

ABSTRACT

Arina Ikasari Muhtadi / NPM: 21730392, Title: *The Principle of Ultimum remedium in the Settlement of Medical Disputes in order to Obtain Equitable Legal Certainty*, under the guidance of Dr. H. Faisal Santiago, S.H., M.M. as Promoter and Dr. Hj. Evita Isretno Israhadi, S.H., M.H., M.Si, as Co Promoter.

The relationship between health workers and patients always begins with a relationship based on the goodwill of both parties. In this relationship, there are patients who need the expertise, knowledge and professionalism of health workers to provide medical services. In the principles of medical law, health workers, especially doctors, have an obligation to explain the risks of medical actions that will be applied to patients. Along the way, there may be problems or what is often known as medical disputes and one way to resolve these problems is with the ultimum remedium. In criminal law, ultimum remedium means that if a case can be pursued through other channels such as civil law or administrative law, then these channels must be taken before applying criminal law.

The problems are: How can the application of the principle of ultimum remedium in resolving medical disputes provide protection to medical personnel and patients and guarantee just legal certainty? How to update the articles in Law no. 17 of 2023 concerning Health to provide legal protection to the medical profession when practicing medicine? What is the model for resolving medical disputes according to the Criminal Code, which guarantees fair legal certainty

In this research, the author uses theoretical foundations including the theory of justice, theory of legal certainty, theory of legal benefit, theory of authority, theory of law enforcement and health law. This research is a juridical law normative an empiric legal research.

The application of the ultimum remedium in the settlement of medical disputes according to the researcher, is necessary because usually medical disputes arise when the lack of public satisfaction with health services is caused by miscommunication or lack of information from doctors given the busy schedule of doctors. For the application of the ultimum remedium, there are several requirements carried out by doctors including the existence of medical indications, acting carefully, working based on professional standards and operational procedures and informed consent. In practicing medicine, health laws are needed to protect doctors so that reforms are needed including Article 1 paragraph (1) of Law Number 29 of 2004 concerning Medical Practices, Article 273, Article 438, Article 192, Article 193 and article 440 of Law Number 17 of 2023. The model for resolving medical disputes according to the Criminal Code, which guarantees fair legal certainty is Administrative Penal Law, which has several characteristics, (1) Treating criminal law as an ultimum remedium, meaning that criminal law is the last alternative solution; (2) In administrative penal law, administrative sanctions, or civil sanctions or any sanctions are substitutes for criminal sanctions themselves; (3) In the context of administrative penal law, usually criminal sanctions in administrative penal law are always alternative in nature.

Keywords: *Ultimum remedium, Medical Dispute*