

## LEGAL RESPONSIBILITIES OF THE MEDICAL COMMITTEE IN HEALTH SERVICES IN HOSPITALS (CASE STUDY AT HOSPITAL A BREBES REGENCY)

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**Abstract:** The medical committee is a hospital tool to regulate the implementation of good clinical governance, by maintaining and improving the professionalism of medical staff. The problem is, how hospital policy regarding the implementation of medical committees to improve health services in hospitals, which is studied using a doctrinal approach. The medical committee's responsibilities towards medical personnel in the hospital are implemented through the duties and functions of the medical committee in 3 (three) subcommittees, namely the subcommittee on credentials, professional quality, ethics, and professional discipline, but not all elements of the medical committee and medical staff understand the responsibilities of the medical committee as a concept of legal protection for medical personnel who work in a hospital. Hospital policies regarding legal protection for medical personnel are not yet stated in the hospital's internal regulations. Socialization and evaluation of hospital policies regarding implementation and clinical governance committees, Also, guidance and supervision of the medical committee and all medical personnel should be carried out continuously so that the policy can be implemented optimally, as well as understanding the responsibilities of the medical committee as a concept of legal protection for medical personnel working in hospitals. Guidance and supervision of the implementation of medical committees both internally by the hospital director and externally by the health service needs to be carried out to evaluate the performance of the medical committee in increasing the professionalism of medical staff and implementing good clinical governance to improve health services in hospitals.

**Keywords:** Medical Committee, Hospitals, Health Services

## I. INTRODUCTION

Health services are an effort to provide services individually or collectively within an organization to prevent and improve health, maintain and cure disease and also restore the health of individuals, groups and communities, as defined by the Indonesian Ministry of Health.<sup>1</sup>In the 1945 Constitution, article 28 H paragraph (1) also states that every citizen has the right to obtain health services.

A hospital is a health service facility that handles advanced referral services, provides treatment, medical care and specialist and sub-specialty services, with infrastructure and facilities as well as health human resources that vary according to the hospital's capabilities. The health service has the duties and functions of coaching and supervising the improvement of health services, including hospitals in its work area.

Hospitals are obliged to prepare and implement hospital internal regulations (hospital bylaws), which include internal corporate regulations and internal medical staff regulations. Corporate regulations regulate hospital management, including the owner, management and medical committee at the hospital. Internal regulations of medical staff (*medical staff bylaws*) regulate clinical governance to maintain the professionalism of medical staff. Based on article 33 paragraph (1) Law Number 44 of 2009 concerning Hospitals, states that good hospital governance and clinical governance must be implemented by every hospital. In implementing good clinical governance, there is a need for a non-structural organization formed by the hospital director and responsible to the hospital director, namely the medical committee.

The medical committee is a hospital tool for implementing clinical governance by maintaining and improving the professionalism of medical staff, as stated in the Regulation of the Minister of Health of the Republic of Indonesia Number 755 of 2011 concerning the Implementation of Medical Committees in Hospitals. Order of medical services in hospitals run according to professional standards and good clinical governance, hospitals are obliged to formulate hospital policies, namely *medical staff bylaws*, prepared by the medical committee and approved by the hospital director. The duties of the medical committee are realized through 3 (three) medical subcommittees, consisting of subcommittees on credentials, professional quality and professional ethics and discipline. The medical committee also contributes through its roles and responsibilities in providing legal protection for medical staff working in hospitals, in addition to protection for patients, so that medical staff work comfortably and safely, as well as reducing or preventing problems in medical services, so that the expected goals namely improving health services in hospitals can be achieved.

The medical committee at the hospital regulates the profession of medical personnel through a credentialing process and maintains the quality of the profession so that they provide professional services. Good medical services require internal hospital policies and good clinical governance as well. Good clinical governance is the key to medical services, with the dominant role of medical staff elements. As stated in Article 1 of Law Number 29 of 2014 concerning Medical Practice, doctors and dentists practice medicine in an effort to provide health services to patients. The doctors and dentists referred to are doctors, specialist doctors, dentists and specialist dentists who have completed medical or dental education, both at home and abroad, and are recognized by the Government of the Republic of Indonesia in accordance with statutory regulations.

In implementing health services in hospitals, it is very possible that there will be friction or differences in perception which can cause misunderstandings between medical personnel. This condition can result in the hospital's internal policies/regulations governing

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<sup>1</sup>Mishbahuddin, *Improving Hospital Health Service Management*, Ladder Science Publishers, Yogyakarta, 2020, pp. 17-18.

clinical governance and standard operational procedures for medical services not being implemented properly, so these things can potentially cause medical errors, which can lead to lawsuits from patients due to dissatisfaction with the services received. patient. Hence the hospitalIt is necessary to realize good clinical governance so that the professionalism of medical personnel is maintainedand protected, and patient safety is more guaranteed.

One of the problems in hospitals can be said to be hospital by laws (HBL)which should be a basic reference in the provision of hospital services is only seen as complete documents which are just a formality. The low understanding and awareness of the importance of HBL is caused by the absence of outreach to all medical staff in hospitals. This also causes the medical committee to be less than optimal in carrying out its duties and functions in improving good clinical governance in hospitals. As in the regulations regarding guidelines for preparing HBL, hospitals need to review and evaluate HBL so that it is always relevant and follows developments and hospital needs.<sup>2</sup>

Continuous development and supervision of the implementation of medical committees in hospitals is also needed, involving an internal role by the hospital director and an external role by the health service as a regional health regulator. This guidance and supervision is very important to evaluate the performance of the medical committee in improving the professionalism of medical staff and implementing good clinical governance in the hospital. The function of coaching and supervising medical committees by the health service is in accordance with applicable regulations regarding the organization of hospital medical committees.

Various health service problems are growing, people are increasingly critical of what they receive from health services, so that it often gives rise to conflicts and disputes. The more critical the public is, the more public awareness of the law is shown, and the more it becomes a challenge for hospitals and medical committees in their efforts to increase the professionalism of medical personnel as service providers. This is intended to minimize the occurrence of lawsuits from patients or problems in medical services provided by medical staff.

The discussion regarding the responsibilities of medical committees in health services in hospitals is an interesting matter for the author to study further. The medical committee's responsibility for the professionalism of medical staff in hospitals is a very important role in maintaining the quality of medical services and patient safety, as well as in implementing good clinical governance, so that the goals of improving health services in hospitals are achieved as expected. The problem is bWhat are the hospital policies in organizing medical committees and the responsibilities of medical committees to improve health services.

## II. RESEARCH METHOD

This research approach uses an empirical juridical doctrinal approach. An approach from the perspective of the philosophy of science states that legal science has two sides with different study focuses, namely the normative side and the empirical side.<sup>3</sup>The juridical approach, namely the law is seen as a norm or *das sollen*, namely what should be, legal facts, legal regulations are general in nature. The empirical approach is law as a social, cultural reality, concrete events that occur or *das sein*, using primary data obtained from interviews.<sup>4</sup>

This empirical juridical approach to analyzing problems is carried out by study normative legal science or legislation, and observe how reactions and interactions occur when

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<sup>2</sup>Kitta, Implementation of Hospital Internal Regulations by the Medical Committee to Improve Good Clinical Governance in Hospitals, in :<https://repository.unhas.ac.id>, 2021.

<sup>3</sup>Endang Sutrisno, Meaning of Legal Culture: Promoting Community Welfare, In Media, Bogor, 2019, p. 17.

<sup>4</sup>Sovia Hasanah, Difference between *Das Sollen* and *Das Sein*, in<http://www.hukumonline.com>, April 12 2018.

the norm system works in society.<sup>5</sup>Based on reality, experience and observation, this research inventories and determines the applicability of hospital regulations or policies regarding the implementation of medical committees, the responsibility of medical committees in maintaining and improving the professionalism of medical staff, implementing good clinical governance, as well as the coaching and supervision function of the home director. hospitals and health services, so it is hoped that health services in hospitals will improve.

### III. DISCUSSION

Hospitals are health service institutions for the community with their own characteristics which are influenced by developments in health science, technological advances and the socio-economic life of the community which must continue to be able to improve services better. Quality and affordable to the public. Hospital as one of the facilitiesHealth, which provides health services to the community, has a very strategic role in accelerating the improvement of the public's health status. Therefore, hospitals are required to provide quality health services in accordance with established standards and can reach all levelspublic.<sup>6</sup>

Improving health services is a hospital priority. Systemclinical management which contains rules regarding professional standards and standard operational procedures for medical services compiled in a regulatory policy in the hospital, which aims to provide guarantees to patients to obtain medical services in accordance with the patient's medical needs, as well as maintaining and improving the quality of medical services provided by doctors /specialist dentists, doctors and dentists.<sup>7</sup>

In providing quality health services, hospitals must implement good hospital governance and clinical governance, compiled through hospital policies in the form of hospital internal regulations (hospital bylaws) which consist of corporate internal regulations (corporate bylaws) and internal staff regulations. medical (medical staff bylaws). Management of clinical management in medical staff bylaws refers to hospital bylaws as a form of written medical rules that apply to hospital management, with the aim of protecting all parties involved in hospital management so that justice can be achieved for all parties.<sup>8</sup>

One of the hospital's internal regulations, namely medical staff bylaws, contains good clinical governance, which is prepared by the medical committee and ratified by the hospital director, as a rule for medical staff in implementing good clinical governance in the hospital.<sup>9</sup>The hospital policies that have been prepared must be implemented by all medical personnel working in the hospital, and strengthened through the duties and responsibilities of the medical committee to increase the professionalism of medical staff, so that the quality of medical services and patient safety are more guaranteed.

In line with the dynamic changes in the health situation, it is best for hospital policies regarding clinical management to also be evaluated following the latest developments, which will be used as a reference in carrying out medical services according to professional standards,such as during the Covid-19 pandemic, there were often rapid updates or changes to clinical management regulations at that time.<sup>10</sup>Hospitals need to review and evaluate their

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<sup>5</sup>Djulaeka, Devi Rahayu, Textbook of Legal Research Methods, Scopindo Media Pustaka Publisher, Surabaya, 2019, p. 76.

<sup>6</sup>Hermien Hadiati Koeswadji, Law for Hospitals, PT. Citra Aditya Bakti, Bandung, 2002, p.37

<sup>7</sup>Ibid, p.42.

<sup>8</sup>Asdel Fira, Hospital By Laws as a Guide to Hospital Governance, in <http://siplawfirm.id>, accessed on 1 July 2019.

<sup>9</sup>Mochtar Kusumaatmadja. Legal Concepts in Development: Collection of Writings, Alumni, Bandung, 2002. p. 3.

<sup>10</sup>Andriani Yulianti, Improve Service Quality, Save the Nation from the Covid-19 Pandemic, at <http://www.mutupe.jasakesehatan.net>, on November 12 2020.

internal regulations, as in regulations regarding guidelines for preparing hospital bylaws, so that they are always relevant and keep up with developments and hospital needs.

Based on observations, hospital policies regarding the implementation of the medical committee and clinical management already exists, but has not been evaluated in accordance with the development of the situation and hospital needs. It is also not yet understood by all medical staff, which is because socialization to medical staff has not been evenly distributed. Guidance and supervision of the performance of the medical committee has also not been carried out on an ongoing basis, both internally by the hospital director and externally by the local health department, which can result in a lack of supervision of the performance of the medical committee which can affect consistency in the implementation of clinical governance in the hospital. Limited resources from both the hospital, medical committee and health department are one of the factors causing the implementation of the medical committee to not be optimal. This guidance and supervision is needed to strengthen the performance and existence of medical committees in hospitals in increasing the professionalism of medical staff, as well as strengthening the commitment and awareness of medical staff in implementing good clinical governance, so that it is hoped that the emergence of medical professional problems will be minimized and the quality of health services at home will be improved. Sick.<sup>11</sup>

The function of monitoring and coaching the performance of medical committees in hospitals can be carried out by the local health department in accordance with regulations regarding the implementation of the medical committee. The health service has the task of providing guidance through advocacy, outreach and monitoring the performance evaluation of the medical committee, so that the implementation of clinical governance is carried out well to improve the quality of medical services and patient safety. Hospitals as health service institutions are required to be able to provide quality and optimal health services, as well as contribute to improving the level of public health.<sup>12</sup>

Hospitals are very interested in the medical committee because it really determines whether clinical governance in the hospital is good or bad. Hospital policy support in organizing medical committees to implement good clinical governance has a positive impact on medical staff to work more professionally according to standards profession and has legality, so can prevent and minimize the occurrence of conflicts or disputes due to patient dissatisfaction with the medical services they receive, and goals to improve health services in hospitals can be achieved.

Every hospital is obliged to form and organize a medical committee, as stipulated in statutory regulations. Health services in hospitals involve various health professions, with the dominant medical services provided by medical staff. The implementation of relationships between doctors (medical staff), patients and hospitals is regulated through regulations as a legal product so that there is a harmonious reciprocal relationship in health services.<sup>13</sup>

The medical committee carries out the function of upholding professionalism by controlling medical staff who carry out medical services in hospitals as follows Minister of Health Regulation Number 755 of 2011 concerning the Implementation of Medical Committees in Hospitals. This control is carried out by regulating in detail the authority to provide medical services. This control is carried out jointly by the hospital director and the medical committee. The medical committee carries out credentials, improves professional quality, and upholds professional discipline and recommends follow-up actions to the

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<sup>11</sup>Results of interviews with elements of management, medical committee, medical staff at Hospital "X", in September & October 2022.

<sup>12</sup> Fadilla, The Role of the Medical Committee in Improving the Quality of Service at USU Hospitals, in <https://docplayer.info>, 2018.

<sup>13</sup>Wila Chandrawila, Medical Law, Mandar Maju, Bandung, 2001, p.1.

hospital director, while the hospital director follows up on the medical committee's recommendations by mobilizing all resources so that medical staff professionalism and good clinical governance can be implemented in the hospital. . Control of the medical profession is carried out through good clinical governance to protect patients, as well as the medical staff themselves. To realize good clinical governance, the hospital director collaborates with the medical committee in regulating authority and providing recommendations for carrying out medical services and medical procedures at the hospital.

The responsibility of the medical committee is the obligation of the medical committee to carry out its duties as they should, carried out in accordance with applicable laws and regulations. The hospital medical committee has the task of increasing the professionalism of medical staff by credentialing all medical staff who provide medical services at the hospital, maintaining the professional quality of medical staff, as well as maintaining discipline, ethics and professional behavior of medical staff. The medical committee has a strategic role in controlling the competence and behavior of medical staff in hospitals as well as implementing good clinical governance. For this reason, the hospital director is obliged to provide facilitation so that the medical committee runs optimally, and the medical committee always has access to detailed information about the professional issues of each medical staff in the hospital.<sup>14</sup>

The implementation of medical committees and clinical governance must be implemented and understood by all medical personnel who provide services in hospitals, however, in its implementation, not all medical personnel understand the duties and functions of medical committees, as well as good clinical governance, so that there are still obstacles or problems in medical services. In dealing with these obstacles/problems, hospital management elements coordinate with the medical committee to carry out follow-up actions against medical staff who commit violations or have problems in providing medical services. Elements of hospital management mediate and resolve the problem of dissatisfaction with medical services at the hospital with external parties, both the patient's family and third parties, so that problems can be resolved amicably, not reaching the realm of law. If a violation occurs by medical staff, the medical committee in coordination with the hospital director will carry out internal guidance for medical staff, assistance with clinical authority and other actions necessary to resolve the problem, so that the quality, ethics and discipline of the medical profession are maintained. The form of implementation of legal protection for medical personnel by the medical committee can be in the form of advocacy and legal assistance if there are problems with medical services or medical disputes. So, the concept of legal protection is still limited in terms of dispute resolution.<sup>15</sup>

The legal relationship between medical personnel (doctors) and patients is manifested in a therapeutic agreement, which provides consequences for the parties, namely the doctor and patient, in the form of their respective rights and obligations, so that harmonization of relationships in health services can occur.<sup>16</sup> Medical personnel in carrying out their duties to provide health services, they have the right to obtain legal protection as stated in statutory regulations. Legal protection for medical personnel is very necessary, so that medical staff feel comfortable and safe in providing services and working in hospitals. The medical committee can accommodate this through its duties and functions as part of the medical committee's responsibilities. Problems with medical services are not solely due to the

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<sup>14</sup>Kar Hamdhani, Main Task Force of the Medical Committee, in <http://www.academia.edu>, in 2021.

<sup>15</sup>Results of interviews with elements of management, medical committee, medical staff of Hospital "X", in September & October 2022.

<sup>16</sup>Taty Sugiarti, Legal Responsibilities of Doctors (Regarding Patient Information Rights in Medical Records from a Legal Perspective), Bandung, 2018, p. 37.

doctor's fault but need to be investigated in depth so that medical staff do not become objects suspected of being the cause of the problem. One of the concepts of protection medical personnel law by the medical committee can be preventive, ie preventing disputes before they occur, which the medical committee can do through the duties and functions of 3 (three) subcommittees, however the concept of legal protection as one of the responsibilities of the medical committee is still not understood.<sup>17</sup>

According to Philipus M. Hadjon, legal protection is divided into preventive and repressive legal protection. Because it is in accordance with the aim of the law, namely to provide protection to the community which must be realized in the form of legal certainty.<sup>18</sup> Similar to Philipus M. Hadjon, Muchsin's opinion is that preventive legal protection aims to prevent disputes before they occur. This is contained in statutory regulations with the aim of preventing violations and providing signs or limitations in carrying out an obligation. Repressive legal protection aims to resolve disputes. In this case, if a dispute has occurred or a violation has been committed, it will be resolved according to the applicable provisions.<sup>19</sup>

The role of the medical committee in providing protection for medical personnel is that there are several things that need to be done. First, managing the complaint process regarding alleged acts of medical malpractice and medical disputes. Second, the medical committee has the authority to decide on medical actions that deviate from professional standards or standard operational procedures and resolve them. Third, the medical committee must also be able to provide legal protection for medical staff who work in hospitals, provide a sense of comfort and security for medical staff in carrying out medical services, by strengthening the credentialing process, granting clinical authority and professional discipline, as well as strengthening good clinical governance. well, receive clarification from medical staff and investigate complaints of alleged malpractice or medical disputes against medical staff fairly, so that medical staff have a place of refuge to be able to work professionally so as to improve services at the hospital.<sup>20</sup>

Based on legal studies, the form of responsibility of the medical committee in increasing the professionalism of medical staff which is carried out through 3 (three subcommittees) is the implementation of preventive legal protection for medical personnel, by providing credentials for all medical staff who will provide medical services in hospitals, maintaining quality profession of medical staff, as well as maintaining discipline, ethics and behavior of medical staff. This preventive legal protection is important for medical staff to prevent medical service problems or medical disputes. If a medical dispute occurs, the medical committee assists in advocacy or legal assistance, as a form of the medical committee's responsibility in repressively protecting medical personnel to resolve disputes.

It would be a good idea in the hospital's internal regulations or hospital bylaws to explain in detail the responsibilities of the medical committee regarding legal protection in an effort to increase the professionalism of medical staff. Strengthening regulations regarding the legal protection of medical personnel is important and needs to be considered so that medical staff have the right to legal protection which can be facilitated by the medical committee at the hospital. Updates to government regulations and hospital policies can be carried out if necessary. Changes follow developments in the situation and hospital needs. This is in line

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<sup>17</sup>Results of interviews with elements of the health service, in September & October 2022.

<sup>18</sup>Philipus M. Hadjon, *Legal Protection for the Indonesian People*, Special Edition, Peradaban Publishers, Surabaya, 2007, p.2.

<sup>19</sup>Muchsin, *Legal Protection and Certainty for Investors in Indonesia*, Master of Laws, Postgraduate Program, Sebelas Maret University, Surakarta, 2003, p. 20.

<sup>20</sup>Results of interviews with elements of the management and medical committee of Hospital "X", in September & October 2022.

with the concept of responsive law Nonet and Selznick state that responsive law has the characteristic of looking for the values implicit in regulations and policies.

Nonet and Selznick states that to demonstrate a responsible capacity for adaptation, responsive law strengthens the ways in which openness and integrity can support each other. Responsive law has the characteristic of looking for the values implicit in regulations and policies. These values provide authoritative criteria that can criticize existing regulations and encourage the formation of new regulations.<sup>21</sup>

The basic concept of reform is to carry out changes, improvements, structuring and regulation in a comprehensive and systematic manner in one or several fields. Reform of service standards through legal updates, including legal updates on the role of medical committee responsibilities. For example, the medical committee in deciding on suspected medical malpractice has an influence on how quickly the hospital handles suspected medical malpractice. Because with effective and efficient actions from hospitals, public judgment that stigmatizes doctors can be reduced. Reform can be interpreted as a process of change from old conditions to new, desired conditions.<sup>22</sup>

Law can function as a means of social interaction, controlling almost all sectors of society, to minimize potential conflicts and smooth social relations in society.<sup>23</sup> In upholding the professionalism of medical staff working in hospitals, the medical committee is tasked with providing credentials for all medical staff who will provide medical services in hospitals, maintaining the competence and ethics of medical staff, and taking disciplinary action for medical staff as an approach socially relevant law.

The existence and role of a medical committee in a hospital is very important, because the medical committee is responsible for increasing the professionalism of medical staff and implementing good clinical governance so that medical staff provide services according to professional standards so as to minimize medical disputes. In this way, it is hoped that there will be harmonization in the implementation of medical committees, in order to achieve improved health services in hospitals.

#### IV. CONCLUSION

Hospital policies regarding the implementation of medical committees and clinical governance are contained in the hospital's internal regulations (hospital by laws and *medical staff by laws*). However the policy still exists seen as a complete document which is a formality in nature. The low level of understanding and awareness of hospital policies is due to the fact that socialization to all medical personnel in hospitals has not been evenly distributed. Hospitals also do not routinely review and evaluate internal regulations so that they can be relevant to follow situational developments and hospital needs. Related policies coaching and supervision of the medical committee, pThe legal protection of medical personnel has also not been stated in detail in hospital by laws in the context of the medical committee's responsibilities, so internal policy updates are needed to make them more relevant and in line with the concept of responsive law, namely prioritizing accommodation to accept social and public changes, as well as provide authority that can criticize existing regulations and encourage the formation of new regulations. Guidance and supervision of medical committees is needed to evaluate the performance of medical committees in improving the professionalism of medical staff and the implementation of clinical governance in hospitals, in order to minimize the emergence of medical service problems and improve

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<sup>21</sup>Philippe Nonet & Philip Selznick, *Responsive Law, Choices in Transition*. Translator Rafael Edy Bosco, Jakarta: Ford Foundation-HuMa, 2003, p. 64.

<sup>22</sup>Said Zainal Abidin, *Dynamics of Reform and Revitalization in Indonesia*, Suara Free, Jakarta, 2006, p. 17.

<sup>23</sup>Esmi Warassih, *Legal Institutions, a sociological study*, Semarang: Master Library Publisher, 2016, p.21.



health services in hospitals. In practice, this guidance and supervision has not been carried out routinely and continuously, both internally by the hospital director and externally by the local health department.. Some of the causes of inadequate medical committee implementation are due to limited medical committee resources and hospital management support, such as limited budget for medical committee activities, lack of guidance and supervision, limited time due to various busy professions, inadequate number of medical committees and certain medical staff, and lack of outreach to medical staff regarding the medical committee and its policies or regulations.

The medical committee is responsible for implementing clinical governance and improving the professionalism of medical staff. The responsibility of the medical committee towards medical personnel in hospitals is implemented through the duties and functions of the medical committee which is divided into 3 (three) subcommittees, namely the credentials subcommittee, professional quality subcommittee, professional ethics and discipline subcommittee as stipulated in Minister of Health Regulation Number 755 of 2011 concerning the Implementation of the Medical Committee in the hospital. In its implementation, the role and responsibilities of the medical committee have not been fully understood by elements of the medical committee and medical staff, including the concept of legal protection for medical personnel through the duties and functions of three (3) sub-committees as one of the responsibilities of the medical committee.

As Philipus M. Hadjon's concept of legal protection states, there are two types of legal protection for the people, namely preventive legal protection to prevent disputes and repressive to resolve disputes. Preventive legal protection is better than repressive, because it is better to prevent a dispute than to occur first and then have to be resolved. In order for the implementation of medical committees and the implementation of clinical governance to be carried out by all medical personnel working in hospitals, awareness is needed from medical personnel in their implementation to minimize medical claims, so that medical personnel are protected and patient safety is more guaranteed. This lack of understanding and awareness is due to the fact that there has not been even and in-depth socialization regarding the implementation of the medical committee and clinical governance, the duties and functions of the medical committee through 3 (three) medical subcommittees, and there has not been regular training for medical personnel to increase their professionalism.

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