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Medicolegal Services in Hospitals: Ensuring Legal Certainty and Justice for Malpractice Victims of Misdiagnosis

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Abstract

Background: Medicolegal services are essential for protecting patients affected by malpractice resulting from misdiagnosis. However, Law Number 17 of 2023 on Health and related regulations do not explicitly require standardized medicolegal units in hospitals, creating legal uncertainty, weak evidence management, and unequal positions between patients and medical professionals.
Objective: This study aims to analyze the existing legal protections for patients affected by misdiagnosis, examine the necessity of medicolegal services in hospitals, and formulate a medicolegal service model that ensures legal certainty, proportional protection for patients and healthcare professionals, and justice in medical dispute resolution.
Methods: This research employed a normative-empirical legal approach using statutory, conceptual, and comparative methods. Primary data were collected through interviews with medical practitioners, hospital legal officers, and forensic medicine experts, while secondary data were obtained from legislation, legal literature, and relevant academic sources. The data were analyzed qualitatively using a descriptive-analytical approach.
Results: The findings reveal that current legal protections for patients remain fragmented and have not been integrated into a comprehensive hospital-based medicolegal system. The absence of mandatory medicolegal units weakens documentation, medical audits, and preliminary clarification processes, thereby reducing the effectiveness of dispute prevention and resolution.
Conclusion: A standardized medicolegal service model is needed, supported by stronger legal foundations, clear authority, procedural standards, and the principles of legal certainty and justice, to create fairer and more effective medical dispute resolution.

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INTRODUCTION

Health is a fundamental human right that must be protected because it is closely related to a person's ability to carry out social, economic, and daily activities (Nugroho & Najicha, 2023). The right to health has also been recognized as part of human rights guaranteed by the constitution and various international legal instruments (Rahman, 2025). In the context of a rule-of-law state, the state has an obligation to ensure the delivery of safe, high-quality, and equitable health services for all members of society. Therefore, health services are not merely viewed as medical activities but also as a form of protection for human dignity and safety (Basuki, 2020; Rahman, 2025). According to the World Health Organization (Organization, 2023), diagnostic errors affect approximately 5% of adult outpatient encounters globally, translating to roughly 12

million people experiencing diagnostic errors annually, with half of these errors potentially causing serious harm. A study published in BMJ Quality & Safety estimated that diagnostic errors contribute to approximately 40,000 to 80,000 deaths per year in the United States alone (Marx et al., 2026; Singh et al., 2014). A Johns Hopkins University study further reported that medical errors, including misdiagnosis, constitute the third leading cause of death in the United States (Bazmi, 2025; Makary & Daniel, 2016). These global statistics underscore the urgency of establishing robust medicolegal frameworks to protect patients from the consequences of diagnostic failures.

Health services are fundamentally built on a relationship of trust between doctors and patients. This relationship is known as a therapeutic relationship, namely a legal and ethical relationship that places doctors as parties withZ professional competence to provide medical treatment, while patients are in a position of needing assistance (Shientiarizki, 2026). In this relationship, doctors are obliged to provide services in accordance with professional standards, standard operating procedures (SOPs), and the medical code of ethics. Conversely, patients have the right to receive information, safety, and protection regarding the medical treatment they receive (Siregar, 2025).

In health service practice, not all medical actions proceed as expected. Diagnostic errors, delayed treatment, medical actions that do not comply with procedures, and inadequate communication between doctors and patients often cause harm to patients (Sihotang & Hoesein, 2025). Such harm may include physical disability, psychological disturbance, reduced quality of life, and even death. This condition gives rise to legal issues related to alleged medical malpractice and the responsibility of health workers toward patients (Derry, 2025).

Medical malpractice has a broader scope than medical negligence because it includes actions that are contrary to law, professional ethics, and medical service standards (Fahrul, 2025). In the context of health law, malpractice may occur when medical personnel perform actions outside their competence, disregard professional standards, or negligently provide improper services that cause harm to patients (Widjayanto et al., 2024). Misdiagnosis that causes a patient to receive inappropriate medical treatment may also be categorized as a form of malpractice if an element of fault or negligence is proven (Hambodo, 2021; Widjayanto et al., 2024).

Misdiagnosis is one of the medical issues that most frequently leads to disputes between patients and health workers (Shientiarizki, 2026). An inaccurate diagnosis may result in incorrect therapy, delayed treatment, and deterioration of the patient's health condition (Sofyan et al., 2025). In several cases, diagnostic errors also cause permanent and irreversible consequences. Although doctors may have worked in accordance with standard operating procedures, the risk of medical error can still occur due to limitations in scientific knowledge, complex patient conditions, and other technical factors (Sulaksono and Romadhon 2026). Therefore, legal protection for patients and medical personnel is essential to create a balance of rights and obligations (Sulaksono & Romadhon, 2026).

The development of technology and the complexity of modern health services have also increased the risk of medical disputes. The use of increasingly advanced medical technology provides major benefits in diagnostic and treatment processes, but it may also create new problems when not used properly. In addition, growing public awareness of patients' rights has increased demands for the quality of health services (Rambe, 2024). Society is no longer passive in accepting medical actions but has become more critical of service procedures, the right to obtain information, and the possibility of medical errors (Naurah et al., 2025).

Legal protection for patients in Indonesia is regulated by various laws and regulations, particularly Law Number 17 of 2023 concerning Health. This regulation emphasizes that every patient has the right to obtain health services that are safe, high-quality, and accountable. In addition, patients also have the right to receive complete information regarding the medical actions to be performed, including possible risks. However, the implementation of such legal protection still faces various obstacles, such as low public legal awareness, difficulty in proving medical cases, and lengthy and complex dispute resolution procedures.

In addition to Law Number 17 of 2023 concerning Health, the regulation of the responsibilities of medical personnel is also found in Law Number 29 of 2004 concerning Medical Practice and Law Number 44 of 2009 concerning Hospitals. The existence of these regulations

demonstrates the state's commitment to improving patient safety and health service accountability. The establishment of the Indonesian Medical Disciplinary Board (Majelis Kehormatan Disiplin Kedokteran Indonesia/MKDKI) is also an important step in assessing whether violations of medical professional discipline have occurred. Nevertheless, this mechanism still places greater emphasis on aspects of professional discipline and has not fully addressed the need for comprehensive legal protection for patients.

In practice, the settlement of medical malpractice disputes still faces many obstacles. Patients are often in a weak position due to limited access to medical records and other medical evidence. On the other hand, medical personnel and hospitals tend to adopt a defensive attitude to protect institutional and professional reputations. This unequal position makes the evidentiary process difficult for patients. As a result, many cases of alleged malpractice are not resolved fairly and transparently. Empirical data from legal practitioners indicate that approximately 70% of medical malpractice cases filed in Indonesian courts face significant evidentiary challenges due to limited access to medical records and the absence of independent medical audits (Hukumonline, 2023). A survey conducted by the Indonesian Advocates Association (PERADI) revealed that 65% of lawyers handling medical cases reported difficulty in obtaining expert medical opinions, further disadvantaging patient-plaintiffs in litigation (PERADI, 2022).

This condition indicates the importance of medicolegal services in hospitals as a means of resolving medical disputes professionally and objectively. Medicolegal services can function as a bridge between medical and legal aspects in handling alleged malpractice. Through these services, medical audits, mediation, and the provision of expert opinions can be carried out in a more structured and accountable manner. The existence of a medicolegal unit can also help patients gain access to information and legal protection without immediately resorting to litigation.

The medicolegal aspect plays an important role in bridging medicine and law, particularly in proving malpractice cases and protecting patients' rights. This is reinforced by Minister of Health Regulation Number 38 of 2022 concerning Medical Services for Legal Purposes (*Yandokum*). This regulation governs medical services related to legal interests, including the issuance of *visum et repertum* and medical assistance in judicial processes. However, the regulation does not yet explicitly require the establishment of a medicolegal unit in every hospital, so its implementation remains suboptimal.

The absence of an obligation to establish medicolegal units causes the handling of alleged malpractice cases to remain dependent on civil, criminal, and professional ethics mechanisms. In fact, a litigation approach often requires a long time and high costs and may worsen the relationship between patients and medical personnel. In many cases, dispute resolution through legal channels also creates psychological pressure for both parties. Therefore, a more effective resolution mechanism is needed through independent, transparent, and justice-oriented medicolegal services.

Improving the competence of medical personnel is also an important factor in minimizing diagnostic errors and preventing medical malpractice. Continuing education and training are needed so that medical personnel can keep pace with the development of health science and technology. In addition to technical skills, medical personnel also need to understand communication, ethics, and health law to provide professional services that respect patients' rights. With adequate competence, the potential for medical errors can be significantly reduced.

Data from the Indonesian Medical Disciplinary Board (MKDKI) recorded 370 complaints from patients during the period 2006–2022, with the majority related to diagnostic errors and inadequate communication (Indonesia, 2023). The Indonesian Hospital Association (PERSI) reported that medical dispute cases increased by approximately 15% annually between 2018 and 2023 (PERSI, 2023). Furthermore, data from the National Commission on Human Rights (Komnas HAM) indicated that health service complaints constituted one of the top ten categories of complaints received annually (HAM, 2022). One case that attracted public attention is Supreme Court Decision Number 233 K/Pid.Sus/2021, concerning a filler procedure that caused blindness in a patient. In that case, the medical worker was considered to have violated professional standards and failed to provide adequate informed consent to the patient. The decision shows that violations of medical standards may not only give rise to ethical and civil liability but may also have criminal implications. This case also illustrates the importance of transparency, prudence,

and legal protection in every medical action.

Several previous studies have examined aspects of medical malpractice and patient protection. Hambodo et al. (2021) analyzed medical negligence leading to alleged malpractice but focused only on criminal liability without addressing institutional medicolegal mechanisms (Widjayanto et al., 2024). Sihotang and Hoesein (2025) examined standards of doctor professionalism in medical dispute resolution, yet their study was limited to the disciplinary approach through MKDKI and did not propose a comprehensive medicolegal service model. Widjayanto et al. (2024) provided a civil law review of doctor responsibility but overlooked the structural necessity of medicolegal units in hospitals. Shientiarizki et al. (2026) studied medical dispute concepts and communication, yet their analysis remained descriptive without offering a normative formulation. A critical review of these studies reveals a significant research gap: while existing literature predominantly addresses malpractice from individual liability and professional ethics perspectives, no study has comprehensively examined the institutional model of hospital medicolegal services that integrates legal protection, evidentiary standardization, and alternative dispute resolution mechanisms within a unified framework. This research fills that gap by formulating a comprehensive medicolegal service model that ensures both legal certainty and substantive justice. Based on these various problems, this research is important to examine in depth the regulation of legal protection for patients who are victims of malpractice due to misdiagnosis. This research also analyzes the urgency of medicolegal services in hospitals as an effort to create a medical dispute resolution mechanism that is fair, effective, and accountable. In addition, this research aims to formulate a concept of medicolegal services capable of providing legal certainty and balanced protection for both patients and medical personnel.

Theoretically, this research is expected to contribute to the development of health law studies, particularly regarding the conceptual framework of medicolegal services, legal protection mechanisms for patients, and the reconceptualization of medical dispute resolution based on the principles of legal certainty and substantive justice. This research enriches the academic discourse by integrating four theoretical perspectives (the Theory of Legal Protection, the Theory of Malpractice, the Theory of Misdiagnosis, and the Theory of Reconceptualization) into a unified analytical framework for medicolegal services.

Practically, the results of this research are expected to serve as a reference for the government, the Ministry of Health, hospitals, and health workers in formulating more comprehensive medicolegal service policies. For hospital management, this research provides a blueprint for establishing medicolegal units with clear organizational structures, human resource standards, and standard operating procedures. For policymakers, the formulation proposed in this research offers a basis for revising existing regulations to mandate the establishment of medicolegal services in all hospitals across Indonesia.

METHOD

This research is a normative-empirical legal study that examines legal provisions concerning medicolegal services in hospitals and their implementation in social practice. The normative approach is used to analyze laws and regulations, legal principles, and legal doctrines, while the empirical approach is used to examine law as a social phenomenon occurring in health care practice. The approaches applied include the statutory approach, conceptual approach, and comparative approach.

The research specification is descriptive-analytical, focusing on the analysis of legal norms, principles, and doctrines that regulate legal protection for patients who become victims of malpractice due to misdiagnosis. This research also assesses the conformity between legal regulations and the practice of medicolegal services in hospitals.

The research data sources consist of primary and secondary data. Primary data were obtained through field research in the form of interviews and observations related to malpractice cases caused by misdiagnosis. Meanwhile, secondary data were obtained through a literature review covering primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2023 concerning Health, and Minister of Health Regulation Number 38 of 2022 concerning Medical Services for Legal Purposes. Secondary legal materials include books, scientific journals, and scholarly works, while

tertiary legal materials include legal dictionaries, encyclopedias, and bibliographies.

Data collection techniques were carried out through field studies and document studies. Field studies were conducted through open interviews using a prepared interview guide. Document studies were conducted by tracing and inventorying various laws and regulations, legal concepts, and literature relevant to the research.

Data analysis was conducted using a descriptive-analytical method with a qualitative approach. The data obtained were analyzed systematically through categorization, interpretation, and legal construction to explain the relationship between legal regulations and the practice of medicolegal services. The results of the analysis were then presented in narrative form to provide a comprehensive overview of legal protection for patients who become victims of malpractice due to misdiagnosis.

RESULTS AND DISCUSSION

The results of this research show that medicolegal services in hospitals currently do not operate optimally in providing legal protection for patients who are victims of malpractice due to misdiagnosis. Based on document and field studies, three main issues were identified:

1) Normative gap, there is no regulation that explicitly requires hospitals to establish medicolegal units. Law Number 17 of 2023, Law Number 44 of 2009, and Minister of Health Regulation Number 38 of 2022 only regulate medical services for legal purposes in general (Presiden RI, 2023; Undang-Undang, 2009).
2) Documentation weakness, medical records, medical audits, and visum et repertum have not been standardized medicolegally, making them difficult to use as strong evidence.
3) Unequal position, patients are in a weak position because access to medical evidence is limited, while hospitals and medical personnel tend to adopt a defensive stance.

This condition creates legal uncertainty and obstructs the realization of substantive justice. To elaborate on these issues, five analytical tables and their corresponding discussions are presented in Table 1 to Table 5.

Table 1
Forms of Legal Protection Regulation for Patients Who Are Victims of Malpractice Due to Misdiagnosis

Legal Basis	Regulatory Content	Implementation Weakness
Law Number 17 of 2023 concerning Health	Patients' rights to security, safety, and compensation	Does not yet require medicolegal units in hospitals
Law Number 29 of 2004 concerning Medical Practice	Establishes MKDKI for medical professional ethics	Focuses on medical personnel, not hospital medicolegal services
Law Number 44 of 2009 concerning Hospitals	Medical audit and patient safety	No medicolegal standard operating procedure
Minister of Health Regulation Number 38 of 2022	Medical Services for Legal Purposes (*Yandokum*)	Not explicitly mandatory in all hospitals
Civil Code and Criminal Code	Civil and criminal liability of doctors	The burden of proof is heavy for patients

Table 1 shows that the regulation of legal protection for patients is already scattered across several legal instruments. Law Number 17 of 2023 serves as the main legal umbrella for patients' rights. However, the problem is that no regulation explicitly requires hospitals to establish medicolegal units. As a result, medicolegal services remain fragmented. Patients who are victims of misdiagnosis therefore face difficulty in proving fault because medical documentation and medical audits are often weak. This creates an unequal position between patients and doctors or hospitals during disputes.

In addition, Law Number 8 of 1999 concerning Consumer Protection provides an additional legal basis for patient protection. Under this law, patients, as consumers of health services, have the right to comfort, security, and safety in using services, as stipulated in Article 4. Meanwhile, health service providers are prohibited from producing or providing services that fail to meet the required standards, as stated in Article 8. The inclusion of the Consumer Protection

Law framework strengthens the legal position of patients as consumers who are entitled to compensation for losses arising from substandard health services, including those resulting from misdiagnosis.

Table 2
Factors Causing Weak Legal Protection for Patients Who Are Victims of Misdiagnosis

Factor	Description	Legal Impact
Regulation	No obligation to establish medicolegal units	Legal uncertainty
Documentation	Medical records are incomplete/ not standardized	Difficult proof
Human Resources	Doctors are defensive; patients lack legal knowledge	Unequal position
Procedure	Mediation and medical audits remain general	Disputes proceed directly to litigation
Access to Evidence	Patients have difficulty obtaining complete copies of medical records	Violates patients' right to information

The five factors above are interrelated. The absence of a normative obligation to establish medicolegal units is the root of the problem. Without a specialized unit, medical records often fail to meet medicolegal standards, even though they serve as primary evidence. Patients also have low legal awareness, while hospitals tend to act defensively to protect their reputations. As a result, many misdiagnosis cases are resolved only after they enter the courts, as illustrated by Supreme Court Decision Number 233 K/Pid.Sus/2021 concerning a filler procedure performed without informed consent.

Table 3
Comparison of Medical Dispute Resolution Approaches

Mechanism	Advantages	Weaknesses	Legal Certainty
Civil Lawsuit	Clear compensation	High cost and lengthy process	Low for patients
Criminal Prosecution	Deterrent effect for health workers	Very difficult proof	Low
MKDKI/Professional Ethics	Fast and low-cost	Only ethical sanctions, no compensation	Moderate
Hospital Mediation	Win-win solution	Not mandatory; hospitals are not neutral	Low
Medicolegal Unit	Independent, complete data, preventive	Not available in all hospitals	High

Currently, patients have only four main pathways, each of which has weaknesses. The criminal route, as reflected in Supreme Court Decision Number 233 K/Pid.Sus/2021, may hold a physician criminally liable, but it requires difficult proof of violations of standard operating procedures (SOPs). Therefore, a medicolegal unit is crucial. Its function is to serve as an independent bridge among patients, physicians, and law enforcement officials. If such a unit becomes mandatory, disputes can first be clarified at an early stage through medical audits and *visum et repertum* before proceeding to litigation.

Table 4
Components of an Ideal Formulation of Medicolegal Services in Hospitals

Component	Function	Reference Legal Basis	Output
Juridical Basis	Legalizes hospital medicolegal units	Revision of Law 17/2023 and Ministerial Regulation	Hospital Director Decree
Organizational Structure	Independent from hospital management	Minister of Health Regulation 38/2022	Unit under the Medical Committee
Human	Forensic doctors and	Ministry of Health	Medicolegal

Component	Function	Reference Legal Basis	Output
Resources	health law experts	competency standards	certification
SOP	Medical audit, *visum*, initial mediation	*Yandokum* guidelines	Standard checklist
Principles	Legal certainty and justice	Setiono's Theory of Legal Protection	Medicolegal report

An ideal formulation must include five components. Without a strong juridical basis, a medicolegal unit has no authority. Its structure must be independent to prevent conflicts of interest with hospital directors. Human resources should combine forensic physicians and health law experts because medicolegal services bridge medicine and law. Standard operating procedures (SOPs) are important to ensure that every misdiagnosis case is assessed according to the same audit standards. The principles of legal certainty and justice serve as the foundation so that protection does not favor one side.

Table 5
Reconstruction of the Medicolegal Service Concept Based on Theory

Theory	Application to Medicolegal Services	Success Indicator
Theory of Legal Protection - Setiono	The state must protect vulnerable patients	Regulation mandating medicolegal units exists
Theory of Malpractice - Van der Mijn	Distinguishes negligence from medical risk	Medical audit determines SOP violations
Theory of Misdiagnosis - Paul M. George	Diagnosis is a process, not merely a result	Mandatory second opinion for high-risk cases exists
Theory of Reconceptualization - Satjipto Rahardjo	Progressive law oriented toward substantive justice	Dispute resolution is not rigidly legalistic

This research uses four theories as analytical tools. The Theory of Legal Protection emphasizes that the state must not remain passive when patients are harmed. The Theory of Malpractice helps distinguish negligence from ordinary medical risk. The Theory of Misdiagnosis is important because misdiagnosis often occurs not because of malicious intent, but because the diagnostic process is complex. Finally, Satjipto Rahardjo's Theory of Reconceptualization is used to reshape medicolegal services so that they are not rigid, but responsive to substantive justice. Thus, the new formulation does not merely add legal provisions but also changes the paradigm from a defensive approach to preventive and restorative approaches.

Discussion

The research results show that legal protection for patients who are victims of malpractice due to misdiagnosis in Indonesia still faces various fundamental problems, both in terms of regulation and the implementation of health services. Legal arrangements scattered across various laws and regulations have not yet created an integrated and effective legal protection system. This condition causes medical dispute resolution processes to proceed slowly, become complex, and fail to provide legal certainty for both patients and medical personnel. In practice, patients remain in a weak position due to limited access to medical evidence and a lack of understanding of available legal mechanisms.

Based on Table 1, legal protection for patients has, in fact, been accommodated through Law Number 17 of 2023 concerning Health, Law Number 29 of 2004 concerning Medical Practice, Law Number 44 of 2009 concerning Hospitals, and Minister of Health Regulation Number 38 of 2022 concerning Medical Services for Legal Purposes (Presiden RI, 2023; Undang-Undang, 2009; Undang-undang No. 4 tahun 2009, 2009). However, these regulations remain partial because they do not specifically regulate the obligation to establish medicolegal units in hospitals. As a result, medicolegal services do not yet have uniform standard operating procedures and have not become an integral part of the national health service system.

From the perspective of Setiono's Theory of Legal Protection, the state has an obligation to provide protection to society, particularly to parties in a weak position. Patients who are

victims of malpractice are vulnerable because they have limited medical knowledge and limited access to evidence. Therefore, the state should not merely provide general regulations on patients' rights but must also build an institutional system that can ensure real legal protection. The absence of medicolegal units in hospitals shows that the state has not fully carried out its legal protection function optimally.

The research results also show that weak medical documentation is one of the main factors obstructing proof in malpractice cases. Medical records, medical audits, and visum et repertum are often not prepared according to medicolegal standards, making them difficult to use as strong evidence in court. Based on Table 2, this weakness in documentation is closely related to the absence of standardized medicolegal services in hospitals. In fact, medical records have a very important position because they form the basis for assessing whether medical negligence occurred in the diagnostic process or in other medical actions.

Another problem identified is the unequal position between patients and hospitals or medical personnel. In many cases, hospitals and doctors tend to adopt a defensive attitude to protect institutional and professional reputations. Conversely, patients often have difficulty obtaining complete copies of medical records and accessing relevant medical information. This condition contradicts the principle of transparency and the patient's right to information as guaranteed by the Health Law. Such inequality causes the dispute resolution process to become imbalanced and may hinder the realization of substantive justice.

Viewed from Van der Mijn's Theory of Malpractice, not every diagnostic error can be directly categorized as malpractice. A diagnostic error must be assessed based on whether there is negligence, a violation of professional standards, or conduct contrary to medical procedures. Therefore, an objective and independent medical audit is needed to distinguish reasonable medical risk from professional negligence. In practice, the medical audit mechanism in hospitals remains suboptimal because it is often conducted internally and has not involved a comprehensive medicolegal approach.

Supreme Court Decision Number 233 K/Pid.Sus/2021 provides a concrete example of how violations of medical standards can have criminal implications. In that case, a filler procedure performed without informed consent caused permanent blindness in the patient. This decision shows that noncompliance with medical procedures may not only give rise to ethical and civil liability but may also enter the criminal domain if gross negligence is proven. The case also demonstrates the importance of informed consent as part of the protection of patients' rights in health services.

Based on Table 3, the existing mechanisms for resolving medical disputes still have many weaknesses. Civil litigation can indeed provide compensation to patients, but the process requires high costs and a long time. Criminal proceedings may have a deterrent effect on medical personnel, but proof is very difficult because professional fault must be clearly established. Meanwhile, the ethical mechanism through the MKDKI focuses only on violations of professional discipline and does not provide direct compensation to patients. Hospital mediation is also ineffective because not all hospitals have independent and neutral mediators.

In this context, the existence of a medicolegal unit is very important as an alternative mechanism for resolving medical disputes in a more preventive and restorative manner. A medicolegal unit can function to conduct initial clarification of alleged malpractice through medical audits, document examination, and mediation between patients and medical personnel. With this mechanism, dispute resolution does not always have to end in litigation. A medicolegal approach can also help maintain the therapeutic relationship between doctors and patients so that it does not immediately turn into a legal conflict.

Table 4 shows that the ideal formulation of medicolegal services must be built through five main components: juridical basis, organizational structure, human resources, standard operating procedures, and principles of legal protection. Strengthening the juridical basis is necessary so that the establishment of medicolegal units becomes an obligation for all hospitals. Without a clear legal basis, medicolegal services will remain merely administrative and will not have strong authority in handling medical disputes.

From an institutional perspective, a medicolegal unit must be independent and not under the direct control of hospital management. This independence is important to avoid conflicts of

interest in the medical audit and dispute resolution processes. In addition, a medicolegal unit must be supported by human resources with competence in forensic medicine and health law. Collaboration between medical personnel and legal experts is necessary because medical disputes always involve two aspects simultaneously: medical and legal aspects.

Standard operating procedures are also an important element of medicolegal services. Standardized procedures will create uniformity in the processes of medical audit, the preparation of visum et repertum, the provision of second opinions, and the implementation of mediation. With clear standards, every alleged misdiagnosis case can be handled objectively and measurably. This standardization will also improve the quality of medical documentation so that it can serve as strong evidence if the dispute continues into legal proceedings.

From the perspective of Paul M. George's Theory of Misdiagnosis, diagnosis is a complex scientific process and does not always produce absolute certainty. Diagnostic errors may occur due to various factors, such as limitations of medical equipment, atypical patient conditions, and limited medical information available during examination. Therefore, medicolegal services must be able to assess the diagnostic process comprehensively and not focus solely on the final result. This approach is important so that medical personnel are not always positioned as the guilty party when medical complications occur.

This research also uses Satjipto Rahardjo's Theory of Reconceptualization as a basis for developing a more progressive paradigm of medicolegal services. According to this theory, law must be placed as a means of achieving substantive justice, not merely as a rigid application of formal rules. In the context of medical disputes, a progressive legal approach is needed so that case resolution is not only oriented toward punishment but also toward protecting patients' rights, restoring the therapeutic relationship, and improving the health service system.

Through this reconceptualization approach, medicolegal services do not only function repressively in resolving disputes but also preventively and restoratively. The preventive function is carried out through medical audits, improvement of documentation quality, and training for medical personnel to minimize diagnostic errors. Meanwhile, the restorative function is carried out through mediation and dialogue-based dispute resolution to create justice for all parties. Thus, medicolegal services can become an important instrument in creating a transparent, accountable, and just health system.

The results of this research show that the reformulation of medicolegal services is an urgent need in Indonesia's health service system. The establishment of medicolegal units with a strong legal basis, independent structure, professional human resources, and standardized operating procedures will strengthen legal protection for both patients and medical personnel. With a comprehensive medicolegal system, medical disputes can be resolved more effectively and objectively and oriented toward substantive justice, thereby increasing public trust in health services in Indonesia.

CONCLUSION

The results of this research show that the regulation of legal protection for patients who are victims of malpractice due to misdiagnosis remains partial and has not yet been integrated into a comprehensive system. Although Law Number 17 of 2023 concerning Health, Law Number 29 of 2004 concerning Medical Practice, Law Number 44 of 2009 concerning Hospitals, and Minister of Health Regulation Number 38 of 2022 regulate patients' rights and the obligations of medical personnel, there is still no provision that explicitly requires hospitals to establish medicolegal units. This legal vacuum creates uncertainty in the evidentiary and dispute resolution processes, placing patients in a weak position when dealing with hospitals and medical personnel.

Based on this condition, medicolegal services in hospitals are essential as a balancing mechanism between patients' rights and legal protection for medical personnel. Weak medical record documentation, the absence of standardized medical audit procedures, and patients' difficulty in accessing medical evidence often cause misdiagnosis cases to proceed directly to litigation. In fact, not every case of misdiagnosis constitutes malpractice. Therefore, an independent medicolegal unit is needed to conduct initial clarification, medical audits, and evidence-based mediation before disputes proceed to court or professional ethics bodies.

Therefore, the formulation of medicolegal services that provide legal certainty and justice

must be built on five main components. First, the juridical basis must be strengthened through regulatory revisions so that the establishment of medicolegal units becomes mandatory for hospitals. Second, the organizational structure must be independent of hospital management to avoid conflicts of interest. Third, the services must be supported by competent human resources, namely a combination of forensic physicians and health law experts. Fourth, standardized operating procedures must be established for medical audits, the preparation of visum et repertum, and early mediation mechanisms. Fifth, the principles of legal certainty and substantive justice must be applied, as emphasized in Satjipto Rahardjo's Theory of Legal Reconceptualization. With this formulation, medicolegal services function not only repressively to resolve disputes but also preventively to prevent malpractice and restoratively to restore the doctor-patient relationship fairly.

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AUTHOR CONTRIBUTION STATEMENT

Rommy Sebastian solely conceived and designed the study, conducted the literature review, collected and analyzed the normative and empirical legal data, interpreted the findings, and drafted the manuscript. The author also performed the critical revision, approved the final version of the manuscript, and accepts full responsibility for the accuracy and integrity of the work.

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