical personnel. In practice, dispute resolution involving health insurance is often resolved through the internal channels of insurance companies or BPJS Kesehatan before it can be submitted to the Indonesian Insurance Mediation and Arbitration Agency (BMAI) or the court. However, these mechanisms often do not provide a fair solution for patients who suffer losses due to health services that do not meet expectations. Therefore, health insurance policy reform must be directed at increasing transparency, strengthening supervision by the Financial Services Authority (OJK), and providing a faster, more effective, and fair-based dispute resolution mechanism. These reforms are not only important to improve the quality of health services, but also to create a clearer legal system in handling medical disputes in Indonesia.

METHOD

This study uses a normative juridical method, which focuses on the study of legal norms related to liability in medical disputes and health insurance policies in Indonesia. The approach used includes a statute approach to analyze regulations such as Law No. 40 of 2014 concerning Insurance, Law No. 36 of 2009 concerning Health, Law No. 24 of 2011 concerning BPJS, and Law No. 29 of 2004 concerning Medical Practice, as well as other derivative rules. In addition, the conceptual approach is used to examine legal theories such as the principle of duty of care and consumer protection in health insurance, while the case approach is used to analyze court decisions related to medical disputes.

The data was analyzed qualitatively with a descriptive-analytical approach to assess the suitability of regulations with practices in the field and identify legal gaps. This research aims to provide more effective and fair policy recommendations, ensuring that the health insurance system is not only economically efficient but also guarantees legal protection for patients and medical personnel.

RESULTS AND DISCUSSION

Legal Responsibility in Handling Medical Cases: Between the Protection of Patients and Medical Personnel

1. The Principle of Legal Responsibility in Medical Practice and Patient Protection

The principle of legal responsibility in medical practice aims to ensure that medical personnel provide health services in accordance with legal and professional ethical standards. This responsibility includes the principle of duty of care, where doctors are obliged to provide safe and standard care, as well as standards of care that require medical personnel to carry out their duties based on predetermined competencies. In addition, the principle of informed consent requires doctors to provide sufficient information to patients before medical procedures are performed, while the principles of non-maleficence and beneficence underline that doctors should not harm patients and should always put the patient's interests first. According

IPSO JURE JOURNAL

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

to Beauchamp and Childress in "Principles of Biomedical Ethics", these four principles are the main foundations in medical ethics that must be upheld in modern medical practice.[7]

In Indonesian law, the practice of medicine is regulated by Law No. 29 of 2004 concerning Medical Practice and Law No. 36 of 2009 concerning Health. These two laws regulate the obligations of medical personnel in carrying out their profession, including requirements for practice licenses, health service standards, and the protection of patient rights. Patients' rights include quality, non-discriminatory medical care, as well as access to their own medical information and records.[8] The government is also responsible for supervising and ensuring the compliance of medical personnel with the standards that have been set. Based on research conducted by WHO (2018), strict health regulations and a good surveillance system have been proven to improve patient safety and reduce the incidence of malpractice in various countries.

Medical negligence can occur in various forms, such as misdiagnosis, mistreatment, negligence in medical procedures, and lack of information to patients. If this negligence has a serious impact, it can be categorized as medical malpractice. Cases of malpractice have occurred in various countries, including Indonesia, and often lead to lawsuits from patients or their families. For example, cases of surgery performed on the wrong part of the body due to an error in reading medical records or delays in detecting diseases that result in the death of the patient. A study published in the journal Medical Hypotheses shows that medical errors are the third leading cause of death in the United States, after heart disease and cancer, underscoring the importance of risk mitigation systems in health care.[9]

To protect patients from adverse medical actions, various legal mechanisms are available, including complaints to the Honorary Council of Indonesian Medical Disciplines (MKDKI) for ethical violations, complaints to the Ombudsman for alleged administrative violations, as well as civil lawsuits or criminal prosecutions against negligent doctors. Patients also have the right to privacy of medical records, the right to ask for a second opinion before undergoing a medical procedure, and the right to sue for compensation if they suffer losses due to the negligence of medical personnel. Strengthening regulations and increasing legal literacy among medical personnel can help reduce the number of medical litigation and improve the quality of health services.[10] Therefore, a deep understanding of the legal and ethical aspects of the profession is very necessary for medical personnel to be able to provide quality health services without violating patients' rights and avoid legal problems.

[7] Wahyudi, I. (2024). Evaluasi yuridis: Peran dan tanggung jawab dokter internship dalam praktik kedokteran berdasarkan UU No. 29 Tahun 2004. *Jurnal Media Informatika*, *6*(1), 217-226.

[8] Purwanto, A., Sunarsi, D., & Wijoyo, H. (2020). Penerapan Perluasan Arti Perbuatan Melanggar Hukum Dalam Pelaksanaan UU 29 Tahun 2004 (Studi Kasus Putusan No. 625/PDT. G/2014/PN JKT. BRT). *TIN: Terapan Informatika Nusantara*, *1*(2), 99-103.

[9]Gallagher, R., Passmore, M. J., & Baldwin, C. (2020). Hastened death due to disease burden and distress that has not received timely, quality palliative care is a medical error. *Medical Hypotheses*, *142*, 109727.

[10] Said, H., & Dinata, M. R. K. (2025). Peran Hukum Dalam Mengatasi Korupsi Di Sektor Kesehatan: Tinjauan Praktik Dan Kebijakan. *Journal of Innovation Research and Knowledge*, *4*(9), 6269-6276.

IPSO JURE JOURNAL

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

2. Medical Dispute Resolution Mechanism and Legal Certainty for Medical Personnel

Medical dispute resolution can be done through two main channels, namely litigation and non-litigation. Non-litigation pathways are often the first step because they are faster, cheaper, and confidential than litigation pathways. In this path, one of the mechanisms used is the Indonesian Medical Discipline Honorary Council (MKDKI), which has the authority to assess and decide on violations of the discipline of doctors and dentists based on the Medical Practice Law. The process at MKDKI is administrative and does not relate to criminal or civil charges. If a doctor is proven to have committed disciplinary violations, MKDKI can provide sanctions in the form of a written reprimand, the obligation to attend further education, or even revocation of a practice license. The MKDKI mechanism is effective in handling medical discipline cases, although there are still obstacles in its implementation, especially related to coordination with other legal institutions.[11]

In addition to MKDKI, mediation is also an option in resolving medical disputes. Mediation is a process that involves an independent mediator to reach an agreement between the doctor and the patient or the patient's family. The advantages of mediation are its flexible, faster, and maintaining a good relationship between medical personnel and patients. Mediation in medical disputes in Indonesia has a high success rate, especially in cases that do not involve gross negligence.[12] Another method in the non-litigation route is arbitration, which is the settlement of disputes out of court by involving independent arbitrators. Arbitral decisions are final and binding thus avoiding lengthy legal proceedings, although arbitration is less commonly used in medical disputes because an agreement must be made before a dispute arises.

If the settlement through non-litigation channels is unsuccessful or there are serious criminal elements, medical disputes can be brought to litigation through the courts. The litigation route consists of the civil court, the criminal court, and the state administrative court (PTUN). In civil court, patients or patients' families can file a lawsuit against medical personnel or hospitals on the basis of default or unlawful acts. If proven guilty, medical personnel or hospitals may be required to pay compensation. Meanwhile, in criminal court, if there is a suspicion of gross malpractice that results in death or permanent disability, the doctor can be charged with Article 359 of the Criminal Code (negligence causing death) or Article 360 of the Criminal Code (negligence causing serious injury). The application of criminal law in medical disputes often raises concerns because it can lead to the criminalization of medical personnel. The criminal approach to medical cases should only be carried out in exceptional circumstances, where there is an element of intentionality or very serious negligence.[13] In addition, in the state administrative court (PTUN), medical

[11] Nadeak, J. O. H. (2024). Penerapan Disiplin Profesi Sebagai Instrumen Penegakan Hukum Pidana Kesehatan Berbasis Keadilan Prosedural. *Proceeding Masyarakat Hukum Kesehatan Indonesia*, *1*(01), 184-195.

[12] Njoto, H. (2011). Pertanggungjawaban Dokter Dan Rumah Sakit Akibat Tindakan Medis Yang Merugikan Dalam Perspektif UU No 44 Th 2009 Tentang Rumah Sakit. *DiH: Jurnal Ilmu Hukum*.

[13] Butar-Butar, D., & Yusuf, H. (2024). Sanksi Hukum Tindak Pidana Malpraktik Dokter Menurut Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan. *Jurnal Locus Penelitian dan Pengabdian*, *3*(4), 318-329.

IPSO JURE JOURNAL

IPSO JURE

Journal

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

personnel can file a lawsuit if they feel aggrieved due to an administrative decision, such as the revocation of a practice license by the health authority.

In carrying out their duties, medical personnel face various challenges, especially related to legal and social pressures due to medical disputes. One of the main challenges is the criminalization of medical personnel, which is when doctors are directly processed criminally without going through appropriate disciplinary mechanisms. This causes fear among medical personnel in making risky clinical decisions. In addition, the lack of public understanding of medical risks is also a factor that worsens the situation, as many patients or patients' families consider all failures in treatment to be malpractice, when not all medical complications are caused by the negligence of doctors. Low health literacy in the community is the main factor in the increase in medical dispute cases that lead to litigation.[14] Therefore, education to the public about medical risks and appropriate legal procedures is very necessary.

On the other hand, the lack of legal protection for medical personnel is also a major concern. Existing regulations are often more oriented towards patient protection without providing legal certainty for medical personnel. Therefore, there needs to be a clearer legal reform in distinguishing between ordinary medical negligence and gross malpractice of a criminal nature. Some aspects that need to be evaluated in the current regulation include strengthening the role of the MKDKI so that its decisions are more respected and become the main step in resolving medical disputes before entering the criminal realm. In addition, harmonization is needed between civil, criminal, and administrative laws so that medical personnel are not directly charged with criminal law without going through an adequate disciplinary mechanism. Regulations must also provide a balance between the protection of patients and medical personnel so that excessive criminalization of doctors does not occur.

In conclusion, medical dispute resolution can be done through litigation and non-litigation channels, with mechanisms such as MKDKI, mediation, arbitration, and courts. However, the main challenges faced by medical personnel are criminalization, social pressure, and lack of legal certainty. Therefore, there needs to be a legal reform that clarifies the line between ordinary medical negligence and gross malpractice so that medical personnel can work more safely and professionally without fear of excessive criminalization. With a more balanced and scientific evidence-based legal approach, it is hoped that the legal system in Indonesia can provide fair protection for medical personnel and patients.

Evaluation of Health Insurance Policies in Ensuring Legal Certainty in Medical Disputes

1. Inconsistency between Regulation and Implementation in Health Insurance Services

There is a discrepancy between regulations and implementation in health insurance services in Indonesia. The regulations contained in Law No. 40 of 2014 concerning Insurance and Law No. 24 of 2011 concerning BPJS should provide legal certainty for patients and medical personnel. However, in practice, there are often various obstacles that cause the protection promised by the regulation to not be fully implemented.

[14] Coughlin, S. S., Vernon, M., Hatzigeorgiou, C., & George, V. (2020). Health literacy, social determinants of health, and disease prevention and control. *Journal of environment and health sciences*, *6*(1), 3061.

IPSO JURE JOURNAL

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

One of the main problems is the rejection of claims by insurance companies or health facilities, which often occurs due to reasons of inconsistent diagnosis, suspected pre-existing conditions, or convoluted administrative problems. According to research, more than 30% of BPJS Kesehatan claims submitted to hospitals experience verification problems that cause delays or rejection of claims.[15] Another study shows that the main factor in claim rejection is the lack of understanding of participants regarding the terms and conditions of insurance policies, which is exacerbated by the lack of socialization from insurance providers.[16] As a result, patients who are supposed to receive health care must face bureaucratic constraints that slow down or even hinder their access to necessary medical care.

In addition to the rejection of claims, restrictions on health services are also a problem that often arises. Patients are often limited in the number and type of drugs that can be claimed, the type of medical treatment covered, and the limit on the number of hospitalizations that can be accepted. This is contrary to the purpose of health insurance which is supposed to provide comprehensive protection to participants. Studies show that 40% of health insurance participants feel that the services they receive are lower than they would expect under regulatory provisions.[17] In a study conducted by the World Bank (2022), it was found that restrictions on medical services in health insurance are often caused by an imbalance between premiums paid and high claim costs, so insurance companies are looking for ways to limit their spending. These restrictions not only reduce the quality of services patients receive, but also affect public confidence in the existing health insurance system. Not only that, the lack of transparency in insurance policies further complicates this condition. Information regarding service coverage, policy limits, and policy changes is often not well disseminated, causing confusion among insurers who feel they are not getting clarity regarding their rights.

This discrepancy between regulations and implementation also has an impact on medical personnel in the field. Doctors and healthcare workers are often caught in a dilemma between following hospital and insurance policies or providing the best care for patients. This uncertainty has the potential to disrupt medical ethics and affect the overall quality of health services. The majority of medical professionals feel burdened by insurance policies that limit their options in providing optimal care to patients.[18] This is reinforced by research that states that uncertainty in the insurance system can negatively impact the well-being of health workers, increase work stress levels, and lower their job satisfaction.[19] In addition, the

[15] Mardiyoko, I., Rohman, H., & Mandaeng, R. A. (2020). ANALISIS DATA DAN FAKTOR PENYEBAB TERJADINYA PENDING CLAIM PASIEN BPJS DI RUMAH SAKIT CONDONG CATUR TAHUN 2019. *JCOMENT (Journal of Community Empowerment)*, *1*(3), 74-84.

[16] Aprianti, D., & Mahadewi, E. P. (2023). Knowledge Development About The History And Basic Principles Of Health Insurance Business In Indonesia. *International Journal of Science, Technology & Management*, *4*(4), 759-767.

[17] Puspitasari, A. D., Pertiwiwati, E., & Rizany, I. (2020). perbedaan tingkat kepuasan pasien umum dengan pasien BPJS berdasarkan mutu pelayanan keperawatan. *Dunia Keperawatan: Jurnal Keperawatan Dan Kesehatan*, *8*(1), 93-100.

[18] Jauhani, M. A., Supianto, S., & Hariandja, T. R. (2022). Kepastian Hukum Penyelesaian Sengketa Medis Melalui Mediasi Di Luar Pengadilan. *WELFARE STATE Jurnal Hukum*, *1*(1), 29-58.

[19] Anindita, M. (2024). Kualitas Kehidupan Kerja Tenaga Kesehatan Pada Organisasi Pelayanan Kesehatan. *Jurnal Ekonomi Manajemen Bisnis Syariah dan Teknologi*, *3*(1), 324-334.

IPSO JURE JOURNAL

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

dispute resolution mechanism for patients who experience problems with insurance claims is also not optimal. Many patients have difficulty appealing rejected claims, while resolving conflicts often takes a long time due to complex bureaucracy. According to a report from the Ombudsman of the Republic of Indonesia in 2021, as many as 25% of complaints in the health sector are related to insurance claim disputes that are protracted and do not get a fair solution for participants. Countries with more efficient dispute resolution mechanisms tend to have higher levels of satisfaction with their health insurance services. [20]

To address this discrepancy, increased transparency and education is needed for insurance participants to understand their rights and obligations more clearly. In addition, stricter supervision from the Financial Services Authority (OJK) and BPJS Kesehatan is urgently needed so that insurance providers comply with applicable regulations. Strengthening regulations and supervision can increase insurance company compliance by up to 35%, which ultimately has a positive impact on the services that participants receive.[21] The existence of incentives for insurance companies that implement high transparency can increase participant trust and reduce the number of claim disputes by up to 20%. No less important, dispute resolution mechanisms need to be improved so that patients can obtain justice without having to face excessive administrative obstacles. With these improvement steps, it is hoped that health insurance services in Indonesia can run more optimally and provide better legal protection for all parties involved.

2. Effectiveness of Dispute Resolution Mechanisms in Health Insurance

The dispute resolution mechanism in health insurance in Indonesia is available in several channels, both through the internal insurance company, the Financial Services Authority (OJK), the Indonesian Insurance Mediation and Arbitration Agency (BMAI), and the courts. In the early stages, insurance participants who experience claim disputes are usually directed to resolve the problem through the insurance company's internal mechanism. However, this process is often considered to be less transparent and does not always provide a fair solution for participants. Research shows that the majority of insurers who file claims have difficulty understanding the procedures imposed by insurance companies, which ultimately leads to dissatisfaction with internal settlements.[22] If the internal settlement is not satisfactory, participants can file a complaint with the OJK, which has a role as a regulator to ensure that the insurance company acts in accordance with applicable regulations. The effectiveness of OJK in resolving disputes is highly dependent on regulations that regulate the authority and sanctions that can be imposed on insurance companies that

[20] Anggraeni, H. Y., Sagita, P. I., Yusmana, F. V., Reza, M., Sehafudin, S., & Johan, W. (2025). Penerapan ADR dan Potensi Arbitrase dalam Penyelesaian Sengketa Medis di Indonesia. *AKADEMIK: Jurnal Mahasiswa Humanis*, *5*(1), 500-514.

[21] Ridwan, M., & Gultom, E. (2024). Optimalisasi Peranan Pemerintah Dalam Perlindungan Hukum Terhadap Pemegang Polis Asuransi Guna Mencegah Terjadinya Gagal Bayar Oleh Perusahaan Asuransi. *Journal of Syntax Literate*, *9*(11).

[22] Siregar, A. K. (2023). *Perlindungan Konsumen Akibat Force Majeure Atas Klaim Asuransi Terhadap Barang-Barang Yang Dikirimkan Melalui Ekspedisi Pt Tiki Jalur Nugraha Ekakurir (Jne) Di Semarang* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

IPSO JURE JOURNAL

IPSO JURE

Journal

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

violate the rules.[23] In addition, BMAI as an independent institution provides non-litigation mediation and arbitration channels with faster processes and lighter costs compared to court routes. The existence of BMAI has helped resolve disputes in the insurance industry in a more efficient way, although there are still obstacles in its implementation, such as the lack of socialization to insurance participants.[24] However, if the mediation mechanism does not yield results, litigation through the courts is a last resort, although it is often time-consuming and costly.

In assessing the effectiveness of this dispute resolution mechanism, several indicators need to be considered. In terms of dispute resolution rates, insurance companies' internal mechanisms are often inadequate in providing fair decisions for participants. OJK and BMAI have a fairly high success rate in resolving disputes that are administrative and not too complex. Meanwhile, settlement through the courts, although it provides a binding ruling, is often considered inefficient for patients due to the lengthy process. In terms of accessibility, the dispute resolution mechanism through BMAI is more accessible than the litigation route, but there are still many insurance participants who do not understand the complaint procedure and the lack of socialization from the insurance provider is an obstacle in itself. The low level of financial and legal literacy of the community contributes to the ineffectiveness of the dispute resolution system, resulting in many insurers not understanding their rights and obligations under their policies. In terms of justice, mediation and arbitration mechanisms tend to be more flexible and avoid prolonged conflicts. However, there is often an imbalance between insurance companies and insurance participants or medical personnel, especially in terms of understanding the law and dispute procedures. The lack of legal understanding by patients or medical personnel often causes them to be unable to defend their rights optimally when dealing with insurance companies that have stronger legal resources.[25]

A number of obstacles still hinder the effectiveness of dispute resolution in health insurance. One of the main problems is the lack of transparency in the claims process, where many participants feel their claims are rejected for no apparent reason. One of the main factors of dissatisfaction of insurance participants is the lack of explanation regarding the reasons for the rejection of claims.[26] In addition, supervision of insurance companies by the OJK still needs to be strengthened to ensure that the company is responsible for its obligations. Weak sanctions against insurance companies that do not meet their obligations lead to low compliance in the settlement of health insurance claims. Limited legal literacy and understanding of insurance are also the main obstacles for participants in fighting for their rights. The level of financial and

[23] Habibah, P. N., & Hamzah, D. S. (2021). Upaya Penanganan Lembaga Alternatif Penyelesaian Sengketa Terhadap Otoritas Jasa Keuangan, Pitriya Nur Habibah dan Devi Siti Hamzah Marpaung. *Jurnal Panorama Hukum*, *6*(1), 49-60.

[24] Armaylisem, J., Prastyanti, R. A., & Utomo, H. D. (2025). Penyelesaian Sengketa Klaim Asuransi Umum Melalui Arbitrase Di Indonesia Menurut Undang-Undang Nomor 30 Tahun 1999 Tentang Arbitrase Dan Alternatif Penyelesaian Sengketa. *Jurnal Inovasi Hukum*, *6*(1).

[25] Matippanna, A. (2022). *HUKUM KESEHATAN: Tanggung Jawab Hukum Rumah Sakit Terhadap Pasien Dalam Pelaksanaan Pelayanan Kesehatan*. AMERTA MEDIA.

[26] Marlinda, P., & Dermawan, M. K. (2020). Kontrol Sosial oleh Perusahaan sebagai Upaya Pencegahan Praktik Pelanggaran Kode Etik Agen Asuransi Terhadap Nasabah. *Deviance Jurnal Kriminologi*, *4*(1), 1-20.

IPSO JURE JOURNAL

IPSO JURE

Journal

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

legal literacy of the Indonesian people is still relatively low, which makes it difficult for them to understand their rights in health insurance policies. According to the theory of access to justice put forward by Capelletti & Garth (1978), economic, procedural, and social barriers are the main factors that hinder people's access to effective dispute resolution. Therefore, various improvement efforts need to be made so that the dispute resolution mechanism in health insurance can be more effective and provide justice for all parties involved.

To improve the effectiveness of dispute resolution, several strategic steps can be implemented. Insurance companies and regulators need to be more active in socializing the public about rights and obligations in health insurance so that participants better understand the procedures that must be taken when facing disputes. Education and transparency of information regarding insurance claim procedures can increase public trust in the health insurance system. Strengthening regulations and supervision by the OJK is also an important step so that insurance companies are more transparent and accountable in handling claims. In addition, accessibility to the mediation and arbitration process must be improved so that more participants can use this route without having to go through complicated legal processes. Simplification of litigation procedures in court also needs to be considered so that in the event of a dispute that cannot be resolved out of court, insurance participants still get justice without having to face a long and expensive legal process. Countries with more effective dispute resolution systems tend to have clearer regulations and simpler dispute resolution procedures that are easily accessible to insured participants.

Thus, although dispute resolution mechanisms in health insurance in Indonesia are available in various channels, there are still challenges that need to be overcome in order for this process to be more effective. Transparency in claims, accessibility of dispute resolution, and strengthening regulations and supervision are the main aspects that need to be improved. With continuous improvement efforts, the dispute resolution system in health insurance can provide more justice for insurance participants and medical personnel involved.

CONCLUSIONS

Legal responsibility in medical cases aims to protect the rights of patients while providing legal certainty for medical personnel in carrying out their duties. Legal principles such as duty of care, standard of care, and informed consent are the basis for ethical and professional medical services. Regulations such as the Medical Practice Law and the Health Law regulate the obligations of medical personnel and the rights of patients in obtaining safe treatment. Medical disputes can occur due to negligence in diagnosis, treatment, or medical procedures, which can be resolved through litigation or non-litigation. Non-litigation channels such as mediation and arbitration are often faster and more flexible than lengthy court proceedings. One of the main challenges is the criminalization of medical personnel, which can create fear in complex medical decision-making. Legal reform is needed to distinguish ordinary medical negligence from gross malpractice and strengthen the role of MKDKI as a disciplinary institution. In the context of health insurance, regulatory and implementation inconsistencies hinder legal certainty for patients and medical personnel. Transparency in insurance policies and the effectiveness of dispute resolution need to be improved through strengthening

IPSO JURE JOURNAL

IPSO JURE

Journal

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

supervision and socialization. With clearer and harmonized regulations, the medical and health insurance legal system in Indonesia can provide fair and effective legal protection for all parties.

REFERENCES

Anggraeni, H. Y., Sagita, P. I., Yusmana, F. V., Reza, M., Sehafudin, S., & Johan, W. (2025). Penerapan ADR dan Potensi Arbitrase dalam Penyelesaian Sengketa Medis di Indonesia. AKADEMIK: Jurnal Mahasiswa Humanis, 5(1), 500-514.

Anindita, M. (2024). Kualitas Kehidupan Kerja Tenaga Kesehatan Pada Organisasi Pelayanan Kesehatan. Jurnal Ekonomi Manajemen Bisnis Syariah dan Teknologi, 3(1), 324-334.

Aprianti, D., & Mahadewi, E. P. (2023). Knowledge Development About The History And Basic Principles Of Health Insurance Business In Indonesia. International Journal of Science, Technology & Management, 4(4), 759-767.

Armaylisem, J., Prastyanti, R. A., & Utomo, H. D. (2025). Penyelesaian Sengketa Klaim Asuransi Umum Melalui Arbitrase Di Indonesia Menurut Undang-Undang Nomor 30 Tahun 1999 Tentang Arbitrase Dan Alternatif Penyelesaian Sengketa. Jurnal Inovasi Hukum, 6(1).

Armaylisem, J., Prastyanti, R. A., & Utomo, H. D. (2025). Penyelesaian Sengketa Klaim Asuransi Umum Melalui Arbitrase Di Indonesia Menurut Undang-Undang Nomor 30 Tahun 1999 Tentang Arbitrase Dan Alternatif Penyelesaian Sengketa. Jurnal Inovasi Hukum, 6(1).

Butar-Butar, D., & Yusuf, H. (2024). Sanksi Hukum Tindak Pidana Malpraktik Dokter Menurut Undang-Undang Nomor 17 Tahun 2023 Tentang Kesehatan. Jurnal Locus Penelitian dan Pengabdian, 3(4), 318-329.

Coughlin, S. S., Vernon, M., Hatzigeorgiou, C., & George, V. (2020). Health literacy, social determinants of health, and disease prevention and control. Journal of environment and health sciences, 6(1), 3061.

Gallagher, R., Passmore, M. J., & Baldwin, C. (2020). Hastened death due to disease burden and distress that has not received timely, quality palliative care is a medical error. Medical Hypotheses, 142, 109727.

Habibah, P. N., & Hamzah, D. S. (2021). Upaya Penanganan Lembaga Alternatif Penyelesaian Sengketa Terhadap Otoritas Jasa Keuangan, Pitriya Nur Habibah dan Devi Siti Hamzah Marpaung. Jurnal Panorama Hukum, 6(1), 49-60.

Jauhani, M. A., Supianto, S., & Hariandja, T. R. (2022). Kepastian Hukum Penyelesaian Sengketa Medis Melalui Mediasi Di Luar Pengadilan. WELFARE STATE Jurnal Hukum, 1(1), 29-58.

IPSO JURE JOURNAL

IPSO JURE

Journal

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Laelatussofah, S. (2024). Rekonstruksi Regulasi Perlindungan Hukum Sumber Daya Manusia Kesehatan Pada Penanganan Pasien Di Rumah Sakit Berbasis Keadilan (Doctoral dissertation, Universitas Islam Sultan Agung (Indonesia)).

Mardiyoko, I., Rohman, H., & Mandaeng, R. A. (2020). ANALISIS DATA DAN FAKTOR PENYEBAB TERJADINYA PENDING CLAIM PASIEN BPJS DI RUMAH SAKIT CONDONG CATUR TAHUN 2019. JCOMENT (Journal of Community Empowerment), 1(3), 74-84.

Marlinda, P., & Dermawan, M. K. (2020). Kontrol Sosial oleh Perusahaan sebagai Upaya Pencegahan Praktik Pelanggaran Kode Etik Agen Asuransi Terhadap Nasabah. Deviance Jurnal Kriminologi, 4(1), 1-20..

Matippanna, A. (2022). HUKUM KESEHATAN: Tanggung Jawab Hukum Rumah Sakit Terhadap Pasien Dalam Pelaksanaan Pelayanan Kesehatan. AMERTA MEDIA.

Nadeak, J. O. H. (2024). Penerapan Disiplin Profesi Sebagai Instrumen Penegakan Hukum Pidana Kesehatan Berbasis Keadilan Prosedural. Proceeding Masyarakat Hukum Kesehatan Indonesia, 1(01), 184-195.

Ni Nyoman Ayu Ratih Pradnyani, M. H. (2020). Tanggung jawab hukum dalam penolakan pasien jaminan kesehatan nasional. Scopindo Media Pustaka.

Njoto, H. (2011). Pertanggungjawaban Dokter Dan Rumah Sakit Akibat Tindakan Medis Yang Merugikan Dalam Perspektif UU No 44 Th 2009 Tentang Rumah Sakit. DiH: Jurnal Ilmu Hukum.

Purwanto, A., Sunarsi, D., & Wijoyo, H. (2020). Penerapan Perluasan Arti Perbuatan Melanggar Hukum Dalam Pelaksanaan UU 29 Tahun 2004 (Studi Kasus Putusan No. 625/PDT. G/2014/PN JKT. BRT). TIN: Terapan Informatika Nusantara, 1(2), 99-103.

Puspitasari, A. D., Pertiwiwati, E., & Rizany, I. (2020). perbedaan tingkat kepuasan pasien umum dengan pasien BPJS berdasarkan mutu pelayanan keperawatan. Dunia Keperawatan: Jurnal Keperawatan Dan Kesehatan, 8(1), 93-100.

Rahayu, A., Rokhmat, R., Silitonga, V. D., & Suswantoro, T. A. (2024). Payung Hukum Terhadap Profesi Dokter Dalam Menghadapi Perselisihan Medis. Jurnal Cahaya Mandalika ISSN 2721-4796 (online), 3(1), 784-810.

Ridwan, M., & Gultom, E. (2024). Optimalisasi Peranan Pemerintah Dalam Perlindungan Hukum Terhadap Pemegang Polis Asuransi Guna Mencegah Terjadinya Gagal Bayar Oleh Perusahaan Asuransi. Journal of Syntax Literate, 9(11).

Said, H., & Dinata, M. R. K. (2025). Peran Hukum Dalam Mengatasi Korupsi Di Sektor Kesehatan: Tinjauan Praktik Dan Kebijakan. Journal of Innovation Research and Knowledge, 4(9), 6269-6276.

IPSO JURE JOURNAL

IPSO JURE

Journal

Vol.2. No.2, March 2025
DOI : https://doi.org/10.62872/qqtjgt91

E-ISSN : 3032-7644
https://nawalaeducation.com/index.php/IJJ/

Siregar, A. K. (2023). Perlindungan Konsumen Akibat Force Majeure Atas Klaim Asuransi Terhadap Barang-Barang Yang Dikirimkan Melalui Ekspedisi Pt Tiki Jalur Nugraha Ekakurir (Jne) Di Semarang (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

Wahyudi, I. (2024). Evaluasi yuridis: Peran dan tanggung jawab dokter internship dalam praktik kedokteran berdasarkan UU No. 29 Tahun 2004. Jurnal Media Informatika, 6(1), 217-226.

Widjayanto, I., Rizal, Y., Tjahyono, T. V., & Hakiki, B. A. (2024). Tinjauan Hukum Perdata atas Tanggung Jawab Dokter dalam Malapraktik Medis dan Relevansi terhadap Perlindungan Pasien. Proceeding Masyarakat Hukum Kesehatan Indonesia, 1(01), 168-183.

Yusuf, H. (2024). Perkembangan Hukum Kesehatan Dan Mekanisme Penyelesaian Sengketa Medik. Jurnal Intelek Insan Cendikia, 1(9), 5234-5241.