


## Original Research

**Qualitative study legal protection of the implementation of anesthesiologists' duties in delegation of physician authority****Tri Hapsari Listyaningrum\*** , Sri Mayang Sari

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Submitted: April 4, 2023

Revised: May 22, 2023

Accepted: July 20, 2023

**Abstract**

Anesthesiologists have the main duties in Anesthesia Structuring Care services, including pre-, intra, and post-anesthesia. Kepmenkes Number 1541 of 2022 concerning National Guidelines for Medical Services for Anesthesiology and Intensive Therapy Management and Minister of Health Regulation Number 18 of 2016 concerning Licensing and Implementation of Anesthesiology Practice are legal products that regulate the implementation of anesthesia services. The authority of anesthesiologists in intra-anesthesia includes attribution authority, government mandates, and assignments. The delegation of authority to Permenkes Number 18 of 2016 will result in legal responsibility in criminal, civil, and administrative law. The two Permenkes have regulated the authority to carry out anesthesia measures and are the responsibility of Anesthesiologists with their expertise and authority. The Health Workers Law in Article 65 paragraph (1) contains the legal basis for delegation of authority for medical action. In carrying out health services, health workers can receive delegation of medical action from medical personnel. This study aims to determine the legal protection of anesthesiologists in carrying out delegation of authority for professional duties in hospitals. This research is qualitative with the sociological juridical method and single case design. Sampling by purposive sampling through interviews with doctors and anesthesiologists related to delegation of authority of as many as six people. The results of this study show that in carrying out their duties, anesthesiologists have been protected by the existence of hospitals by law made by the medical committee with the Standard Operating Procedures and Details of Work Authority of doctors and anesthesiologists in hospitals. Research advice to maintain the proper exercise of the anesthesiologist's authority.

**Keywords:** legal protection, anesthesiologist, delegation of authority**1. Introduction**

Health is a human right guaranteed in the 1945 Constitution of the Republic of Indonesia. This is regulated in Article 28H, paragraph (1), which states that everyone has the right to get health services. Article 34, paragraph (3) states that the state is responsible for providing adequate public service facilities. The provision of public service facilities in the health sector, one of which is a hospital (UUD, 2000).

Law of the Republic of Indonesia Number 36 of 2014 concerning Health Workers Article 1 paragraph (1) states that health workers are everyone who devotes themselves to the health sector and has knowledge and/or skills through education in the health sector, which for certain types requires authority to carry out health efforts. Health services realize the highest degree of health for the community. Integrated and comprehensive health efforts are carried out through public health efforts. Improving the quality of health services in hospitals focuses on improving healing and recovery of health as a whole and integrated, including efforts to improve the quality of Health Workers (Republic of Indonesia, 2014).

Anesthesia services are medical actions that must be carried out by health workers who meet the expertise and authority in the field of anesthesia services, namely anesthesiologists, who, in their

implementation, can be assisted by other health workers, in this case, the health worker in question is an anesthesiologist. Anesthesiologists have the main duties in Anesthesia Structuring Care services, including pre-anesthesia, intra-anesthesia, and post-anesthesia.

Provisions regarding anesthesiology medical services in the Decree of the Minister of Health Number 1541 of 2022 concerning National Guidelines for Anesthesiology and Intensive Therapy Management Medical Services (Kemenkes, 2022). Provisions for implementing anesthesia management practices in Minister of Health Regulation Number 18 of 2016 concerning Licensing and Implementation of Anesthesia Stylist Practices (Menteri Kesehatan, 2016). These two provisions are legal products that regulate the implementation of anesthesia services in the absence of an Anesthesiologist. The authority of medical responsibility for anesthesia can be delegated to doctors or other health workers through the authority delegation procedure regulated in the Hospital's Internal Regulations. The legal basis for delegation of authority for medical action in the Law on Health Workers No. 36 of 2014 Article 65 paragraph (1) in carrying out health services, health workers can receive delegation of medical action from medical personnel (Republic of Indonesia, 2014). The implementation of attribution authority for intra-anesthesia services by Permenkes RI No.18 of 2016 was obtained as much as 91 (99%). The implementation of the delegation of mandate authority from anesthesiologists is as much as 65 (70%). The implementation of delegation of authority based on government assignments amounted to 41 (44%) ( Natsir, 2020).

Previous research stated that anesthesiologists in carrying out anesthesia services are authorized to take action in pre-, intra, and post-anesthesia with the principle of professionalism as the basis for the formation of legal regulations that prioritize respect for the profession carried out based on personality, honesty, and good faith supported by the principle of justice (Putra, 2016). Activities for delegating medical authority to West Sulawesi Provincial Hospital nurses and Mitra Manakarra Mamuju Hospital consist of written training, standard operational procedures, and delegated medical actions (Yani et al., 2020).

## **2. Research Methods**

The research ethics test was carried out at the Hospital Ethics Committee with number 00137/KT.7.4/V/2023 dated May 30, 2023. Empirical or sociological legal research consists of research on legal identification and legal effectiveness. Research on legal effectiveness is research discussing how the law operates in society. The focus of empirical or juridical sociological, legal research is the main implementation of applying law to achieve legal goals in society. This research is qualitative research with a single case design. This research design is exploratory descriptive with a single case study design. An exploratory, descriptive design aims to describe or describe the legal protection of the implementation of the duties of administrators in the delegation of physician authority based on Minister of Health Regulation No. 18 of 2016 concerning Licensing and Implementation of Anesthesiologist Practice. The data taken is primary data from in-depth interviews with structured interview guidelines data collection in natural settings. The study was conducted for six months. This study will examine the knowledge of legal protection, the implementation of duties as an anesthesiologist, and the implementation of professional duties. The sampling technique in this study used purposive sampling techniques by taking research subjects of anesthesiologists and anesthesiologists who worked in the Central Surgical Installation room at the Hospital. The sample in this study amounted to 6 people, with one person with an anesthesiologist profession and five anesthesiologists.

### 3. Results and Discussion

The fulfillment of the Right to Health is motivated by the issue of the uneven distribution of the four elements of the principle of fulfilling the right to health throughout Indonesia, as well as the absence of a mechanism that can ensure the harmony and integration of laws and regulations related to the fulfillment of health rights. Four elements of the principle of fulfilling health rights, namely availability, accessibility, quality, and equality. Availability can be interpreted as the availability of a number of health services such as facilities in the form of facilities (hospitals, puskesmas, and clinics) and health infrastructure (medicines, health workers, and health financing) that are sufficient for the population as a whole (Eliza, 2017). Physicians can delegate authority to nurses through delegation or mandate. Delegation of authority is often followed by delegating obligations, whereas mandates are not (Sylvana et al., 2021).

Legal protection is the protection of dignity and dignity, as well as the recognition of human rights possessed by legal subjects based on legal provisions from arbitrariness or as a collection of regulations or rules that will be able to protect one thing from other things (Pesulima & Hetharie, 2020). Regulations regarding the legal protection of anesthesiologists in health services in the structure of laws and regulations in Indonesia have shown a synchronization, meaning that lower regulations are by higher regulations, and higher regulations are the basis for the formation of lower regulations (Pradika, 2020).

In this study, the Hospital Medical Committee has made the Hospital By Law by making Standard Operating Procedures (SOP) and Details of Work Authority regarding work procedures in the Central Surgical Installation Room (IBS). The preparation of SOPs and RKK regarding anesthesia is based on the Decree of the Minister of Health Number 1541 of 2022 concerning National Guidelines for Medical Services for Anesthesiology and Intensive Therapy Management and Minister of Health Regulation Number 18 of 2016 concerning Licensing and Implementation of Anesthesiologist Practices. In this study, the research subjects already knew about the laws and regulations, SOPs, and RKK, which are the basis for exercising authority (anesthesiologist) and its delegation.

As conveyed by research subjects, law implementation in hospitals has been carried out well by medical and health personnel following the applicable rules of SOP and RKK at IBS.

"Yes, in my opinion, it has been implemented well. We follow the rules determined by the regulations set by law" (Data Primer, June 2023).

"Legally, we as administrators accompany anesthesiologists then work together" (Data Primer, June 2023).

The form of the legal protection of anesthesiologists in health services in the structure of laws and regulations in Indonesia includes guarantees for the regulation of the rights of anesthesiologists as members of the Indonesian Anesthesiologist Association. Legal protection Anesthesiologists obtain legal protection arrangements to obtain complete and correct information from patients and/or their families. Legal protection in carrying out duties by competence and authority, professional service rewards. Protection of occupational risks, occupational safety, and health, regulatory guarantees of obtaining treatment by human dignity and dignity, moral Decency, as well as religious values, guarantees of professional development arrangements, guarantees of arrangements to reject the wishes of recipients of health services or other parties that are contrary to regulations, guarantees or other rights arrangements (Pradika, 2020). This study is related to legal protection in carrying out duties and

delegating authority to the anesthesiologist in charge of patient services, the hospital's main Doctor in Charge of Service (DPJP).

"If in the hospital itself, there is a hospital by law, for hospital bylaw issued by the medical committee, it only follows from the Ministry of Health, namely the health law will be changed, yes, we follow the development of health laws So far if there is a case that occurs ee the community or the patient or the patient's family is always not at the anesthesiologist but the main DPJP, The operator may be involved DPJP anything, well that will then be held accountable. So, for the anesthesiologist to be hospital-by-law is also protected, meaning nothing is affected by the existing prosecution line. He will be called to be a witness. What has happened is that the case taking in the actual Intensive case and it was summoned by the MKTKI code of ethics panel and the main target in the main DPJP then other health workers will be called to be witnesses and including DPJP anesthesia" (Data Primer, June 2023).

Regulation of the Minister of Health of the Republic of Indonesia Number 18 of 2016 concerning Licensing and Implementation of Anesthesiologist Practice Article 12 is the legal basis governing the delegation of authority of doctors to anesthesiologists. This Minister of Health is the basis for the Hospital Medical Committee. This research is based on making Standard Operating Procedures (SOP) for Services and Work Authority Details (RKK) a form of hospital by law. Legal protection of nurses in carrying out the delegation of authority in a juridical and moral manner is the responsibility of anesthesiologists because nurse anesthetists in carrying out their duties are based on directions and instructions from the doctor (Sismulyanto, 2023). In this study, the legal relationship between doctors and anesthesiologists in the work unit at IBS is a collaborative team in providing patient care. Doctors and anesthesiologists have the authority and code of ethics by their respective professions in carrying out their professional duties, such as answers from research subjects as follows:

"The profession is different even though in working complementary and helping each other, each has its legal basis and code of ethics, meaning that both paths are as stipulated, but still one goal is to provide services to patients as well as possible while still following the provisions and boundaries that have been set" (Data Primer, June 2023).

"Understanding each other's authority from doctors, asking what anesthesia will be used later" (Data Primer, June 2023).

"If the relationship is good, then there is the anesthesiologist's authority for every action. However, for the authority to act, it will also be regulated by ASA how many ASA I to II only and so far for the relationship is more regulated in the SP RKK, there is an ASA action on how much can be done if the doctor is not available" (Data Primer, June 2023).

"It is collaborative, yes, with anesthesiologists by their respective competencies. While at IBS, anesthesiologist friends will assist DPJP anesthesiologists, especially in monitoring later for extubation. For example, management in post-anesthesia care, recovery room, or post-anesthesia care unit. For all anesthesia decisions, it is in the anesthesia DPJP. Then, later, the anesthesiologist will carry out anesthesia preparations, then the anesthesiologist will perform the anesthesia action, and monitoring is assisted by the stylist" (Data Primer, June 2023).

The results showed the legal consequences of delegating medical actions from specialists to attending physicians, which failed in medical efforts. Legal responsibility rested with the specialist as long as the medical actions carried out by the attending physician were by specialist instructions. The delegation of medical action by DPJP to open-duty doctors to obtain repressive legal protection through out-of-court dispute resolution through a mediation process (Yuarsa, 2020). Delegation of authority is the transfer of attribution authority from one organ (institution) of government to another organ so that the delegator (the organ that has given authority) can test the authority on its behalf (Aineka & Hendra, 2015). According to KBBI, delegation means a person appointed and sent by an association (state and so on) in a negotiation (deliberation), handover, or delegation of authority and delegation of authority. Delegation of authority from doctors to nurses can be done by delegation or mandate (Merdekawati, 2021). The delegation of responsibilities accompanies the delegation of authority, while the mandate is not accompanied by the delegation of responsibilities (Pramesti, 2013). The delegation of authority often occurs orally by talking directly or by telephone because the doctor is not in place and is different from where health services occur (Sylvana et al., 2021).

Authority theory essentially regulates the use and delegation of authority, including the authority of doctors and anesthesiologists. Authority is considered valid if viewed from the source from which the authority was born or obtained. Then there are three categories of authority: attributive, delegative, and mandated (Jamillah & Yulianto, 2018). This study involved stylists and anesthesiologists in interviews conducted by all research subjects, knowing about the regulations governing authority in each profession and the delegation of authority in it. SOPs implement delegation of authority, and RKK is imposed at the Hospital. The Main Service Handler Doctor (DPJP) is the person in charge of patient care.

The delegation of authority to health workers is regulated in Health Law Number 36 of 2014 concerning Health Workers Article 65 paragraph, which states that Article:

- a. In carrying out health services, Health Workers can receive the delegation of medical action from medical personnel.
- b. The delegation of actions as referred to in paragraphs (1) and (2) shall be carried out with the following conditions:
  1. The devolved action is included in the abilities and skills already possessed by the delegate.
  2. The execution of the devolved act remains under the supervision of the assignee.
  3. The assignee remains responsible for the devolved action as long as the execution of the act is by the given assignment.
  4. Devolved actions do not include decision-making as the basis for implementing actions.
  5. Further provisions regarding the delegation of actions, as referred to in paragraphs (1), (2), and paragraph (3), are regulated by Ministerial Regulation ( Republik Indonesia, 2014).

Minister of Health Regulation Number 18 of 2016 concerning Licensing and Implementation of Anesthesiologist Practice Article 10 and Article 11 are the authority of anesthesiologists in carrying out their profession, and Article 12 authority is a delegation of authority Anesthesiologists can carry out services:

- a. Under supervision of mandated delegation of authority from anesthesiologists or other physicians and/or
- b. Based on government assignments as needed (Menteri Kesehatan, 2016).

In the hospital where the research is conducted, there is a delegation of authority from doctors to anesthesiologists. SOPs and RKK carry out this delegation of authority. Anesthesiologists in hospitals already have their competence as anesthesiologists and can legally carry out their competitive duties. Minister of Health Regulation Number 18 of 2016 concerning Licensing and Implementation of

Anesthesiologist Practice Article 13 concerning the mandated delegation of anesthesiologists or other doctors as referred to in Article 12 number 1, in order to assist anesthesia services, which include implementation of anesthesia by the instructions of anesthesiologists, installation of non-invasive and invasive monitoring devices, administration of anesthetic drugs, overcoming complications that arise, airway maintenance, installation of mechanical ventilation devices, installation of nebulization devices, termination of anesthesia actions, and documentation of medical records (Menteri Kesehatan, 2016).

Delegation of authority by Minister of Health Regulation Number 18 of 2016 concerning Licensing and Implementation of Anesthesiologist Practice Article 16 can be carried out to save lives. The Anesthesiologist can perform anesthesia service actions beyond his authority in the context of first aid aimed at reducing pain and stabilizing the patient's condition. The Anesthesiologist must refer the patient to competent health workers after completing first aid (Minister of Health, 2016).

In this study, there was a division of tasks in patient care. Anesthesiologists had duties in the IBS room as follows:

"Everything is listed if the organizer's task is from pre, intra, to post. Suppose that the task was returned in SP RKK. In that case, it has been listed in the pre, anything from the preparation of STATICS to drugs and others, then intra maintenance and others to the post-operation there are also all each stylist already there is one-on-one" (Data Primer, June 2023).

"Assisting in monitoring then termination of anesthesia then supervision in post-anesthesia then assisting in the management of related gadar, for example, there is cardiac arrest, shock" (Data Primer, June 2023).

The collaborative role between doctors and anesthesiologists is carried out according to the competence of each profession. Implementing care at the anesthesiologist's Central Surgical Installation (IBS) will assist DPJP anesthesiologists, especially in monitoring and extubation. The anesthesiologist performs management in post-anesthesia care, recovery room, or post-anesthesia care unit. The anesthesia decision is at DPJP anesthesia, and the anesthesiologist will prepare the anesthesia. The anesthesiologist will perform the anesthesia action and assist with the monitoring. Assist in monitoring the termination of anesthesia, supervision in post-anesthesia, and managing related emergency care, such as cardiac arrest or shock.

#### **4. Conclusion**

Legal protection of anesthesiologists in the delegation of authority to carry out professional duties based on the description of the results and discussion, it was concluded that legal protection for anesthesiologists in hospitals had been implemented properly, the implementation of delegation of authority of anesthetists by SOPs and RKK.

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