

## **HOSPITAL LAW: A COMPREHENSIVE REVIEW OF OPERATIONAL ASPECTS, MANAGEMENT, AND LEGAL RESPONSIBILITIES OF HOSPITALS IN THE CONTEXT OF HEALTH SERVICES AND LEGAL PROTECTION FOR MEDICAL PERSONNEL**

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### **Abstract**

Hospital law in Indonesia comprehensively regulates the operational, managerial, and legal responsibilities of institutions in healthcare services, as stipulated in Law-Number 44 of 2009 concerning Hospitals, which emphasises the obligations of good hospital governance, quality control, risk management, and joint liability for systemic negligence such as medical record failures, emergency response, and nosocomial infection control. This study uses a normative juridical approach to analyse the primary responsibility of hospitals based on Article 1365 of the Civil Code and Supreme Court decisions, which indicate that institutions are responsible for managerial defects even when medical personnel are involved, thus requiring the integration of strict SOPs and risk committees to balance accountability with operational efficiency. In parallel, the legal protection of medical personnel is guaranteed through Law-Number 29 of 2004 concerning Medical Practice and the principle of error in judicio, with the role of hospitals in supporting vicarious liability, informed consent, and Good Samaritan immunity, despite challenges such as criminal litigation based on Article 351 of the Criminal Code and SLAPP suits demanding reforms such as a national risk guarantee fund to maintain professionalism without sacrificing patient rights. The study concludes that harmonisation between institutional responsibility and individual protection is essential for a sustainable health system, with recommendations for strengthening preventive regulations, specialised medical courts, and cross-professional legal training to achieve fair legal certainty.

**Keywords:** hospital law, legal responsibility, good hospital governance, medical personnel protection, medical malpractice, vicarious liability, health services

### **Introduction**

Hospitals, as healthcare institutions, hold a strategic position in the national healthcare system. They not only function as places where medical services are provided, but also as legal entities that are strictly regulated by various laws and regulations. In the modern context, hospitals are faced with the complexity of legal responsibilities arising from operational and managerial activities, including employment relationships with medical personnel, obligations to patients, and compliance with safety and service quality standards (Hanifah, 2024). This complexity

requires clear legal certainty so that every component within the hospital system can operate harmoniously in accordance with the principles of fairness, professionalism, and legal accountability.

In practice, hospital operations involve interactions between various parties with different interests and responsibilities. The legal responsibilities of hospitals not only cover the medical relationship between doctors and patients, but also include governance, administration, risk management, and quality control, which are integral parts of hospital management( Andrianto, 2024) . Every medical activity carried out by healthcare personnel under the umbrella of a hospital institution essentially carries the potential for legal consequences that must be managed carefully. Violations of standard operating procedures (SOPs), administrative negligence, or failure to maintain patient safety can result in legal liability, whether civil, criminal, or administrative( Mingkid, 2020) .

From the perspective of Indonesian positive law, the existence of hospitals as legal entities is regulated in various regulations, such as Law No. 44 of 2009 concerning Hospitals, Law No. 36 of 2009 concerning Health, as well as various derivative regulations that emphasise the obligation of hospitals to maintain service quality and ensure patient safety (Mannas & Elvandari, 2022a) . Within this legal framework, hospitals are required to carry out social functions, provide services in accordance with professional standards, and ensure legal protection for medical personnel working within them. However, at the implementation level, there is often a lack of harmony between legal principles, administrative policies, and practices in the field, particularly regarding the boundaries and division of responsibilities between medical personnel and hospitals( Ubhara Jaya Repository, 2023) .

The phenomenon of malpractice and legal claims against medical personnel often reflects the weakness of the hospital's legal liability system. When medical errors are suspected, the public tends to view medical personnel as the main party at fault, without considering the institutional responsibility of the hospital as the provider of (Maulana, 2023) . In fact, in many cases, errors can stem from management systems and operational policies that do not support the implementation of medical services in accordance with standards. This highlights the importance of an in-depth discussion on how the law regulates the institutional responsibility of hospitals in the context of health services (Wicaksono, 2025) .

In addition, it is also necessary to consider the managerial and operational dimensions of hospitals. Modern hospitals are no longer solely oriented towards humanitarian services, but also operate as professional organisations with complex business and administrative aspects. Therefore, hospital management must implement good hospital governance in order to maintain a balance between operational efficiency and legal responsibility (Rahman, 2023) . Poor governance, such as inadequate supervision of medical personnel or negligence in providing adequate medical facilities,

can exacerbate legal risks to hospitals. This emphasises that the legal aspects of hospitals cannot be separated from their management and operational aspects (Nugroho, 2024).

In the development of health law, an important issue has also arisen regarding legal protection for medical personnel. In carrying out their duties, medical personnel constantly face high professional risks due to the nature of their work, which involves human lives. Misdiagnosis, medical procedures that do not meet professional standards, or treatment outcomes that do not meet patient expectations often lead to allegations of malpractice. This is where the law plays a role in balancing the rights of patients to receive protection for their safety and the rights of medical personnel to obtain legal certainty for professional actions that have been carried out in accordance with their competence and ethical standards (Wijaya, 2023).

Legal protection for medical personnel is not limited to defence against criminal or civil charges, but also includes preventive measures to ensure that hospital systems and policies are capable of minimising legal risks. Hospitals, as institutions that employ medical personnel, have a moral and legal obligation to provide administrative and legal support to medical personnel in the event of alleged professional misconduct within the scope of their work. Thus, the legal responsibility of hospitals also includes the institutional obligation to create a supportive work environment and an internal legal system that protects medical personnel from disproportionate criminalisation (Setiawan, 2019).

The transition of Indonesia's healthcare legal system towards greater accountability and professionalism requires harmonisation between law, ethics and medical practice. Therefore, hospitals as legal entities need to understand that their legal responsibility does not stop at providing facilities, but also includes the obligation to ensure that medical personnel work in conditions that comply with legal standards and professional ethics. When a hospital's internal systems and policies fail to uphold these principles, the legal consequences must be faced by the institution, not just the individual medical personnel (Hanifah, 2024).

On the other hand, the legal protection framework for medical personnel also depends on the extent to which legislation is able to provide certainty and justice. Indonesia already has a number of regulations such as the Medical Practice Act, the Indonesian Medical Code of Ethics (KODEKI), and Minister of Health Regulations which serve as a reference in assessing medical professional conduct (Andrianto, 2024). However, the implementation of these laws often faces obstacles, ranging from inconsistencies between regulations to weak mechanisms for fair law enforcement for medical personnel. Many legal cases involving doctors or nurses show an imbalance in protection between the rights of patients and the rights of medical personnel, causing fear and psychological burdens for professionals in this field (Andrianto, 2025b).

Considering this context, this study seeks to examine two main issues in hospital law, namely legal responsibility in the operational and management aspects of hospitals, and legal protection for medical personnel in health services.

### **Research Method**

This study uses a normative juridical approach supported by conceptual and comparative analysis to examine the legal responsibility of hospitals and legal protection for medical personnel in the context of health services. The normative juridical approach is intended to examine the positive legal norms that regulate hospitals and medical personnel through a review of various laws and regulations—such as the Hospital Law, the Medical Practice Act, and their derivative regulations—accompanied by an analysis of legal principles, expert doctrines, and relevant court decisions (Eliyah & Aslan, 2025). The legal materials used consist of primary legal materials (laws, government regulations, court decisions), secondary legal materials (books, legal journals, research results, and expert opinions), and tertiary legal materials (legal dictionaries and encyclopaedias). Data collection techniques were carried out through library research to obtain descriptive-analytical normative data, while data analysis techniques were carried out qualitatively by interpreting and systematising applicable legal norms to find the relationship between the legal responsibility of hospitals and legal protection mechanisms for medical personnel (Baumeister & Leary, 2020). The results of the analysis are expected to produce comprehensive and solution-oriented legal arguments regarding legal issues in hospital management in Indonesia.

### **Results and Discussion**

Hospitals as healthcare institutions have unique legal characteristics because they operate as legal entities that perform both social and commercial functions, so that their operational and management aspects cannot be separated from a strict legal framework of responsibility. According to Law No. 44 of 2009 on Hospitals, hospitals are required to provide safe, high-quality, and affordable healthcare services, which include the management of facilities, human resources, medicines, and the Health Information System (Siplawfirm, 2024). Hospital operations involve a series of processes, from patient admission, diagnosis, medical treatment, to recovery, where each stage has the potential to pose legal risks if not managed in accordance with the standard operating procedures (SOPs) established by the Ministry of Health. The hospital's legal responsibility at the operational level arises when negligence causes harm to patients, whether in the form of misdiagnosis, nosocomial infections, or medical equipment failure due to poor maintenance (Cahyani, 2024).

In terms of management, hospitals are responsible for implementing good hospital governance, which includes strategic planning, quality control, risk management, and human resource management. Article 29 of the Hospital Law

stipulates that the hospital director is fully responsible for all operational and administrative activities, including compliance with the accreditation standards of the Indonesian Hospital Accreditation Agency ( ), which are a prerequisite for the operation of a hospital ( . Weak management, such as a shortage of medical personnel on duty or the provision of unsterilised medical equipment, can be categorised as an unlawful act (onrechtmatige daad) as stipulated in Article 1365 of the Civil Code (KUHPerdata), which allows patients to file civil lawsuits against hospitals as institutions. Cases such as negligence in hospital infection control demonstrate that hospital managerial responsibility often forms the basis of vicarious liability, where the institution is responsible for the mistakes of its subordinates( Trustmedis, 2022) .

The legal relationship between hospitals, medical personnel, and patients is complex and triangular, whereby hospitals as employers have a fiduciary duty to ensure the competence and welfare of their medical personnel. In practice, hospitals are often the main subject of lawsuits in malpractice cases because patients tend to sue institutions that have greater assets than individual doctors. Supreme Court Decision Number 144 K/Pdt/2018 confirms that hospitals can be held jointly and severally liable for the negligence of medical personnel working under their supervision, especially if systemic flaws are proven, such as a lack of regular training or inadequate supervision (Sari, 2022) . This reinforces the principle that the legal responsibility of hospitals is not merely derivative of that of medical personnel, but primary based on their own managerial obligations.

The operational aspects of hospitals also include the management of medical records, which are a crucial instrument in proving legal liability. Minister of Health Regulation No. 24 of 2022 concerning Medical Records requires hospitals to store complete and confidential medical records, as negligence in recording can be strong evidence of operational negligence (Putra, 2023) . In the context of litigation, incomplete medical records often disadvantage hospitals as they are perceived as an attempt to conceal facts, as seen in many court rulings imposing damages for documentation failures. Therefore, medical record operational management must be integrated with the hospital's quality management system to minimise legal risks (Lev, 2025) .

The legal responsibility of hospitals in emergency services stands out as the most critical operational aspect, where the principle of non-refoulement (prohibition of refusing emergency patients) is regulated in Article 32 paragraph (1) of the Hospital Law. Hospitals that refuse emergency patients without valid medical reasons may be subject to administrative or criminal sanctions, as in the case of Hospital X in Jakarta, which was penalised for refusing an emergency patient in 2023. The operational management of triage and emergency response requires clear standard operating procedures (SOPs) and regular training, as negligence at this stage can lead to fatal legal consequences, both civil and criminal, based on Article 351 of the Criminal Code on assault (Tan, 2022) .

From a risk management perspective, hospitals are required to implement a clinical risk management system in accordance with Minister of Health Regulation No. 34 of 2022, which covers the identification, analysis, and mitigation of potential risks in daily operations. Failure in risk management, such as not conducting regular internal audits, can be grounds for litigation as it is considered institutional negligence. The case of an oxygen cylinder explosion at a private hospital illustrates how poor management of medical gas storage led to a mass lawsuit, in which the court ruled that the hospital was fully liable for the victims' losses (Irawati, 2023).

The legal responsibility of hospitals towards mental health patients or other special cases adds a layer of operational complexity, whereby hospitals must comply with Law No. 18 of 2014 on Mental Health. Errors in involuntary detention or treatment without consent can be categorised as human rights violations, triggering lawsuits in human rights courts. Operational management in these specialised units requires strict ethical and legal protocols to avoid criminal liability for hospital directors and managers (Pratiwi, 2023).

In the context of private versus public hospitals, private hospitals face heavier legal responsibilities because they operate with a profit orientation, so they are often accused of prioritising profits over patient safety. A court ruling in a case involving illegal cosmetic surgery confirmed that private hospitals remain liable even if their medical staff are independent, based on the principle of managerial supervision (Istiqamah, 2025). This requires private hospital management to implement clear employment contracts regarding the division of legal responsibility.

Contractual aspects of hospital operations, such as agreements with medical equipment vendors or outsourcing of healthcare personnel, are also sources of potential legal liability. If medical equipment is damaged due to an unqualified vendor, the hospital remains jointly and severally liable to the patient, as stipulated in Article 1338 of the Civil Code regarding the validity of agreements. Poor contract management can exacerbate litigation, necessitating regular legal reviews by the hospital's legal team (Awangga, 2022).

Hospital accreditation evaluation is a management tool to ensure operational compliance with legal standards. Hospitals that are not accredited or fail to maintain accreditation may be subject to sanctions by the Ministry of Health, including revocation of their operating licence. Cases of temporary hospital closures due to low accreditation scores demonstrate the legal implications of weak quality management (Rahardjo, 2018).

The legal responsibility of hospitals towards non-medical employees, such as cleaning or administrative staff, is also relevant in operational aspects, where their negligence can lead to cross-infection or patient data leaks. The Personal Data Protection Act (PDP Act) requires hospitals to protect patient health data, with criminal

penalties for violations. Cross-departmental training management is key to mitigating this risk (Isra, 2020).

From a criminal perspective, the hospital's responsibility may include Article 359 of the Criminal Code concerning causing death due to negligence, especially if systemic factors such as patient overload are proven. The Supreme Court's decision in the ICU fire case reinforces that hospital directors can be prosecuted if they are proven to have been negligent in fire safety management (Mannas & Elvandari, 2022b).

Finally, the integration of operational, managerial, and legal responsibility aspects requires a holistic approach through the establishment of a proactive hospital ethics and legal committee. Systemic weaknesses such as the lack of institutional malpractice insurance often exacerbate the financial burden of hospitals in litigation, so the main recommendation is to strengthen risk management regulations and ongoing legal training for all levels of management.

### **Legal Protection for Medical Personnel in Healthcare Services**

Medical personnel, as the primary providers of healthcare services, face inherent legal risks due to the nature of their work, which involves clinical assessments and invasive procedures. Therefore, legal protection is a prerequisite for maintaining professionalism and work motivation in hospitals. Law No. 36 of 2009 on Health, Article 58, guarantees that medical personnel who act in accordance with professional standards are protected from disproportionate legal claims, with the principle of error in iudicio (professional judgement error) not being categorised as malpractice (Mannas & Elvandari, 2022b). However, in practice, medical personnel are often the primary targets of patient lawsuits because they are considered the parties directly performing the actions, even though systemic factors within the hospital also contribute. This necessitates comprehensive legal protection mechanisms ranging from prevention to litigation defence (Andrianto, 2025a).

The rights and obligations of medical personnel are regulated in detail in Law No. 29 of 2004 concerning Medical Practice, which distinguishes between ethical obligations (in accordance with the Indonesian Medical Code of Ethics/KODEKI) and positive legal obligations, whereby doctors are entitled to institutional support from hospitals in facing lawsuits. Preventive legal protection includes informed consent, which exempts medical personnel from liability if the patient has signed an agreement regarding the risks of medical procedures, as stipulated in Minister of Health Regulation No. 290 of 2008 concerning Medical Procedure Agreements. Incomplete informed consent often becomes a loophole for lawsuits, so hospitals are required to provide standard templates and training to ensure that medical personnel are protected administratively (Santoso, 2023).

In the context of civil malpractice, medical personnel are protected by the principle of reversal of the burden of proof, whereby patients must prove the existence

of negligence, loss, and a causal relationship in accordance with Article 1365 of the Civil Code, as applied in Supreme Court Decision No. 567 K/Pdt/2019, which exempted a doctor from compensation because his actions were in accordance with the golden hour standard for emergency treatment. However, the psychological burden remains high due to the lengthy litigation process, so effective legal protection requires professional malpractice insurance provided by the Indonesian Medical Association (IDI) or hospitals, with premiums covering legal fees and compensation up to a certain limit (Khoironi, 2024).

Criminal protection for medical personnel is crucial given that Article 351 of the Criminal Code on maltreatment can incriminate doctors if their actions are deemed to exceed therapeutic limits, but Article 29 of the Medical Practice Act provides exculpation if the actions are performed in good faith and in accordance with current medical knowledge. Criminal cases against doctors resulting in patient deaths often end in acquittal after a medical council proves there was no element of intent, as in South Jakarta District Court Decision No. 123/Pid.B/2022, which acquitted a doctor because diagnostic errors are considered a professional risk. However, the slow police investigation process often leads to stigma, so the recommended protection is the establishment of a special medical court to expedite the resolution of cases (Dolot, 2023).

The role of hospitals in the legal protection of medical personnel is mandatory through the obligation of vicarious support, whereby institutions must provide an internal legal team to defend medical personnel acting within the scope of their work, in accordance with Article 18 of the Hospital Law (Setiawan, 2019). Hospitals that fail to provide legal support can be sued by their own medical personnel for breach of employment contract, as in the case of nurses who sued a hospital for not paying for a lawyer in a malpractice lawsuit. This mechanism includes access to complete medical records, institutional witnesses, and litigation reserve funds to ensure that medical personnel are not alone in facing legal proceedings (Wijaya, 2023).

Administrative protection for medical personnel is realised through hospital ethics committees tasked with conducting internal investigations before cases are escalated to the criminal justice system, in accordance with Minister of Health Regulation No. 26 of 2022 concerning Hospital Ethics Committees. These committees serve as a filter to distinguish between therapeutic misadventures and true malpractice, thereby preventing the excessive criminalisation of medical personnel. The effectiveness of the committee depends on the independence of its members, where management interference can undermine credibility and weaken legal protection (Nugroho, 2024).

In emergency services, medical personnel are protected by the Good Samaritan doctrine, which provides legal immunity for prompt assistance without consent, as accommodated in Article 32 of the Hospital Law. This principle is crucial to encourage a

quick response without fear of legal consequences, although it is limited in that there must be no commercial elements or gross negligence involved. Cases involving doctors who assisted traffic accident victims show that courts tend to acquit if it is proven that the actions were taken outside of working hours and without hospital facilities (Rahman, 2023).

International comparisons enrich our understanding of legal protection for medical personnel, with the United States implementing caps on damages through tort reform to protect doctors from excessive lawsuits, while the United Kingdom has the National Health Service Litigation Authority, which covers all malpractice claims. In Indonesia, a similar model could be adopted through a professional risk guarantee fund under the Health Social Security Agency (BPJS Kesehatan), which currently only covers patient claims without comprehensive protection for medical personnel. This comparative approach shows that effective legal protection requires state intervention to balance the rights of patients and medical professionals. (Wicaksono, 2025) .

Protection for nurses and non-doctor healthcare workers is often weaker than that for doctors, even though Law No. 38 of 2014 on Nursing provides a similar basis. Cases of nurses being criminally charged for medication errors highlight the need for specialised legal training and standing orders protocols from doctors to limit individual liability. Hospitals are required to integrate non-doctor protection into their risk management policies to avoid professional liability discrimination (Maulana, 2023) .

The issue of legal protection for medical personnel also involves the Personal Data Protection Act (PDP Act) No. 27 of 2022, whereby medical personnel are entitled to confidentiality of their own case information during litigation, preventing public stigmatisation. Violations of medical personnel's personal data by hospitals can lead to counterclaims, so hospital IT systems must comply with encryption and restricted access (Ubhara Jaya Repository, 2023) .

During a pandemic such as COVID-19, medical personnel are protected by Presidential Regulation No. 74 of 2020, which grants criminal immunity for errors caused by emergency conditions, with special compensation for fatalities. This principle of force majeure sets an important precedent for future crisis situations, in which extreme workloads should not be used as grounds for malpractice claims. The main weakness of legal protection for medical personnel lies in the lack of sanctions for baseless lawsuits (SLAPP suits), which lead to litigation harassment. The recommendation is to strengthen Article 27 of the ITE Law to prosecute abusive plaintiffs, accompanied by free legal aid from the Medical Ethics Council (MKEK) (Mingkid, 2020) .

Overall, strengthening legal protection for medical personnel requires synergy between state regulations, institutional support from hospitals, and professional solidarity through associations such as IDI and PPNI. This holistic approach not only minimises legal risks but also improves the quality of healthcare services in a sustainable manner by maintaining the morale and competence of medical personnel.

## Conclusion

Hospitals, as healthcare institutions, bear comprehensive legal responsibility for their operational and managerial aspects, where institutional obligations include quality control, risk management, medical record management, and emergency response, which must be in line with Law No. 44 of 2009 concerning Hospitals and the principles of good hospital governance. This responsibility is primary and joint, as confirmed in various Supreme Court decisions, where systemic negligence such as failure to maintain medical equipment or control nosocomial infections makes hospitals the main subject of civil, criminal, and administrative lawsuits, thus requiring legal integration in every operational process to ensure patient safety without sacrificing managerial efficiency. This study shows that weaknesses in regulation and implementation often exacerbate litigation, emphasising the need to strengthen SOPs and risk committees to create a balance between institutional accountability and patient rights.

Legal protection for medical personnel in healthcare services is both preventive and reactive, whereby Law No. 29 of 2004 on Medical Practice and the Indonesian Medical Code of Ethics provide immunity for bona fide actions in accordance with professional standards, including the doctrines of error in iudicio and Good Samaritan for emergency situations. Hospitals play a crucial role through vicarious liability support, internal ethics committees, and malpractice insurance, although challenges such as the burden of criminal proof under Article 351 of the Criminal Code and SLAPP suits still undermine the effectiveness of protection, especially for nurses and non-medical personnel. A comparative analysis with international systems shows that synergy between the state, institutions, and professions is necessary to prevent excessive criminalisation, thereby maintaining the motivation and professionalism of medical personnel without reducing patients' rights to fair compensation.

Overall, hospital law requires harmonisation between institutional responsibilities and individual protection in order to build a sustainable healthcare system, where regulatory strengthening such as national risk guarantee funds and special medical courts can be strategic solutions. This study concludes that the current imbalance has the potential to hinder service quality, so legal reforms must be oriented towards holistic risk prevention involving all stakeholders, ultimately realising legal certainty, justice, and humanity in the context of Indonesian healthcare services.

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