

# Form and Legal Implications of Devotion of Authority for Medical Actions to Nurses in Health Services

Rany Ayu Lutfiah Maharaja<sup>1</sup>

<sup>1</sup>Program Study Magister Kesehatan, Pascasarjana UNPAB, Indonesia

Email: [bellaranyamaharaja@gmail.com](mailto:bellaranyamaharaja@gmail.com)

## Abstract

After the passing of Law Number 17 of 2023 concerning Health, there is Article 290 which regulates the delegation of authority in health services. However, it is not explained what actions can be delegated to nursing staff in the form of delegation and what actions can be delegated in the form of mandates. The method in this research is normative research with a statutory approach. Based on the results of an investigation into Law Number 17 of 2023, it is explained that the form of delegation of authority to nursing staff can be delegative or mandated. To find out the form of delegative delegation, you can refer to Minister of Health Regulation Number 26 of 2019 concerning Implementing Regulations of Law Number 38 of 2014 concerning Nursing. Delegative delegation of authority can only be granted to professional nurses or trained vocational nurses, according to the Minister of Health Regulation. These nurses are competent to install intravenous lines, inject medications, administer basic immunizations, and perform any other medical actions that may be required. Additionally, the nurse's competency determines the kinds of medical interventions that fall within the delegation of power by mandate, which may include administering parenteral treatment, suturing wounds, and other similar tasks. Delegation of medical authority from doctors to nurses affects the legal responsibilities of nurses. Although the primary responsibility remains with the doctor, nurses can also be involved in legal liability if something goes wrong. Therefore, nurses need to ensure adequate legal protection and understand the limits of authority granted.

**Keywords:** Legal Implications, Delegation of Authority, Nurses, Medical Procedures

## 1. INTRODUCTION

A nurse who provides services in the world of health often collaborates with health workers such as doctors, midwives, analysts, pharmacists and others. Basic human rights include freedom from disease and the opportunity to obtain adequate health care (Astuti, 2020). One component of assessing the welfare of the Indonesian population that must be achieved is health, which is something that is quite significant for the Indonesian state. According to Law of the Republic of Indonesia Number 38 of 2014 concerning Nursing, a nurse is someone who has obtained a nursing diploma or degree from an accredited institution, both domestic and international, and whose credentials have been officially recognized by the state based on applicable laws and regulations. After Law Number 17 of 2023 concerning Health was passed, Article 290 regulated the delegation of authority in health services. However, it is not explained what actions can be delegated and what cannot be delegated. The following is article 290 of Law Number 17 of 2023: (1) Delegation of authority to provide health services can be extended to medical and health personnel; (2) Delegation of authority and delegation of authority constitutes delegation of authority as intended in paragraph (1); (3) Power moves from one health service provider to another health service provider as intended in paragraph (1), and also between different health service providers; (4) Additional rules regarding the transfer of power are outlined in laws and executive orders. Health services include all activities and/or a series of service activities offered directly to individuals or the community with the aim of improving, maintaining and increasing the level of public health. These services can be preventive, curative, rehabilitative or palliative as explained in Article 1 paragraph (3) of Law Number 17 of 2023. Meanwhile, as intended in Paragraph 7, is every person who is committed to health

services and has the right to provide services. health. the necessary authority, knowledge, and skills acquired through higher education are considered to constitute a health professional. Health efforts can only be carried out by those who have the necessary authority, professional attitude, and the necessary knowledge and skills obtained through professional medical or GTGR medical education. This definition is intended to be used in paragraph (6). Based on the provisions of Article 290, it is known that the form of delegation of authority is divided into delegation by delegation and delegation by mandate. Although delegation refers to the act of handing over responsibility to another person, authority refers to the capacity to take action, make judgments, issue orders, or carry out legal duties, even if these are not always carried out. It is possible for laws at a higher level to transfer powers to laws at a lower level through a process of delegation, regardless of whether this transfer is explicitly recognized or not. So in providing hospital health services, medical personnel and health workers collaborate with each other in providing services. It is stated in the Law that the Delegation of Authority for Medical Personnel and Health Personnel consists of Delegation of Authority by Mandate and Delegative Delegation of Authority, so you can refer to Minister of Health Regulation Number 26 of 2019 concerning Implementing Regulations of Law Number 38 of 2014 concerning Nursing.

## 2. METHODOLOGY

This research uses a normative legal approach, namely the study of applicable legal principles and norms. By using the statutory method, the author can collect original legal facts. What will be part of this procedure, we will carry out an investigation into Law Number 17 of 2023 and then refer to Minister of Health Regulation Number 26 of 2019 concerning Implementing Regulations of Law Number 38 of 2014 concerning Nursing.

## 3. RESULTS AND DISCUSSION

The theoretical framework (foundation) according to M. Solly Lubis is a theoretical framework that can be accepted or debated and used as input for compiling a written framework for thinking; a theory or set of ideas governing a particular situation or topic; etc. This framework uses theories arranged based on patterns; Legal System Theory as Grand Unified Theory, then below using the Theory of Liability as Middle Range Theory, and the Theory of Delegation of Authority as Applied Theory, all of which are reflected in the discussion.

### *Legal System Theory*

Hans Kelsen classifies norm systems into static or dynamic depending on the characteristics of the fundamental norms. The order of intellectual work, which specifically deduces from the general to the particular, is the only way to discover a static system of norms. Although we agree with Hans Kelsen that the above is correct, we think that his definition of a legal system does not correspond to what is actually intended. Therefore, to answer the problems raised previously, we will explain the legal system as proposed by Lawrence Friedman. Friedman divides the legal system into three (3) components, namely:

- a. *Legal substance (substance rule of the law)*, Every rule, whether official or informal, written or unwritten, is included
- b. *Legal structure (structure of the law)*, combines the judicial system, judicial machinery, and law enforcement system. The justice system in law enforcement is closely related to the legal framework. Investigators, prosecutors, judges and advocates all have a role in law enforcement in the criminal justice system
- c. *Legal culture (legal culture)*, The social dynamics of society are shaped by culture which includes habits, attitudes, behavior and ways of thinking.

### *Theory of Liability*

One of the mandatory provisions related to accountability is in Law Number 30 of 2014 concerning Government Administration. From the entire contents of the Government Administration Law, there is terminology regarding responsibility and accountability in Article 1 number 23. The full text of the article is: "Delegation is the transfer of power from a higher level of government to a lower level, with all accountability and responsibility moving to the lower level that receives the delegation."

### *Theory of Delegation of Authority*

Authority is described as the right and power to act, make choices, command, and delegate responsibility to other people or bodies in the Big Indonesian Dictionary. The three types of legitimate authority-attributive, delegative, and mandated are distinguished according to the context of their origin or acquisition.

1. **Attribute Authority** Attribute authority is often defined or derived from the separation of powers established by law. The only people or bodies authorized to carry out the exercise of attributive authority according to the basic rules are those mentioned therein. The basic rules stipulate that officials or entities have attributive powers in terms of responsibility and accountability;
2. **Delegative Power** Legislative regulations provide the basis for the transfer of power from one government institution to another.
3. The power to mandate the actions of others carries with it the burden of duty and accountability for their actions. One definition of authority is "mandate authority," which arises when one level of government transfers power to another level of government. The standard dynamic between superiors and subordinates involves mandatory authority unless otherwise stated.

Based on the results of an investigation into Law Number 17 of 2023, it is explained that the form of delegation of authority to nursing staff can be delegative or mandated. To find out the form of delegative delegation, you can refer to Minister of Health Regulation Number 26 of 2019 concerning Implementing Regulations of Law Number 38 of 2014 concerning Nursing. Delegation of authority can only be given to professional nurses or trained vocational nurses, in accordance with Minister of Health Regulations. These nurses are competent to install intravenous lines, inject drugs, provide basic immunizations, and perform other medical procedures that may be necessary. Additionally, the nurse's competency determines the types of medical interventions included in the delegation of authority under the mandate, which may include administering parenteral care, suturing wounds, and other similar tasks. Delegation of medical authority from doctors to nurses affects the legal responsibilities of nurses. Although the primary responsibility remains with the doctor, nurses can also be involved in legal liability if something goes wrong. Therefore, nurses need to ensure adequate legal protection and understand the limits of authority granted.

#### 4. CONCLUSION

The delegation of medical authority according to Law Number 17 of 2023 is described as delegative and mandated. According to Minister of Health Regulation Number 26 of 2019 concerning Implementing Regulations of Law Number 38 of 2014 concerning Nursing. Only registered nurses with appropriate training may be delegated authority to perform medical procedures, such as placing IVs, injecting medications, administering basic vaccines, and other medical tasks within their scope of practice. Delegation of authority under the mandate covers a wide range of medical care, including administering parenteral therapy, suturing wounds, and performing other procedures within the scope of the nurse's expertise.

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