

DISPUTE SETTLEMENT AGAINST PATIENTS FOR MEDICAL ACTIONS IN HOSPITALS WITHOUT OPERATIONAL LICENSES

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Abstract—This research focuses on dispute resolution involving patients who receive medical treatment in hospitals without an operational license. Health is a critical factor for the well-being of individuals and society. Law Number 17 of 2023 on Health regulates the obligations of hospitals and patients. However, explicit provisions regarding dispute resolution against patients in hospitals without operational licenses are absent. This research adopts a normative legal approach by examining relevant laws and regulations as well as legal literature. The results indicate that patients have the right to demand accountability from hospitals and medical personnel for adverse medical actions. Efforts to resolve medical disputes can be pursued through both non-litigation and litigation channels, even though regulations tend to focus on licensed hospitals. Nevertheless, a broad interpretation can be applied to encompass hospitals without operational licenses in legal liability concerning patients.

Keywords—Patient Dispute Resolution, Medical Actions, Hospitals without Operational License

INTRODUCTION

Health is one of the key factors in achieving mental and physical well-being, leading to overall happiness. The constitution of the World Health Organization (WHO) defines health as the physical, mental, and social state of a country's population, ideally in a state of perfection. This encompasses not only physical health but also mental and social well-being. While this definition is quite broad, it may not always be attainable for every individual within society.

Efforts to maintain one's health require self-awareness and the commitment to healthy living, among other things. External roles that play a crucial part in maintaining health include healthcare workers, medical professionals, and hospitals (Lazuardi & Marwiyah, 2023). This is because individuals, when facing health issues, typically turn to hospitals to receive medical care. Those with the expertise to provide medical care are referred to as medical personnel. According to Article 1, Point 6 of the Republic of Indonesia's Law Number 17 of 2023 concerning Health, Medical Personnel are individuals who dedicate themselves to the field of Health, possessing a professional demeanor, knowledge, and skills acquired through professional education in medicine or dentistry, and holding the authority to undertake healthcare initiatives.

Medical procedures encompass any actions carried out by a doctor or dentist as part of a patient's treatment in a hospital setting. As a patient, there are several responsibilities that must be fulfilled to ensure the proper execution of medical procedures. These responsibilities are outlined in Article 26 of the Minister of Health Regulation Number 4 of 2018, which pertains to Hospital Obligations and Patient Obligations. These responsibilities include providing honest, comprehensive, and accurate information pertaining to their health conditions, adhering to the therapy plan recommended by healthcare personnel in the hospital and approved by the concerned patient following an explanation in line with relevant laws and regulations, and complying with the therapy plan recommended by the hospital, and so on.

Hospitals, as healthcare facilities, hold a significant and strategically vital position in improving public health in Indonesia. The government has been committed to ensuring and enhancing the quality of services across preventive, promotive, curative, and rehabilitative aspects (Sutopo, 2012).

The Republic of Indonesia's Law Number 17 of 2023 concerning Health explicitly regulates hospitals in Article 1, number 10, which states: "A hospital is a Health Service Facility that provides comprehensive individual Health Services through promotive, preventive, curative, rehabilitative,

and/or palliative Health Services, offering inpatient, outpatient, and Emergency Services."

Hospitals must be founded on Pancasila principles, upholding values of professionalism, ethics, humanity, patient safety, protection, rights, equity, and anti-discrimination while promoting justice and social responsibility (Tendean, 2019). The Big Indonesian Dictionary defines a hospital as a "building that offers health services and serves as a place for treating individuals with various health-related issues." In the realm of healthcare delivery, hospitals possess the authority to organize and provide these services. It is the state's responsibility and obligation to prioritize public health and support the delivery of optimal healthcare services.

The establishment of a hospital requires permission from the relevant authorities, typically the government. Obtaining permission is an integral aspect of social dynamics, closely tied to the interests involved in a specific activity. Licensing entails granting legality to individuals or entities engaged in certain activities, either in the form of a license or a business registration mark. Permits are widely used instruments in administrative law to guide citizen behavior (Hadjon, 1993). As an administrative tool, permits must gain approval and legality from government officials. They represent a form of public policy, ensuring compliance with applicable laws, regulations, and societal norms to avoid any abuse of authority when implementing public policy. Permits are necessary for various activities, including constructing facilities that serve public and social interests.

Hospital licensing is regulated by the Republic of Indonesia's Law Number 17 of 2023 concerning Health and the Regulation of the Minister of Health of the Republic of Indonesia Number 3 of 2020 concerning Classification and Licensing of Hospitals. The latter classifies hospital licenses into two types: the Hospital Establishment Permit and the Hospital Operational Permit, explained as follows:

1. Hospital Establishment Permit, hereinafter referred to as the Establishment Permit, is a business license issued by the OSS Institution on behalf of the minister, governor, or regent/mayor after the hospital owner has completed the registration process, but prior to commencing health services, by meeting the necessary requirements and commitments.
2. Hospital Operational Permit, hereinafter referred to as the Operational Permit, is a commercial or operational license issued by the OSS Institution on behalf of the minister, governor, or regent/mayor after the hospital owner obtains the Establishment Permit.

The phenomenon of hospitals operating without proper operational licenses is a real issue in Indonesia. For example, in 2016, it was uncovered that Reysa Hospital (RS) in Cikedung, Indramayu, West Java, was operating without an operational permit despite being in operation. This revelation only came to light because the hospital owner was involved in an alleged money laundering offense (TPPU). Based on the author's observations, who also works as a doctor, the existence of unlicensed hospitals remains a concern. However, it's important to note that this is based on limited data, and there is no official publication addressing this issue. To the author's knowledge, there are several hospitals without operational licenses where medical procedures are being performed by doctors. The author also encountered a case in Gianyar Regency where a patient filed a complaint against a hospital because gauze was found in the patient's stomach after surgery. Upon investigation, it was revealed that the hospital had been operating without an operational license.

According to data from the Ministry of Health of the Republic of Indonesia, available at https://sirs.kemkes.go.id/fo/home/dashboard_rs?id=0, the list of licensed hospitals in Gianyar Regency in 2023 consists of only 8 (eight) hospitals. However, there are other hospitals not on this list that are conducting operations. The data also reveals that in 2022, there were 9 (nine) hospitals operating in Gianyar Regency, but only 7 (seven) of them had operational licenses.

Article 193 of the Law of the Republic of Indonesia No. 17 of 2023 on Health states that "Hospitals are legally responsible for all losses caused by negligence committed by Hospital Health Human Resources." However, this article does not explicitly specify the level of negligence or how compensation should be determined in cases of malpractice involving Hospital Health Human Resources. Furthermore, it does not provide guidelines on compensation amounts, especially in cases where negligence occurs in an unlicensed hospital. The article appears to be primarily aimed at licensed hospitals.

Based on the aforementioned issues, the author is interested in conducting a comprehensive study

titled "Dispute Settlement Against Patients For Medical Actions In Hospitals Without Operational Licenses." The study's primary objective, as described in the background, is to examine the regulation of dispute resolution for patients involved in medical actions within hospitals. It aims to investigate the mechanisms for resolving medical disputes available to patients who have undergone medical procedures in hospitals lacking operational licenses.

1. METHODOLOGY

The research design used in this study was categorized as normative legal research. Several primary legal materials were employed as follows:

- a. The 1945 Constitution of the Republic of Indonesia;
- b. Law Number 17 of 2023 concerning Health;
- c. Regulation of the Minister of Health of the Republic of Indonesia Number 4 of 2018 concerning Hospital Obligations and Patient Obligations;
- d. Regulation of the Minister of Health of the Republic of Indonesia Number 3 of 2020 concerning Hospital Classification and Licensing.

In this study, secondary legal materials included relevant literature books, legal experts' doctrines, and legal resources obtained through electronic research, specifically from the internet by downloading the necessary legal materials. The advantages of using the internet included efficiency, boundarylessness (without boundaries), accessibility 24 hours a day (24/7), interactivity, and instant linkage (hyperlink) (Riswandi, 2003). Tertiary legal materials, such as legal dictionaries or encyclopedias (Asikin, 2004), were used to provide definitions of words related to the research topic. The technique used for collecting legal materials in this research was the document study technique. The collection of primary legal materials was carried out by gathering laws and regulations related to dispute resolution concerning patients for medical actions in unlicensed hospitals. The collection of secondary legal materials was conducted through library research. The legal material analysis techniques employed in this research encompassed description techniques, evaluation techniques, and argumentation techniques.

2. RESULTS AND DISCUSSION

Legal Protection Arrangements for Patients in Medical Actions at Hospitals

Legal protection aims to safeguard human rights (HAM) that may be infringed upon by others. This protection is extended to the community, ensuring that they can enjoy all rights bestowed by the law. In essence, legal protection encompasses various legal efforts that law enforcement officials must undertake to instill a sense of security, both mentally and physically, shielding individuals from disruptions and threats originating from any source (Rahardjo, 1993).

It's worth noting that legal protection isn't solely focused on safeguarding patients' rights; it also serves to protect doctors in the execution of their profession. Whether a doctor adheres to standard operating procedures (SOP) or not is pertinent to this consideration. Deviations from professional duties can lead to categorization as malpractice. Legal protection serves as a mechanism to guard the public against arbitrary actions by authorities that do not conform to the rule of law, ultimately fostering order and tranquility, thereby enabling individuals to revel in their dignity as human beings (Setiono, 2004).

Philipus Hadjon distinguishes between two forms of legal protection: preventive and repressive. Preventive legal protection allows people to express their opinions before a government decision becomes definitive, with the aim of averting disputes. On the other hand, repressive legal protection is intended to resolve disputes (Setiono, 2004).

From Hadjon's statement, the author infers that although preventive legal protection is often applied in the medical domain, it doesn't consistently yield the desired outcomes. This is because many hospital patients suffer not only material harm but also emotional or psychological distress. Therefore, legal avenues must be available since every consumer possesses rights requiring protection, and vice versa.

In the context of healthcare regulations in Indonesia, the philosophical basis can be traced to Article

34, paragraph (1) of the 1945 Constitution, which designates health services as the state's responsibility, and Article 28H, paragraph (1), which underscores citizens' entitlement to health services. These articles encapsulate the ideals of a just and civilized society and social justice for all Indonesians. The provision of health services aligns with the value of upholding human dignity in Indonesia, while the recognition of the right to access healthcare is a manifestation of the principle of social justice, rooted in equity.

The government bears the responsibility of ensuring that every citizen receives quality healthcare tailored to their needs. As a fundamental requirement, individuals are responsible for fulfilling their own and their dependents' basic needs. Consequently, the fulfillment of public healthcare needs falls within the purview of every citizen. In accordance with their nature, every citizen is obligated to meet their life's essential requirements by harnessing their full human potential. Conversely, central and local governments are duty-bound to guarantee that citizens can exercise their right to fulfill their life's needs without hindrance or interference from any party. To safeguard citizens' rights, legal protection within the realm of healthcare is indispensable (Rusyd, 2018).

Legal protection is intrinsically tied to patients' rights and is delineated in numerous laws, regulations, and the Indonesian Medical Code of Ethics. These include:

Law Number 17 of 2023 concerning Health governs the rights of all individuals, including patients, with provisions outlined in Article 4, paragraph (1), which states:

"(1) Every person has the right to:

- a. live in good physical, mental, and social health;*
- b. receive balanced and responsible health information and education;*
- c. access safe, quality, and affordable Health Services to achieve the highest level of health;*
- d. receive healthcare in accordance with Health Service standards;*
- e. access health resources;*
- f. independently and responsibly determine the Health Services they require;*
- g. access a healthy environment to promote health;*
- h. accept or decline, in part or in whole, any medical interventions after receiving full information and understanding about the proposed actions;*
- i. maintain the confidentiality of their personal health data and information;*
- j. receive information regarding their health data, including treatments and actions they have received or will receive from Medical Personnel and/or Health Personnel; and*
- k. receive protection from health-related risks."*


The rights of patients, as mentioned above, are further reinforced by the provisions of Article 276 of Law Number 17 of 2023 concerning Health, which stipulate:

"a. receive information about their health;

- b. receive a comprehensive explanation of the health services they are provided;*
- c. access health services tailored to their medical needs, conforming to professional standards and ensuring quality;*
- d. consent to or decline medical procedures, except for actions necessary in the context of preventing infectious diseases or managing outbreaks;*
- e. access information contained within their medical records;*
- f. request the opinion of medical personnel or other healthcare professionals; and*
- g. enjoy other rights as stipulated by laws and regulations."*

In addition to the right to information, patients also possess other rights as stipulated in the Indonesian Code of Medical Ethics (KODEKI), which are as follows:

- a. The right to life, the right to one's own body, and the right to die naturally. Concerning the approval of medical actions, a patient's refusal or consent to specific medical procedures represents the exercise of these three rights.
- b. The right to receive humane medical services in line with medical profession standards. If medical services are not provided in accordance with professional standards and result in a patient's disability or death, the doctor responsible has violated the patient's right to receive humane services, entitling the patient to file a lawsuit against the doctor in question.

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- c. The right to receive an explanation of the diagnosis and therapy from the treating doctor. This right to receive an explanation falls under the patient's right to information within the therapeutic relationship. Essentially, this right to information grants the patient access to clear information regarding their medical condition. Furthermore, it functions as a civil right or relationship that the patient or their family can employ to file a lawsuit in case of detrimental events. In the doctor-patient relationship, the patient's right to information automatically becomes an obligation for the doctor, whether explicitly requested by the patient or not.
 - d. The right to refuse planned diagnostic and therapeutic procedures and even to withdraw from therapeutic transactions. This encompasses the fundamental human right to accept or decline offers, especially in situations involving medical actions directly affecting the patient. The patient has the inherent right to self-determination, and for any medical procedure that will be performed on the patient, even if it is in their best interest, the patient must be granted the right to give their consent. Written consent is advisable, particularly for major surgeries. If a patient declines a medical treatment proposed by the doctor, the doctor must refrain from imposing their will, even if the doctor believes that the refusal could endanger the patient's life or even result in death. Should the doctor persist in imposing their will on the patient, even with the intention of saving the patient's life, it may lead to a malpractice lawsuit. For instance, the Muhidin case at Sukabumi Hospital in 1986, which concerned eye surgery.
 - e. The right to an explanation of medical research, encompassing the benefits and risks in medical, psychological, social, and economic aspects that may arise during the research. This information should be presented in an easily comprehensible manner to the patient. It is crucial to explain that as a research participant, the patient can withdraw from the study at any time without facing penalties, and that the research results will remain confidential.
 - f. The right to be referred to a specialist when necessary and to be returned to the referring doctor after completion of consultation or treatment for care or follow-up.
 - g. The right to the confidentiality of medical records. Doctors are obligated to maintain confidentiality regarding information obtained from patients and details concerning the patient's illness (Soewono, 2006).

In light of the patient's rights regulations mentioned above, patients can then turn to the subsequent regulations pertaining to the legal protection of patients regarding medical actions in hospitals, particularly in cases where patients are harmed due to medical personnel's negligence in hospitals.

The Law of the Republic of Indonesia Number 17 of 2023 Concerning Health has indeed provided a framework for legal protection against patients for unfavorable outcomes resulting from medical actions in hospitals. Article 193 of this law explicitly stipulates:

"The Hospital bears legal responsibility for any losses incurred as a result of negligence committed by Hospital Health Human Resources."

Based on the article above, it is evident that the law has enabled patients to seek legal protection by holding hospitals legally accountable for any losses they experience. However, the author believes that the article remains somewhat vague. This vagueness arises because the article does not explicitly regulate the degree of negligence committed by Hospital Health Human Resources in cases of malpractice, nor does it specify the compensation that patients can receive. Moreover, the article lacks further guidance on the compensation amounts to be awarded to patients based on the severity of negligence by Hospital Health Human Resources, particularly in instances where such negligence occurs in unlicensed hospitals. The article appears to primarily address licensed hospitals, leaving ambiguity regarding whether hospitals with incomplete licenses can be subject to prosecution under the aforementioned Article.

Furthermore, aside from holding hospitals accountable, patients who believe they have suffered harm due to medical actions at the hospital have also been granted legal protection under the Law of the Republic of Indonesia Number 17 of 2023 concerning Health to pursue legal action against Medical Personnel, particularly the responsible doctor. This provision is articulated in Article 304 through Article 310 of the Law of the Republic of Indonesia Number 17 of 2023 Concerning Health, as follows:

Article 304 of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health reads as follows:

- "(1) To uphold the professionalism of Medical and Health Personnel, it is imperative to enforce professional discipline.*
- (2) In the context of implementing professional discipline as mentioned in paragraph (1), the Minister shall establish a panel responsible for overseeing professional discipline matters.*
- (3) The Council mentioned in paragraph (21) shall determine whether there has been a breach of professional discipline by Medical Personnel and Health Personnel.*
- (4) The Assembly referred to in paragraph (2) may be either permanent or ad hoc.*
- (5) Detailed regulations concerning the duties and functions of the assembly mentioned in paragraph (2) shall be stipulated by Government Regulation."*

Article 305 of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health is as follows:

- "(1) Patients or their families, whose interests have been adversely affected by the actions of Medical Personnel or Health Personnel in delivering Health Services, may file a complaint with the assembly as mentioned in Article 304.*
- (2) The complaint, as mentioned in paragraph (1), should include, at a minimum:*
- a. the complainant's identity;*
 - b. the name and address of the Medical Personnel or Health Personnel's practice location, along with the time when the action was performed; and*
 - c. the grounds for the complaint."*

Article 306 of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health is as follows:

- "(1) Violation of the discipline by Medical Personnel or Health Personnel as mentioned in Article 304, paragraph (3), shall lead to disciplinary sanctions in the following forms:*
- a. written warning;*
 - b. mandatory attendance of educational or training programs at health education providers or the nearest teaching hospital with competence in providing such training;*
 - c. temporary deactivation of STR; and/or*
 - d. recommendation for the revocation of SIP.*
- (2) The outcomes of the assessment mentioned in paragraph (1) shall be binding on Medical Personnel and Health Personnel.*
- (3) Medical Personnel or Health Personnel who have undergone the disciplinary sanctions as mentioned in paragraph (1) and are suspected of criminal actions shall prioritize dispute resolution with restorative justice mechanisms by law enforcement authorities in accordance with the provisions of laws and regulations."*

Article 307 of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health reads as follows:

- "The decision made by the panel as mentioned in Article 304 may be subject to review by the Minister in cases where:*
- a. new evidence emerges;*
 - b. a misapplication of disciplinary offense occurs; or*
 - c. an alleged conflict of interest arises between the examiner and the examined."*

Article 308 of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health is as follows:

- "(1) Medical Personnel or Health Personnel suspected of committing unlawful acts in the course of delivering Health Services that are subject to criminal sanctions must first seek a recommendation from the panel mentioned in Article 304.*
- (2) Medical Personnel and Health Personnel who are liable for actions or omissions related to the provision of Health Services that result in civil harm to Patients must also request a recommendation from the panel as referred to in Article 304.*
- (3) The recommendation from the panel mentioned in paragraph (1) shall be granted following a written request from a Civil Servant Investigator or an investigator from the Indonesian National Police.*
- (4) The recommendation from the panel mentioned in paragraph (2) shall be issued upon a written*

request for legal action submitted by the Patient, the Patient's family, or an individual authorized by the Patient or the Patient's family, on behalf of the Patient.

(5) The recommendation in paragraph (3) takes the form of a recommendation regarding whether an investigation can or cannot be initiated based on whether the professional practices performed by Medical or Health Personnel adhere to professional standards, service standards, and standard operational procedures.

(6) The recommendation in paragraph (4) concerns whether the professional practices carried out by Medical Personnel or Health Personnel are in compliance with professional standards, service standards, and standard operational procedures.

(7) Recommendations in both paragraph (5) and paragraph (6) must be provided within 14 (fourteen) working days from the date of application receipt.

(8) If the panel fails to provide a recommendation within the timeframe specified in paragraph (7), it will be presumed to have issued a recommendation to proceed with a criminal investigation.

(9) The provisions outlined in paragraph (1), paragraph (3), paragraph (5), and paragraph (7) do not apply to the examination of Medical Personnel or Health Personnel who may be held accountable for alleged criminal offenses unrelated to the provision of Health Services."

Article 310 of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health reads as follows:

"In cases where Medical Personnel or Health Personnel are suspected of making professional errors resulting in harm to the Patient, disputes arising from such errors shall first be resolved through alternative dispute resolution outside the court."

Based on the provisions outlined in Articles 304 to 310 of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health, it is evident that patients have access to legal protection for medical actions conducted by healthcare workers in hospitals. This protection includes the ability to initiate criminal or civil proceedings against healthcare workers, contingent upon obtaining a recommendation from the assembly mentioned in Article 304 of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health.

In light of the legal protection arrangements detailed above for patients in the context of medical actions in hospitals, it can be concluded that these protective measures are delineated in the Law of the Republic of Indonesia Number 17 of 2023 Concerning Health. These provisions are specifically articulated in Article 193 and Articles 304 to 310. Patients have the capacity to hold both the Hospital and Medical Personnel accountable for medical actions resulting in harm. However, the regulation does not explicitly clarify whether this liability pertains exclusively to licensed hospitals or extends to unlicensed ones. Consequently, this creates a normative ambiguity within the regulation, particularly in relation to the legal protection of patients regarding medical actions in unlicensed hospitals.

Efforts to Resolve Medical Disputes That Can Be Undertaken by Patients in Unlicensed Hospitals

A medical dispute is a conflict that arises between a patient or the patient's family and a healthcare worker or between a patient and a hospital/healthcare facility (Sinaga, 2021). These disputes typically occur when patients perceive that their rights have been violated, either by healthcare workers or by hospitals/healthcare facilities.

The factors that usually lead to the occurrence of medical disputes are due to:

- a. Doing what according to the agreement should not be done;
- b. Doing what according to the agreement must be done but not on time;
- c. Doing what is agreed to be done but not perfectly; Lack of information;
- d. Communication: Method and quality, poor communication can cause problems, conversely good communication can reduce problems; Different perceptions of the meaning of malpractice;
- e. Difference of interest;
- f. Gap in expectations and results. This can happen because overconfidence can be a trigger, forgetting that doctors are also human;
- g. The aggrieved party has expressed his dissatisfaction either directly to the party considered to be the cause of the loss or to other parties. The dissatisfaction cannot be resolved properly or slow

response. that's why if there is a problem or once there is a seed of a problem immediately look for a solution, don't just wait. Sometimes if the patient's slow response is upset and then tells it to someone else, and that person heats up the patient or his family, then the problem can become more complicated;

- h. Developments in society can occur due to the influence of invalid information from social media;
- i. Fading / neglect of ethical values, this occurs due to various things, including being money oriented, consumptive, forgetting the rules and codes of ethics.
- j. Competition among peers, this is very likely to happen;
- k. Weak trust (Sinaga, 2021).

Medical disputes are often associated with the term malpractice. The terminology of malpractice is still unclear, with many expert opinions and theories surrounding it. According to the KBBI (Sinaga, 2021), malpractice is defined as medical practice that is wrong, inappropriate, violates the law, or breaches the code of ethics.

Moh. Hatta suggests that there are several categories of malpractice, as follows:

1. Criminal malpractice: Errors that occur in carrying out practices related to the Criminal Code.
2. Civil malpractice: This relates to civil matters, specifically the existence of a therapeutic contract.
3. Ethical malpractice: Emphasizing the violation of the code of ethics derived from ethical values.
4. Medical malpractice: Negligence that occurs because certain actions are not performed (Asyhadie, 2018).

The juridical elements of malpractice actions include:

1. The existence of an action, whether in the form of doing or not doing something, categorized as default.
2. The action is carried out by a doctor or someone under their supervision, not in accordance with established procedures.
3. The action involves medical, diagnostic, therapeutic, or health management procedures that do not comply with legal, ethical, moral, or professional principles.
4. The action is performed intentionally, recklessly, negligently, or carelessly, with negligence being a common cause.
5. The doctor's actions result in harm to the patient (Asyhadie, 2018).
6. In handling medical disputes, patients have legal remedies available to them to seek compensation for the losses they have incurred due to medical actions taken by healthcare professionals and hospitals.

As discussed in the previous section, the regulation of legal protection for patients regarding medical actions in hospitals is outlined in the Law of the Republic of Indonesia Number 17 of 2023 concerning Health. This is specifically addressed in Article 193 and Articles 304 to 310, which allow patients to hold both the hospital and the medical personnel accountable for medical actions that harm the patient. With this legal protection, patients have the option to pursue legal remedies as provided by statutory regulations, particularly the Law of the Republic of Indonesia Number 17 of 2023 concerning Health.

Based on the regulations governing the legal protection of patients regarding medical actions in hospitals, the legal remedies available to patients can be classified as follows:

1) Non-Litigation Medical Dispute Resolution Efforts

Rachmadi Usman stated that besides litigation in court, medical disputes can also be resolved through non-litigation channels outside the court, a practice commonly referred to as Alternative Dispute Resolution (ADR) in America, and as Alternative Dispute Resolution (ADR) in Indonesia (Usman, 2012). Out-of-court dispute resolution, known as APS in Indonesia, is legally supported by Law number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. In practice, out-of-court dispute resolution aligns with the cultural values, habits, and customs of Indonesian society, in accordance with the ideals of the Indonesian society as stated in the 1945 Constitution. This method of settlement involves deliberation and consensus to reach decisions. For example, customary *runggun* forums resolve disputes through deliberation and kinship, and local communities often have Justice of the Peace Institutions acting as mediators and conciliators, particularly in Batak and Minangkabau

cultures. Therefore, the introduction of the ADR concept in Indonesia can be readily embraced by the Indonesian people (Usman, 2012).

Non-litigation resolution of medical disputes is addressed in Article 305 and Article 310 of the Law of the Republic of Indonesia Number 17 of 2023 concerning Health, which state as follows:

Article 305 of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health is as follows:

"(1) Patients or their families, whose interests have been adversely affected by the actions of Medical Personnel or Health Personnel in delivering Health Services, may file a complaint with the assembly as mentioned in Article 304.

(2) The complaint, as mentioned in paragraph (1), should include, at a minimum:

a. the complainant's identity;

b. the name and address of the Medical Personnel or Health Personnel's practice location, along with the time when the action was performed; and

c. the grounds for the complaint."

Article 310 of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health reads as follows:

"In cases where Medical Personnel or Health Personnel are suspected of making professional errors resulting in harm to the Patient, disputes arising from such errors shall first be resolved through alternative dispute resolution outside the court."

Based on the articles above, it is evident that Law of the Republic of Indonesia Number 17 of 2023 Concerning Health has provided patients with alternatives for addressing non-litigation medical disputes. Patients can lodge complaints about the negligence of medical personnel with the assembly as mentioned in Article 304 of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health. Alternatively, they can pursue alternative dispute resolution as outlined in Article 310, which is based on Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

The presence of out-of-court dispute resolution mechanisms is recognized in Indonesia. This recognition can be seen in Law 48/2009 on Judicial Power, which establishes various bodies with functions related to judicial power, distinct from the Supreme Court and its subordinate judicial bodies, and the Constitutional Court. These include:

- a) Investigation and inquiry,
- b) Prosecution,
- c) Execution of decisions,
- d) Provision of legal services, and
- e) Out-of-court dispute resolution.

Efforts to resolve civil disputes can occur outside the state courts through arbitration or alternative dispute resolution. Furthermore, Article 58 to Article 61 of Chapter XII of Law 48/2009 on Judicial Power, which regulates "Settlement of disputes outside the court," specifies that civil dispute resolution efforts can take place beyond the state courts through arbitration or alternative dispute resolution.

2) Litigation Medical Dispute Resolution Efforts

There is no specific legislation that provides a definition of litigation. However, it can be observed in Article 6, paragraph 1 of Law number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, which essentially states that disputes in the civil sector can be resolved by the parties through alternative dispute resolution, based on good faith, with the exclusion of litigation settlement in the District Court (Amriani, 2012). Therefore, it can be concluded that litigation refers to the process of resolving legal disputes in court, encompassing both criminal charges and civil lawsuits.

The litigation resolution of medical disputes is addressed in Article 193, as well as Article 308, paragraph (1) and Article 308, paragraph (2) of the Law of the Republic of Indonesia Number 17 of 2023 concerning Health, which state as follows:

- Article 193 of Law of the Republic of Indonesia Number 17 of 2023 concerning Health which states that:

"The Hospital bears legal responsibility for any losses incurred as a result of negligence committed by

Hospital Health Human Resources."

- Article 308 paragraph (1) of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health:
 "Medical Personnel or Health Personnel suspected of committing unlawful acts in the course of delivering Health Services that are subject to criminal sanctions must first seek a recommendation from the panel mentioned in Article 304."
- Article 308 paragraph (2) of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health:
 "Medical Personnel and Health Personnel who are liable for actions or omissions related to the provision of Health Services that result in civil harm to Patients must also request a recommendation from the panel as referred to in Article 304."

Based on the articles in the Law of the Republic of Indonesia Number 17 of 2023 Concerning Health, as mentioned above, it appears that Article 193 facilitates the patient to hold both criminal and civil liability against the hospital for all losses incurred due to negligence committed by hospital health human resources. It also facilitates the patient to hold both criminal liability against medical personnel or health personnel through Article 308 paragraph (1) and Article 308 paragraph (2). However, according to this arrangement, if the patient wishes to pursue criminal or civil remedies against medical personnel or health personnel, a recommendation must first be requested from the assembly, as referred to in Article 304 of the Law of the Republic of Indonesia Number 17 of 2023 concerning Health. As previously discussed, the regulation of legal protection for patients regarding medical actions in hospitals is outlined in the Law of the Republic of Indonesia Number 17 of 2023 Concerning Health, specifically in Article 193 and Articles 304 to 310. Here, patients can hold both the hospital and the medical personnel accountable for medical actions that harm the patient. However, the regulation does not clearly specify whether this liability extends to licensed hospitals only or includes unlicensed ones. This ambiguity creates normative uncertainty within the regulation, especially concerning legal protection for patients regarding medical actions in unlicensed hospitals. In response to the uncertainty surrounding whether patients can hold unlicensed hospitals or medical personnel in unlicensed hospitals liable for losses incurred, the author employs a legal discovery method in the form of interpretation. In general, there are two types of legal discovery methods: the interpretation method and the construction method. Numerous interpretation methods complement each other, each with its unique characteristics. There are no concrete guidelines on which method should be employed in a given case. According to Burght and Winkelman, in the past, there has been a "striving" for rigid guidelines regarding the choice of interpretation methods, but these hopes have yielded only vague guidelines. This is because it is challenging to discern the true motives of a judge in making a particular decision, as only the arguments explicitly stated in the verdict are visible (Van der Brught & Winkelman, 2011).

The following table provides a brief description of various methods of interpretation commonly used in legal discovery activities, along with additional information and examples to enhance the explanation (Mawar, 2020).

Table 1. brief description of various methods of interpretation commonly used in legal discovery activities

No.	Name of interpretation	Description
1.	Grammatical (objective)	Interpretation by language includes looking at the lexical definition. For example: the term "coastal" is defined as "flat, sandy land on the coast (by the sea)". (see: (Poerwadarminta, 1976), General Dictionary of the Indonesian Language.

2.	Authentic	Interpretation according to the limitations included in the regulation itself, which is usually placed in the explanation (<i>memorie van toelichting</i>), the formulation of general provisions, or in one of the formulations of other articles. Example: "all the words environment" in Law No. 23 of 1997 on Environmental Management must be interpreted in accordance with the wording of Article 1 point 1 of the Law, namely the unity of space with all objects, forces, conditions and living things, including humans and their behavior, which affect the continuity of life and the welfare of humans and other living things.
3.	Teleological (sociological)	Interpretation based on societal goals. Often these societal goals are interpreted in a practical way. For example: the words "controlled by the state" in Article 33 of the 1945 Constitution are interpreted that the state no longer has to monopolize its own management (<i>besturen/beheren</i> function). The government, as a representation of the state, is sufficient to regulate and supervise (<i>regelen</i> and <i>tezichthouden</i> functions). Therefore, for water resources, which are in fact the source of life for many people, it is not necessary to be cultivated by state / regional owned enterprises. Water business use rights can be granted to individuals or business entities (Article 9 of Law No. 7/2004 on water resources).
4.	Systematic (logical)	An interpretation that relates a regulation to other regulations. Example: The provisions on out-of-court dispute resolution in Articles 31-33 of Law No. 23 of 1997 on environmental management are interpreted in line with the provisions of Law No. 30 of 1999 on arbitration and alternative dispute resolution. Dispute Resolution.
5.	Historical (subjective)	Interpretation by looking at the historical background of the law or the history of the formulation of a particular provision (the history of the law). Example: The words "agrarian law is the implementation of the Political Manifesto of the Republic of Indonesia" in the preamble of Law No. 5/1960 on the Basic Agrarian Law, must be interpreted according to the thinking of Soekarno in his speech on August 17, 1960. He stated at that time that the state must regulate land ownership and lead its use, so that all land throughout the nation's sovereign territory is used for the greatest prosperity of the people, both individually and in mutual cooperation.
6.	Comparative	Interpretation by comparing regulations in another legal system. The other legal systems referred to here can be the laws of other countries.
7.	Featureistic (anticipatory)	Interpretation with reference to the formulation in the draft law or the formulation envisioned (<i>iusconstituendum</i>). For example: the formulation of "coastal areas" is interpreted as "Water areas that connect land and marine ecosystems, which are very vulnerable to changes due to human activities on land and at sea, geographically towards land as far as influences from land, such as river water, sediment, and pollution from land," according to Article 1 Point 3 of the Coastal Zone Management Bill. If this bill has been enacted, then its interpretation can no longer be said to be futuristic.
8.	Restrictive	Interpretation by limiting the scope of a provision. Example: the term "minister assigned to manage the environment" in Article 1 Item 25 of Law No. 23 of 1997 on Environmental management, is only interpreted as the Minister of State for the environment.

9.	Extensive	Interpretation by expanding the scope of a provision. For example: the term "minister assigned to manage the environment" in Article 1 Item 25 of Law No. 23 of 1997 on environmental management, is interpreted broadly to include all ministers whose duties are directly related to the environment, namely the Minister of the Environment and related technical ministers in the cabinet (e.g. Minister of Forestry, Minister of Mining, Minister of Agriculture, Minister of Marine Affairs and Fisheries).
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Based on the description of the legal interpretation models mentioned above, the author employs the Extensive Interpretation method to address the vague norms in the regulation of legal protection for patients in medical actions at hospitals. This method involves expanding the scope of a provision.

The need for such an interpretation arises from the lack of clarity in the wording of "Hospital" as stated in Article 193, and the phrasing of "Medical Personnel or Health Workers" found in Article 305, Article 308 paragraph (1), Article 308 paragraph (2), and Article 310 of Law of the Republic of Indonesia Number 17 of 2023 Concerning Health. It is not explicitly specified whether the term "Hospital" encompasses unlicensed hospitals, or if "Medical Personnel or Health Workers" includes those practicing in hospitals without a license.

Hence, through the application of extensive interpretation, the author aims to broaden the applicability of these provisions within the regulation. This entails interpreting the term "Hospital" in Article 193 and "Medical Personnel or Health Personnel" in Article 305, Article 308 paragraph (1), Article 308 paragraph (2), and Article 310 to encompass unlicensed hospitals and medical personnel practicing in such facilities.

Expanding the scope of these provisions is expected to enhance patient legal protection. Patients will have the ability to hold not only licensed hospitals and medical personnel accountable but also unlicensed hospitals and medical personnel operating in those settings. This is crucial for ensuring the legal protection of patients who believe they have been harmed, allowing them to seek resolution for medical disputes.

In conclusion, based on the discussion above, patients can address medical disputes stemming from actions at unlicensed hospitals through both non-litigation and litigation avenues. Non-litigation measures can be pursued by referencing Article 305 and Article 310 of the Law of the Republic of Indonesia Number 17 of 2023 concerning Health, while litigation options are available under Article 193, Article 308 paragraph (1), and Article 308 paragraph (2). Although these articles initially appear to pertain solely to legal liability for licensed hospitals and their medical personnel, an extensive interpretation expands their applicability to unlicensed hospitals and medical personnel practicing without licenses, providing patients with broader legal recourse.

CONCLUSION

Based on the description and the results of the discussion, the authors draw the following conclusions from this study:

The regulations governing the legal protection of patients in cases of medical actions in hospitals have been outlined in the Law of the Republic of Indonesia Number 17 of 2023 concerning Health, specifically in Article 193 and Articles 304 to 310. According to these regulations, patients have the right to hold both the hospital and the medical personnel accountable for medical actions that harm them. However, the regulations do not explicitly specify whether this responsibility applies exclusively to licensed hospitals or includes those without operational licenses. This ambiguity in the regulation creates uncertainty, particularly concerning the legal protection of patients in unlicensed hospitals.

Efforts to resolve medical disputes stemming from actions in hospitals without operational licenses can be pursued through both non-litigation and litigation processes. Non-litigation efforts can be guided by Article 305 and Article 310 of the Law of the Republic of Indonesia Number 17 of 2023 concerning Health, while litigation options are governed by Article 193, Article 308 paragraph (1), and Article 308 paragraph (2) of the same law. While these articles primarily address legal liability in

licensed hospitals, a broad interpretation of these provisions could extend their applicability to patients seeking legal remedies against unlicensed hospitals or medical personnel practicing in such facilities.

Based on the description and the results of the discussion, the authors offer the following suggestions arising from this research:

1. Policymakers responsible for drafting and enacting laws and regulations should pay close attention to the provisions within the drafts they create. This attention to detail is crucial to avoid legal vacuums, ambiguities, or conflicts within the regulations.
2. There is a need for increased government supervision of hospitals without operational licenses in Indonesia. This oversight should not solely rely on public reports but should also include proactive measures to ensure the legal protection of the community, especially hospital patients.

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