

Delegation of Authority from Doctors to Nurses in Health Services in Hospitals

Fajar Maulana¹, Sumarno² Marice Simarmata³

Article Info

Page : 47-52

ISSN : 3026-5290

Vol 2 No 3 2024

Corresponding Author

Fajar Maulana, Panca Budi Development University

Email: fmaulana475@gmail.com

Abstract

Health services in hospitals are a vital element in maintaining the quality of life of the community. One important aspect that influences the effectiveness of health services is the delegation of authority from doctors to nurses. This delegation is clearly regulated in Law No. 17 of 2023 concerning Health and Government Regulation No. 28 of 2024, which divides delegation into mandate and delegative. In the delegation of mandate, legal responsibility remains with the doctor, while delegative delegation transfers responsibility to nurses in accordance with applicable competencies and procedures. However, in practice, the implementation of this delegation often faces obstacles, such as unclear responsibilities, lack of written documentation, and inequality in the professional hierarchy between doctors and nurses. These issues not only have an impact on legal uncertainty but also affect the overall quality of health services. Through a normative legal approach, this study analyzes the legal regulations and implications of the responsibility of the delegation of authority from doctors to nurses, both from the perspective of civil law, state administrative law, and criminal law. The results of the study indicate that existing regulations are sufficient, but reform is needed in terms of implementation in the field. The proposed recommendations include socialization of regulations, additional training for nurses, mandatory written documentation, and adoption of international practices such as the Nurse Practitioners system. With these steps, it is hoped that a more equitable, accountable, and quality health service system will be created.

Keyword:

Delegation of Authority, Doctors and Nurses, Health Services

1. INTRODUCTION

Health services in hospitals are one of the fundamental elements in ensuring the quality of life of the community. In carrying out this service, the working relationship between medical personnel and health workers, especially doctors and nurses, is a very important aspect. In Indonesia, this relationship often faces challenges, especially related to the delegation of authority. This problem becomes even more complex with the presence of Law No. 17 of 2023 concerning Health, which provides a new legal framework for the delegation of authority from doctors to nurses. Delegation of authority in the context of health services refers to the process by which a doctor assigns certain responsibilities to a nurse to perform certain medical actions. Law No. 17 of 2023 Article 290 explicitly states that medical personnel and health workers can receive delegation of authority, which is divided into mandate and delegation. Law Number 17 of 2023 concerning Health Article 290:

- 1) Medical Personnel and Health Personnel may receive delegation of authority to carry out Health Services.
- 2) The delegation of authority as referred to in paragraph (1) consists of delegation by mandate and delegation by delegation.
- 3) The delegation of authority as referred to in paragraph (1) is carried out from Medical Personnel to Health Personnel, between Medical Personnel, and between Health Personnel.
- 4) Further provisions regarding the delegation of authority are regulated by Government Regulation .

Mandatory delegation means that the nurse only performs tasks under the supervision of the doctor without accepting full responsibility. Meanwhile, delegative delegation involves transferring responsibility to the nurse. In practice, the issue of delegation of authority is not as simple as the text of the law. In the field, there is often an imbalance of authority and workload between doctors and nurses. Nurses often feel trapped in a situation where they have to taking over the duties of a doctor without adequate guidance or instruction. This raises a serious legal question: Who is responsible if there is negligence or error in carrying out the duties that have been delegated? For example, in the case of urinary catheterization or blood transfusion, these actions should be within the realm of a doctor's competence. However, these tasks are often delegated to nurses without a legally valid delegation procedure. In fact, based on Permenkes No. 2052/MENKES/PER/X/2011 Article 23, the delegation of medical actions must be done in writing, include clear instructions, and remain under the supervision of a doctor. This issue is further complicated by the public perception of the hierarchy of the medical profession. Doctors are often seen as the sole authority in medical decision-making, while nurses are seen as merely executing instructions. This stereotype not only creates inequality within the profession, but also contributes to nurse burnout, leading to a decline in the quality of health services. Data from the Ministry of Health shows that in Indonesia there are around 1.49 million health workers, with nurses dominating the number. However, the distribution of health workers is still uneven, with 70% of doctors concentrated on the island of Java, forcing nurses in other areas to take over tasks that should be carried out by doctors.

From a legal perspective, delegation of authority has serious implications in both civil and state administrative matters. Civil law views this delegation as part of an employment contract between medical personnel, health workers, and the institutions where they work. When a dispute occurs, legal responsibility can become complex, especially if the delegation is not carried out according to procedure. On the other hand, state administrative law demands transparency and accountability in the delegation of tasks in the public sector, including health. Delegation that is not in accordance with procedure can be considered an administrative violation that has legal implications. Existing regulations, such as Law No. 38 of 2014 concerning Nursing, provide legal protection rights to nurses as long as the actions taken are in accordance with standard operating procedures (SOP). However, in practice, this protection is often ignored due to a lack of understanding of the applicable rules, both among health workers and the community. To address these challenges, in-depth policy reform is needed. This study aims to analyze the delegation of authority from doctors to nurses from the perspective of civil law and state administrative law. This study will also compare the practice in Indonesia with international standards, such as in the United States, where nurses who have special licenses, such as Nurse Practitioners (NP), can perform certain medical tasks independently. This approach is expected to provide a more comprehensive view of how the delegation of authority can be carried out effectively and legally. The issue of the delegation of authority from doctors to nurses is not only a matter of medical technicalities, but also concerns legal, ethical, and policy aspects. This study seeks to provide recommendations based on a review of existing regulations, with the hope of encouraging better cooperation between doctors and nurses, improving the quality of health services, and providing fair legal protection for all parties involved.

2. RESEARCH METHODOLOGY

This study uses a normative legal method with a statutory approach and a conceptual approach. The statutory approach is used to analyze legal norms that regulate the delegation of authority from doctors to nurses, as regulated in Law No. 17 of 2023 concerning Health and Law No. 38 of 2014 concerning Nursing, as well as other related regulations. Conceptual approach used to explore the basic understanding of delegation of authority, both in the form of mandates and delegations, including its legal implications in the realm of civil law and state administration. The collection of legal materials was carried out through document studies, including laws, legal doctrines, books, scientific journals, and secondary and tertiary legal materials. The data obtained was processed systematically to identify legal problems, interpret applicable norms, and provide applicable recommendations in the context of the health care system in Indonesia. The originality of this study lies in its different focus compared to previous similar studies, such as the article entitled "Delegation of Medical Authority from Doctors to Nurses in the Perspective of Health Law" by Anik Indriono and Christina Nur Widayanti, which focuses more on the legal protection of nurses in the implementation of procedural delegation of authority. On the contrary, this study seeks to analyze in depth the legal responsibility from the perspective of civil law and state administration, especially after the

enactment of Law No. 17 of 2023. In addition, this study also uses a comparative approach with the practice of delegation of authority at the international level, such as the role of Nurse Practitioners in the United States, to offer a clearer and more applicable solution in creating a balance of responsibility between doctors and nurses. With this approach, this study is expected to provide new contributions to the development of fairer and more efficient health service policies in Indonesia.

3. RESULT AND DISCUSSION

Legal Regulations on the Delegation of Doctors' Authority to Nurses in Health Services at Hospitals

Health services are an important element in ensuring the quality of life of the community. In practice, the success of health services does not only depend on the expertise of doctors, but also on synergy with other health workers such as nurses. In Indonesia, the delegation of authority from doctors to nurses is one of the issues that requires serious attention, both from a legal and professional ethics perspective. The delegation of authority in health services is explicitly regulated in several main regulations, including Law Number 17 of 2023 concerning Health and its derivative regulations such as Government Regulation Number 28 of 2024 concerning the Implementation of the Health Law. Article 290 of Law No. 17 of 2023 stipulates that medical personnel and health workers can receive the delegation of authority to carry out health services, which is divided into mandate and delegated delegation.

- 1) Delegation of Mandate: The doctor remains fully responsible for the actions taken by the nurse. In this context, the nurse only acts as an executor of instructions with direct supervision from the doctor
- 2) Delegative Delegation: Nurses are given greater responsibility, including the authority to make certain decisions within their authority. However, this delegation must be done in writing and include clear details of tasks in accordance with Article 32 of Law No. 38 of 2014 concerning Nursing.
- 3) Law Number 17 of 2023 concerning Health Article 290:
 - (a) Medical Personnel and Health Personnel may receive delegation of authority to carry out Health Services.
 - (b) The delegation of authority as referred to in paragraph (1) consists of delegation by mandate and delegation by delegation.
 - (c) The delegation of authority as referred to in paragraph (1) is carried out from Medical Personnel to Health Personnel, between Medical Personnel, and between Health Personnel.
 - (d) Further provisions regarding the delegation of authority are regulated by
 - (e) Government regulations

PP No. 28 of 2024 concerning Implementing Regulations of Law Number 17 The 2023 Law on Health strengthens these provisions by providing guidance further information about the delegation mechanism, including the obligation to record the delegation of authority in an official document that can be legally accounted for.

Article 745

- 1) Medical Personnel and Health Personnel can receive delegation of authority to carry out health services consisting of:
 - a delegation by mandate; and
 - b delegative delegation.
- 2) The delegation of authority by mandate as referred to in paragraph (1) letter a is a delegation of duties with responsibility lying with the person giving the authority.
- 3) The delegation of authority in a delegative manner as referred to in paragraph (1) letter b is the delegation of tasks with responsibility lying with the recipient of the authority.
- 4) The Head of the Health Service Facility must determine the types of Health Services to which authority can be delegated.

Although regulations are available, their implementation in the field often encounters obstacles. One of the main issues is the unclear division of responsibility in certain medical cases. For example, the installation of medical devices such as urinary catheters or blood transfusions are often delegated to nurses without adequate supervision from doctors. This poses legal risks, especially in situations where negligence or medical errors occur. Based on Article 36 of Law No. 38 of 2014, nurses have the right to legal protection

as long as they carry out their duties in accordance with service standards and standard operating procedures (SOP). However, in many cases, the delegation of duties is often not supported by written documents, making it difficult for nurses to prove that their actions are carried out in accordance with legal procedures. Here are some of the author's analyses from other legal sources:

1. Civil Law Perspective Delegation of authority can be considered as a form of agreement or contract between doctors and nurses, where each party have certain rights and obligations. In this context, non-compliance with the delegation procedure can be considered as a breach of contract which has implications for legal claims.
2. State Administrative Law Perspective As part of the public service system, the delegation of authority is also subject to the principles of state administration such as transparency and accountability. Failure to comply with the delegation procedure can be considered an administrative violation that has the potential to tarnish the reputation of health service institutions.
3. Legal Protection for Nurses Article 290 of Law No. 17 of 2023 and Article 36 of Law No. 38 of 2014 provide legal protection for nurses as long as their actions are in accordance with applicable regulations. However, many nurses feel that they have not received adequate protection, especially in situations where responsibility for medical errors is unclear.

In some developed countries such as the United States, the concept of delegation of authority has been regulated in more detail. Nurse Practitioners (NP) in America, for example, have the authority to diagnose and prescribe drugs within their authority. This kind of regulation provides clarity about professional responsibility and protects nurses from unfair legal risks. In contrast, in Indonesia, nurses are often only seen as implementing doctors' duties without adequate recognition of their role. More comprehensive legal reform is needed to improve legal recognition and protection for nurses.

Legal Accountability for Delegation of Doctors' Authority to Nurses in Health Services at Hospitals

Hospital health services are an integral part of the national health system, where collaboration between doctors and nurses is an important element in ensuring the quality of services received by patients. In this context, the delegation of authority from doctors to nurses is a crucial issue, especially in relation to legal responsibility. With the enactment of Law No. 17 of 2023 concerning Health and supported by Government Regulation No. 28 of 2024, this aspect of the delegation of authority has begun to be regulated in more detail. However, the implementation and accompanying legal responsibility still pose challenges in the field, especially regarding the risk of negligence and its impact on patients. In Article 290 of Law No. 17 of 2023, delegation of authority is divided into two types, namely mandate and delegative. Delegation of mandate gives nurses the task of carrying out certain medical actions under the supervision of a doctor, but legal responsibility remains with the doctor as the person giving the mandate. Conversely, delegative delegation gives full responsibility to nurses in carrying out the delegated actions, as long as the actions are in accordance with standard operating procedures (SOP) and nurse competence. This delegation of authority often involves medical actions such as catheter insertion, administration of injection drugs, or blood transfusions, which are actually within the scope of a doctor's authority. However, the limited number of doctors in health facilities, especially in remote areas, encourages the delegation of these tasks to nurses. In this situation, the legal question that often arises is: who is responsible if there is negligence or error in carrying out these tasks? According to the theory of legal responsibility, responsibility can be vicarious *or* direct. In the context of mandated delegation of authority, legal responsibility remains with the doctor as the person giving the instruction, because the nurse only acts as the implementer. However, in delegated delegation, legal responsibility shifts to the nurse, because they have the authority to carry out the task independently. This concept is supported by Sudikno Mertokusumo, who states that legal responsibility is attached to the party who has full authority over an action.

Legal Implications of Delegation of Authority

1. Civil Law Domain

From a civil law perspective, delegation of authority can be seen as part of the contractual relationship between doctors, nurses, and health institutions. This employment contract should include clear regulations on the duties, obligations, and responsibilities of each party. When negligence occurs, determining legal responsibility becomes very important. For example, if the delegation is carried out without written documentation or clear procedures, then the party who delegates authority (the doctor)

can be considered in breach of the employment contract.

2. The Domain of State Administrative Law

Delegation of authority is also subject to the principles of state administration, such as accountability and transparency. In the context of health services in public facilities, violations of delegation procedures can be considered administrative violations. For example, if the delegation is carried out without recording the delegated tasks in an official document, the head of the health facility can be held administratively accountable. This is in accordance with Article 745 of PP No. 28 of 2024 which requires the head of the health facility to determine the types of health services that can be delegated.

3. Criminal Law Domain

In cases where negligence or error in the delegation of duties causes serious harm to patients, criminal liability can be imposed on both doctors and nurses, depending on the form of delegation made. According to the Causality Theory, criminal liability is determined based on the causal relationship between the act and the resulting effect. If a doctor is found to have delegated without ensuring the nurse's competence, then the doctor can be held responsible for the effect.

Law No. 38 of 2014 concerning Nursing provides legal protection to nurses as long as they carry out their duties in accordance with SOPs, service standards, and professional standards. However, in practice, many nurses face challenges due to a lack of understanding of this regulation, both among health workers and the public. This often causes nurses to be the most vulnerable party to lawsuits, even though the error that occurs may come from the mandate giver. According to Freidson (an American sociologist known for his contributions to the sociology of professions. He is widely known for his analysis of the structure and dynamics of professions, especially in the context of the medical profession), the nursing profession is often considered subordinate in the medical hierarchy, so they tend to be less appreciated in clinical decision-making. This adds to the psychological burden for nurses, especially when they have to carry out tasks that have high legal risks. In developed countries such as the United States, the delegation of authority has been clearly regulated through the granting of special licenses to nurses known as *Nurse Practitioners* (NP). They have the authority to diagnose, prescribe drugs, and carry out certain medical actions independently. This system is supported by regulations that ensure that legal responsibility is shared proportionally between doctors and NPs, thereby reducing the potential for conflict. In contrast, in Indonesia, nurses are often only considered as executors of doctors' duties without clear autonomy. Legal reform is needed to expand the scope of nurses' authority through additional training and certification, so that they can carry out certain tasks independently with adequate legal recognition.

4. CONCLUSION

The delegation of authority from doctors to nurses in health services in hospitals is an important aspect regulated in various regulations, such as Law No. 17 of 2023 concerning Health and PP No. 28 of 2024. This delegation is divided into two types, namely mandate and delegative, each with different legal implications. Although it already has a strong legal basis, implementation in the field still faces various obstacles, such as unclear responsibilities, lack of written documentation, and the perception of a professional hierarchy that places nurses as subordinates. These challenges have an impact on legal uncertainty, the risk of negligence, and a decline in the quality of health services, which require serious attention to be addressed through more integrated and targeted steps. To optimize the delegation of authority in health services, several strategic steps are needed. First, comprehensive socialization of regulations to medical personnel and health workers to ensure a deep understanding of the delegation mechanism and legal responsibilities. Second, all delegations of authority must be documented in writing in accordance with applicable legal provisions. Third, nurses need to receive additional training and certification to improve their competence in handling certain medical tasks. Finally, the government and health institutions must adopt best practices from international standards, such as the Nurse Practitioners system, to create a more equal working relationship between doctors and nurses and improve the overall quality of health services. With these steps, it is hoped that better synergy will be created in the Indonesian health system.

REFERENCES

Abdurrohman, Rizal, et al. "Legal Responsibility of Hospitals Based on the Doctrine of Agil, Naufal Muhammad, et al. Textbook of Patient Safety and Occupational Health Safety . PT. Sonpedia Publishing Indonesia, 2025.

- Burnama, Eko Cipta, Sumarno Sumarno, and Dahlan Dahlan. "Analysis of the Cooperation Agreement between the Health Social Security Administering Agency (BPJS) and Hospitals on Determining Postponed Claims at the Datu Beru Takengon Regional General Hospital, Central Aceh." *Journal of Economics* 13.02 (2024): 421-428.
- Corporate Liability According to Article 193 of Law Number 17 of 2023 Concerning Health." *Cahaya Mandalika Journal* ISSN 2721-4796 (online) (2024): 2635-2647.
- Handayani, Erika Yusticia, Chika Shamer, and Yeni Triana. "Legal Responsibility of Doctors to Practice Licenses at Hospitals." *Innovative: Journal Of Social Science Research* 4.6 (2024): 3148-3161.
- HEALTH." *PENA NURSING* 2.2 (2024).
- Indraswari, Stefanie Hardiandra. *Legal Review of Legal Protection for Online Personal Shopping Service Consumers for Defective Goods Reviewed from the Laws and Regulations in Indonesia*. Diss. Indonesian Christian University, 2024.
- Indriono, Anik, and Christina Nur Widayanti. "THE DEPARTMENT OF MEDICAL AUTHORITY FROM DOCTORS TO NURSES IN A LEGAL PERSPECTIVE
- Istiono, Wahyudi, et al. *Strategy for Implementing Patient Centered Care in Primary Health Care Services*. UGM PRESS, 2024.
- Kitung, Purwanto, Rokhmat Rokhmat, and Edy Wijayanti. "Nurses' Accountability to Patients in Hospitals Reviewed from Civil Law." *Cahaya Mandalika Journal* ISSN 2721-4796 (online) 5.2 (2024): 930-941.
- Kitung, Purwanto, Rokhmat Rokhmat, and Edy Wijayanti. "Nurses' Accountability to Patients in Hospitals Reviewed from Civil Law." *Cahaya Mandalika Journal* ISSN 2721-4796 (online) 5.2 (2024): 930-941.
- Nugraha, Roby Satya, and Christina Febriani Silalahi. "Updating the Applicability of the Principle of Legality in Law Number 1 of 2023 concerning the Criminal Code." *PALAR (Pakuan Law Review)* 10.1 (2024): 73-81.
- Rachmawati, Junia, and Any Suryani Hamzah. "Legal Analysis of Nursing Malpractice According to Law Number 38 of 2014 Concerning Nursing." *Private Law* 4.3 (2024): 811-819.
- Safar, Muhammad, et al. "Criminal Law Enforcement for Pedophiles for Sexual Crimes Against Children." *Innovative: Journal Of Social Science Research* 4.3 (2024): 7422-7433.
- Setiyono, Budi. *Model and Design of Welfare State*. Nuansa Cendekia, 2024.
- Surasto, Indra Wahyu, Maura Linda Sitanggang, and Fitri Apriyanti Sulmiah. "Legal Protection for Pharmacists in Serving Electronic Prescriptions Based on Health Law Number 17 of 2023." *SYNTAX IMPERATIVE JOURNAL: Journal of Social Sciences and Education* 5.5 (2024): 857-867.