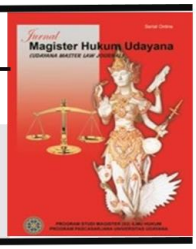
JURNAL MAGISTER HUKUM UDAYANA
(UDAYANA MASTER LAW JOURNAL)
Vol. 15 No. 3 September 2026
E-ISSN: 2502-3101 P-ISSN: 2302-528x
http: //ojs.unud.ac.id/index.php/jmhu



Authenticating Restorative Justice: The Legal Standing and Evidentiary Force of Notarial Deeds in Medical Disputes

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Article Info

Submitted: 10 August 2026
Accepted: 30 September 2026
Published: 30 September 2026

Keywords:
Legalization, Restorative Justice, Medical Dispute, Notarial Deed

Kata kunci:
Legalisasi, Keadilan Restoratif, Sengketa Medik, Akta Notaris

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DOI:
10.24843/JMHU.2026.v15.i03.p05

Abstract

There was ambiguity norms be found in Article 306 paragraph (3) and Article 310 of the Health Law regarding the resolution of medical disputes through restorative justice mechanisms, including the formalization of such resolutions via a notarial deed. Consequently, examining the definition of medical disputes eligible for restorative justice resolution – along with the legal force of the notarial deed formalizing the outcome – were actual issues for analysis through normative legal research. The findings indicate that the misuse of practice licenses, violations of codes of ethics, and/or breaches of healthcare standard operating procedures can give rise to medical disputes in Administrative Law; breaches of therapeutic contracts serve as examples of medical disputes in Civil Law; and instances of negligence or intentional acts resulting in severe injury, disability, or death constitute medical disputes in Criminal Law. When the resolution of a service-oriented medical dispute achieved through restorative justice was legalized into a notarial deed, thus the content of agreement will provide the perpect evidentiary power and legal certainty.

Abstrak

Dijumpai kekaburan norma dalam Pasal 306 ayat (3) jo. Pasal 310 UU Kesehatan terkait penyelesaian sengketa medik melalui mekanisme keadilan restoratif, termasuk juga terhadap legalisasinya melalui akta notaris. Oleh karena itu, pembahasan atas makna sengketa medik yang dapat diselesaikan melalui mekanisme keadilan restoratif beserta kekuatan hukum akta notaris atas legalisasi hasil penyelesaian sengketa medik tersebut merupakan dua permasalahan yang menarik dan aktual untuk dikaji melalui penelitian hukum normatif. Pendekatan yang diterapkan yakni pendekatan peraturan perundangan menggunakan sumber bahan hukum primer, sekunder, dan tersier di bidang Hukum Kesehatan dan Hukum Kenotariatan untuk dianalisis secara deskriptif kualitatif. Hasil penelitian menunjukkan bahwa penyalahgunaan izin praktik, pelanggaran kode etik, dan/atau pelanggaran standar operasional prosedur pelayanan kesehatan dapat melahirkan sengketa medik di bidang Hukum Administrasi; wanprestasi atas kontrak terapeutik merupakan contoh sengketa medik di bidang Hukum Perdata;

sedangkan kelalaian atau kesengajaan yang menyebabkan luka berat, cacat, hingga kematian merupakan contoh sengketa medik di bidang Hukum Pidana. Sengketa medik yang berorientasi pada proses pelayanan, apabila hasil penyelesaiannya melalui mekanisme keadilan restoratif dilegalisasi ke dalam akta notaris, maka isi kesepakatan tersebut memberikan kekuatan pembuktian sempurna dan kepastian hukum.

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1. Introduction

The development of dispute resolution within the Indonesian legal system has increasingly recognized restorative justice as an approach that emphasizes the restoration of harm, accountability, and the recovery of relationships between the parties involved. Unlike a purely retributive approach, restorative justice seeks to address the consequences of a dispute by considering the interests of the affected parties and encouraging dialogue, reconciliation, and the fulfillment of responsibilities. Its application in Indonesia has developed through various legal and institutional frameworks, including those governing the resolution of certain criminal cases.[1]

In the healthcare sector, restorative justice has particular significance because medical disputes may involve complex legal relationships between patients, medical personnel, healthcare institutions, and law enforcement authorities. Law No. 17 of 2023 concerning Health provides a statutory basis for prioritizing restorative justice in certain medical disputes. Article 306 paragraph (3) provides that medical personnel or health workers who have undergone the relevant disciplinary sanctions, where a criminal offense is suspected, must have the dispute resolution process prioritize restorative justice in accordance with applicable laws and regulations.[2]

The term "prioritized" requires careful legal interpretation. It does not mean that every medical dispute must necessarily be resolved through restorative justice, nor does it grant the parties the authority to independently terminate criminal proceedings. Rather, the application of restorative justice must be assessed within the applicable legal framework and the authority of the institutions responsible for handling the case. This raises a further legal question concerning the status of the settlement reached through a restorative justice mechanism and the legal instrument that may be used to document the agreement. In this context, a notarial deed warrants examination as an instrument for formalizing the parties' settlement and providing legal certainty regarding their agreed rights and obligations.

Previous studies have examined restorative justice in medical dispute resolution from different perspectives. Karjoko et al. (2021), in their article entitled *The Urgency of Restorative Justice on Medical Dispute Resolution in Indonesia*, examined the urgency of implementing restorative justice in medical disputes within the Indonesian legal

[1] A. S. Yunus and I. Dahri, Restorative Justice di Indonesia (Bogor: Guepedia, 2021), 18. Catatan: pastikan halaman 18 benar-benar mendukung pernyataan yang dikutip.

[2] Undang-Undang Republik Indonesia Nomor 17 Tahun 2023 tentang Kesehatan, Pasal 306 ayat (3).

system.[3] Their research provides a foundation for understanding the rationale for adopting a restorative approach to medical dispute resolution. Meanwhile, Suratman (2025), in the article *Keadilan Restoratif (Restorative Justice) sebagai Upaya Penyelesaian Sengketa Medis Berdasarkan Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan*, examined restorative justice as an approach to resolving medical disputes within the statutory framework of Law No. 17 of 2023 concerning Health. These studies contribute to the understanding of the importance and legal basis of restorative justice in the resolution of medical disputes.[4]

Although these previous studies provide an important foundation, the present study places its primary emphasis on a distinct legal issue: the legal status and evidentiary force of a notarial deed used to document the outcome of a restorative justice process in medical disputes. The central concern is not merely the urgency of applying restorative justice or its recognition under health legislation, but also the legal function and limitations of a notarial deed in formalizing the settlement reached by the parties. In particular, this study examines the extent to which a notarial deed[5] can establish evidence of the parties' agreement and provide legal certainty, while distinguishing its evidentiary function from the authority to determine the termination of criminal proceedings or other legal consequences governed by applicable legislation.

Accordingly, the research gap addressed in this study lies in the legal construction of a notarial deed as an instrument for documenting the outcome of restorative justice in medical disputes, particularly in relation to its evidentiary force and the limits of its legal effects. The conceptual contribution of this study is to analyze the position of a notarial deed not only within civil legal relations but also in relation to administrative consequences and criminal accountability. This distinction is important because a notarial deed may authenticate the parties' statements and agreement, but it cannot automatically eliminate legal responsibility or replace decisions that fall within the authority of competent public institutions.

Based on this research gap, this study aims to analyze the legal status and evidentiary force of notarial deeds documenting the outcomes of restorative justice in medical disputes. It further examines the extent to which such deeds provide legal certainty for patients and medical personnel and the limitations of their legal effects in civil, administrative, and criminal law. Through a normative legal approach, this study seeks to clarify the function of a notarial deed as an authentic instrument for documenting a settlement without attributing to it legal powers beyond those recognized by applicable laws and regulations.

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[3] Lego Karjoko et al., "The Urgency of Restorative Justice on Medical Dispute Resolution in Indonesia," AL-IHKAM: Jurnal Hukum & Pranata Sosial 16, no. 2 (2021): 362–392. https://doi.org/10.19105/al-lhkam.v16i2.5314

[4] uratman, "Keadilan Restoratif (Restorative Justice) sebagai Upaya Penyelesaian Sengketa Medis Berdasarkan Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan," Jurnal Ilmu Hukum, Humaniora dan Politik 5, no. 3 (2025): 2556–2566.

[5] Hildayastie Hafizah and Surastini Fitriasih, "Urgensi Penyelesaian Dugaan Kesalahan Medis Melalui Restorative Justice," *Jurnal USM Law Review* 5, no. 1 (2022): 205–223

2. Research Method

This research uses a normative legal research method with two approaches, namely the statutory approach and the conceptual approach. The selection of normative legal research is based on the existence of normative ambiguity in Article 306 paragraph (3) of the Health Law, particularly concerning the legal form that may be used for the outcome of medical dispute resolution through a restorative justice mechanism.
Through the statutory approach, the research examines a number of legal provisions related to restorative justice. Meanwhile, the conceptual approach is used to understand and analyze legal concepts relevant to the research problems. The concepts examined include restorative justice, medical disputes, notarial deeds, settlement deeds, and the evidentiary force of deeds. To strengthen the analysis, this approach also examines legal doctrines and the views of legal scholars concerning peaceful dispute resolution and the position of notarial deeds within the Indonesian legal system.

3. Results and Discussion

3.1. Medical Disputes Resolved through a Restorative Justice Mechanism

Various health-service activities are essentially related to the practice of medicine. The medical profession is highly strategic in realizing the health of the Indonesian people. Therefore, health-service providers, including doctors, are required to act in accordance with applicable provisions and service values so as to provide quality services to the community and support the realization of better public health. In this regard, the medical profession requires individuals who possess integrity, ethics, and good morals[6]. To prevent medical disputes, particularly in the field of Civil Law arising from alleged breach of a therapeutic contract, the Health Law requires the patient's consent before health services are provided. Once the patient has received appropriate information and consented to the health service to be provided, a mutual understanding is established from the outset, which can reduce the potential for disputes in the future. The mandate to resolve medical disputes through restorative justice is also consistent with the objectives of criminal punishment under the Criminal Code and the implementation of investigations under the Criminal Procedure Code. In the Criminal Procedure Code, this is found, among other provisions, in Article 24 paragraph (2) letter h, which confirms that the termination of an investigation may occur because a case has been resolved through restorative justice.[7]

Accordingly, one form of medical dispute resolution conducted outside judicial institutions (non-litigation) is a settlement agreement between the disputing parties through a restorative justice mechanism. This is consistent with the character of restorative justice, which is not merely intended to achieve peace, but constitutes an approach to conflict resolution that places recovery of losses, the interests of victims, accountability of the party causing the loss, and restoration of the relationship between the parties as its principal objectives. Restorative justice is a relevant approach to medical dispute resolution because it can accommodate the interests of both patients and medical personnel when litigation does not fully produce substantive justice. Accordingly, it is necessary to distinguish between medical disputes that may be resolved amicably and

[6] M. B. Sabon, Ilmu Negara: Bahan Pendidikan untuk Perguruan Tinggi (Jakarta: Penerbit Unika Atma Jaya, 2019), h. 3

[7] Kenedi, J., "Urgensi Penegakan Hukum dalam Hidup Berbangsa dan Bernegara," Jurnal El-Afkar 5, no. 2 (2016): 51–56.

medical disputes that, as a matter of law, may be resolved through a restorative justice mechanism under specific provisions. In this context, the term restorative justice must be used appropriately. An amicable settlement does not automatically make a dispute a restorative justice-based resolution.[8] A different situation arises when a medical dispute involves an alleged criminal offense. In such circumstances, resolution of the case concerns not only the interests of the parties involved, but also public interests and the state's authority to enforce criminal law. Therefore, not every alleged criminal offense related to medical services can be resolved through a restorative justice mechanism.

The phrase "prioritized" used in Article 306 paragraph (3) of the Health Law should be understood as an obligation to consider the restorative mechanism first. The provision cannot be interpreted as granting the parties the authority to independently determine the termination of criminal liability. This understanding is important in positioning restorative justice in medical disputes. Restorative justice is more appropriately viewed as an instrument for restoring conflicts and losses rather than as a means of eliminating legal liability. Research on medical dispute resolution following the enactment of the Health Law also shows that alternative dispute resolution mechanisms play a role in handling medical disputes, but their application must still be distinguished from professional mechanisms and judicial proceedings.

Thus, not all medical disputes can be placed within a restorative justice mechanism. Its application must consider the nature and characteristics of the dispute, the legal position of the parties, and the legal basis that permits resolution through such a mechanism. This limitation is necessary to ensure that Article 306 paragraph (3) of the Health Law is not interpreted beyond the purpose and scope of its regulation. The settlement reached by the parties may subsequently be embodied in a notarial deed containing a settlement agreement. In addition, the parties may pursue mediation in court, the outcome of which may be embodied in a Settlement Deed.

3.2 Legal Force of the Outcome of Medical Dispute Resolution through Restorative Justice as Embodied in a Notarial Deed

Based on the applicable provisions, a Notary has the authority to make authentic deeds concerning acts, agreements, and determinations desired by interested parties to be stated in an authentic deed, provided that such matters do not fall within the authority of another official as prescribed by law. In addition to making authentic deeds, a Notary has the authority to ensure the certainty of the execution of deeds, keep the deeds, and issue grosse, copies, and excerpts of deeds in accordance with applicable provisions. This authority is regulated in Article 15 paragraph (1) of the Law on the Position of Notaries. When these requirements are fulfilled, Article 1338 paragraph (1) of the Indonesian Civil Code provides that the settlement agreement has the force of law for the parties who made it. From an evidentiary perspective, the status of a notarial deed as an authentic deed is the principal basis for its legal force. Article 1868 of the Indonesian Civil Code

[8] Lego Karjoko et al., "The Urgency of Restorative Justice on Medical Dispute Resolution in Indonesia," AL-IHKAM: Jurnal Hukum & Pranata Sosial 16, no. 2 (2021): 362–392.

provides that "an authentic deed is a deed made in the form prescribed by law by or before a public official authorized to do so at the place where the deed is made."[9]

Based on this provision, a notarial deed containing a settlement agreement has the status of an authentic deed and therefore provides full evidentiary force (volledig bewijs) for the parties with regard to the matters stated and agreed upon therein, as well as their heirs. In the law of evidence, an authentic deed is recognized as having three forms of evidentiary force, namely external evidentiary force (uitwendige bewijskracht), formal evidentiary force (formele bewijskracht), and material evidentiary force (materiële bewijskracht)[10]. These three forms relate to different aspects of a deed, ranging from the form of the deed and the process of its execution to its contents. External evidentiary force concerns the condition of a deed whereby its form demonstrates that it is an authentic deed. As long as there is no evidence showing a defect in its form or execution, the deed continues to be regarded as an authentic deed.[11]

Formal evidentiary force concerns what the parties did and stated when the deed was made. The issue is whether the parties actually appeared before the Notary and genuinely provided the statements or expressed the intentions subsequently recorded in the deed. Material evidentiary force concerns the truth of the contents or substance stated in the deed. Statements contained in the deed, in principle, have evidentiary value for the parties insofar as there is no evidence capable of rebutting or invalidating the material truth of those statements[12]. Therefore, these three aspects of evidentiary force are important in determining the position of an authentic deed as evidence[13] in civil legal relations. In the resolution of medical disputes through restorative justice, a notarial deed plays an important role as a means of giving legal form to the settlement agreement reached by the parties. An agreement that initially arises from deliberation and is based on the consent of the parties acquires the form of an authentic deed when executed before a Notary. Thus, the agreement not only has value as the result of an amicable settlement, but also acquires evidentiary status within the national legal system. If a dispute later arises concerning the contents of the agreement or one party denies having entered into the settlement, the notarial deed may be used as written evidence demonstrating the statements and agreement made by the parties before the Notary. This position provides stronger legal protection if a dispute arises concerning the existence or contents of the settlement agreement. However, the evidentiary force of a notarial deed must be distinguished from the executorial force of a court judgment. A notarial deed containing a settlement agreement does not, in principle, possess direct executorial force equivalent to a court judgment. If one party fails to perform an obligation agreed upon, the injured party cannot immediately request the court to execute the deed. In such circumstances, further legal action is required according to the

[9] Rifai, A., Penemuan Hukum oleh Hakim dalam Perspektif Hukum Progresif (Jakarta: Sinar Grafika, 2011), 90.

[10] Moechthar, Oemar. Dasar-Dasar Teknik Pembuatan Akta (Surabaya: Airlangga University Press, 2017), 33.

[11] Harahap, M. Y. Hukum Acara Perdata: Tentang Gugatan, Persidangan, Penyitaan, Pembuktian, dan Putusan Pengadilan (Jakarta: Sinar Grafika, 2017), 641–645.645

[12] Dedy Pramono, "Kekuatan Pembuktian Akta yang Dibuat oleh Notaris Selaku Pejabat Umum Menurut Hukum Acara Perdata di Indonesia," *Lex Jurnalica* 12, no. 3 (2015): 248–258

[13] Kitab Undang-Undang Hukum Perdata, Pasal 1868 dan Pasal 1870.

nature of the violation, including filing a breach-of-contract claim if the relevant party fails to fulfill the agreement.

Therefore, the legal force of a notarial deed in the resolution of medical disputes through restorative justice lies primarily in its authentication function and evidentiary force. The deed provides certainty concerning the existence of the agreement, its agreed contents, and the intentions of the parties expressed before the Notary. The principal strength of the notarial deed lies in evidentiary force and legal certainty, not in the ability to be compulsorily enforced through the state's execution mechanism. When the outcome of a restorative justice process is agreed upon in the form of a settlement and subsequently embodied before a Notary, the agreement may be made in the form of a settlement deed. The process begins with the mutual intention of the parties who were previously in dispute to end the dispute peacefully[14].

The agreement may be reached through various means, including direct negotiation, out-of-court mediation, or other dispute-resolution mechanisms that enable the parties to reach an agreement. Once an agreement has been reached, the parties may request the Notary to embody the settlement in an authentic deed in accordance with applicable laws and regulations. After reaching agreement on the respective rights and obligations, the parties agree to embody the settlement in an authentic deed in order to obtain stronger legal certainty and full evidentiary value. At the initial stage of preparing the deed, the parties appear before the Notary with their identification documents and documents relating to the legal relationship and the subject matter of the dispute that has been resolved. Before preparing the deed, the Notary first examines the identities of the appearing parties and ensures that each party has the authority to act. Documents forming the basis of the settlement agreement are also examined to ensure their relevance to the legal relationship between the parties. At this stage, the Notary must ensure that the agreement represents the parties' free will. The appearing parties must attend voluntarily, possess legal capacity, and not be in a condition that could affect their freedom to give consent. After the initial examination has been completed, the Notary then explores and confirms each party's intention concerning the agreed settlement.[15]

After the contents of the deed have been formulated in accordance with the parties' intentions, the Notary reads the deed before the appearing parties. The reading is conducted so that the appearing parties know and understand the contents of the deed and the legal consequences arising from the agreement they have made. Once the entire contents of the deed have been understood and approved, the deed is signed by the appearing parties, witnesses, and the Notary at the same time. The signing constitutes an important part of the process of forming an authentic deed because it demonstrates that the contents of the deed have been accepted and agreed upon by the parties[16]. Once the requirements concerning the form and procedure for making the deed have been fulfilled, the notarial deed has the status of authentic evidence with full evidentiary force

[14]Adjie, Habib. Hukum Notaris Indonesia: Tafsir Tematik terhadap UU Jabatan Notaris (Bandung: Refika Aditama, 2018), h. 60.

[15]Budiono, H., Kumpulan Tulisan Hukum Perdata di Bidang Kenotariatan (Bandung: Citra Aditya Bakti, 2013), h. 220.

[16] Undang-Undang Republik Indonesia Nomor 30 Tahun 2004 tentang Jabatan Notaris sebagaimana telah diubah dengan Undang-Undang Republik Indonesia Nomor 2 Tahun 2014, Pasal 16 ayat (1) huruf m dan Pasal 44 ayat (1).

in civil matters. Nevertheless, this evidentiary force must be distinguished from executorial force. A notarial deed containing a settlement agreement cannot automatically be compulsorily enforced in the same manner as a court judgment that possesses executorial force. After the signing process is completed, the minuta of the deed is kept by the Notary as part of the Notarial protocol. The parties may subsequently obtain a copy or grosse of the deed as needed and in accordance with applicable provisions.

By virtue of the deed, the settlement agreement has stronger evidentiary form because the parties' intentions and consent have been embodied in an authentic deed. The agreement is also binding upon the parties based on the principle of pacta sunt servanda, provided that it satisfies the requirements for a valid agreement. Overall, the preparation of a notarial deed containing a settlement agreement involves several stages. The process begins with the parties reaching an agreement to end the dispute, followed by their appearance before the Notary and submission of the required documents. The Notary then examines the identity and authority of the parties, formulates their intentions in an authentic deed, and proceeds with the reading and signing of the deed by the appearing parties, witnesses, and the Notary, followed by the safekeeping of the minuta and issuance of copies of the deed.

Thus, the final product of the process is an authentic deed that provides certainty regarding the existence and contents of the settlement agreement and has evidentiary force if a dispute arises in the future. However, this position does not mean that a notarial deed automatically has executorial force equivalent to a Settlement Deed confirmed by a court judgment. Therefore, the principal strength of a notarial deed in this context lies in its authentication and evidentiary functions with respect to the agreement made by the parties.

Under Article 15 paragraph (1) of the Law on the Position of Notaries, a Notary is authorized to draw up authentic deeds concerning acts, agreements, and determinations required by interested parties to be recorded in an authentic deed, provided that the matters concerned do not fall within the authority of another official as prescribed by law. In the context of medical dispute resolution, this authority provides a legal basis for documenting a settlement agreement reached by the parties through a restorative justice mechanism. Article 1338 paragraph (1) of the Indonesian Civil Code establishes that a valid agreement binds the parties who enter into it. Meanwhile, Article 1868 of the Indonesian Civil Code defines an authentic deed as a deed made in the form prescribed by law by or before a public official authorized to do so. Accordingly, a settlement agreement embodied in a notarial deed may provide an authentic record of the parties' statements and agreed obligations, subject to the applicable legal requirements.[17]

From an evidentiary perspective, an authentic deed is generally examined in terms of its external, formal, and material evidentiary force (*uitwendige bewijskracht, formele bewijskracht,* and *materiële bewijskracht*). These aspects concern, respectively, the deed's formal appearance as an authentic instrument, the statements and acts recorded by the

[17] Undang-Undang Republik Indonesia Nomor 30 Tahun 2004 tentang Jabatan Notaris sebagaimana telah diubah dengan Undang-Undang Republik Indonesia Nomor 2 Tahun 2014, Pasal 15 ayat (1).

Notary in the process of executing the deed, and the substance of the statements contained in it. These evidentiary aspects support the legal position of an authentic deed in civil legal relations. Nevertheless, the evidentiary effect of a deed must be assessed within the applicable rules of evidence and does not mean that every factual assertion contained in it is necessarily immune from challenge.[18]

In medical disputes resolved through restorative justice, a notarial deed may document the background and subject matter of the dispute, the parties' voluntary intention to settle, and the rights and obligations arising from their agreement. Depending on the circumstances, the settlement may address compensation, further healthcare services, the allocation of costs, or other agreed measures for implementing the settlement. These provisions should be formulated clearly, reflect the parties' genuine intentions, and comply with applicable laws and professional healthcare standards. The deed should record the agreement reached by the parties without treating an unsatisfactory medical outcome, by itself, as conclusive proof of professional negligence or legal liability. The clarity and validity of the agreement are important to determining the extent to which it can provide legal certainty for the parties[19].

In preparing such a deed, a Notary must exercise due care by examining the identities and legal capacity of the appearing parties, ensuring that their consent is freely given, and determining whether the proposed legal act falls within the Notary's authority and complies with applicable law. This responsibility is particularly important in medical disputes because a settlement may concern patients' rights, the obligations of medical personnel or health workers, the responsibilities of healthcare facilities, compensation, or further healthcare services. The Notary's role is to formalize the parties' agreement within the limits of the Notary's legal authority, rather than to determine independently whether medical negligence has occurred or whether a party bears criminal responsibility. The terms of the agreement must not be used to circumvent mandatory legal provisions[20].

The legal effects of a notarial settlement deed must also be distinguished from those of a settlement reached or confirmed through judicial proceedings. Although both may record an agreement intended to resolve a dispute, their legal status and consequences are not necessarily identical. A notarial deed containing a settlement agreement does not, merely because it is authentic, automatically possess the same executorial force as a

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[18] Dedy Pramono, "Kekuatan Pembuktian Akta yang Dibuat oleh Notaris Selaku Pejabat Umum Menurut Hukum Acara Perdata di Indonesia," Lex Jurnalica 12, no. 3 (2015): 248–258; Oemar Moechthar, Dasar-Dasar Teknik Pembuatan Akta (Surabaya: Airlangga University Press, 2017), 33; M. Y. Harahap, Hukum Acara Perdata: Tentang Gugatan, Persidangan, Penyitaan, Pembuktian, dan Putusan Pengadilan (Jakarta: Sinar Grafika, 2017), 641–645.

[19] Kitab Undang-Undang Hukum Perdata, Pasal 1320 dan Pasal 1338 ayat (1); Undang-Undang Republik Indonesia Nomor 17 Tahun 2023 tentang Kesehatan, Pasal 306 ayat (3) dan Pasal 310; Lego Karjoko et al., "The Urgency of Restorative Justice on Medical Dispute Resolution in Indonesia," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 16, no. 2 (2021): 362–392

[20] Undang-Undang Republik Indonesia Nomor 30 Tahun 2004 tentang Jabatan Notaris sebagaimana telah diubah dengan Undang-Undang Republik Indonesia Nomor 2 Tahun 2014, Pasal 15 ayat (1), Pasal 16 ayat (1), dan Pasal 39; Michelle Engel Limenta and Thomas, "Tanggung Jawab Notaris Terhadap Akta Autentik yang Dibuat Tanpa Dihadiri Pihak Penghadap," *Notary Journal* 3, no. 2 (2023): 103–125

court judgment or a court settlement that has acquired executorial force under applicable law. If a party fails to perform an agreed obligation, the available legal remedies depend on the nature of the obligation and the procedures prescribed by law. Therefore, the legal significance of a notarial deed lies primarily in authenticating and providing evidence of the agreement, while its enforceability must be assessed separately under the applicable legal framework[21].

Particular caution is required when the agreement concerns the withdrawal of a complaint, the termination of proceedings, or the final resolution of a medical dispute involving a suspected criminal offense. The parties may document their intention to settle and undertake to notify or cooperate with the competent authorities where legally appropriate. However, the existence of a notarial deed does not, by itself, compel investigators, prosecutors, or courts to terminate proceedings when that decision falls within their statutory authority. Likewise, a private settlement cannot automatically extinguish administrative obligations or criminal responsibility where such consequences do not follow from applicable law. The deed may serve as documentary evidence that a settlement has been reached, but the legal consequences for any criminal proceedings must be determined under the relevant legislation and by the competent authorities[22].

Accordingly, the legal function of a notarial deed in restorative justice-based medical dispute resolution must be understood by distinguishing the authentication and evidentiary value of the settlement from the legal consequences that may arise from it. The deed can provide greater certainty regarding the existence and contents of the parties' agreement, particularly in relation to their civil rights and obligations. However, it does not independently establish the absence of professional negligence, eliminate all legal responsibility, or terminate criminal proceedings. Its legal effects remain subject to the validity and scope of the agreement, applicable legislation, and the authority of the relevant institutions. This distinction clarifies the role of a notarial deed as an instrument for documenting restorative justice outcomes without attributing to it legal powers beyond those recognized by law[23].

3.3 Substantive Elements and Legal Limitations of a Notarial Settlement Deed

A settlement agreement arising from a restorative justice process in medical disputes may address the background and subject matter of the dispute, the parties' voluntary consent to settle, and their respective rights and obligations. Depending on the circumstances, the agreed terms may include compensation, further healthcare services,

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[21] Yanuar Rozi Firmansyah, "Kekuatan Hukum Akta Perdamaian yang Dibuat Dihadapan Notaris dan Putusan Akta Perdamaian Pengadilan," *Jurnal Cakrawala Hukum* 8, no. 2 (2017): 220–229, https://doi.org/10.26905/idjch.v8i2.2114; Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.

[22] Undang-Undang Republik Indonesia Nomor 17 Tahun 2023 tentang Kesehatan, Pasal 306 ayat (3) dan Pasal 310; Undang-Undang Republik Indonesia Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, Bab IV tentang Mekanisme Keadilan Restoratif.

[23] Yanuar Rozi Firmansyah, "Kekuatan Hukum Akta Perdamaian yang Dibuat Dihadapan Notaris dan Putusan Akta Perdamaian Pengadilan," *Jurnal Cakrawala Hukum* 8, no. 2 (2017): 220–229, Kitab Undang-Undang Hukum Perdata, Pasal 1338 ayat (1), Pasal 1868, dan Pasal 1870.

the allocation of costs, and other measures intended to implement the settlement. These terms should be clearly formulated, reflect the parties' genuine intentions, and comply with applicable laws and regulations. When embodied in a notarial deed, the agreement is documented in an authentic instrument that can provide evidentiary support for the existence and contents of the settlement[24].

The preparation of such a deed requires due care from the Notary, particularly because medical disputes may involve patients' rights, the obligations of medical personnel or health workers, and the responsibilities of healthcare facilities. The Notary must verify the identities and legal capacity of the appearing parties, ensure that their consent is freely given, and act within the authority prescribed by law. The agreement must also comply with applicable legal requirements and must not be used to circumvent mandatory legal provisions. In addition, an unsatisfactory medical outcome should not, by itself, be treated as conclusive proof of professional negligence or criminal liability[25].

Particular caution is required when the settlement includes provisions concerning the withdrawal of complaints, the release of claims, or the termination of legal proceedings. The parties may agree to settle their dispute and undertake to notify the relevant authorities where legally appropriate. However, the existence of a notarial deed does not automatically compel investigators, prosecutors, or courts to terminate proceedings when that decision falls within the authority of the relevant institution under applicable law. Similarly, a private agreement cannot automatically extinguish administrative obligations or criminal responsibility where such consequences are not permitted by law.

Accordingly, the substantive provisions of a notarial settlement deed must distinguish the parties' contractual agreement from the legal consequences that require action by competent authorities. The deed may authenticate and document the settlement, thereby supporting legal certainty concerning the parties' agreed rights and obligations. Nevertheless, its legal effects remain subject to the validity and scope of the agreement, applicable legislation, and the authority of the relevant institutions. This distinction is particularly important in medical disputes, where the parties' interests in achieving a peaceful settlement must be balanced against the legal protection of patients and the requirements of the public interest.

4. Conclusion

Medical disputes in Indonesia may fall within three legal domains: administrative law, civil law, and criminal law. Administrative disputes may concern violations of licensing requirements, professional standards, ethical obligations, or healthcare procedures. Civil disputes may arise from breach of a therapeutic agreement or an unlawful act, whereas criminal liability may arise where the elements of a criminal offense, including criminal

[24] Kitab Undang-Undang Hukum Perdata, Pasal 1320 dan Pasal 1338 ayat (1); Lego Karjoko et al., "The Urgency of Restorative Justice on Medical Dispute Resolution in Indonesia," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 16, no. 2 (2021): 362–392

[25] Undang-Undang Republik Indonesia Nomor 30 Tahun 2004 tentang Jabatan Notaris sebagaimana telah diubah dengan Undang-Undang Republik Indonesia Nomor 2 Tahun 2014, Pasal 15 ayat (1), Pasal 16 ayat (1), dan Pasal 39; Michelle Engel Limenta and Thomas, "Tanggung Jawab Notaris Terhadap Akta Autentik yang Dibuat Tanpa Dihadiri Pihak Penghadap," *Notary Journal* 3, no. 2 (2023): 103–125

negligence where applicable, are established. Under Articles 306 paragraph (3) and 310 of Law No. 17 of 2023 concerning Health, restorative justice and other forms of out-of-court dispute resolution provide relevant mechanisms for addressing medical disputes within the applicable legal framework. These mechanisms may facilitate the restoration of patients' rights, compensation for harm, and the resolution of conflicts between patients and healthcare professionals. However, a settlement agreement does not automatically eliminate criminal liability or terminate criminal proceedings, since its legal consequences remain subject to the requirements of applicable criminal law and the authority of competent law enforcement institutions.

A notarial deed documenting the outcome of restorative justice provides an authentic instrument for recording the parties' statements and settlement agreement. Under Article 15 paragraph (1) of the Law on the Position of Notaries, a Notary is authorized to draw up authentic deeds within the limits prescribed by law. When the settlement satisfies the requirements for a valid agreement, it binds the parties in accordance with Article 1338 paragraph (1) of the Indonesian Civil Code, reflecting the principle of *pacta sunt servanda*. The deed provides authentic evidentiary force and legal certainty concerning the agreement within the scope recognized by law. Nevertheless, its evidentiary force must be distinguished from executorial force. A notarial settlement deed does not automatically possess the same executorial status as a court-approved settlement (*akta perdamaian*) that has acquired executorial force under applicable law. In criminal proceedings, the deed may serve as authentic evidence that the parties have reached a settlement and may support an assessment of whether the requirements for restorative justice have been satisfied. It does not, by itself, compel the termination of an investigation or prosecution.

From a policy perspective, this study recommends the formulation of a joint regulation involving the Ministry of Health, the Indonesian National Police, and the Attorney General's Office to establish clear and consistent standards for the recognition and assessment of notarial settlement deeds in restorative justice-based medical disputes. The regulation should position the notarial deed as a principal reference document in assessing whether the legal requirements for restorative justice and the termination of criminal proceedings have been met, without treating the deed as an automatic or exclusive basis for discontinuing a case. The framework should clarify the respective roles of healthcare authorities, investigators, and prosecutors; establish criteria for verifying the validity and voluntariness of settlements; and ensure that patients' rights and the public interest remain protected. In addition, the Supreme Court should be encouraged to provide appropriate judicial guidance, within its institutional authority, on the relationship between notarial settlement deeds and court-approved settlements. Such coordination would strengthen legal certainty, promote consistency in the handling of medical disputes, and ensure that restorative settlements are implemented without exceeding the statutory authority of the institutions involved.

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