JIHAD: Jurnal Ilmu Hukum dan Administrasi
Vol. 8 No. 3 September 2026
p-ISSN : 2745-9489, e-ISSNl 2746-3842
DOI: *10.36312/jihad.v8i2.11297/https://ejournal.mandalanursa.org/index.php/JIHAD/issue/archive*

Harmonization of Legal Protection Regulations and Rights of Anesthesia Services Providers in the Delegation of Authority for Anesthesiology Services

Fasub Hanal[1], Aryono[2], Muhammad Habib[3]
Program Studi S1 Hukum, Fakultas Hukum dan Bisnis, Universitas Duta Bangsa Surakarta
Jl. Ki Mangun Sarkoro No. 20, Nusukan, Kecamatan Banjarsari, Kota Surakarta

Article Info
Article history:
Received: 27 July 2026
Publish: 1 September 2026

Keywords:
Harmonization Of Regulations;
Legal Protection;
Anesthesiologist;
Delegation Of Authority;
Service Rights.

Abstract
Anesthesiology services are high-risk and require certainty regarding the authority, supervision, accountability, legal protection, and rights of anesthesiologists. This study analyzes the legal construction of the position of anesthesiologists, forms of disharmony in the delegation of authority, and the direction of regulatory harmonization that guarantee professional protection and proportional service compensation. The study uses normative legal methods with statutory, conceptual, and analytical approaches. Primary legal materials include health regulations and professional standards, while secondary legal materials include books, scientific articles, and previous research results; all of which are analyzed qualitatively through grammatical, systematic, and conceptual interpretation. The results indicate that Law Number 17 of 2023, Government Regulation Number 28 of 2024, Minister of Health Regulation Number 13 of 2025, and the Professional Standards for Anesthesiologists have provided the basis for professional recognition. However, the revocation of Minister of Health Regulation No. 18 of 2016 by Minister of Health Regulation No. 13 of 2025 has not been followed by equally detailed technical regulations regarding actions that can be delegated, levels of supervision, documentation, distribution of responsibilities, and service entitlement formulas. Harmonization needs to be realized through national guidelines that integrate the authority matrix, written delegation, credentials and supervision, division of responsibilities based on competence and errors, and service provision based on workload, risk, competence, and professional contribution.

Corresponding Author:
Fasub Hanal
Program Studi S1 Hukum, Fakultas Hukum dan Bisnis, Universitas Duta Bangsa Surakarta
Email: fasubhanal@gmail.com

1. INTRODUCTION

Health is a fundamental right and a prerequisite for human dignity and national development. In a state governed by the rule of law, healthcare services are not simply administratively available; they must be safe, high-quality, equitable, and provided with certainty regarding who is authorized to act and who is responsible for the legal consequences. Anesthesiology services occupy a special position because they directly relate to the patient's vital functions in surgery, invasive procedures, emergencies, pain management, and intensive care. The higher the clinical risk of a service, the greater the need for detailed standards regarding competence, authority, supervision, documentation, and accountability.

Anesthesiologists are healthcare professionals who play a role in providing anesthesia care during the pre-anesthesia, intra-anesthesia, and post-anesthesia phases. This status is affirmed by the Decree of the Minister of Health No. HK.01.07/MENKES/722/2020

concerning Professional Standards for Anesthesiologists. This recognition positions anesthesiologists not merely as technical assistants, but as professional legal subjects with competencies, obligations, responsibilities, and rights. Consequently, the state needs to ensure clarity regarding the scope of actions that can be performed professionally, protection when actions are carried out according to standards, and appropriate rewards for services.

This need is becoming increasingly important because anesthesiology services in practice rely not only on attributive authority but also on the delegation of authority from anesthesiology specialists. Delegation is necessary to maintain continuity of care, especially when the distribution of specialists is uneven. However, delegation can become a source of uncertainty if the types of procedures, recipient requirements, forms of supervision, documentation requirements, and division of responsibilities are not clearly defined. Previous research has highlighted issues with the implementation of professional standards and licensing, including mismatches between competency, practice administration, and the reality of services (Kumala et al., 2023; Wahyudi et al., 2023).

Law Number 17 of 2023 concerning Health provides an important foundation by recognizing the rights of medical and health personnel to obtain legal protection as long as they work in accordance with professional standards, service standards, standard operational procedures, and professional ethics. Article 273 paragraph (1) also forms the basis for the right to adequate salaries, wages, service rewards, and performance allowances. Government Regulation Number 28 of 2024 then outlines the management of medical and health personnel, the provision of health service facilities, guidance, and supervision. Although forming a stronger general framework, these two instruments do not specifically outline all the needs for delegation of authority in anesthesiology services.

A significant change occurred when Minister of Health Regulation No. 13 of 2025 concerning the Management of Human Resources for Health revoked Minister of Health Regulation No. 18 of 2016 concerning the Licensing and Implementation of Anesthesia Practice. The new regulation integrated anesthesiologists into the national human resource governance system for health. This integration facilitated regulatory simplification, but also created the need for technical guidelines to replace the level of detail of previous professional regulations. Without sufficiently operational guidelines, professional standards, hospital policies, and delegation practices could potentially be interpreted differently.

This vulnerability has been discussed from several angles. Prayitno (2021) highlights the legal liability of unlicensed practice; Wahyudiono et al. (2024) examine the protection of anesthesiologists following the enactment of Law Number 17 of 2023; while Negoro (2025a, 2025b) discusses protection in hospitals without supervision or without anesthesiologist specialists. These studies demonstrate that the issues of authority and protection have been recognized, but the relationship between delegation of authority, distribution of responsibility, legal protection, and service rights tends to be studied separately.

The novelty of this research lies in its integrative analysis of four interdependent elements: the legal standing of the profession, the legality of delegation of authority, protection against delegated actions, and service rights. The research not only assesses the existence of regulations but also examines whether norms at the level of laws, government regulations, ministerial regulations, professional standards, and health facility policies form a consistent and enforceable system.

Based on these issues, the study aims to analyze the construction of the regulation of the position of anesthesiologists and the delegation of authority for anesthesiology services; identify disharmony in the boundaries of authority, supervision, and division of

responsibilities; and formulate a direction for harmonizing legal protection and service rights that provide certainty, justice, and proportional protection.

2. RESEARCH METHOD

This research is a normative legal study with a descriptive-analytical nature and produces prescriptive recommendations. A legislative approach is used to assess the vertical and horizontal synchronization of norms governing the position of anesthesiologists, delegation of authority, legal protection, accountability, and service rights. A conceptual approach is used to interpret the issue through the theory of the rule of law, the hierarchy of norms, authority, legal responsibility, legal protection, and justice. An analytical approach is used to test the adequacy, consistency, and operational effectiveness of applicable provisions (Kristiawanto, 2022; Susanti & Efendi, 2022).

Primary legal materials include Law Number 17 of 2023 concerning Health, Government Regulation Number 28 of 2024, Regulation of the Minister of Health Number 13 of 2025, Regulation of the Minister of Health Number 18 of 2016 as historical-transitional legal materials, Decree of the Minister of Health Number HK.01.07/MENKES/722/2020, and regional policies related to service provision. Secondary legal materials consist of books, journal articles, previous research, and relevant doctrines. Legal materials were collected through a literature review with the stages of inventory, identification, classification, and systematization.

The analysis was conducted qualitatively by interpreting the text of the norms, comparing the relationships between regulations, and identifying conflicts, ambiguities, gaps, and overlapping norms. Grammatical interpretation was used to understand the terms authority, delegation, supervision, legal protection, and service rights. Systematic interpretation was used to read the relationships between levels of regulations, while conceptual interpretation connected positive law with the theory used. The results of the analysis were compiled argumentatively to answer the research questions and formulate the direction of harmonization.

3. RESULTS AND DISCUSSION

3.1 Legal Status of Anesthesia Administrators and Construction of Regulations

Legal recognition of anesthesiologists should be interpreted as recognition of a profession that performs clinical functions based on competence. From a state of law perspective, the legality of actions is determined not only by the need for services, but also by authority derived from norms. The principles of legal certainty and equality before the law require the state to define limits on actions while providing protection for legitimate actions (Dicey, 1885). Professional recognition without clear authority will result in a paradoxical situation: anesthesiologists are needed by the system, but face legal risks disproportionate to the normative certainty they receive.

Law Number 17 of 2023 establishes a general framework for healthcare workers' rights, obligations, and professional protection. Article 273 paragraph (1) links legal protection to compliance with professional standards, service standards, standard operating procedures, and ethics. Articles 274 and 275 emphasize the obligation to provide services in accordance with standards, maintain medical records, and refer to appropriate personnel when needed. This construction is important because the legality of an anesthesiologist's actions depends on the intersection of competence, authority, procedures, and documentation.

Government Regulation Number 28 of 2024 expands the operational framework through the management of healthcare personnel, healthcare facilities, guidance, and supervision. However, the nature of anesthesiology services requires more specific

regulations than general norms. These services operate as a team and can involve both attributive and delegated authority. Therefore, general norms on competence do not automatically address what actions can be delegated, to whom, with what supervision, and how to prove it.

The Professional Standards for Anesthesiologists, through Minister of Health Decree No. HK.01.07/MENKES/722/2020, serve as a benchmark for competency in the pre-anesthesia, intra-anesthesia, and post-anesthesia phases. These standards also serve as a professional evidence instrument: actions that comply with competency and procedures receive a stronger basis for protection, while actions outside of competency or without a basis for delegation increase the risk of liability. However, professional standards are not designed to replace all legal provisions regarding delegation, supervision, and remuneration.

Minister of Health Regulation No. 13 of 2025 changes the regulatory landscape by revoking Minister of Health Regulation No. 18 of 2016. This revocation represents a shift from profession-specific licensing and practice regulations to integrated health human resource management. From the theory of norm hierarchy, lower-level regulations should consistently and operationally explain higher-level norms (Kelsen, 1967). Since the specific provisions of 2016 are no longer applicable, the primary need is not to revive the old regulations but rather to develop new technical rules aligned with the post-2023 health legal regime.

Table 1. Mapping of Settings and Disharmony Points

Instrument	Main Substance	Point of Disharmony/Implications
Law No. 17 of 2023	Rights, obligations, legal protection, and rights to compensation for health workers' services.	Still general in nature; does not yet detail the delegation of anesthesiology services.
PP No. 28 of 2024	The framework for implementing the Health Law, management of health workers, facilities, guidance and supervision.	Has not yet outlined the action matrix, level of supervision, and distribution of responsibilities specifically.
Minister of Health Regulation No. 13 of 2025	Integrated management of health human resources and revoking Minister of Health Regulation No. 18 of 2016.	Requires operational replacement technical rules for the practice and delegation of anesthesia technicians.
Ministerial Decree No. HK.01.07/MENKES/722/2020	Competency standards and code of ethics for anesthesiologists at the pre-anesthetic, intra-anesthetic, and post-anesthetic stages.	It is a professional benchmark, but does not detail the service rights formula and all the consequences of delegation.
Health facility policy	Credentials, clinical authority, SOPs, supervision, documentation, and service sharing.	Potentially different between facilities if there are no uniform national guidelines.

Source: Processed from legal research materials (2026).

3.2 Disharmony of Boundaries of Authority, Supervision, and Responsibility

The analysis reveals three forms of disharmony. First, there is a vertical gap between broad legal norms of rights and protections and inadequate technical details of delegation. Second, there is a potential horizontal inconsistency between professional competency standards, hospital clinical policies, and day-to-day delegation practices. Third, there is an operational gap regarding the relationship between the extent of authority exercised, the risks of actions, legal responsibilities, and service rights.

Conceptually, an anesthesiologist's authority can stem from attributions granted directly by norms and from legitimate delegation. The two should not be confused. Attributive authority is inherent in professional competence, while delegation requires an authorizer, clear actions, a competent recipient, and a control mechanism. According to Hadjon (2019), authority is legal power that derives legitimacy from norms. Therefore, service needs or customs in healthcare facilities cannot be the sole legal basis for an action.

The next issue is supervision. The term "working under supervision" is often used without uniform standards regarding attendance, availability for consultation, evaluation, and corrective action. This ambiguity poses risks for both the specialist physician as the provider of the delegation and the anesthesiologist as the recipient. Negoro's (2025a, 2025b) study demonstrated the vulnerability of anesthesiologists when services are provided without adequate supervision or without an anesthesiologist. Therefore, technical regulations need to link the type of action to the required level of supervision.

The division of responsibility cannot be resolved simply by stating that anesthesiologists work based on delegation. Responsibility must be determined based on the source of authority, the accuracy of the delegation decision, the recipient's competence, adherence to instructions and procedures, the quality of supervision, documentation, and the presence of individual errors. In the theory of responsibility, the assessment does not stop at the consequences, but considers the capacity, obligations, and culpability of the parties involved (Hart, 2008). Therefore, delegation should not be a means of transferring all responsibility to the recipient, nor should it eliminate responsibility for the recipient's own errors.

Documentation is a key element. Delegation conveyed only informally makes it difficult to prove the type of procedure, the scope of the instruction, the timeframe, the patient's condition, and the form of supervision. Prayitno's (2021) research demonstrates the significant risks when the legal and administrative basis for practice is not met. Therefore, written or documented delegation within clinical systems, action notes, and medical records should be considered a preventive measure, not simply an additional administrative requirement.

3.3 Legal Protection for Anesthesiologists

Legal protection for anesthesiologists encompasses both preventive and repressive dimensions. Preventive protection is established before a dispute occurs through clear norms, clinical credentials and authority, professional standards, operational procedures, documented delegation, supervision, and medical records. Repressive protection operates once a dispute has already occurred through fair hearings, professional advocacy, and dispute resolution mechanisms. This division aligns with Hadjon's (1987) concept of legal protection.

Article 273 paragraph (1) of Law Number 17 of 2023 places compliance with standards as a prerequisite for protection. This norm provides a strong foundation, but its implementation depends on the clarity of the standards applied. If a health facility does not establish written clinical authority and delegation procedures, anesthesiologists may have difficulty proving that their actions were carried out within the scope of legitimate authority.

Therefore, protection should not be entirely an individual obligation; health facilities and those providing delegations also have an obligation to establish accountable governance.

Wahyudiono et al. (2024) emphasized the need for protection for anesthesiologists following changes to the health law regime. This strengthening must be done without compromising patient protection. In fact, ensuring certainty for healthcare workers and patient safety are mutually reinforcing goals: personnel who understand the limits of their authority, work with appropriate supervision, and maintain complete documentation will be better able to prevent errors and respond to complications responsibly.

The ideal protection model must therefore encompass four layers. First, the normative layer, consisting of technical regulations that determine the scope and requirements for delegation. Second, the institutional layer, consisting of credentials, clinical authority, operational procedures, and supervision. Third, the professional layer, consisting of maintaining competence and adherence to a code of ethics. Fourth, the evidentiary layer, consisting of instructions, service notes, and complete medical records. These four layers provide proportional protection for patients, specialists, anesthesiologists, and healthcare facilities.

3.4 Service Rights and Direction of Regulatory Harmonization

The right to services is a consequence of recognition of professional contributions, not voluntary contributions. Article 273 paragraph (1) of Law Number 17 of 2023 provides the basis for the right to appropriate service rewards and performance allowances. However, this norm remains general, while the mechanism for distributing services is largely determined by regional policies and health facilities. Enrekang Regent Regulation Number 1 of 2023, for example, shows that the use of levies and service fees can be regulated at the local level. Policy variations are justified as long as they take local conditions into account, but without national parameters, there will be a lack of uniformity for jobs with comparable risks and responsibilities.

In anesthesiology services, service rights need to be linked to competence, risk level, workload, responsibility, and actual contribution to the episode of care. Classification based solely on professional status can ignore the complexity of the actions and responsibilities actually performed. Conversely, formulas based solely on the volume of procedures can also ignore quality, safety, and the burden of responsibility. The principle of fairness and justice demands a just and non-discriminatory distribution of benefits (Rawls, 2005).

Imbalances arise when the system increases the authority and burden of anesthesiologists through delegation, but service awards remain unchanged or lack transparency. Therefore, harmonization of service rights must go hand in hand with harmonization of authority and responsibility. National regulations do not have to establish a single rate for all hospitals, but they do need to establish uniform principles, indicators, calculation procedures, transparency, and a complaint mechanism.

The ideal direction for harmonization includes: (1) specific national regulations or guidelines regarding the delegation of authority for anesthesiology services; (2) a matrix of actions based on competence and level of supervision; (3) documented delegation and supervision obligations; (4) synchronization of credentials, clinical authority, operational procedures, and medical records; (5) division of responsibilities based on sources of authority, competence, compliance, supervision, and errors; and (6) service rights guidelines based on workload, risk, competence, responsibility, and contribution.

The development of regulations requires the involvement of the government, healthcare facilities, professional organizations of anesthesiologists, and professional organizations of anesthesiologists. This participation is crucial to ensure that norms are not only hierarchically consistent but also applicable to various healthcare settings. Effective

harmonization ultimately involves more than simply unifying regulatory texts, but also establishing a traceable chain of authority, supervision, responsibility, protection, and rewards.

4. CONCLUSION

The regulation of the position of anesthesiologists is already based on Law Number 17 of 2023, Government Regulation Number 28 of 2024, Minister of Health Regulation Number 13 of 2025, and Minister of Health Decree Number HK.01.07/MENKES/722/2020. However, the revocation of Minister of Health Regulation Number 18 of 2016 leaves the need for new technical regulations that can specifically outline the delegation of authority within the applicable health legal framework.

Disharmony primarily exists in the limits of what actions can be delegated, the degree of supervision, documentation, and distribution of responsibilities. Available legal protection remains predominantly normative and is only effective if supported by credentials, clinical authority, operational procedures, documented delegation, supervision, and medical records. Service rights also lack national parameters linking remuneration to competence, risk, workload, responsibility, and professional contribution.

The government needs to develop national guidelines in collaboration with professional organizations and healthcare facilities. These guidelines should integrate a matrix of authority, delegation requirements, levels of supervision, division of responsibility based on fault and competence, and principles of fair and transparent service delivery. Such harmonization will provide certainty for anesthesiologists and specialists, strengthen healthcare facility governance, and simultaneously protect patient safety.

5. ACKNOWLEDGEMENT

The author would like to express his gratitude to the Undergraduate Law Study Program, Faculty of Law and Business, Duta Bangsa University, Surakarta, and the supervising lecturers who have provided direction in the preparation of this research.

6. BIBLIOGRAPHY

Dicey, A. V. (1885). Lectures introductory to the study of the law of the constitution. Macmillan and Company.

Hadjon, P. M. (1987). Perlindungan hukum bagi rakyat di Indonesia. Bina Ilmu.

Hadjon, P. M. (2019). Pengantar hukum administrasi Indonesia. Gadjah Mada University Press.

Hart, H. L. A. (2008). Punishment and responsibility: Essays in the philosophy of law (2nd ed.). Oxford University Press.

Kelsen, H. (1967). Pure theory of law (2nd ed.). University of California Press.

Kristiawanto. (2022). Memahami penelitian hukum normatif. Prenada Media.

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), 22-26. https://doi.org/10.22146/jkki.81459

Negoro, W. R. (2025a). 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

Negoro, W. R. (2025b). Perlindungan hukum dan implementasi regulasi terhadap kewenangan penata anestesi di rumah sakit tanpa pengawasan. Jurnal Dedikasi Hukum, 5(2), 239-256. https://doi.org/10.22219/jdh.v5i2.39772

Negoro, W. R. (2026). Kebijakan pemerintah dalam memberikan perlindungan hukum bagi penata anestesi yang bekerja tanpa dokter spesialis anestesi. Sehat Rakyat: Jurnal Kesehatan Masyarakat, 5(1), 236-247. https://doi.org/10.54259/sehatrakyat.v5i1.5830

Prayitno, E. (2021). Tanggung jawab hukum praktik tanpa surat izin oleh penata anestesi di rumah sakit (Studi di Rumah Sakit Umum Daerah Sangatta). Jurnal Hukum dan Etika Kesehatan, 1(1), 73-84. https://doi.org/10.30649/jhek.v1i1.16

Rawls, J. (2005). A theory of justice: Original edition. Harvard University Press.

Susanti, D. O., & Efendi, A. (2022). Penelitian hukum: Legal research. Sinar Grafika.

Wahyudi, F. M., Suryanah, A., Juarta, T., & Nugraha, I. L. (2023). Implementasi KMK 722 Tahun 2020 tentang Standar Profesi Penata Anestesi. Jurnal Kebijakan Kesehatan Indonesia, 12(1), 60-65. https://doi.org/10.22146/jkki.79992

Wahyudiono, G., Ismono, J., & Daim, N. A. (2024). Perlindungan hukum tenaga kesehatan (penata anestesi) setelah terbitnya Undang-Undang Kesehatan Nomor 17 Tahun 2023. Law and Humanity, 2(1), 1-17. https://doi.org/10.37504/lh.v2i1.605

Indonesia. (2020). Keputusan Menteri Kesehatan Nomor HK.01.07/MENKES/722/2020 tentang Standar Profesi Penata Anestesi.

Indonesia. (2023). Peraturan Bupati Enrekang Nomor 1 Tahun 2023 tentang Pedoman Pemanfaatan Retribusi Pelayanan Kesehatan di Unit Pelaksana Teknis Rumah Sakit Umum Daerah Massenrempulu.

Indonesia. (2023). Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan.

Indonesia. (2024). Peraturan Pemerintah Nomor 28 Tahun 2024 tentang Peraturan Pelaksanaan Undang-Undang Nomor 17 Tahun 2023 tentang Kesehatan.

Indonesia. (2025). Peraturan Menteri Kesehatan Nomor 13 Tahun 2025 tentang Pengelolaan Sumber Daya Manusia Kesehatan.

Indonesia. (2016). Peraturan Menteri Kesehatan Nomor 18 Tahun 2016 tentang Izin dan Penyelenggaraan Praktik Penata Anestesi (dicabut dengan Peraturan Menteri Kesehatan Nomor 13 Tahun 2025).