



Legal and ethical challenges in delegating clinical authority to nurses and anesthetists: Towards equitable regulation in Indonesia

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Abstract

Anesthesiologists provide essential anesthesia, sedation, and critical care services. However, Indonesia has a critical deficiency and an unequal distribution of anesthesiologists and intensive care specialists. To fill this void, clinical autonomy is regularly transferred to anesthetists by default, which is sound practice but involves intricate legal and ethical issues. Overlapping powers and vague professional roles add to the muddles, generating conflicts of duty and amplified malpractice hazards. This ambiguity has profound implications for patient safety and erodes the trustworthiness of medicine. This study highlights the pressing need for regulatory change to demarcate professional jurisdiction, enhance patient safeguards, and promote equitable access to essential health care services. A consistent legal framework has become necessary to improve accountability and long-term sustainability of Indonesia's health system.

Keywords: Clinical authority, Legal and ethical challenges, Nurses and anesthetists, Healthcare regulation, Equity in healthcare

Introduction

In Indonesia, the shortage of anesthesiologists is a pressing issue that significantly impacts patient safety. In 2024, the ratio of anesthesiologists in Indonesia was only about 1.4 per 100,000 population, far below the World Federation of Societies of Anaesthesiologists (WFSA) recommendation of 5 per 100,000 (Kempthorne et al., 2017). This scarcity is particularly acute in regional hospitals, where anesthesia services often rely on nurses or anesthetists due to limited human resources. In this context, the delegation of clinical authority has emerged as a pragmatic solution to maintain continuity of medical services.

However, this practice of delegation is not without its share of complex legal and ethical issues. Blurred boundaries of authority, overlapping responsibilities between doctors, nurses, and hospitals, and weak accountability mechanisms significantly increase the risk of malpractice and erode public trust in the healthcare system. When medical incidents occur, patients and families often face difficulties determining who is legally responsible—the doctor in charge, the non-doctor who performed the procedure, or the hospital institution itself. This

highlights the urgent need for effective implementation and supervision of the law to prevent such malpractices.

Several previous studies have highlighted the root of this problem. Research by Rina Kumala et al. (2023) found that regulating anesthesia practice licenses through STRPA and SIPPA has not been effective due to weak supervision and legal awareness among health workers (Kumala et al., 2023). Meanwhile, a study by Fikri Mourly Wahyudi et al. (2023) shows a gap between the competency standards stipulated in KMK No. 722 of 2020 and the clinical abilities of anesthetists (Wahyudi et al., 2023; Jam et al., 2025). A study by Widagdo Rekso Negoro (2025) even emphasized that when anesthesiologists act outside their authority, they are potentially subject to legal action without adequate protection, even if it was taken in an emergency (Rekso Negoro, 2025). A similar point is made by Setionegoro (2022), who argues that weak institutional support and doctor supervision are the main factors contributing to ethical violations and malpractice (Setionegoro, 2024; Mansoor et al., 2025).

From a theoretical perspective, the doctrine of vicarious liability provides a basis for hospitals as

institutions to be held responsible for medical personnel working under them, as long as those actions are carried out within the scope of their professional duties. Meanwhile, professional ethics theory and the principles of distributive and corrective justice emphasize that moral and legal responsibility in health services must be proportional to the authority granted and oriented toward protecting patients as the most vulnerable party.

Based on these critical conditions and findings, this study aims to analyze the legal and ethical challenges in delegating clinical authority to nurses and anesthesiologists and formulate a regulatory model that is fair and oriented towards patient safety. The findings of this study are expected to significantly contribute to the formulation of health policies that ensure clarity of professional responsibilities, enhance legal protection for patients and medical personnel, and strengthen the principle of justice in the governance of anesthesia services.

Research Method

The research approach used in this research is normative-empirical legal research, a thorough approach comprising analysis of the legal and ethical problem of delegating clinical authority to anesthesiologists and nurses and developing fair regulatory norms in Indonesia. A normative-legal approach critically examined several laws and ethical norms governing medical and nursing activities, including Law No. 17 of 2023 on Health and Law No. 38 of 2014 on Nursing (Noor, 2023). Simultaneously, an empirical approach was followed to understand the implementation of these norms in practice by conducting semi-structured interviews with anesthesiologists, nurses, anesthesiology technicians, and affected hospital officials. Research data sources included primary data in the form of interviews and observation in various hospitals and secondary data in the form of scientific research studies, professional body reports, previous research outcomes, and court judgments for medical disputes. The data were qualitatively analyzed using deductive and interpretive approaches, grounded on professional liability theory, deontological ethics, and John Rawls' distributive justice, to analyze the relation between legal protection, moral responsibility, and patient safety in clinical authority delegation in Indonesia. Through this comprehensive research process, the

findings of this study are guaranteed to be valid and dependable.

Results and Discussion

Legal and ethical challenges in delegation

Current Indonesian legislation offers significant ambiguity and overlap in the delegation of clinical authority in anesthesia services (Hariandiny Fadli, 2024). The recategorization of the nurse anesthetist as an anesthesia technician under Minister of Health Regulation No. 18 of 2016 has instigated professional conflicts between the Indonesian Anesthesia Technicians Association (IPAI) and the Indonesian National Nurses Association (PPNI), leading to confusion about legitimate clinical authority (Fahmi, 2022; Masih et al., 2025). This regulatory dualism complicates the credentialing process and creates uneven supervisory structures, with many practitioners uncertain about their legal scope of practice.

The prevailing legal framework lacks precise accountability mechanisms for delegated duties, which exposes nurses and anesthetists to risks of malpractice liabilities with limited legal recourse. This situation violates the doctrine of legal certainty embedded in Julius Stahl's *Rechtsstaat* theory, where government action—including the delegation of medical authority—must align with existing legislation safeguarding human rights (Fuady, 2011). The multitude of incongruent standards exacerbates these issues, generating professional conflicts that undermine collaboration needed for patient safety.

Furthermore, ethical concerns stem from undefined professional role boundaries. Unclear delegation of responsibility compromises patient trust and can lead to practitioners' moral distress when confronted with legal uncertainty (Sanusi & Setiadi, 2024). It is especially crucial for anesthesia and sedation care, where authority and accountability must be clearly delineated due to the high risk inherent in interventions. These ethical quandaries necessitate legal clarity to facilitate practitioners' ability to perform their work confidently, upholding patient well-being. Lastly, tackling these legal and ethical issues necessitates systematic regulation reforms that harmonize the contending laws, delineate professional roles, and create clear delegation,

supervision, and credentialing guidelines. Implementing legal protections of patients and practitioners will reduce liability risks and promote interdisciplinary collaboration, ultimately improving the quality and safety of Indonesian anesthesia care.

Implications for patient safety and trust

Ambiguous professional roles and legal uncertainty also compromise patient safety by increasing the potential for medical errors and postponing the delivery of essential care. Data suggests that 36.96% of Indonesian districts/cities do not have anesthesiologists, and 14.18% of provinces have no anesthesiologist in their provincial public hospitals (Rahmani, 2025). Uncertainty in the laws that regulate the delegation of clinical authority often causes healthcare practitioners delegated to perform specific tasks to shy away from making medical decisions (Golo et al., 2019), thereby disrupting continuity and quality of anesthesia and sedation care, which are critical to patient safety.

This uncertainty of role and authority also erodes coordination within the multidisciplinary teams that manage patients, thereby increasing exposure to malpractice and procedural errors. The lack of a competent legal framework exposes nurses and anesthesiologists to vague legal risks, which erodes their confidence and professionalism. This erodes patient and public confidence in the healthcare system, negatively impacting patient compliance and overall health outcomes.

From a theoretical perspective, John Rawls' theory of justice asserts that inequality is only acceptable if it benefits those who are most disadvantaged (Rawls, 1997), namely, patients in areas with limited access to healthcare, and guarantees the fundamental right to safe and quality healthcare services. Furthermore, Julius Stahl's theory of the rule of law (*Rechtsstaat*) emphasizes the importance of the supremacy and certainty of law in protecting the rights and obligations of all parties involved in healthcare services. The inconsistency, multiple interpretations of regulations, and the confusion surrounding professional nomenclature threaten these principles and give rise to injustice and structural losses.

Therefore, regulatory reform of clinical delegation must prioritize patient protection and legal certainty

for healthcare workers (Heriani et al., 2019). The delegation system must be designed to reduce service gaps, maintain quality, and provide clarity of legal responsibility in accordance with the mandate of Article 28H of the 1945 Constitution. Forming harmonious and equitable regulations, referring to Rawlsian principles of social justice and the theory of the rule of law, is key to improving patient safety, building public trust, and ensuring the sustainability of the national health system.

The need for regulatory reform

Reform of the regulatory framework to harmonize and streamline the delegation of clinical authority is called for to end perennial ambiguities and conflicts (Yumame et al., 2025). This can include revoking inconsistent regulations, such as Ministry of Health Regulation No. 18/2016, which indiscriminately reclassified nurse anesthetists as anesthesia technicians without clear professional boundaries, creating uncertainty and interprofessional tensions. It is necessary to amend the Health Law (UU No. 17/2023) and government regulations (PP No. 28/2024) to provide a complete legal framework that recognizes nurses and anesthetists under one stated professional title and competency standard. The government must also enact clear-cut delegation, supervision, credentialing, and accountability criteria to protect patients and healthcare workers from legal risks and ensure high-quality care.

In addition, systematic policy reform must be attuned to Indonesia's vast spatial differences and uneven distribution of anesthesia specialists. Several of the provinces, particularly eastern Indonesia, have no access to anesthesiologists at all, and thousands of trained nurses and anesthetists are underutilized or without formal clinical authority due to fragmentation of regulation. A fair regulatory framework ensuring proper task-shifting to these trained personnel will enhance effective workflow, foster fair access to anesthesia services, and reduce waiting times for life-saving interventions, thus safeguarding patients' constitutional rights to fair health care.

Policy harmonization also needs to be consistent with the hierarchy of legal norms in Indonesian law (Marikar, 2023), wherein the rules at the ministry level cannot violate higher laws, and institutional

policies must be compliant with both for legal certainty and to prevent administrative sanctions against practitioners who work outside their unspecified scope. To address these systemic issues, based on the spirit of social justice and human rights principles enshrined in Pancasila and the 1945 Constitution, regulatory harmonization must be carried out to improve the sustainability of Indonesia's health system and ethical accountability.

Toward sustainable health system

A transparent and equitable regulatory framework is essential for supporting a sustainable health system by optimizing Indonesia's limited anesthesia workforce (Afrilies et al., 2025). The current anesthesiologist maldistribution of just 1.4 per 100,000 population versus the WFSA's aspiration of 5 per 100,000 exacerbates disparities in access, particularly in rural and disadvantaged regions. By establishing clear legal standards and uniform competency levels for nurses and anesthetists, the system can better utilize such trained professionals, enhancing provider morale through assured legal protection and professional recognition. This also facilitates effective interprofessional working by eliminating ambiguity of authority, thus enabling a clinical setting. Optimal use of resources is achieved through task-sharing with controlled delegation protocols, bridging service gaps without compromising patient safety.

Such regulatory clarity is not only compatible with Indonesia's constitutional articulation of health as an inalienable right of man and for the promotion of social justice, aimed at giving access to poor and vulnerable groups, but is also conducive to this. Theoretically, Kelsen's norm hierarchy articulates that hospital-level policy cannot be at odds with higher legal systems such as national law and ministerial regulations; non-conformity leads to legal uncertainty and conflict of authority (Kelsen, 2007). Hence, the reforms must be directed toward creating an integrated normative order in law cascading from legislation to institutional process and making all accountable at all levels.

At the same time, applying Rawlsian principles of justice places the necessity of fairness not just to patients but also to healthcare providers. Rawls 'difference principle' supports inequalities only when

they work in favor of the least advantaged—in this case, groups in underserved areas and healthcare providers working under ambiguous authorities. Securing these groups' appropriate legal protections and fair access to opportunities works toward an equitable health system. This holistic legal-ethical matrix substantiates sustainability by reconciling rights, responsibilities, and social justice, thus strengthening Indonesia's healthcare delivery and workforce capability.

Conclusion

Indonesian delegation of clinical competency to nurses and anesthetists is a step towards addressing the most critical workforce shortages, but is marred by legal ambiguity and ethical issues. Empirical evidence underscores the urgent shortage between the distribution of anesthesiologists and population needs, fueled by inconsistent regulations that create insecurity and interprofessional rivalry. From rule of law and justice frameworks, reforms must unify professional vocabulary, clarify delegation practices, and provide equitable access to nationwide anesthesia services. The healthcare system can affordably defend patient safety, professional freedoms, and public confidence through holistic, consistent regulation.

References

- Afrilies, M. H., Naili, Y. T., & Lina, A. A. (2025). Regulatory and policy analysis of employment and health protections in Indonesia's creative economy. *BIO Web of Conferences*, 152. <https://doi.org/10.1051/bioconf/202515201018>
- Fahmi, Z. (2022). *IPAI Jateng Kunjungi Dinkes Sragen, HIPANI PPNI siap Bagikan Permenkes 519/2011 ke IPAI*. Hipani.Id. <https://www.hipani.id/media-informasi/ipai-jateng-kunjungi-dinkes-sragen-hipani-ppni-siap-bagikan-permenkes-519-2011-ke-ipai>
- Fuady, M. (2011). *Teori Negara Hukum Modern (Rechstaat)*. PT. Refika Adhitama.
- Golo, T., Novianto, W. T., Sebelas, U., & Surakarta, M. (2019). *Legal consequences in delegating medical authority to nurses: the Indonesian legal perspective*. 121–128.

- Hariandiny Fadli, K. (2024). Legal Protection for Medical Personnel in Providing Anesthesia Services to Patients Based on Health Laws. *IHSA Institute*, 13(5), 1110–1123. <https://legal.isha.or.id/index.php/legal/index>
- Heriani, I., Gunarto, & Masdhurohatun, A. (2019). Legal protection of patient rights in Indonesia. *Sriwijaya Law Review*, 3(1), 75–85. <https://doi.org/10.28946/slrev.vol3.iss1.134>. pp75-85
- Kelsen, H. (2007). *General Theory of Law and State* (Somardi (ed.)). Bee Media Indonesia.
- Kemphorne, P., Morriss, W. W., Mellin-Olsen, J., & Gore-Booth, J. (2017). The WFSA Global Anesthesia Workforce Survey. *Anesthesia and Analgesia*, 125(3), 981–990. <https://doi.org/10.1213/ANE.00000000000002258>
- Kumala, R., Suherman, H., & Wahyuni, D. (2023). Efektivitas Regulasi Penyelenggaraan Praktik Penata Anestesi dengan STRPA dan SIPPA dalam Pelayanan Anestesiologi Perioperatif. *Jurnal Kebijakan Kesehatan Indonesia*, 12(1), 22. <https://doi.org/10.22146/jkki.81459>
- Marikar, M. F. (2023). Harmonizing the National Legal System. *Jurnal Legalitas*, 16(2), 30–38.
- Noor, A. (2023). Socio-Legal Research: Integration of Normative and Empirical Juridical Research in Legal Research. *Jurnal Ilmiah Dunia Hukum*, 7(2), 61–65. <https://doi.org/10.56444/jidh.v7i2.3154>
- Rahmani, M. F. (2025). *Paradoks Keperawatan: Negara, Regulasi Pemerintah Dan Perawat "Anestesi."* Hipani.Id. <https://www.hipani.id/media-informasi/paradok-keperawatan-negara-perawat-anestesi-dan-regulasi-pemerintah>
- Rawls, J. (1997). *A Theory of Justice*. Belknap Press.
- Rekso Negoro, W. (2025). Perlindungan Hukum Bagi Penata Anestesi Di Fasilitas Kesehatan Yang Tidak Terdapat Dokter Spesialis Anestesi. *Prepotif: Jurnal Kesehatan Masyarakat*, 9(1), 418–428. <https://doi.org/10.31004/prepotif.v9i1.41355>
- Sanusi, S., & Setiadi, A. S. (2024). Doctor's Responsibility for Delegation of Authority to Nurses that Cause Unexpected Events. *International Journal of Social Service and Research*, 4(01), 115–126. <https://doi.org/10.46799/ijssr.v4i01.673>
- Setionegoro, A. S. (2024). Isu Hukum dan Etika Dalam Praktek Anastesi di Indonesia. *Magistra Law Review*, 05(1), 1–22. <https://doi.org/10.56444/malrev>
- Wahyudi, F. M., Suryanah, A., Juarta, T., & Lidya Nugraha, I. (2023). Implementasi Kmk 722 Tahun 2020 Tentang Standar Profesi Penata Anestesi Implementation of Kmk 722 of 2020 Concerning Professional Standards for Penata Anestesi. *Jurnal Kebijakan Kesehatan Indonesia : JKKI*, 12(01), 60–65.
- Yumame, J., Cenderawasih, U., Ilmu, F., Politik, I., & Studi, P. (2025). Health Regulation Changes in Indonesia: Legal and Policy Review. *International Journal of Society Reviews*, 3(6), 1123–1130.
- Masih, S., Punchanathan, U. E., Naqshbandi, M. M., & Ahmed, F. (2025). How inclusive leadership drives change-oriented extra-role behaviors via leader-member exchange and trust in leadership. *Global Knowledge, Memory and Communication*.
- Mansoor, M., Jam, F. A., & Khan, T. I. (2025). Fostering eco-friendly behaviors in hospitality: engaging customers through green practices, social influence, and personal dynamics. *International Journal of Contemporary Hospitality Management*, 37(5), 1804–1826
- Jam, F. A., Khan, T. I., & Paul, J. (2025). Driving brand evangelism by Unleashing the power of branding and sales management practices. *Journal of Business Research*, 190, 115214.