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Legal Analysis of Hospitals' Legal Responsibility for Doctors' Misdiagnosis

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Abstract:

Misdiagnosis by doctors is a common form of medical malpractice with potentially fatal consequences. However, the Indonesian legal system has yet to establish a comprehensive framework of hospital liability that prioritizes patient protection. This study aims to examine the legal basis of hospital responsibility for doctors' diagnostic errors under Indonesian regulations and propose an ideal juridical construction as a reference for resolving malpractice disputes in health services. A normative juridical approach is employed by analyzing legislation and relevant case studies to formulate a descriptive-analytical model of hospital accountability. The findings reveal that hospital responsibility is multidimensional, encompassing juridical, ethical, professional, and social aspects, grounded in theories of liability, including strict and vicarious liability principles, as supported by legal norms such as Law No. 17 of 2023 and Government Regulation No. 47 of 2021. Diagnostic errors commonly result from procedural negligence and weak quality control; thus, hospitals must implement structural reforms and provide comprehensive patient protection. The ideal juridical construction for malpractice dispute resolution should be integrative, built upon the four pillars of the Integrative-Tetradic Realism Theory: legal certainty, substantive justice, social utility, and public participation. A collaborative approach between law and medicine, along with restorative, non-litigation mechanisms, offers a more equitable and humane solution. In conclusion, hospital accountability for misdiagnosis must reflect a multidimensional, ethical, and systemic approach to ensure safe, fair, and high-quality healthcare services for all members of society.

Keywords: doctor's misdiagnosis; hospital; legal responsibility.

INTRODUCTION

Misdiagnosis is the most crucial form of medical malpractice, with fatal consequences such as delayed treatment, complications, and even death. The WHO confirms that misdiagnosis is a significant cause of the high number of adverse events worldwide (Purba et al., 2025). In Indonesia, the system for protecting patients who fall victim to misdiagnosis still lacks adequate regulation, particularly regarding hospital legal liability for medical errors. Normatively, hospitals as institutions can be held legally accountable for errors committed by their medical personnel through the concept of vicarious liability or respondeat superior, namely responsibility for the actions of subordinates (Sidi, 2024). Hospital

responsibility is affirmed by civil law principles that grant injured parties the right to sue institutionally. In Indonesia, this is regulated by Law No. 17 of 2023 concerning Health, but its implementation is often hampered by difficulties in proving and weak judicial bias in favor of patient victims. Determining negligence in cases of misdiagnosis must refer to professional standards and valid evidence. In many jurisdictions, approaches such as the Bolam Test, the Bolitho Addendum, and the Montgomery Principle are used to assess whether medical personnel's actions comply with applicable medical standards (Putra et al., 2021). In Indonesia, proving medical negligence in cases of misdiagnosis is often challenging, as professional standards are not always outlined in writing, and not all patients have access to second opinion procedures or transparent mediation mechanisms (Susila, 2023). The harm caused by misdiagnosis is not only physical but can also be psychological and immaterial. The concept of loss of chance in civil law in several countries serves as a model for calculating compensation in medical malpractice (Andrianto & Andaru, 2021).). In practice, many patients are unaware that they have the right to sue for losses arising from delayed diagnosis or errors in diagnosis, especially if the final outcome is death or permanent disability (Nurarafah, 2022). This type of liability model is still rarely used in the Indonesian legal system.

One crucial aspect in determining legal liability is the existence or absence of valid informed consent. Doctors and hospitals have a legal obligation to provide clear and accurate information to patients about their medical conditions, potential risks, and treatment options (Yen & others, 2022). In cases in Indonesia, such as in Supreme Court Decision Number 233 K/PID.SUS/2021, failure to explain the risks of medical procedures provides a strong basis for proving misdiagnosis and a violation of medical professional ethics (Benny Wijaya, 2022). Furthermore, Law No. 17 of 2023 concerning Health emphasizes the importance of a hospital risk management system, including controlling the risk of misdiagnosis (Nurarafah, 2022). Therefore, strengthening procedural aspects of medical services is urgent.

Hospital legal liability for medical misdiagnosis still focuses on a normative-positivistic approach that emphasizes formal aspects, ignoring substantive justice, social benefit, and patient participation. In practice, hospitals often hide behind physician autonomy, making it difficult for patients to prove losses and claim their rights. Yet, hospitals still bear institutional responsibility through the principle of vicarious liability and the obligation to guarantee service quality. Data from the Ministry of Health and the Indonesian Ombudsman (2024) shows that 27.3% of healthcare complaints relate to alleged misdiagnosis, with 18.7% resulting in fatal or permanent disability (Kementerian Kesehatan Republik Indonesia, 2024). This figure demonstrates that misdiagnosis is a systemic issue that has not been seriously addressed by the national legal system. Unfortunately, there is no accountability model that comprehensively adopts the approaches of legal certainty, substantive justice, social utility, and public participation (Santoso, 2025).

Several previous studies have examined the issue of medical malpractice and hospital legal liability, both from a normative perspective and from a judicial perspective. Research by Budiman, Rizka, and Absori (2023) emphasized that in medical malpractice, hospitals often avoid responsibility by shifting the burden of blame entirely to individual doctors, even though they retain institutional oversight obligations (Budiman et al., 2023). Meanwhile, Susila (2023) revealed that the biggest obstacle to proving misdiagnosis cases is the lack of written standards and the weakness of regulatory instruments regarding proving professional misconduct (Susila, 2023). A study by Thahir and Tongat (2024) discussed the importance of legal protection for patients and the need to reconstruct ethical and legal approaches within the doctor and hospital accountability system (Thahir & Tongat, 2024). Furthermore, Andrianto and Andaru (2021) offer an institutional-based medical dispute resolution model that strengthens the role of mediation and hospital accountability, but does not specifically highlight the aspect of misdiagnosis as a primary focus (Andrianto & Andaru, 2021). Research by Purba et al. (2025) highlights the importance of updating national regulations in line with Health Law No. 17 of 2023, but primarily examines general aspects of hospital responsibility without elaborating on a specific legal model for misdiagnosis cases (Purba et al., 2025). The gap between these studies lies in the lack of legal studies that explicitly analyze physician misdiagnosis as a basis for hospital legal liability comprehensively, including through relevant civil, criminal, and administrative approaches within the Indonesian legal system. Although several regulations exist regarding the legal liability of hospitals and medical personnel, their implementation remains hampered. Frequent obstacles include low public legal awareness, weak health mediation

mechanisms, and the absence of standard operating procedures for resolving medical malpractice disputes (Andrianto & Andaru, 2021).

The dilemma of hospital legal liability for diagnostic errors demonstrates the limitations of conventional legal theory, which emphasizes only normative certainty while ignoring substantive justice in healthcare. Therefore, a more reflective, transformative, and contextual legal approach is needed, namely a legal framework that is not merely based on formal regulations but also accommodates ethical values, humanity, and patient rights comprehensively (Aris Prio Agus Santoso, 2025). This research is crucial for developing a comprehensive legal framework for determining hospital liability for medical misdiagnosis while simultaneously encouraging legal reforms that better protect patient rights. The research's novelty lies in its legal analysis, which combines Indonesian positive law with comparative studies of international doctrines, which are rarely studied in depth in national healthcare law. The aim is to examine the legal basis for hospital liability for medical misdiagnosis and to formulate an ideal legal construction as a reference for resolving malpractice disputes in healthcare.

METHOD

This research uses a normative juridical approach, namely a legal research approach that focuses on the study of applicable positive legal norms, especially those that regulate the legal responsibility of hospitals for diagnostic errors made by doctors (Negara, 2023). This approach is carried out by examining laws and regulations, legal doctrine, legal principles, and relevant legal literature. The legal sources in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include national laws and regulations such as Law Number 17 of 2023 concerning Health and Government Regulation (PP) Number 47 of 2021 concerning the Implementation of Hospital Services. Secondary legal materials include legal literature, scientific journals, previous research results, and the opinions of legal experts relevant to the theme of the legal responsibility of healthcare institutions. Tertiary legal materials include legal dictionaries, legal encyclopedias, and legislative indexes.

A statute approach was used to identify positive legal provisions in Indonesia that regulate the form and limits of hospital liability as a healthcare institution (Levenbook, 2006). Furthermore, a case approach was used conceptually to examine how legal norms are applied in healthcare practice, particularly in the resolution of medical malpractice disputes (Ayres et al., 2003). The analysis in this study was conducted descriptively and analytically, namely by describing and analyzing applicable legal norms and the relevance of their application in institutional accountability. This study also developed a legal interpretation based on legal principles and values of substantive justice, social benefit, and patient participation, as a conceptual basis for formulating an ideal legal construction. This method allows for the exploration of law that is both normative and reflective of the challenges in healthcare practice in Indonesia.

RESULTS AND DISCUSSION

Hospital Liability for Misdiagnosis

Hospital accountability for misdiagnosis by doctors from the perspective of Indonesian law. WJS. Poerwodarwinto stated that responsibility is an obligation (necessity) that must be carried out, repaid, and so on. A responsible person is someone who can declare themselves that their actions are good in the sense of complying with general norms. Meanwhile, Mudjiono stated that "responsibility is an attitude related to promises or demands regarding rights, duties, and obligations in accordance with the rules, values, norms, and customs adopted by members of society" (Nugroho & others, 2022).

Henry Campbell Black in his legal dictionary explains two terms that refer to responsibility, namely: "liability (the state of being liable) dan responsibility (the state or fact being responsible)." "It has been referred to as of the most comprehensive significance, including almost every character of hazard or responsibility, absolute, contingent, or likely. It has been defined to mean: all character of debts and obligations (Black, 1979)." Liability, according to Henry Campbell Black, refers to the most comprehensive meaning, encompassing almost every character of risk or responsibility, whether certain, dependent, or possible. Liability is defined to refer to: all characters of rights and obligations. In addition, liability is also: "Condition of being actually or potentially subject to an obligation; condition

of being responsible for a possible or actual loss, penalty, evil, expense, or burden; condition which creates a duty to perform an act immediately or in the future (Black, 1979)" The condition of being subject to an actual or potential obligation; the condition of being responsible for actual or possible things such as threatened losses, crimes, costs or burdens; the condition which creates a duty to carry out laws immediately or in the future.

The theory of strict liability states that a person or party can be held responsible for a loss without proof of fault. In this theory, good intentions or negligence are not defenses. As long as the loss is proven to have originated from the perpetrator's activities, the perpetrator remains liable (Yuanitasari et al., 2023). From the description of the theory of responsibility according to Poerwodarminto, Mudjiono, and Henry Campbell Black, it is clear that the concept of responsibility is not solely limited to the normative realm of law, but also has ethical and social implications. Within the framework of Indonesian health law, this concept is then institutionalized through legislation that explicitly positions hospitals as legal subjects with certain obligations. Therefore, an analysis of the provisions of laws and government regulations is important to confirm how the theory of responsibility is translated into practical rules that bind hospitals in the provision of medical services.

Table 1. Analysis of Legislation on Hospital Liability for Diagnostic Errors Made by Doctors

Rules	Chapter	Article Contents	Description
Law No. 17 concerning Health	Article 189 (1) letter g	Every hospital has the obligation to: create, implement and maintain quality standards for health services in the hospital as a reference in serving patients.	This article emphasizes that every hospital is obligated to create, implement, and maintain health service quality standards as a reference in serving patients. This provision contains the fundamental principle that service quality is not merely an administrative aspect, but rather a primary parameter in ensuring patient safety and preventing malpractice, including misdiagnosis by medical personnel. When linked to hospital liability for misdiagnosis made by doctors, this provision places hospitals in the position of legal subjects with institutional responsibility for the service quality standards provided by all implementing elements within them, including doctors as part of the service system.
	Article 189 (1) letter s	Every Hospital has the obligation to protect and provide legal assistance to all Hospital officers in carrying out their duties.	This article stipulates that every hospital is required to protect and provide legal assistance to all hospital staff in carrying out their duties. This provision reflects the hospital's institutional responsibility to ensure that all healthcare and non-healthcare workers under its auspices receive guaranteed legal protection when carrying out their professional duties, especially when facing lawsuits, intimidation, or legal issues arising from the implementation of healthcare services. This legal assistance can take the form of legal assistance, legal costs, or advocacy facilitation that is preventative and responsive. With this obligation, the hospital not only plays a role as a service provider, but also as a protector of the rights of its workforce, thereby creating a safe, professional, and accountable work climate in order to realize quality and equitable healthcare services.

	Article 193	The Hospital is legally responsible for all losses caused by negligence committed by the Hospital's Health Human Resources.	This article affirms that hospitals are legally responsible for all losses incurred due to negligence committed by the hospital's Human Resources for Health (HRH). This provision clarifies the principle of vicarious liability, where hospitals as institutions cannot absolve themselves from legal obligations for unlawful acts committed by their healthcare workers while they are on duty within the scope of their legitimate work. Therefore, if harm occurs to patients due to medical personnel's negligence, such as misdiagnosis, substandard medical treatment, or neglect of patient safety procedures, the hospital can still be held liable through civil, criminal, and administrative proceedings. This article strengthens legal protection for patients and requires hospitals to improve supervision, training, and quality control systems to prevent malpractice and violations of professional ethics.
Government Regulation (PP) Number 47 of 2021 concerning the Implementation of the Hospital Sector	Article 27 (1) Hospitals	Every hospital has the following obligations: a. to provide correct information about hospital services to the public; b. to provide safe, high-quality, anti-discriminatory, and effective health services by prioritizing patient interests in accordance with service standards.	This article emphasizes the importance of information transparency and service accountability in the implementation of the healthcare system. Accurate information regarding the types of services, medical procedures, costs, and patient rights and obligations is a prerequisite for building public trust in hospitals. Meanwhile, the provision of safe and high-quality services is part of fulfilling patients' rights to humane and professional healthcare. The principle of anti-discrimination in services also reflects the hospital's obligation to serve every patient without distinction of social, economic, religious, racial, or other background. Therefore, this article serves as an important foundation for upholding ethical service and legal protection for patients, as well as serving as a benchmark for evaluating the quality and integrity of hospital institutions.
	Article 46 (1)	The Hospital's obligation to respect and protect patient rights is carried out by: a. providing services that are oriented towards patient rights and interests; and b. conducting monitoring and evaluation.	This article emphasizes that hospitals' obligation to respect and protect patient rights is implemented through two main mechanisms: services oriented toward patient rights and interests, and monitoring and evaluation of the implementation of these services. This demonstrates that patient protection is not merely declarative, but must be concretely realized through a service system that is responsive, humane, and prioritizes patient safety and needs. Hospitals are required to position patients as the primary subject of services, not merely objects of medical care. Furthermore, monitoring and evaluation are crucial instruments for overseeing the consistent implementation of service standards, detecting violations of patient rights, and continuously improving service quality.

			Therefore, this article obligates hospitals to implement service practices based on human rights, transparency, and institutional accountability throughout the entire healthcare process.
	Article 52	The Hospital's obligation to protect and provide legal assistance to all Hospital staff in carrying out the duties as referred to in Article 27 paragraph (1) letter s is carried out by: a. providing legal consultation; b. facilitating the mediation process and judicial process; c. providing legal advocacy; d. providing assistance in resolving medical disputes; and e. allocating a budget for funding legal processes and compensation.	This article details the hospital's obligations to protect and provide legal assistance to all its staff while carrying out their duties, as mandated in Article 27 paragraph (1) letter s. This protection is realized through five concrete forms of action, namely: providing legal consultations, facilitating mediation and judicial processes, legal advocacy, assistance in resolving medical disputes, and allocating a budget for legal processes and compensation. This provision emphasizes the hospital's responsibility to not only focus on patient service aspects, but also on professional protection aspects for medical and non-medical personnel working under its institution. With structured and planned legal protection, hospital staff can carry out their duties with a sense of security, professionalism, and avoid detrimental legal pressure when they have acted in accordance with standard operating procedures. This article also strengthens the principles of institutional support and legal accountability which are important in maintaining the integrity of the health care system.

Source: Processed data, (2025)

Upon closer inspection, the applicable regulations not only emphasize the administrative obligations of hospitals but also contain philosophical values regarding justice and patient protection. Articles in Law No. 17 of 2023 and Government Regulation No. 47 of 2021, for example, not only require quality standards but also legal protection for medical personnel and the fulfillment of patient rights (Sidik et al., 2023). This demonstrates the close relationship between the concept of liability in legal theory and the forms of institutional accountability explicitly regulated in Indonesian positive law. Thus, these regulations serve as a bridge between the theory of responsibility and the practice of healthcare delivery.

Based on the theory used above, along with the current laws and regulations in Indonesia, the researcher concludes that the concept of hospital responsibility in providing health services is not merely understood as an administrative or procedural obligation, but rather as a form of fulfilling integral moral, social, and legal principles. W.J.S. Poerwodarminto's thinking positions responsibility as an obligation that must be implemented and reciprocated (Arifin & Purnamasari, 2023).

Within this framework, hospitals as institutions are not only subject to formal legal regulations but must also be able to certify that all their services are good according to general norms, namely professional ethics, patient rights, and principles of social justice. This means that hospitals' responsibilities are not merely normative but also reflect the institution's moral integrity towards the public as holders of the right to health (Møller & Cecchini, 2025).

In Mudjiono's view, responsibility is linked to attitudes toward promises and obligations within the framework of societal norms. Therefore, hospitals, as public service entities, are obligated to fulfill their promises of professional, humane, and human rights-based services, as reflected in Article 189 and 193 of Law No. 17/2023, and Article 27 and 46 of Government Regulation No. 47/2021 (Priem, 2024). Violating the obligation to provide quality healthcare services is not merely a technical matter, but also a violation of social trust and ethical values that have been collectively constructed by society.

Then, from a legal perspective, Henry Campbell Black offers two important terms: liability and responsibility (Pranoto & Gunadi, 2022). Liability in the hospital context encompasses the potential and actual responsibility for all actions of medical and non-medical personnel under its authority. Hospitals are in a position to bear the consequences for all forms of negligence, both direct and indirect. This reflects the principle of vicarious liability as affirmed in Article 193 of Law No. 17/2023, which states that hospitals are responsible for losses arising from the negligence of human health resources (Wulan et al., 2025). This means that a hospital's legal responsibility extends to encompass risks that may arise as a result of the institutional systems and structures it manages.

Furthermore, the theory of strict liability emphasizes the legal dimension of hospitals as institutions that must be held accountable even without direct proof of fault (Prasetyo et al., 2025). If a diagnosis error or medical action occurs that harms a patient, this theory reflects the importance of protecting the victim (patient) and assigning responsibility to the party with control and authority over the service system, namely the hospital. Strict liability assumes that the health care system must be designed in such a way that the risk of error is minimized, and if such a risk still occurs, the hospital is obliged to bear the legal burden, without evading the excuse of good intentions or accident (Abbott et al., 2005).

Thus, hospital responsibility is a manifestation of the collective values of justice, professional integrity, and protection of patient human rights. This responsibility is not only embedded in positive legal articles but also rooted in the moral philosophy of human responsibility, as emphasized by Poerwodarminto and Mudjiono (Putro, 2024). Within this framework, hospitals are required not only to comply with the law (legality), but also to be ethical (morality) and socially responsible (accountability). This emphasizes that a fair and quality healthcare system can only be achieved if hospitals fully fulfill their responsibilities, both normatively, ethically, and philosophically.

Table 2. Analysis of Several Examples of Cases of Misdiagnosis by Doctors

Case	News Content	Problem Analysis	Forms of accountability that should be carried out
Alleged misdiagnosis of diphtheria in Tanjung Balai, North Sumatra	On January 16, 2025, Dr. Johan, Sp.A at Tanjung Balai Regional Hospital diagnosed two children with diphtheria based solely on a physical examination without laboratory testing, then referred them to Medan, where one of the children died. However, after being taken to Lam Wah Hospital, Ee, Penang (Malaysia), PCR and blood results showed that both children were suffering from tonsillitis, not diphtheria (antaranews.com, 2025).	The misdiagnosis occurred because the doctor failed to follow standard operating procedures (SOPs), namely failing to perform laboratory confirmation before confirming the diagnosis of diphtheria. This demonstrates professional negligence and can be classified as a form of medical malpractice.	Hospitals must provide legal assistance to the victim's family and evaluate the doctor's diagnostic procedures. Doctors must also be held ethically and legally accountable, as stipulated in Articles 190 and 191 of Law No. 17 of 2023 concerning Health.
Tasikmalaya residents report doctors and hospitals for misdiagnosing COVID-19.	In May 2021, Hj. Ucu Rohani (the mother of a member of the Tasikmalaya Regional People's Representative Council) was tested positive for COVID-19 by a doctor and at Jasa Kartini Hospital after developing a fever. However, an independent PCR test	Problems arise because diagnostic decisions are not based on valid laboratory results. Determining patients with COVID-19 without official PCR verification leads to	The hospital and doctor must provide the family with a formal explanation, a public apology, and possible compensation or restitution. An internal hospital evaluation is also necessary to prevent medical decisions from

	came back negative. The patient was treated and buried according to COVID-19 protocols before her family learned the truth (detiknews, 2021).	medical procedural errors and has social and psychological impacts on families.	being made without scientific evidence.
Family's frustration when misdiagnosed with stomach acid turns out to be cancer	In April 2025, a female patient developed a serious condition after a general practitioner in Indonesia misdiagnosed her with acid reflux. When the family complained, the doctor became angry. A second consultation abroad revealed the patient actually had metastatic cancer (kilatseleb.com, 2025).	The doctor made a superficial diagnosis without further investigations such as an endoscopy or CT scan. The doctor's emotional response to the complaint also demonstrated a lack of professionalism and medical ethics.	An ethical investigation must be conducted by the relevant medical institution. Hospitals are required to guarantee patients' rights to an accurate diagnosis and encourage the development of a second opinion system. Doctors may be subject to disciplinary sanctions from the Indonesian Medical Association (IDI) and ethical and civil liability.

Source: Processed data, (2025).

However, although regulations provide a strong foundation, practice often reveals gaps. Numerous cases of misdiagnosis in Indonesia reveal that applicable legal provisions and standard operating procedures are not always adhered to. This demonstrates the relevance of applying strict liability theory, as hospitals as institutions can still be held accountable even if negligence occurs at the individual level of medical personnel (Dwike et al., 2025). Therefore, the following case analysis is crucial to understand how theory and regulations are tested in the empirical reality of healthcare services. Compared with previous research, the findings from the cases above emphasize that the primary problem is not the absence of regulations, but rather weak implementation and oversight.

Several studies have identified weaknesses in patient protection within Indonesia's healthcare legal system. One finding suggests a regulatory gap and weak implementation of legal protection for patients (Budiman et al., 2023). Another finding confirms that discussions of hospital liability have been too general, omitting specific forms of malpractice, including diagnostic errors (Susila, 2023).

However, neither study focused specifically on the issue of diagnostic errors as a form of medical malpractice that has serious consequences for patient safety. Therefore, this study makes a novel contribution by highlighting diagnostic errors as a central issue indicating systemic failures in healthcare practice, while also emphasizing their relevance to the theory of strict liability, particularly in the context of unequal power relations between patients and healthcare institutions.

Based on three cases of medical misdiagnosis in Indonesia, it can be concluded that the root of the problem lies in professional negligence, disregard for standard operating procedures (SOPs), and a lack of verification of supporting examinations. In the case of suspected misdiagnosis of diphtheria in Tanjung Balai, the doctor made the diagnosis based solely on physical observation without laboratory evidence, resulting in the child's death. In the case in Tasikmalaya, the patient was immediately diagnosed with COVID-19 without valid PCR confirmation, resulting in erroneous treatment and burial, which harmed the family. Meanwhile, the case of misdiagnosis of gastric acid, which turned out to be cancer, demonstrated the doctor's emotional response, which disregarded ethics and transparency. These three cases emphasize that misdiagnosis is not simply an individual error but also reflects weaknesses in the oversight, competency evaluation, and quality assurance systems of healthcare institutions.

Accountability for diagnostic errors therefore cannot simply stop at ethical or legal sanctions against doctors, but requires systemic reform. These efforts include strengthening medical audits, improving training, providing access to second opinions, and providing adequate legal assistance for patients. These reforms align with the mandate of Law No. 17 of 2023 concerning Health, which emphasizes patient safety and the accountability of healthcare institutions (Bintartho et al., 2025). Therefore, systemic reform is a strategic step to restore public trust in medical services and ensure compliance with safety standards.

When compared to previous research, a gap appears to exist between legal norms and practice. Previous research has identified weaknesses in patient protection regulations (Budiman et al., 2023), a lack of specific discussion of diagnostic malpractice (Susila, 2023), weak standards of medical evidence (Thahir & Tongat, 2024), unclear boundaries of institutional responsibility *(Andrianto & Andaru, 2021)*, and limited medical accountability mechanisms (Purba et al., 2025). However, explicit focus on diagnostic errors as a central issue remains limited. Yet, diagnostic errors are a form of malpractice that directly impacts patient safety and requires special attention, both normatively and institutionally.

Within the regulatory framework, Law No. 17 of 2023 and Government Regulation No. 47 of 2021 affirm the principle of vicarious liability through Article 193, which states that hospitals are responsible for the actions of healthcare workers under their authority (Sarwono, 2023). This principle is reinforced by the doctrine of strict liability, which requires hospitals to cover patient losses even without direct proof of fault, as long as the negligence occurred within the scope of the institution's services (Stępniak, 2021). This provision demonstrates that the root cause of misdiagnosis cannot be separated from hospitals' failure to ensure compliance with SOPs, quality control, and protection of patient rights.

Thus, hospital accountability is not merely administrative but also reflects a moral and social obligation to maintain patient safety, as explained by Henry Campbell Black regarding the relationship between liability and responsibility (Novanda et al., 2025). Implementing this responsibility requires the integration of positive law, professional ethics, and social justice into every healthcare process. A holistic approach is needed so that resolving misdiagnosis cases does not stop at punishing individuals but focuses on strengthening the system and improving the quality of care.

Overall, the theory, regulations, and case studies provide a comprehensive overview of the importance of healthcare system reform. Cases of misdiagnosis demonstrate systemic negligence, requiring enforcement of standard operating procedures (SOPs), improvement of healthcare worker competency, and protection of patients' rights to accurate and transparent diagnoses. With comprehensive reform, hospitals will not only fulfill their legal obligations but also fulfill their ethical and social functions as guardians of human safety and dignity within the healthcare system.

Ideal Legal Construction as a Reference for Dispute Resolution

The ideal legal construction is a reference for resolving malpractice disputes in health service practices. In healthcare practice, resolving malpractice disputes is often a complex and multidimensional issue. These disputes involve not only legal aspects but also professional ethics, the trust relationship between patients and medical personnel, and technical medical issues that are not easily understood by the layperson. Therefore, an ideal legal construction is needed to serve as a basis for resolving malpractice disputes in a fair, proportional, and legally and ethically accountable manner. This construction should not be based solely on a legalistic-positivistic approach, but must also reflect the principle of substantive justice that takes into account the surrounding social and moral context. An ideal legal construction must be built systematically, taking into account the four main pillars outlined in the Integrative-Tetradic Realism Theory: legal certainty, substantive justice, social benefit, and public participation (Santoso, 2025).

Normatively, legal certainty has been attempted through various laws and regulations. However, as Susila's (2023) study shows, regulatory instruments remain weak, particularly regarding the lack of written standards for proving professional misconduct (Susila, 2023). This gap often creates disharmony in practice, leaving both patients and medical personnel vulnerable to criminalization or legal abuse. This reinforces the relevance of the first pillar of the integrative-tetradic theory, namely clear and coordinated legal certainty. Regarding malpractice disputes, legal certainty means clear norms regarding professional standards for medical personnel, oversight procedures, and legitimate dispute resolution channels.

Without a clear and coordinated normative structure, both patients and medical personnel will be in a legally insecure position and vulnerable to criminalization or injustice (De Vera, 2023). However, legal certainty alone is not enough.

This view aligns with research by Thahir and Tongat (2024), which emphasizes the importance of legal protection for patients and the need to reconstruct ethical and legal approaches to doctor and hospital accountability (Thahir & Tongat, 2024). These findings reinforce the argument that an ideal legal construction must allow for contextual legal interpretation, as not all adverse medical outcomes can be viewed as negligence. Therefore, substantive justice is a key aspect that complements legal certainty. Substantive justice is crucial in resolving malpractice disputes because not all medical errors are the result of negligence (Ab Rahim & Kusumaningrum, 2025). In many cases, medical procedures are performed according to standard operating procedures, but the results still do not meet the patient's expectations due to unique biological conditions or other unforeseen risk factors. Therefore, an ideal legal construction must allow for contextual and proportionate legal interpretation, taking into account the overall factual conditions through expert testimony and an ethics council.

The complexity of malpractice disputes has been widely discussed in the health law literature. For example, research by Budiman, Rizka, and Absori (2023) shows that malpractice issues cannot be understood solely from a normative perspective, as hospitals often avoid responsibility by shifting the burden of blame entirely to individual doctors (Budiman et al., 2023). This situation not only creates a trust deficit between patients and medical personnel but also emphasizes the importance of positioning the patient-doctor relationship as a fiduciary relationship based on trust and moral responsibility. Therefore, an ideal legal construction needs to consider the institutional dimension of hospital responsibility to avoid becoming trapped in mere legal formalism.

The restorative approach proposed by Andrianto and Andaru (2021) proposes an institutional-based medical dispute resolution model that emphasizes the role of mediation and hospital responsibility (Andrianto & Andaru, 2021). Although this model does not specifically address the issue of misdiagnosis, it remains relevant for strengthening the social benefit paradigm within an ideal legal construct. From an international comparative perspective, the no-fault compensation scheme model in New Zealand increasingly demonstrates that a non-litigative approach is more effective in maintaining patient-doctor relationships while reducing excessive litigation (Epstein, 2023). Within the social benefit dimension, the law should be a means of dispute resolution that does not disrupt the social relationship between patients and healthcare providers. An ideal legal construct should encourage non-litigative dispute resolution mechanisms such as mediation, ethical arbitration, or hospital ethics forums before proceeding to court (Niniek Lannyati & Samian, 2025). Thus, the law becomes not only a tool of punishment but also an instrument for restoring social relations and improving the quality of healthcare services.

Furthermore, Purba et al. (2025) emphasized the importance of updating national regulations in line with Health Law No. 17 of 2023, but their research was still limited to general hospital responsibilities (Purba et al., 2025). In the context of public participation, this emphasizes the need for more detailed regulations so that victims or patients' families are not merely positioned as objects of the case, but can play an active role through transparent medical information and legal education. In this way, the ideal legal construction will truly reflect the principle of participation.

Meanwhile, the public participation dimension of the Integrative-Tetradic Realism theory emphasizes the importance of community involvement, especially victims or patients' families, in the legal process and evaluation of the healthcare system (Aris Prio Agus Santoso, 2025). Transparency, the right to information, and the right to voice objections are essential participatory elements. Therefore, an ideal legal framework must also ensure that victims are positioned not merely as objects of the case but as active legal subjects seeking justice and redress (Cuppini, 2024).

In practice, resolving malpractice disputes often encounters epistemological obstacles because the law must examine medical procedures using complex technical standards and scientific language. This often creates a gap between legal actors (judges, lawyers) and medical actors. Therefore, an ideal legal framework should create an interdisciplinary framework that integrates legal and medical perspectives in a balanced manner, for example, through the establishment of an independent medico-legal expert panel to help judges understand the complexities of medical procedures (Chen et al., 2022).

From a regulatory perspective, an ideal legal framework should integrate norms from various sources: the Health Law, the Medical Practice Law, the Hospital Law, and even the Civil Code and the Criminal Code. However, more important than a multitude of regulations is the harmonization and integration of these norms, ensuring there are no overlaps or contradictions that could add to confusion for the parties. This integration must also align with the principles of human rights law and global medical professional ethics, ensuring that national laws are not exclusive and outdated (Wolf, 2024).

The urgency of establishing an ideal legal framework in Indonesia is increasingly apparent given the high number of medical disputes and low legal and medical literacy among the public. This situation is exacerbated by the rampant criminalization of medical personnel, which has led to the rise of defensive medicine practices, where doctors prioritize legal protection over patient needs (Baungaard et al., 2022). Therefore, a legal approach must be developed in an integrative and realistic manner, not merely normative.

By integrating theory, regulations, empirical studies, and international comparisons, the ideal legal construction for resolving malpractice disputes is not merely a normative ideal, but rather a practical necessity to reduce conflict in healthcare. The integrative-tetradic realistic approach offers a comprehensive framework and corrects the shortcomings of previous, partially researched research. This theory rejects the dichotomy between law and values and positions law as a living and moral social system. Therefore, malpractice dispute resolution must shift from a retributive paradigm to a restorative paradigm that emphasizes recovery, prevention, and ethical education. Therefore, the ideal legal construction is normatively clear, substantively just, socially beneficial, and open to public participation, while reflecting national legal ideals that support social justice and humanity (Hämäläinen & Salminen, 2025).

CONCLUSION

Hospital liability for medical misdiagnosis under Indonesian law is comprehensive, encompassing a legal dimension through the principle of vicarious liability, an ethical one by guaranteeing patients' rights to quality care, and a social one to maintain public trust. Based on Article 193 of Law No. 17 of 2023 and Government Regulation No. 47 of 2021, hospitals bear institutional responsibility to ensure patient safety and dignity, even with a strict liability approach that affirms responsibility even in the absence of direct fault. Dispute resolution is not sufficient with sanctions for doctors; it requires systemic reform through risk management evaluation, training, access to second opinions, and comprehensive legal advocacy. The ideal legal construction should combine legal certainty with substantive justice, social benefit, and public participation, as outlined in the Integrative-Tetradic Realism Theory, prioritizing ethical mediation, victim participation, and an interdisciplinary approach. Therefore, hospitals, governments, and professional associations need to strengthen regulations, patient safety SOPs, and ethics forums to have legitimacy equivalent to litigation, so that malpractice case resolution can be restorative, humane, and encourage systemic improvements in health services.

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