

## **Legal Analysis of the Role of the Medical Committee in Settlement Medical Personnel**

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### **KEYWORDS**

Medical Personnel Dispute, Medical Committee, Laws and Regulations.

### **ABSTRACT**

**Introduction:** As medical technology advances and public legal awareness increases, disputes between medical personnel and patients are coming to light more frequently, including allegations of malpractice, violations of medical standards, and hospital administrative issues. These disputes can potentially affect the quality of health services and public trust in medical institutions. The Medical Committee, as a body regulated by legislation, has an essential role in regulating and supervising medical practice and handling disputes objectively and professionally.

**Objectives:** This study aims to analyze the role of the Medical Committee in resolving medical personnel disputes in Indonesia through a study of existing regulations and implementation practices.

**Methods:** This study uses a normative juridical method to reveal how the Medical Committee performs its function in handling disputes and provides recommendations for system improvement..

**Results:** The findings show that medical audit, ethics, and professional discipline subcommittees are crucial in ensuring high standards of care and fair dispute resolution. Medical audits serve as internal evaluation and improvement tools and objective evidence in legal proceedings. The Ethics and Professional Discipline Subcommittee is responsible for enforcing professional standards and improving the quality of medical services through evaluation and discipline based on the principles of professionalism.

**Conclusions:** This study underscores the critical role of the medical committee in navigating disputes involving medical personnel, emphasizing its function within the legal framework to mediate and ensure compliance with healthcare regulations. By facilitating resolution processes, the medical committee not only upholds professional standards but also fosters a supportive environment that balances legal obligations and the welfare of medical professionals. This approach contributes to a more effective, transparent, and fair dispute resolution system, promoting a cohesive healthcare environment.

## **1. Introduction**

Along with the advancement of medical technology and increasing public legal awareness, disputes between medical personnel and patients themselves are increasingly common. These disputes can involve various aspects, ranging from allegations of malpractice, violations of medical standards, to administrative issues within the hospital.(Nasution, Satria, and Tarigan 2022) The existence of these disputes has the potential to affect the quality of health services and public trust in medical institutions.(Suparman, 2020)

One of the institutions that play an important role in maintaining the quality of health services and upholding the ethics of the medical profession is the Medical Committee.(Gosal, Manampiring, and Waha 2022) The Medical Committee serves as a regulatory body within hospitals, with its responsibilities including credentialing, maintaining discipline and ethics, and overseeing professional behavior among medical personnel to prevent malpractice and fraud (Indraswari et al., 2024). The Medical Committee is a body consisting of medical personnel who have specific duties and functions in regulating and supervising medical practice in a health institution, such as a hospital.(Sinaga, 2021) The Medical Committee plays an important role in handling dispute cases involving medical personnel with the aim of providing an objective and professional assessment.(Sari Mayang and ElvElvdanari 2023)

The existence of the Medical Committee has been regulated in various laws and regulations. This regulation aims to provide a clear legal framework regarding the duties, authorities, and responsibilities of the Medical Committee in carrying out its functions.(Herikutanto, 2009) Through comprehensive arrangements, it is expected that the Medical Committee can carry out its role effectively and efficiently in improving the quality of health services and protecting the rights of patients. The Medical Committee is also expected to provide objective and fair recommendations.(Maulana, 2021). Therefore, it is important to analyze how existing regulations regulate the functions and authorities of the Medical Committee and how they are implemented in real cases.

As healthcare providers, hospitals hold substantial legal responsibilities toward their patients. As vital institutions in maintaining public health quality, hospitals are mandated to manage their services with high

professionalism and bear responsibility for the actions of medical and paramedical staff. This responsibility includes cases of Health-Care Associated Infections (HAIs), which may arise due to lapses in healthcare processes or systems. (Sutrisno et al., 2020) explain that hospitals are legally accountable if negligence by healthcare personnel causes harm to patients. This legal protection is reinforced by applicable regulations, ensuring that every medical action adheres to strict operational standards, thereby minimizing the risk of harm to patients.

From an interview with one of the hospitals in Cirebon City (Hospital X), there was a maternal death after a caesarean section. The caesarean section was performed according to medical indications and the operation went smoothly. During the recovery period in the room the patient's condition decreased dramatically and finally the patient died. The results of the medical audit and clinical audit at that time stated that the patient died due to bleeding that was not treated immediately. Factors for the delay in treatment included late reporting to the doctor. The results of the medical audit stated that there were no problems with the surgery and no re-credentialing of the doctor who performed the caesarean section. Further problems arose because in less than a month there was another maternal death due to bleeding during a caesarean section by the same doctor. In this incident, the director finally revoked the doctor's clinical authority for surgery. (Interview, 2024)

This situation raises critical questions about the role of the Medical Committee in such cases. Specifically, how can the Medical Committee ensure that its regulatory role and recommendations are implemented effectively to prevent similar incidents? This study seeks to examine the Medical Committee's function in overseeing and evaluating medical personnel, its role in regulatory compliance, and its influence in enforcing accountability measures in real-world situations. Through this analysis, the study aims to provide insights into the effectiveness of the Medical Committee's intervention in ensuring patient safety and upholding medical standards.

Based on the background explanation above, the author is interested in conducting research with the title "Legal Analysis of the Role of the Medical Committee in Resolving Medical Personnel Disputes". This study aims to conduct a legal analysis of the role of the Medical Committee in resolving medical personnel disputes in hospitals. By reviewing the relevant laws and regulations and existing practices, it is hoped that solutions can be found to increase effectiveness and justice in medical dispute resolution, as well as provide recommendations for improving the existing system.

## **2. Literature Review**

### **2.1 Stufenbau Law Theory**

The Stufenbau theory proposed by Hans Kelsen is the concept of hierarchy of norms in law, where each legal norm must be in accordance with higher norms. In Indonesia, this theory is applied by making the 1945 Constitution the basic norm. All other laws and regulations must be subject to and not contradict the 1945 Constitution. (Rahmawati & Supratiningsih, 2020)

The application of this theory has several implications:

- **Organized Legal Structure:** The Stufenbau theory creates a structured and hierarchical legal system, where each regulation has its own place.
- **Legal Certainty:** With a hierarchy of norms, the law becomes more certain and easy to understand.
- **Value Foundation:** The basic norm (1945 Constitution) reflects the values of Pancasila, which is the benchmark for the validity of a regulation.

However, there are challenges in applying this theory:

- **Differences between Theory and Practice:** Sometimes, there are regulations or decisions that do not fully comply with the established hierarchy.
- **The Complexity of Indonesian Society:** Indonesia has a diversity of ethnicities, customs, and cultures that can make it difficult to apply a universal legal theory.
- **The Role of Values and Morals:** Kelsen's theory emphasizes the separation between law and morals, but in practice, moral values still play an important role in Indonesian law. (Jusuf & Mazin, 2023)

## 2.2 Rights and Obligations

Rights and obligations have been stated that the law is reflected in the rights and obligations granted by the law. The law must be distinguished from the rights and obligations that arise when the law is applied to concrete events. But the two cannot be separated from each other. The order created by the law only becomes a reality when the subject of law is given rights and burdened with obligations. There are no rights without obligations, conversely there are no obligations without rights. The meaning of subjective recht is actually rights and obligations.

Rights provide enjoyment and freedom to individuals in exercising them, while obligations are restrictions and burdens, so that what stands out is the active aspect in the legal relationship, namely rights.

Rights are not a collection of rules or regulations, but rather a consideration of power in the form of individual rights on the one hand that are reflected in obligations on the other. If there are rights, there are obligations. These rights and obligations are the authority given to a person by law. Rights are interests that are protected by law, while interests are individual or group demands that are expected to be fulfilled. Interests essentially contain powers that are guaranteed and protected by law in carrying them out. (Mertokusumo, 2016a)

## 2.3 Medical Personnel Dispute

Disputes that occur between medical personnel or hospital patients and patients or families of patients are also called medical disputes. Poor communication factors, delays in service and delays in response in medical services can result in dissatisfaction on the part of the patient so that it can lead to medical disputes. (Sinaga, 2021)

Disputes due to dissatisfaction of one party are initially latent, so they are only known by the parties to the dispute, which is referred to as conflict. (Afiful Jauhani, Supianto, and R. Haridanja 2022) Unresolved and ongoing conflicts due to patient dissatisfaction, then manifest and the parties to the dispute can be identified by other parties, then it becomes a medical dispute. (Afiful Jauhani, Supianto, and R. Haridanja 2022), (Kurniawati and Yusuf Daeng 2023)

## 2.4 Medical Committee

Law of the Republic of Indonesia number 17 of 2023 requires each hospital to have internal hospital regulations. (Republic of Indonesia 2023) Regulations related to the guidelines for the preparation of hospital internal regulations are already listed in the Decree of the Minister of Health of the Republic of Indonesia Number 772 of 2002 which states that Hospitals must form a Medical Committee to oversee and improve the quality of medical services. (Minister of Health of the Republic of Indonesia 2002) The Medical Committee has an important function in the evaluation and supervision of medical practice standards, which includes the evaluation of the performance of doctors and other medical personnel and the preparation of medical guidelines. This is a form of regulation set out in health administration law, where this institution acts as an internal watchdog responsible for ensuring high standards of health services. (Muhammad, 2002)

The regulation of the Minister of Health of the Republic of Indonesia confirms that the medical committee is not a representative body of medical staff but a non-structural organization formed by the Director or Head of the Hospital. (Minister of Health of the Republic of Indonesia 2011) The Medical Committee is expected to identify and address problems in medical practice through audits, evaluations and recommendations. These principles underlie the legal and functional structure of the Medical Committee as part of the hospital's internal control system that serves to protect patient rights and ensure compliance with applicable medical standards. Thus, the definition of the Medical Committee in Indonesian law emphasizes its role as a bridge between hospital management, medical personnel, and patients. (Arifuddin et al., 2022)

## 3. Methods

This study uses a normative juridical approach to examine the legal framework and implementation of the Medical Committee's role in resolving medical personnel disputes. The normative juridical method is employed to study written laws, legal doctrines, and regulations relevant to medical dispute resolution in Indonesia.

### 3.1 Data Collection

The research involves the collection of both primary and secondary data:

1. **Primary Data:** Collected through structured interviews with medical personnel, hospital administrators, and legal experts involved in medical dispute resolution. These interviews focused on the actual implementation of the Medical Committee's functions in handling disputes.

2. **Secondary Data:** Obtained through document analysis of legal texts, including Indonesian healthcare laws, regulations governing Medical Committees, hospital bylaws, and case law concerning medical disputes.

### 3.2 Data Analysis

The data were analyzed using a three-stage process:

1. **Data Reduction:** Irrelevant or redundant information was eliminated to focus on the most pertinent legal principles and case studies.

2. **Data Presentation:** The remaining data were organized into themes corresponding to the functions of the Medical Committee (e.g., medical audit, professional discipline, and dispute resolution).

3. **Conclusion Drawing:** Legal doctrines and principles were synthesized to draw conclusions about the effectiveness of the Medical Committee in resolving disputes and to propose recommendations for improvement.

### 3.3 Research Scope

The research focuses specifically on how the Medical Committee applies existing laws and guidelines to resolve disputes, with particular emphasis on medical audits and professional ethics enforcement. The study also reviews case examples from hospitals in Indonesia to contextualize the findings.

This improved methodology provides a clearer understanding of the research process, including the data collection and analysis stages, making it more than just a descriptive study. Let me know if this revision meets your needs or requires further changes. (Soekanto, 2020)

## 4. Result and Discussion

In the process of health services, medical disputes can occur due to the patient being dissatisfied or not accepting the process or results of health services obtained. The cause of the dissatisfaction is considered by the patient to be the fault or negligence of health workers. The cause of the loss felt by the patient is generally negligence or even purely an unintended accident, not due to intent. (Gitamelia and Yusuf 2024) This loss or dissatisfaction can lead to complaints from patients against hospital health services. Complaints are usually submitted in various ways, including: directly to the health worker on duty at that time, to the hospital complaint service, through the hospital's official website on the internet or through social media or mass media. (Ariadi, 2019). In a medical dispute, the out-of-court settlement route is preferred as stated in Law number 17 of 2023 concerning Health article 310. (Republic of Indonesia 2023)

A positive and prompt response from the hospital is certainly expected to alleviate and resolve patient complaints so as to trigger efforts to restore the hospital's good name. An important tangible form of hospital response is an in-depth evaluation of the medical procedures, medical records, and practices of the medical personnel involved in the dispute case through a medical audit by the Medical Committee. (Budiman, 2023) The outcome of the medical audit can influence the medical dispute resolution process both in the internal context of the hospital and in the legal process. At the internal level, hospitals can use the audit results to improve medical practices and prevent similar incidents in the future. At the legal level, medical audit results serve as objective evidence that can be used in the litigation process to prove or disprove malpractice claims. Thus, medical audits not only serve as a tool for internal assessment and improvement, but also as an important component in the legal process to ensure that decisions regarding medical disputes are made based on proper, fair and scientific evaluations. (Abubakar, 2018) The main purpose of a medical audit is to identify whether there are medical actions that are not in accordance with standards. (Prayogo, 2010)

The implementation of medical audits must follow guidelines in accordance with the Minister of Health Regulation number 755 of 2011 concerning the Organization of Medical Committees in Hospitals where it is stated that medical audits focus on systemic evaluation of medical practices, not on individual assessment of medical staff errors. The main purpose of a medical audit is to improve the quality of care and not to determine the presence or absence of negligence by medical staff. Therefore, medical audits do not serve as a disciplinary enforcement tool, but rather as a means of performance evaluation and process improvement. Medical audits in hospitals are carried out with the principles of no naming, no blaming, and no shaming of medical staff, known

as "no blaming culture." This aims to create a supportive environment for medical staff. This aims to create an environment that supports continuous improvement without creating fear or blame. In practice, medical audits involve various activities such as peer review, surveillance, and assessment conducted by bestarial partners or peer groups. The purpose of these audits is to conduct a thorough evaluation of medical services, identify areas that need improvement, and provide recommendations to improve the quality of care.

The role of medical audit is to ensure that medical services are performed by competent medical personnel and in accordance with applicable standards. By conducting a focused evaluation, hospitals can systematically identify and correct deficiencies in medical practice, which in turn improves the quality of care and patient safety. When there are allegations of medical negligence or error, the next mechanism is the enforcement of professional discipline. Medical audits focus on improving processes and procedures, while professional discipline serves to address cases involving violations of ethics or professional standards by medical personnel. Therefore, medical audit cannot be used as a basis for disciplinary sanctions, but it can provide valuable information for assessment and decision-making by the medical committee, because as part of professional performance evaluation, medical audit serves to assess the competence of medical staff, provide a basis for granting clinical authority, and recommend changes or suspension of clinical authority.

MOH 755/2011 further provides direction for further proceedings by the Subcommittee on Professional Ethics and Discipline, which operates under the hospital's medical committee, playing a central role in regulating and enforcing standards of professionalism of medical personnel. The main purpose of establishing this subcommittee is to protect patients from unqualified and inappropriate services from medical staff and to maintain and improve the quality of professionalism of medical staff in the hospital. The membership of the ethics and professional discipline subcommittee consists of at least three medical staff who have clinical assignment letters and come from different disciplines. The subcommittee's organizational structure includes a chairperson, secretary and members, all of whom are appointed by and responsible to the chairperson of the medical committee. This organization ensures a diversity of perspectives in dispute handling and disciplinary decisions.

With this subcommittee in place, the hospital can ensure that patients receive safe and effective care from competent and standardized medical personnel. The working mechanism of the subcommittee is set by the head or director of the hospital, who is also responsible for providing the necessary resources. Disciplinary enforcement is carried out by a panel established by the chair of the subcommittee, consisting of members from different disciplines and members from the same discipline as the person being examined. This panel may also include bestary partners from outside the hospital, in accordance with applicable regulations.

The operational concept of this subcommittee is based on the principle of high medical professionalism. Each medical staff is expected to carry out medical care with good professional performance, reflecting a commitment to ethical standards and medical procedures. To achieve this goal, the subcommittee implements various programs to foster medical professionalism, including training and education, as well as disciplinary efforts against medical staff who exhibit poor professional behavior. In the handling of complex medical cases, the subcommittee also serves as a working unit that provides ethical considerations to help make informed decisions. In the performance of its duties, the subcommittee on professional ethics and discipline acts independently of the enforcement of public personnel discipline and government agencies. Decisions taken by this subcommittee focus on the disciplinary aspects of the medical profession and medical ethics within the hospital, and are not directly involved in the enforcement of law or medical ethics at the professional organization level. The organization and implementation of professional discipline enforcement by the subcommittee is based on internal hospital regulations, medical staff regulations, hospital ethics, and norms of medical ethics and bioethics.

The benchmarks in the enforcement of professional discipline by this subcommittee are in accordance with the results of previous medical audits which include guidelines for medical services in hospitals, work procedures, clinical authority lists, and guidelines for medical qualification requirements. In addition, the subcommittee also follows the Indonesian medical code of ethics and the applicable professional code of conduct. By following these guidelines, the subcommittee can ensure that any disciplinary action is conducted to a consistent and fair standard. (Minister of Health of the Republic of Indonesia 2011)

The disciplinary process involves a hearing conducted by a panel as mentioned earlier, using sources of reports from various parties such as hospital management, other medical staff, patients, and patients' families. The basis

of the alleged violation may include clinical competence, medical case management, and breach of discipline, inappropriate use of drugs or medical devices, and inability to cooperate with other staff. The entire examination process is conducted in private and decisions are made by majority vote. If the complainant objects to the decision, they can submit new evidence and request the formation of a new panel. The final decision is final and reported to the hospital's board of directors through the medical committee.

Disciplinary actions that can be given include written warnings, restriction of clinical authority, supervision by the authorized party, or revocation of clinical authority. Decisions on disciplinary actions are submitted to the head of the hospital by the chairman of the medical committee for implementation. In addition to handling violations, the subcommittee is also responsible for fostering medical professionalism through activities such as lectures, discussions, and workshops. This is done to ensure that medical personnel always follow high professional standards. The subcommittee also provides ethical considerations in treatment cases, involving relevant parties to ensure the decision taken is the best for the patient and in accordance with medical ethical norms. (Minister of Health of the Republic of Indonesia 2011)

Based on the results of interviews and review of the law on cases that occurred in Hospital X as stated in the Introduction, a medical audit has been carried out on the case of maternal death in both the first case and the second case as stated in the Minister of Health Regulation Number 755 of 2011 concerning the Implementation of the Medical Committee. The follow-up of the medical audit in the form of revocation of clinical authority by the hospital director has not gone through a stage involving the Ethics and Professional Discipline subcommittee and bestari partners so that it is not in accordance with existing regulations.

The medical committee should immediately continue the medical audit process with an ethics and professional discipline hearing, so that the revocation of clinical authority has a strong legal basis. The credentialing subcommittee also has an important role in preventing medical disputes through a recredentialing hearing that reassesses the competence of the doctor concerned. The results of the interview with X hospital also mentioned that the doctor had retired. (Interview, 2024). Recredentialing becomes very important to evaluate the doctor's ability both cognitively and intellectually which of course can be affected due to age.

The decision to continue or revoke the clinical authority of medical staff (doctors) can be based on material legal sources and formal legal sources. The source of material law is a factor that helps the formation of law, for example: social relations, political power relations, economic situations, traditions (religious views of morality) and the results of scientific research. The source of formal law is the place or source from which a regulation obtains legal force. What is generally recognized as sources of formal law are laws, interstate agreements, jurisprudence and customs. (Mertokusumo 2016)

Factors related to the source of material law in this case include that the doctor concerned is a senior doctor who is very experienced, so that the knowledge and experience of the doctor is a factor of consideration for not immediately revoking his clinical authority. Likewise, the doctor has been working at Hospital X for a very long time, so these factors can influence the decision not to continue the ethics and professional discipline hearing. The subsequent impact is that the incidence of maternal death after caesarean section occurs again so that the next decision is taken by the Hospital director to revoke his clinical authority.

Strengthening the objectivity of the Medical Committee in handling medical disputes needs to be improved, so that it is not affected by seniority hierarchy or other factors that are not in accordance with applicable formal law. The decisions taken are expected to further improve the protection of patient safety as well as doctors and hospitals. The purpose of this is to create good clinical governance as stated in Permenkes number 755 of 2011.

In comparison to previous studies, this research highlights the distinct role of the Medical Committee in resolving medical disputes by focusing on internal audits and maintaining professional standards, which is a more focused approach than other broader institutional mechanisms. For instance, a study by Tadda et al. (2022) examined the role of the Hospital Ethics and Law Committee (KEHRS) and identified its extensive scope in handling not only medical disputes but also a wide range of ethical and legal issues within hospitals. KEHRS's authority spans across various institutional domains, including patient complaints and disputes involving medical professionals, unlike the Medical Committee, which primarily addresses professional discipline and quality of care (Tadda et al., 2022). Moreover, while the current study centers on the role of medical audits and professional discipline in medical dispute resolution, Tadda et al. (2022) emphasize the interdisciplinary overlap between KEHRS, the Indonesian Medical Discipline Council (MKDKI), and other hospital oversight bodies, suggesting the potential for jurisdictional ambiguity. Therefore, while both studies recognize the importance of

internal committees in dispute resolution, this study narrows its focus to the Medical Committee's specialized function in legal compliance and the enhancement of medical service standards, as opposed to the broader ethical and legal responsibilities undertaken by KEHRS.

## 5. Conclusions

In the healthcare process, medical disputes often arise due to patient dissatisfaction with the process or outcome of care received, which is often perceived to be the fault or negligence of health personnel. Although the harm perceived by patients is generally of an accidental or negligent nature, these complaints may trigger a grievance process through various channels, including hospital complaint services and social media. Law number 17 of 2023 emphasizes the importance of out-of-court dispute resolution, with the hope that a positive and prompt response from the hospital can defuse the patient's complaint and repair the institution's good name.

Medical audits play an important role in the medical dispute resolution process by providing an in-depth evaluation of the medical practices and medical records involved. The main purpose of a medical audit is to assess whether medical actions meet professional standards and to identify areas of improvement without directly blaming individuals. The results of these audits are not only used for internal hospital improvement but can also be objective evidence in legal proceedings to prove or disprove malpractice claims. Therefore, medical audits are an important tool in ensuring the quality of medical services and patient safety.

This study underscores the Medical Committee's role in resolving disputes and upholding medical standards. Limitations include the reliance on legal analysis without empirical data and a narrow focus on audits. Future research should explore practical challenges, interdisciplinary interactions, and comparative analyses across different healthcare systems to enhance dispute resolution mechanisms.

The Professional Ethics and Discipline Subcommittee, which operates under the hospital's medical committee, has a central role in regulating and enforcing the professionalism standards of medical personnel. Through a working mechanism that involves evaluation and discipline based on the principles of professionalism, the subcommittee aims to protect patients and improve the quality of medical services. The multidisciplinary membership and the use of medical audit results as benchmarks ensure that decisions are fair and consistent with applicable ethical standards and medical procedures. Decisions taken by the Hospital director must be based on the decision of the Medical Committee in order for its accountability to be stronger and more accepted by various parties.

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