

## The Organizational Obligations of Hospital in Law of Torts

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### Abstract

The traditional risk management focuses on human error. But to err is human. That is the truth we have to accept. Adding more individual responsibility of provider bring the medicine to defensive medicine. The truth is many system errors may shelter under some of the provider errors, if we exact look over a medical malpractice case for system errors. Types of errors are Provider error only, Provider and system error, system error only and neither provider nor system error. So provider errors are not only the cause of patient injury. The medical accidents have several reasons. The system errors may be the root cause of medical accidents, particularly in the big hospitals. Total system errors contain Medication-related error, Communication error, Health care-associated infection, Medical record error, Identification error (wrong-site surgery), Medical device failure and surgical fires.

Adding more regulations and mandates is not the only solution to improve patient safety. In consideration of legislation to reduce medical errors and improve medical safety and quality of care, legislators should first recognize that the mostly medical errors are not only personal negligence, also with system errors. We call for the transformation from a culture of individual blame to a more open and scientific evaluation of medical errors. We should only foreground the liability for organizational errors. So we can give medical leaders the initiative to re-examine issues related to patient safety and overall quality of care.

**Keywords: neighbor principle, outsourcing, patient safety, risk management (Risikomanagement), patient documentation**

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(Dokumentationsmanagement), hospital organization, medical guideline, clinical practice guideline (medizinische Leitlinien), organizational guidelines (Organisationsleitlinien, Qualitätsicherung), traffic duties (Verkehrspflichten), safety duties (Verkehrssicherungspflichten), organizational obligation (Organisationspflicht), nosocomial infection (nosokomial Infektion), hospital infection (Krankenhausinfektion), emedical error, system error