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# The Effectiveness of Healthcare Regulations in Preventing Malpractice in Public Hospitals

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## Abstract

Public hospitals carry complex legal responsibilities as both medical providers and state agents ensuring citizens' constitutional right to health. Despite reforms under Law Number 17 of 2023, Government Regulation Number 28 of 2024, and Minister of Health Regulation Number 3 of 2025, malpractice cases persist. This study aims to analyze the effectiveness of health law regulations in preventing malpractice in public hospitals. The research employs a normative legal approach using statutory, conceptual, and case study methods, with data analyzed descriptively and analytically from primary and secondary legal sources as well as five court decisions on medical negligence. The findings reveal that Indonesia's health law regulations provide a comprehensive normative foundation but remain limited in effectiveness due to weak implementation of good governance principles, insufficient institutional supervision, and a lack of legal culture within the medical profession. Legal accountability mechanisms tend to be reactive rather than preventive. The study concludes that the effectiveness of health law regulations will be strengthened if civil, criminal, and administrative liabilities are integrated within a unified oversight system emphasizing transparency, professional development, and proactive risk prevention in public hospitals.

## Keywords

Good Governance, Government Hospitals, Health Law, Legal Accountability, Malpractice.

## 1. Introduction

Health is a basic right of every individual that must be guaranteed and fulfilled by the state through the provision of quality, safe, and equitable health services. Hospitals, as health service institutions, play a central role in fulfilling this right. In the context of government hospitals, this responsibility becomes even more complex because these institutions not only function as medical service providers but also as implementers of government tasks in the health sector. However, in practice, various cases of medical malpractice still occur frequently and cause unrest in the community (Novelya et al., 2025). This situation raises critical questions about the effectiveness of health law regulations in preventing malpractice in government hospitals.

Hospital legal liability for medical malpractice is crucial, as it affects patient protection and health worker professionalism. Legally, liability can be civil, criminal, or administrative, depending on the hospital-patient relationship and the degree of fault of involved health workers (Harmoni et al., 2022). The key question is the extent to which hospitals can be held liable for staff malpractice and the legal basis for assessing negligence (Zuhair & Mangesti, 2024). Hospitals, whether private or public, are legal entities responsible for providing health services. Government hospitals are additionally bound by good governance and public accountability principles. Consequently, their legal responsibility includes civil liability to patients as well as administrative and ethical accountability for staff malpractice. Minister of Health Regulation Number 3 of 2025 reinforces mechanisms for monitoring and enforcing professional ethics to prevent violations of medical service standards.

Medical malpractice refers to acts that deviate from professional standards and procedures, causing patient harm (Herman et al., 2025). Not all medical errors constitute malpractice; assessment requires consideration of duty of care, standard of care, and causation. The complexity lies in distinguishing whether an error is individual or a systemic hospital responsibility, as legal enforcement often blurs this line (Maulana, 2019). Legally, patient care is based on a therapeutic agreement an effort to cure, not a guarantee (Widjaja, 2025). In government hospitals, this relationship carries a public dimension, as failure may breach both contractual obligations and professional responsibility principles (Ryansyah et al., 2025; Harahap, 2025). Understanding this legal framework is crucial for balanced protection of patients and medical personnel.

Inriani (2021) and Putra (2024) have reviewed the legal responsibility of hospitals for medical malpractice, from civil, criminal, and administrative aspects. However, most of these studies still focus on analyzing legal responsibility after malpractice has occurred. The gap that arises is the lack of studies that critically examine the effectiveness of health law regulations in preventing malpractice, especially in government hospitals, which have different bureaucratic characteristics from private hospitals (Tendean, 2019; Fajri & Yusuf, 2024). In other words, there have not been many studies that examine the extent to which existing regulations function preventively, rather than just repressively, in the government health care system.

The novelty of this research lies in its comprehensive analysis of the effectiveness of health law regulations as an instrument for preventing malpractice in government hospitals. This study integrates Rahardjo's theory of legal certainty and Gustav Radbruch's principle of legal value balance, which emphasizes that the law must not only be normatively certain, but also fair and socially beneficial (Rahardjo, 2009; Samekto et al., 2024). This approach allows for a comprehensive evaluation of the extent to which health law regulations in Indonesia have been able to balance the three main values of law: certainty, justice, and benefit in medical practice.

In the context of Indonesian law, this thinking is reinforced by Arief (2009) who argues that the national legal system must be based on the moral principles of Pancasila and aim to humanize humanity. Meanwhile, Ali (2009) emphasizes that

legal certainty cannot be separated from social justice, because laws that only emphasize normative certainty without considering the benefits and sense of justice of the community will lose their moral legitimacy. Thus, the integration of these theories is relevant for assessing the effectiveness of health law regulations in Indonesia, so that the law does not merely remain a normative text, but also functions as a means of substantive justice and protection of humanity in the practice of health services.

The hypothesis proposed in this study is that the current health law regulations are not yet fully effective in preventing malpractice in government hospitals. The expected outcome of this study is the compilation of a normative juridical analysis of the effectiveness of health law regulations in preventing malpractice in government hospitals, as well as normative and policy recommendations to strengthen the role of law as a means of protection and prevention. This study examines the normative basis of hospital legal obligations, exploring the conceptual and legal frameworks that define hospitals' duties. It also analyzes medical malpractice cases and the professional elements involved, highlighting patterns of liability. The research further evaluates hospital liability, enforcement mechanisms, and factors affecting the effectiveness of legal regulations in preventing malpractice. Substantively, this study aims to analyze the extent to which the health law regulatory system in Indonesia, particularly after the issuance of the latest policy, has functioned effectively in preventing malpractice in government hospitals. In addition, this study is expected to contribute scientifically to the development of health law policies oriented towards patient safety, medical professionalism, and the accountability of public health service institutions.

## **2. Methods**

This study uses normative (doctrinal) legal research because the focus of the study lies in analyzing the legal norms that regulate accountability and the prevention of malpractice in government hospitals. This approach was chosen to assess the extent to which the applicable health law regulations have functioned effectively in providing legal protection for patients and ensuring the professionalism of medical personnel. As a normative legal study, the main data comes from written legal materials, which are then systematically interpreted to connect the legal text (law in books) with its practical application (law in action).

The approach used includes three forms, namely the statute approach, the conceptual approach, and the case approach. The statute approach is used to examine the norms in Law Number 17 of 2023 concerning Health, Government Regulation Number 28 of 2024 concerning the Implementation of Health Services, and Minister of Health Regulation Number 3 of 2025 concerning the Enforcement of Professional Discipline for Medical and Health Personnel, which form the legal basis for hospital accountability. The conceptual approach is used to examine Rahardjo's theory of legal certainty and Gustav Radbruch's theory of legal values, as well as the principle of good governance in the provision of public services as a framework for assessing the substantive effectiveness of the law. Meanwhile, the case approach is used to analyze court decisions related to medical malpractice in hospitals to assess the consistency of law enforcement with health norms.

The legal sources consist of primary legal materials, such as Law Number 17 of 2023 concerning Health, Government Regulation Number 28 of 2024 concerning the Implementation of Health Services, Minister of Health Regulation Number 3 of 2025 concerning Professional Discipline Enforcement, and Minister of Health Regulation Number 11 of 2017 concerning Patient Safety, secondary legal materials, in the form of scientific literature, legal journals, and previous research results, and tertiary legal materials, such as legal dictionaries and encyclopedias. Data analysis was conducted descriptively and analytically, namely by describing the content of

legal norms, assessing the suitability of their application in the context of health services in government hospitals, and providing legal arguments regarding the effectiveness of existing regulations. The final stage of the analysis was aimed at producing normative arguments and policy recommendations to strengthen the preventive function of health law regulations, so that the law does not only serve as a repressive tool, but also as an instrument for preventing the risk of malpractice in government hospitals.

### 3. Results and Discussion

#### 3.1. Normative Basis of Hospital Legal Obligations

The legal obligations of hospitals in providing health services in Indonesia have a strong basis in various laws and regulations, particularly Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024 concerning the Provision of Health Services. These two regulations emphasize that every hospital is obliged to guarantee the quality of services, patient safety, and the enforcement of professional disciplines for medical personnel. This provision is reinforced by Minister of Health Regulation Number 3 of 2025 concerning the Enforcement of Professional Discipline for Medical and Health Personnel, which introduces the Professional Discipline Council (*Majelis Disiplin Profesi/MDP*) as an independent institution to assess professional discipline violations. Normatively, the existence of the professional discipline council is evidence of the strengthening of the preventive and corrective functions of health law, as it provides an internal dispute resolution mechanism before medical disputes proceed to litigation (Harry & Widjaja, 2025).

From the perspective of regulatory effectiveness, this legal framework shows significant progress compared to previous regulations, such as Hospital Law Number 44 of 2009, which has now been revoked. The new regulation reorganizes legal responsibilities in a more systematic manner by emphasizing the principles of accountability and due process of law (Afiftania & Anugerah, 2022). However, its effectiveness in preventing malpractice is highly dependent on two main aspects: first, the clarity of norms and synchronization between regulations; and second, the integration of implementation at the hospital institution level (Andrianto et al., 2019). In practice, there is still an overlap of norms between professional disciplinary provisions, the authority of professional organizations, and dispute resolution mechanisms through the courts. This condition creates legal uncertainty for both patients and medical personnel, which ultimately reduces the preventive function of these regulations (Fitria & Andinta, 2025).

An evaluation of normative effectiveness shows that the existing legal substance is sufficient to provide a basis for hospital responsibility, but it is not yet fully operational in preventing medical malpractice. Minister of Health Regulation Number 11 of 2017 concerning Patient Safety requires every hospital to form a patient safety committee and a medical incident reporting system. However, in practice, reports are often not followed up transparently and are not used as material for systematic guidance for medical personnel (Syamsul & Aida, 2023). This shows a gap between normative regulations and administrative implementation, which weakens the preventive power of health law. Thus, the effectiveness of regulations in this context is still formalistic, strong at the normative level, but weak in implementation and internal supervision of hospitals (Harmoni et al., 2022).

To improve the substantive effectiveness of the law, the principles in Regulation of the Minister of Health 3 of 2025 need to be integrated into hospital governance. The legal certainty guaranteed through the professional discipline council procedure must be balanced with continuous monitoring and guidance mechanisms so that hospitals truly function as accountable institutions oriented towards patient safety. Thus, health law regulations can function not only as a repressive instrument after

malpractice occurs, but also as a preventive instrument that instills a culture of legal compliance, professional ethics, and risk management in the health care system.

### **3.2. Conceptual and Legal Approaches to Hospitals**

Rahardjo (2009) views that legal certainty in the context of health law must always be aligned with the values of justice and benefit, because the law should not stop at formal texts, but must serve humans and humanity (Julyano & Sulistyawan, 2019). Ali (2009) emphasized that progressive law positions certainty not as an end in itself, but as a means to achieve social welfare. This view places two main dimensions as the core of legal certainty: first, justice and benefit as the highest goals, so that certainty that ignores the sense of justice loses its moral legitimacy; second, society as the center of legal orientation, where the effectiveness of rules is measured not only by formal compliance, but by the extent to which the law is perceived as fair and beneficial (Samekto et al., 2024). This view shows that the effectiveness of health law regulation must move from a paradigm of “normative certainty” to “functional certainty,” which is certainty that exists in social practice. Thus, progressive law requires that every health regulation be implemented by considering the real conditions of society and the moral needs of the medical profession. Effective law is not one that frightens perpetrators, but one that fosters ethical and social responsibility in health services (Arief, 2009).

As a comparison, Gustav Radbruch 's theory argues that good law must balance three basic values, namely legal certainty, justice, and utility (Samekto et al., 2024). He asserts that when there is a conflict between certainty and justice, justice must be prioritized, because unjust law is not law in essence (Julyano & Sulistyawan, 2019). In the context of health law, this theory is relevant for assessing the extent to which regulations are able to balance procedural certainty (certainty for medical personnel and patients), substantive justice (protection of patient rights and medical professionalism), and social utility (improvement of the quality of health services).

Gustav Radbruch views legal certainty as a minimum requirement for society to predict legal action, but rejects the positivistic view that places certainty above justice (Ali, 2009). His views align with Rahardjo's thinking, although they differ in emphasis: Radbruch emphasizes the reconciliation between positive law and the value of universal justice, while Rahardjo emphasizes humanitarian morality. In the context of government hospitals, Radbruch's theory asserts that health law must guarantee substantive justice for both patients and medical personnel. Comparing the two, the effectiveness of health law depends on a balance of certainty, justice, and human-oriented utility.

The effectiveness of health legal regulations is also determined by the application of good governance principles in the management of government hospitals, which emphasize transparency, accountability, effectiveness, and the rule of law in all public services. In the hospital context, these principles are implemented through internal oversight systems, medical incident reporting, and service quality audits. Good governance encompasses the values of transparency, accountability, participation, responsiveness, the rule of law, fairness, and effectiveness/efficiency as the foundation of public health governance (Nurhidayat, 2023). In the context of government hospitals, the application of these principles is crucial so that the service system is not only legal but also legitimate. For example, transparency requires openness of information on patient complaint procedures, safety audit results, and incident surveillance (medical incidents). Accountability requires a system of responsibility, for example, hospital officials must be held accountable, not just medical staff. Enforcement of professional ethics is part of moral and professional accountability for health workers.

Haneaulu (2023) shown that the application of good governance principles in public services remains weak, particularly regarding transparency and accountability in healthcare facilities. Therefore, ideal healthcare regulations should

not only establish technical medical standards but also a governance framework that demands transparent management accountability, documentation, audits, and risk assessments. In the context of government hospitals, the integration of these theories encourages regulations that establish risk management standards, open incident reporting, and clear accountability mechanisms to ensure institutional responsibility is enforced based on clear standards and a transparent governance system.

### **3.3. Analysis of Medical Malpractice Cases and Professional Elements**

Analysis of several cases of medical malpractice in Indonesia shows that the effectiveness of health law regulations is often hampered by a lack of integration between normative and implementative aspects. In several cases, regulations that have provided the basis for the legal responsibility of hospitals have not been fully able to prevent disciplinary violations and medical malpractice. One case that reflects this is Decision Number 75/Pid.Sus/2019/PN.Mbo, which involved a nurse who was negligent in medical treatment, resulting in the death of a patient (Inriani, 2021). Based on the legal facts, the health worker was convicted of violating standard medical service procedures. From the perspective of legal effectiveness, this case shows that Law Number 29 of 2004 concerning Medical Practice and Minister of Health Regulation Number 11 of 2017 concerning Patient Safety have not functioned optimally as preventive mechanisms, because violations were only detected after fatal consequences occurred.

Legal regulations should not only be repressive through criminal sanctions, but also proactive in building a culture of caution among medical personnel. However, the results of Misbah and Saragih's (2025) research show that administrative supervision of medical personnel practices is still weak, because the guidance process is more formal than substantive. This indicates that regulations such as Minister of Health Regulation Number 3 of 2025 concerning the Enforcement of Professional Discipline for Medical and Health Personnel have not achieved their ideal effectiveness. An evaluation from the aspects of legal certainty (clarity of disciplinary procedures), fairness (proportionality of sanctions), and usefulness (improvement in service quality) shows that there are imbalances, where procedural certainty is in place, but social benefits are not yet optimal.

Another case, Decision Number 233 K/Pid.Sus/2021 shows the complexity of criminal liability in the context of malpractice. In this case, a doctor was sentenced for malpractice in diagnosis and medical treatment that resulted in the death of a patient (Misbah & Saragih, 2025). Regulations such as Law Number 36 of 2009 concerning Health and Law Number 29 of 2004 concerning Medical Practice have normatively affirmed the obligation of medical personnel to provide services in accordance with professional standards. However, in practice, the mechanism of proof in criminal law often does not consider the ethical and systemic dimensions of medical errors. The effectiveness of the law in this context is weakened because law enforcement is still person-centered, focusing on individual errors without considering the institutional responsibility of hospitals. In fact, the principle of vicarious liability affirms that hospital corporations can be held responsible for the actions of medical personnel working under their authority (Afiftania & Anugerah, 2022).

Decision Number 1324/Pdt.G/2021/PN.Tng demonstrates the weak effectiveness of regulations in the civil context, because although the hospital was found guilty of negligence resulting in permanent disability for the patient, there was no administrative mechanism to systematically follow up on the violation. Analyzing the theory of Satjipto Rahardjo and Gustav Radbruch, the three cases illustrate the imbalance between legal certainty and substantive justice, where procedures have been enforced but public benefits have not been achieved due to the absence of institutional learning mechanisms. Effective regulations should not only

impose sanctions but also improve the system to prevent recurrence of errors (Fitria & Andinta, 2025). Within the framework of good governance, every hospital should ideally have a case review board mechanism involving legal, ethical, and medical elements to ensure objective and transparent malpractice evaluations.

Medical malpractice is a form of professional error that occurs due to the failure to implement professional standards, Standard Operating Procedures (SOPs), and professional ethics as they should be. This element of malpractice contains three main components, namely the legal obligation to act with due care, violation of that obligation, and the resulting harm to the patient. In the context of health law, medical malpractice is not always synonymous with malpractice, because malpractice requires a causal relationship between the wrongful act and the actual legal consequences. Therefore, each element must be proven legally through objective medical and legal evidence (Ilahi, 2018). Violations of SOPs are a concrete form of malpractice by healthcare professionals. These standards serve as minimum guidelines for medical personnel to ensure the safety and quality of patient care. In practice, SOP violations can take the form of actions performed without medical indication, disregard for important procedural steps, or failure to obtain valid informed consent. Cases such as Decision Number 75/Pid.Sus/2019/PN.Mbo show that violations of SOPs not only impact patient safety but also open the door to criminal liability for healthcare professionals. Thus, compliance with SOPs is a form of legal protection for both parties, healthcare professionals and patients (Inriani, 2021).

The element of consequence is important in distinguishing administrative malpractice from medical malpractice. In the context of civil law, consequences in the form of physical, psychological, or financial losses to patients can be the basis for a lawsuit for compensation. Meanwhile, in the criminal realm, fatal consequences such as permanent disability or death can result in criminal liability for the medical personnel concerned. However, proving the causal relationship between the actions of healthcare professionals and the consequences often becomes a crucial point in the litigation process. Therefore, forensic medical analysis and the opinions of medical experts become the main instruments in assessing this relationship objectively (Fitria & Andinta, 2025). Healthcare malpractice is legally classified as an unlawful act as regulated in the principles of civil liability. Within the framework of health law, malpractice is not only viewed as an individual error, but can also have institutional implications if it is committed in the context of an employment relationship with a hospital. This means that hospitals as corporations can be held liable for based on employment relationships or vicarious liability. Therefore, the recognition of malpractice as a legal act opens up space for an analysis of the layered responsibilities between medical personnel and the institutions that provide services (Rokayah & Widjaja, 2022).

#### **3.4. Hospital Liability, Enforcement Mechanisms, and Effectiveness Factors**

The legal liability of hospitals in cases of medical malpractice can be divided into three main dimensions, namely civil, criminal, and administrative liability. The three have different functions but complement each other in the health law system. Normatively, Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024 concerning the Implementation of Health Services emphasize that hospitals are obliged to guarantee the quality and safety of patients and are responsible for every action of medical personnel under their authority. This principle is also adopted in Law Number 29 of 2004 concerning Medical Practice, which regulates the obligation of medical personnel to work in accordance with professional standards and codes of ethics. These provisions emphasize the principle of institutional accountability, whereby legal responsibility is not only attached to the individual perpetrator but also to the hospital institution that facilitated the medical action (Pujiyono, 2021).

In the civil sphere, hospitals can be held liable under Article 1365 of the Civil Code concerning unlawful acts if they are proven to have committed malpractice that caused harm to patients. Case Number 1324/Pdt.G/2021/PN.Tng shows that the judge applied the principle of corporate liability by assessing that the hospital was negligent in supervising the actions of medical personnel, which resulted in permanent disability to the patient. This principle is in line with the doctrine of vicarious liability, which holds hospitals jointly liable for the malpractice of their employees while acting within the scope of their work. However, the effectiveness of civil liability is often hampered by the difficulty of proving causality between the actions of medical personnel and patient harm, as well as the lack of an efficient non-litigation compensation mechanism (Maulana, 2019). As a result, the compensatory function of civil law has not been optimized as a means of recovery and prevention.

Criminal liability arises when medical malpractice fulfills the elements of culpa as stipulated in the Criminal Code and confirmed by Law Number 36 of 2009 concerning Health, in the case of Decision Number 233 K/Pid.Sus/2021, for example, a doctor was convicted of criminal negligence for failing to perform medical procedures, resulting in the death of a patient. Normatively, criminal sanctions aim to uphold legal certainty and provide a deterrent effect, but in terms of effectiveness, this approach is often considered counterproductive because it causes defensive medicine among medical personnel (Ilahi, 2018). In Gustav Radbruch's theory, focusing solely on legal certainty without considering substantive justice can result in rigid laws that lose their moral value. Therefore, the effectiveness of criminal law in the context of health can only be achieved if it is used as an *ultimum remedium*, i.e., a last resort after disciplinary and administrative mechanisms have failed to prevent violations.

The administrative aspect occupies a strategic position as a preventive instrument in the health law system. Based on Minister of Health Regulation Number 3 of 2025 concerning the Enforcement of Professional Discipline for Medical and Health Personnel, every hospital is required to carry out internal guidance and supervision through a professional disciplinary council that has the authority to impose administrative sanctions in the form of warnings, practice restrictions, and even revocation of licenses. This aspect is prominent because it functions as a non-litigation corrective mechanism to maintain professionalism and patient safety. However, research by Harry and Widjaja (2025) shows that in practice, the professional disciplinary council function has not been optimal due to limited resources and overlapping authorities between hospitals, health offices, and professional organizations. This has resulted in administrative sanctions that are often symbolic and unsustainable. From a legal effectiveness perspective, administrative functions should be the front line in preventing violations from escalating to the criminal realm, but they are currently ineffective due to weak synergy between supervisory agencies and a lack of transparency in reporting medical incidents.

A comparison of three forms of accountability reveals varying degrees of effectiveness: civil law is quite strong in providing compensation but weak as a deterrent; criminal law emphasizes legal certainty but often ignores substantive justice; while administrative law has the most potential as a preventive instrument, but its implementation remains weak (Satria, 2024). Based on Satjipto Rahardjo's theory, health law is effective when it balances certainty, justice, and utility, with administrative law serving as a space for ethical and professional learning. The principles of good governance need to be internalized so that health regulations become a living system capable of sustainably preventing malpractice (Haneaulu, 2023).

Health law enforcement in Indonesia basically takes place through three main channels, namely litigation, professional disciplinary mechanisms, and non-litigation

dispute resolution. All three are part of a legal system that complements each other between repressive, preventive, and restorative approaches. In the context of this study, the effectiveness of health law regulations is not only measured by the ability of formal law to punish violations, but also by the extent to which the law is able to prevent malpractice and improve relationships between patients, health workers, and service institutions.

Litigation is a formal mechanism in health law enforcement that is carried out through civil, criminal, or administrative court proceedings. In the context of malpractice cases, the litigation process usually begins with a report by the patient or their family to law enforcement officials, followed by an investigation and trial. This mechanism is often considered to provide legal certainty because the results are final and binding. However, Satria (2024) show that litigation also has weaknesses, such as lengthy processes, high costs, and the potential for revictimization of patients and health workers. Therefore, strengthening the evidence system and applying the principle of due process of law are key to ensuring substantive justice in the settlement of medical disputes through litigation.

In addition to the courts, health law enforcement is also carried out through professional discipline mechanisms as regulated in the Minister of Health Regulation Number 3 of 2025 concerning the Enforcement of Professional Discipline for Medical and Health Personnel. The professional disciplinary council is an autonomous and independent institution for the enforcement of professional discipline that has the authority to examine, assess, and decide on alleged violations of professional discipline. The professional disciplinary council affirms the principle of legal certainty while ensuring substantive justice through an open complaint mechanism, tiered examination, and the right of review for both medical personnel and patients (Ryansyah et al., 2025; Harahap, 2025).

Article 29 of Regulation of the Minister of Health 3 of 2025 explicitly stipulates that any alleged violation of the law by medical personnel must first be reviewed by the professional disciplinary council before proceeding to civil or criminal proceedings. This provision reinforces the principle of due process of law and prevents the criminalization of health workers who have acted in accordance with professional standards. In the context of government hospitals, the implementation of Minister of Health Regulation Number 3 of 2025 also reflects the principle of good governance, emphasizing transparency, accountability, and professionalism in internal oversight and legal protection for patients.

In addition to litigation and professional discipline, alternative dispute resolution methods such as mediation, arbitration, or conciliation are important tools in enforcing health law that is oriented towards peaceful and fair resolution. Many medical cases are resolved through internal hospital mediation or independent institutions such as the professional disciplinary council. This approach emphasizes humanity and professionalism, with a focus on restoring the relationship between patients and health workers. In the context of restorative justice, mediation is a means of improving the service system without having to go through lengthy court proceedings (Harahap, 2025). However, its effectiveness is highly dependent on the good faith of the parties and the mediator's capacity to understand complex legal and medical aspects. Strengthening the capacity of mediators and developing national guidelines for medical dispute mediation are important steps to optimize this non-litigation mechanism.

The effectiveness of health law enforcement cannot be achieved without synergy between the institutions involved, including the police, the prosecutor's office, the courts, the Ministry of Health, and professional organizations. Each institution has complementary functions: the police in the initial investigation, the professional disciplinary council in professional discipline, and the courts in substantive law enforcement. The lack of inter-agency coordination often leads to overlapping

authorities and legal uncertainty, which ultimately can harm patients and health workers (Handoyo, 2020). Therefore, a systemic approach based on good governance is needed, with transparency, accountability, and legal certainty as the main foundations in every health law enforcement process. Integrated coordination between professional disciplinary mechanisms and litigation processes is a strategic step toward achieving a balance between professional protection and patient rights in the national health law system.

The effectiveness of health law enforcement is largely determined by the quality of the legal substance that forms the basis of the relationship between patients, health workers, and hospitals. Good legal principles must reflect clarity, consistency, and suitability to the social needs of the community. In the context of Indonesian health law, regulations such as the Hospital Law, the Medical Practice Law, and Law Number 17 of 2023 concerning Health still show normative disharmony, especially regarding the division of responsibilities between individual medical personnel and hospital institutions. This lack of synchronization of norms creates ambiguity in determining the legal subject that should be held responsible when malpractice is suspected. Therefore, efforts are needed to harmonize regulations and formulate more operational derivative norms so that the principle of substantive justice can be applied proportionally in practice. Similar findings were also presented by Yusuf et al. (2025), who emphasized that overlapping legal substance has the potential to reduce the effectiveness of law enforcement because it creates uncertainty and multiple interpretations at the implementation level.

Effective law enforcement in the healthcare sector relies heavily on the integrity, competence, and consistency of law enforcement officials, including police, prosecutors, judges, and professional bodies such as the professional disciplinary council. In practice, differing perceptions often arise between officials and medical personnel regarding the concept of malpractice or negligence, resulting in lengthy legal processes that often do not reflect substantive justice. Therefore, capacity building through cross-sector training, technical cooperation, and the establishment of dedicated medical dispute resolution units is necessary to enhance professionalism. Furthermore, legal facilities and infrastructure, such as medical investigation facilities, electronic medical records, and forensic laboratories, play a crucial role. Many cases fail to be proven due to incomplete or invalid medical data, which weakens the patient's legal standing (Butar & Yusuf, 2024). National implementation of EMR and strengthening of independent medical audit institutions are urgently needed to ensure the objectivity, efficiency, and accountability of the legal process.

Public legal awareness plays a very important role in strengthening the effectiveness of the health law system. A community that understands its rights and obligations will be more proactive in enforcing the law and exercising social control over the provision of health services. However, in reality, most patients in Indonesia still do not fully understand their legal rights. This situation has led to many cases of malpractice not being formally reported, but instead being resolved informally without legal certainty. Research by Samosir et al. (2023) emphasizes that low public legal awareness is rooted in a lack of practical legal education and limited access to relevant legal information. Thus, improving public legal literacy through public education, outreach at health facilities, and the integration of health law material into the vocational health education curriculum are strategic steps toward building a participatory legal culture.

Legal culture reflects the values, customs, and behavior patterns of the community towards the law itself. In the context of health services, the paternalistic and hierarchical culture between doctors and patients often creates an imbalance in the relationship that hinders transparency and accountability. This pattern reflects a legal culture that still places medical personnel as the superior party, while patients are considered passive and powerless. In fact, in the modern paradigm oriented

towards patient-centered care, the relationship between medical personnel and patients should be built on the basis of open communication, empathy, and equality of rights and obligations. The shift in legal culture towards this paradigm needs to be strengthened through professional ethics reform, improved therapeutic communication training for healthcare workers, and the implementation of transparency-based hospital management. This transformation of legal culture will not only improve the quality of medical services but also strengthen public trust in the national health legal system (Samosir et al., 2023).

#### **4. Conclusion**

Based on the study, the effectiveness of health law regulations in preventing malpractice in government hospitals remains limited due to gaps in both legal substance and implementation. Although Law Number 17 of 2023, Government Regulation Number 28 of 2024, and Minister of Health Regulation Number 3 of 2025 have strengthened the legal framework by integrating professional discipline, patient safety, and hospital accountability, challenges persist in weak internal oversight, inconsistent due process, and limited coordination between law enforcement and medical professionals. This confirms that current regulations are still dominated by a repressive approach, with preventive functions not fully realized.

Integrating Satjipto Rahardjo's concept of legal certainty with Gustav Radbruch's principle of justice shows that ideal health law should ensure procedural certainty while guaranteeing substantive justice and social benefits. Good governance in health services through transparency, accountability, and professionalism is essential to balance patient interests and protect the medical profession. Minister of Health Regulation 3 of 2025 serves as a strategic bridge between professional and positive law, enforcing discipline without undermining human values. To improve effectiveness, the Professional Disciplinary Council should be strengthened as an independent institution with sufficient capacity to manage violations nationwide. The government should implement periodic evaluations of the regulation to ensure its preventive function, and health law education for medical personnel, hospital managers, and the public should be expanded to foster awareness of legal rights and a culture of patient safety and professional ethics.

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***Data Disclosure Statement***

The data that support the findings of this study are available from the corresponding author upon reasonable request.



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