

# LEGAL LIABILITY OF THE MEDICAL COMMITTEE FOR NEGLIGENCE IN THE IMPLEMENTATION OF PHYSICIAN CREDENTIALING A CASE STUDY OF THE FAKE DOCTOR AT PHC HOSPITAL SURABAYA

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**Abstract:** *Credentialing is an essential mechanism for ensuring the quality of medical services and patient safety through the verification of physicians' competence, legality, and professional track record before clinical privileges are granted. In practice, this process often exhibits weaknesses, particularly when it is carried out administratively without thorough verification. The case of an impostor doctor at PHC Hospital Surabaya serves as a concrete example of a credentialing system failure that allowed an unqualified individual to practice medicine, thereby posing serious risks to patient safety and institutional accountability. This situation underscores the need for an in-depth analysis of the Medical Committee's responsibility as the primary body in charge of credentialing. This study examines two main issues: first, the forms of negligence committed by the Medical Committee in carrying out physician credentialing; and second, the legal liability of the Medical Committee when such negligence results in medical malpractice. This research employs a normative juridical method using a statute approach and a case approach. Primary legal materials include Law Number 17 of 2023 on Health, Minister of Health Regulation Number 755/MENKES/PER/IV/2011 on the Implementation of Medical Committees in Hospitals, and court decisions related to medical malpractice. The analysis is conducted deductively and qualitatively to interpret legal norms concerning the liability of the Medical Committee. The findings reveal that negligence by the Medical Committee occurs due to inadequate verification of document authenticity, failure to assess ethical and disciplinary records, weak competency evaluations, and the omission of periodic re-credentialing. Such negligence gives rise to administrative, civil, criminal, and ethical responsibilities. This study emphasizes that credentialing based on due diligence constitutes a preventive legal responsibility of hospitals and serves as a legal protection mechanism for patients.*

**Keywords:** *Medical Committee, Physician Credentialing, Negligence, Legal Liability.*

## I. INTRODUCTION

Physician credentialing serves as the main mechanism to ensure the competence, legality, and clinical authority of medical professionals to protect patient safety. In practice, this process is often carried out administratively without thorough verification, leaving room for malpractice. The fake doctor case at PHC Hospital Surabaya clearly illustrates the failure

of credentialing functions and the Medical Committee's negligence in ensuring the authenticity of documents and the professional track record.

Research on malpractice generally focuses on the liability of physicians or hospitals, while specific studies on the legal responsibility of Medical Committees during credentialing remain limited. Previous literature has not analyzed the causal link between credentialing negligence and malpractice, nor has it positioned credentialing as a preventive legal instrument within clinical governance. This gap highlights the need for further study.

This research offers novelty by examining credentialing through a normative legal approach and linking it with the doctrines of vicarious liability and standard of care. This approach positions credentialing as part of a hospital's legal obligations and as a due diligence mechanism to prevent malpractice risks.

The study aims to: (1) identify forms of Medical Committee negligence in physician credentialing; and (2) analyze the legal liability of the Medical Committee when such negligence contributes to malpractice. The findings are expected to strengthen hospital accountability and improve credentialing governance in Indonesia.

## **II. RESEARCH METHOD**

This study uses normative legal research, focusing entirely on legal norms, principles, and rules governing physician credentialing and the legal responsibilities of the Medical Committee in hospitals. The approaches used include the statute approach—examining relevant laws and regulations such as Law No. 17 of 2023 on Health, Minister of Health Regulation No. 755/2011 on Medical Committees, the Civil Code, the Criminal Code, and ethical rules of the medical profession. Additionally, a case approach is used to analyze malpractice cases and court decisions related to credentialing negligence.

Legal materials consist of primary legal sources (laws and court rulings), secondary sources (legal literature, academic articles, policy reports, and doctrines on patient safety and clinical governance), and tertiary materials (legal dictionaries and encyclopedias). Materials were collected through library research.

Data analysis was conducted qualitatively using deductive reasoning—starting from general normative provisions and drawing specific conclusions about the Medical Committee's liability. Analytical techniques include systematic, grammatical, and teleological interpretation to evaluate the relevance of norms to credentialing practice and legal implications in hospitals.

## **III. RESEARCH FINDINGS**

### **3.1. Key Findings**

The findings show that negligence by the Medical Committee in credentialing at PHC Hospital Surabaya constituted not merely administrative errors but a systemic failure that allowed a fake doctor (Susanto) to practice for nearly two years using a false identity. This case, as stated in District Court Decision No. 1747/Pid.B/2023/PN Sby, demonstrates that incomplete, unauthentic, and non-continuous credentialing may lead to institutional malpractice and legal liability in multiple domains.

### **3.2. Forms of Negligence by the Medical Committee**

#### **3.2.1. Failure to Conduct Authentic Verification**

The Committee failed to conduct primary source verification of diplomas, medical registration certificates, and competency certificates. The inability to verify documents with official authorities (such as KKI, MTKI, universities) enabled the suspect to pass the selection process. This violates due diligence principles, contradicts Ministerial Regulation No. 755/2011, and potentially constitutes tort (Article 1365 Civil Code).

### **3.2.2. Disregard of Ethical and Disciplinary Records**

The Committee did not investigate ethical and disciplinary records as required under Law No. 17/2023, Ministerial Regulation No. 3/2025, and the 2023 Accreditation Standards. This shows credentialing was treated as an administrative formality, contrary to the principle of non-maleficence and Pound's theory of law as social engineering.

### **3.2.3. Formalistic Credentialing**

Credentialing was conducted without clinical competence evaluation. Administrative documents were used as the sole basis without skill assessments, peer review, or validation of actual competence. This aligns with Fitriani (2021) but this study provides concrete evidence from a real hospital case.

### **3.2.4. Granting Clinical Privileges Beyond Competence**

The Committee granted clinical privileges to an individual without medical competence. This reflects a failure of the *lex artis* principle and creates vicarious liability for the hospital under Article 1367 Civil Code and Article 193 of Law No. 17/2023.

### **3.2.5. Negligent Monitoring and Re-credentialing**

Monitoring and re-credentialing were not conducted regularly. Inconsistencies in photos and registration certificates were only discovered during contract renewal. This proves credentialing was not practiced as a continuous process.

### **3.2.6. Failure to Use Updated Competence Evidence**

The Committee did not assess updated evidence such as CME, clinical audits, patient safety incident reports, or peer review. This violates the principle of objectivity (Article 10 Law No. 30/2014).

## **3.3. Legal Liability of the Medical Committee**

The Medical Committee has a statutory mandate to conduct credentialing, re-credentialing, and maintain professional standards. Therefore, negligence in this process generates legal consequences not only administratively but also within criminal, civil, and ethical domains. Such negligence enabled an incompetent individual to acquire clinical authority, increasing the risk of illegal medical practice and malpractice.

This case demonstrates credentialing failures, including non-verification of document authenticity, professional history, and competence evaluation. Theoretically, this negligence relates to: (1) Preventive Legal Theory, credentialing serves as a risk-prevention mechanism; (2) Vicarious Liability Doctrine, Committee errors legally implicate the hospital; (3) Social Engineering Theory, credentialing functions as social protection for patient safety.

### **3.3.1. Criminal Liability**

The main perpetrator (Susanto) was sentenced to 3 years and 6 months imprisonment under Article 378 Criminal Code. However, the decision also highlights institutional negligence because credentialing failed to prevent illegal medical practice.

### 3.3.2. Administrative Liability

Articles 291 and 308 of Law No. 17/2023 allow sanctions on hospitals ranging from written warnings to license revocation. Internal sanctions given were minimal and did not reflect due diligence.

### 3.3.3. Ethical Liability

Members of the Medical Committee may face sanctions from the Indonesian Medical Ethics Council (MKEK) for violating non-maleficence and professional accountability.

### 3.3.4. Civil Liability

Patients may file civil claims for compensation under Articles 193 and 308 of Law No. 17/2023. The hospital bears responsibility through vicarious liability because the Committee is an official organ of the institution.

## IV. CONCLUSION

This study concludes that negligence by the Medical Committee in credentialing physicians is a determining factor enabling illegal medical practice and increasing malpractice risks. Negligence occurred in document verification, competence assessment, ethical record investigation, and re-credentialing, showing that credentialing has not been implemented as a preventive legal instrument to ensure quality and patient safety.

From a legal standpoint, Committee negligence results in individual and institutional liability through vicarious liability. Legal consequences include criminal liability for perpetrators, administrative sanctions for hospitals, ethical sanctions for Committee members, and potential civil lawsuits from patients. Thus, credentialing must be understood as a binding legal mechanism, not merely administrative procedure.

This study urges strengthening credentialing systems through authentic primary source verification, enhancing oversight by Medical Committees, integrating data with national registries, and instituting periodic evaluations. Proportional sanctions must also be enforced to ensure the preventive function of credentialing.

Practically, these findings may inform the development of national credentialing policies, risk-based credentialing SOPs, and improvements in hospital clinical governance. Proper implementation is expected to make credentialing an effective patient-protection mechanism and strengthen hospital accountability in healthcare services.

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