

## **Legal Analysis of the Implementation of Doctor's Authority by Nurses in Emergency Situations Based on Law No 17 Of 2023 (Wanakerta Health Centre and Delima Asih Hospital)**

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### **Abstract**

*Delegation of authority in health services in Indonesia is regulated in Article 290 of Law Number 17 Year 2023 on Health, which allows medical personnel (such as doctors) to delegate some of their authority to other health personnel (such as nurses), provided that the recipient has sufficient competence. The purpose of this delegation is to improve the efficiency and effectiveness of services, especially in emergency situations. However, its implementation must be accompanied by accountability, where the doctor as the person in charge of the service (Article 66) can be held legally responsible if malpractice occurs due to supervision or instructions that are not in accordance with standards. This research uses a normative analysis method of the Health Law and its implications in practice. The results show that mediation is the first step in dispute resolution, while compliance with SOPs and good medical documentation are key to preventing legal conflicts. Recommendations include improving the competence of health workers, socialising regulations, strengthening SOPs, and inter-professional collaboration to minimise the risk of malpractice.*

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## **1. INTRODUCTION**

Legal issues that can arise from medical services in health care facilities when emergency actions that should be carried out by doctors but in fact in the field are mostly carried out by nurses. Medical actions taken by nurses against patients will become a legal problem for doctors, nurses and the angkes phase when the action is detrimental to the patient while the action is a delegation of duties or authority that should be carried out by a doctor from the many public complaints about this and also the unrest of doctors, nurses and facilities, so I am interested in researching legal responsibilities and legal consequences regarding delegation of authority from doctors to nurses in health facilities.

The limited number of medical personnel (doctors) creates a situation that requires nurses to perform medical actions that are not under their authority. These actions are carried out with or without the responsibility of other health workers including doctors, so that they can cause legal problems related to these responsibilities and can harm one party. The issue of legal protection of the nursing profession in carrying out medical actions today is often less of a concern because nurses have competence in carrying out practices and fighting for the level of health turns into disappointment.

March 2013 where the nurse performed a sewing situation on a lacerated wound that hit the blood vessels while the blood was still seeping when referred where the family had

asked the whereabouts of the doctor on duty at the health centre (Dr was in a meeting and other activities). The second case at Delima Asih Hospital in December 2017 when the doctor was performing resuscitation in the ICU room while the nurse was performing basic emergency measures in the emergency room in a seizure patient where the patient's family always asked for the doctor in charge of the emergency room where from both cases the nurse had consulted by telephone.

The lack of understanding of the law by the parties concerned and the lack of legal protection for both patients and health workers, so the hard work of nurses in providing health services if unsuccessful will face the law and even categorised as malpractice with criminal sanctions. On that basis, the author is focused on several problems, namely how is the legal responsibility for the exercise of the doctor's authority to the nursing profession in its activities in the event of medical action? Health is a basic need of every individual because health greatly affects the quality of life or life expectancy which is a measurement of the welfare of society in a country. The National Health System is a health order that reflects the efforts of the Indonesian Nation in improving the ability of optimal health status as a manifestation of general welfare. Based on Article 28 letter H Paragraph (1) of the 1945 Constitution, it states that everyone has the right to live in physical and mental prosperity, to live, and to get a good and healthy living environment and the right to obtain health services.

## **2. RESEARCH METHODS**

The research method used is normative juridical, which is legal research that examines written law from several aspects, namely aspects of theory, history, philosophy, comparison of structure and composition, scope and material, consistency, general explanation, and article by article, formality and strength following a law, as well as the legal language used, but does not examine aspects of application and implementation. The normative juridical approach is research that seeks solutions to legal issues that arise to provide prescriptions regarding the issues raised. In this study examines the legal norms contained in laws and regulations relating to the legal protection of nurses in carrying out medical actions in the hospital emergency room. Based on this explanation, it can be concluded that the research method is a scientific method used to obtain data in accordance with research studies with specific purposes and uses.

Various kinds of methods are used as well as possible in each research in order to be more directed and get the results as expected and can benefit the reader, therefore it is necessary to determine an approach method used is normative juridical. Normative juridical is a library legal research conducted by examining library materials or mere secondary data.

## **3. RESEARCH RESULTS AND DISCUSSION**

### **3.1. Research Results**

#### **A. Code Of Ethics**

Medical personnel (especially doctors) as one of the main components of providing healthcare services to the community have a very important role because they are directly involved in delivering healthcare services. In health centres and hospitals, doctors cannot work without the assistance of nurses. Conversely, nurses are not authorised to act independently without instructions from doctors. In healthcare services at community health centres and hospitals, doctors and nurses are positioned as the personnel most closely involved in patient care. The relationship established with patients can be described as a bond of care and disease healing efforts or a therapeutic transaction, which gives rise to rights and

obligations among various parties, namely doctors, nurses, and the patients themselves (Veronica Komalawati, 2002).

The shortage of medical personnel (doctors) in many places creates situations that force nurses to perform medical treatments or procedures that are not within their authority, which is quite risky for them. These actions are carried out with or without the delegation of authority from other healthcare professionals, including doctors, directly, which can lead to legal issues related to unilateral responsibility and could harm nurses.

Medical personnel are medical experts whose primary function is to provide medical services to patients with the best quality, using methods and techniques based on medical science, applicable ethical codes, and accountability. According to Permenkes Number 262/1979, what is meant by medical personnel are graduates of the Faculty of Medicine or Dentistry and Postgraduate programs who provide medical and supporting services. Medical personnel are individuals who dedicate themselves to the field of health and possess knowledge and skills through education in a specific type of health field that requires the authority to carry out health efforts. Whereas according to Law Number 36 of 2014, Medical Personnel includes health workers and what is meant by medical personnel includes doctors and dentists. Medical personnel are those whose profession is in the medical field, namely doctors, physicians (visiting doctors), and dentists.

In medical services, doctors can be seen in their position as professionals in the medical field who must play an active role, while patients can be seen in their position as recipients of medical services who have an assessment of the appearance and quality of the services they receive. This is because doctors do not only perform medical services or provide assistance, but also carry out professional (expert) duties related to a code of ethics.

Nurses, as one of the healthcare professionals in hospitals, perform three functions: first, the independent function or autonomous function, which involves providing nursing care to patients; second, the interdependent function, which is collaborative with other healthcare professionals, involving the provision of nursing services together with other healthcare professionals; third, the dependent function, which is based on the advice or instructions of a doctor, involving nurses' actions to assist doctors in carrying out certain medical procedures (Nisya R and Hartanti S, 2013). As is the case at the Wanakerta community health centre where the number of doctors is very limited, there is a need for coordination with nurses, and they act as executors when doctors provide further instructions in serving the patients being treated.

## **B. Law No. 17 of 2023 Articles 62-64**

In Law 17/2023, the obligations of healthcare workers (doctors, nurses, etc.) in providing emergency assistance (Articles 61-64) are emphasised, including the prohibition of refusing patients who cannot afford treatment (Article 63) and actions without consent (Article 64), which serve as the foundation for the importance of awareness among medical personnel regarding the responsibilities and duties imposed on them. Health is one of the basic human needs, therefore health is a right for every member of society protected by law. Every country recognises that health is the greatest asset for achieving welfare. Health is fundamentally aimed at enhancing awareness, willingness, and the ability to live healthily for everyone to achieve an optimal level of health as one of the elements of welfare as mandated by the preamble of the 1945 Constitution of the Republic

of Indonesia. Therefore, in Law No. 17 of 2023, Articles 61-64 on emergencies, it is explained that the important role of healthcare workers, both nurses and doctors, as the frontline of health in Indonesia, is emphasised. Every medical personnel is given a significant responsibility, which is not to neglect patients, especially those in emergency situations, whether they have money or not, because the safety of their lives must be prioritised. And the need for attention from healthcare facilities such as community health centres, primary clinics, and hospitals so as not to complicate the condition of patients in emergency situations, as well as the need for doctors to be careful in delegating their authority to nurses to prevent abuse of power or malpractice.

### **3.2. Discussion**

#### **A. Delegation of Authority by Doctors**

According to the Great Dictionary of the Indonesian Language, delegation or delegation of authority is defined as an individual appointed or sent by a country in a deliberation, the transfer or delegation of authority, a mission, or the delegation of authority from a superior to a subordinate within a work environment and must be able to account for it to the superior. Delegation of authority can be defined as granting part of the authority or power to another party. In its implementation in the health profession, the delegation of authority between doctors and nurses is usually of a mandatory nature.

However, it is also possible for the delegation to be of a delegative nature. There are several aspects that can be adjusted regarding the matrix above, where the delegation of authority between doctors and healthcare workers is a partnership rather than a superior-subordinate relationship or between government bodies. Furthermore, the boundaries of competence and authority have been clearly regulated in the applicable laws.

Before delving into the core issue of how the regulation of medical delegation from doctors to nurses works, the researcher will convey that there are many tasks in a healthcare service, whether in a clinic or a hospital. The work can include: professional and administrative tasks that will be carried out by healthcare personnel, in this case, doctors and nurses. The number of doctors is generally very limited in a hospital, especially specialist doctors, so not all tasks of a doctor can be performed by the doctor themselves even though it is a special competence of the doctor. Therefore, due to the limited time and energy, the doctor's tasks will be replaced by the on-duty nurses at that time. However, many tasks that were originally the responsibility of doctors have gradually become daily tasks for nurses, such as inserting urinary catheters and administering blood transfusions, even though these are competencies of doctors. Nevertheless, nurses (RNs) are currently competent to perform these tasks because they were trained during their studies.

The issue here is whether the work has been delegated by the doctor to the nurse in accordance with the correct procedures or methods of delegation, which take the form of delegation of authority or mandate. Based on Minister of Health Regulation Number 2052/MENKES/PER/X/2011 concerning Practice Licenses and the Implementation of Medical Practice. Article 23 paragraph (1): "Doctors and dentists can delegate a medical or dental procedure to nurses, midwives, or other specific healthcare workers in writing when performing medical or dental procedures." In certain circumstances, some diagnostic activities and medical procedures can be delegated to be carried out by nurses or other competent healthcare personnel. In

this case, it should be noted that the primary responsibility remains with the doctor who assigns the task.

According to the researcher, this delegation of authority has conditions that must be met, referring to the abilities and competencies possessed and carried out in accordance with the provisions of the legislation. The delegation of actions as referred to in the Minister of Health Regulation Number 2052 concerning practice permits and the implementation of medical practice, article 23 paragraph (1), is carried out under the following conditions:

1. The delegated actions fall within the abilities and skills accepted by the recipient of the delegation.
2. The execution of the delegated action remains under the supervision of the delegatee.
3. The delegator remains responsible for the delegated actions as long as the execution of the actions is in accordance with the given delegation.
4. The delegated actions do not include making clinical decisions as the basis for carrying out the actions.
5. The delegated action is not continuous.

#### **B. The Form of Legal Responsibility for the Delegation of Authority from Doctors to Nurses in Emergency Actions at Wanakerta Health Centre and Delima Asih Hospital**

The form of legal responsibility for the delegation of authority of doctors to nurses can be carried out by prior direction or not from the doctor to the nurse to carry out an action that is authorised in carrying it out, usually with an order that has been given by the doctor or a mandate to take emergency action. Related to the delegation of authority in providing health services, in nursing practice standards, nurses have the authority to delegate authority to other health workers. According to the Regulation of the Minister of Health of the Republic of Indonesia Number 47 of 2018 concerning Nursing Service Standards in Hospitals, nurses can delegate authority to other competent health workers, according to the needs of patients and their authority. If the doctor is unable to carry out medical action, the doctor may ask the nurse for help to carry out medical action, provided that the doctor must provide a clear delegation of authority to the nurse in writing to carry out the medical action.

Doctors who have delegated their responsibilities to nurses, legally mean that they have transferred legal responsibility in the action. Nurses also have a code of ethics that must be upheld in providing nursing services as a form of responsibility both to patients, peers or other professions, and professional organisations. In carrying out their duties, the relationship between doctors and nurses has records - records of medical actions written down in a medical record about the patient that contains all the patient's medical information including the actions taken against the patient. Accurate and complete documentation is also an important component of legal protection for nurses. The type of action that is delegated must be clear, so that what is delegated is case by case and not in general. As in Puskesmas Wanakerta and Rs Delima Asih, delegation of authority can only be delegated to professional nurses or trained vocational nurses who have competence. While the delegation of authority by mandate is a delegation of tasks given by medical personnel to nurses to carry out a medical action under supervision.

This is in accordance with Article 1367 of the Civil Code that 'A person is not only responsible for losses caused by his own actions, but also for losses caused by

the actions of those who are his dependents or caused by goods under his supervision'. At Puskesmas Wanakerta and Rs Delima Asih, medical personnel as the spearhead of the health facilities receive special attention not only in terms of welfare but also legal protection that makes medical personnel calm in taking medical actions and still in accordance with the ethics and SOPs in the health facilities. Nurses are under the protection of PPNI which is then delegated with the existence of supervisory boards so if it is procedural in the delegation of authority from doctors to nurses then they all get the same protection according to applicable laws.

As in the case at the Wanakerta Health Centre, which occurred in March 2013 where there was an emergency action delegated by the doctor to the nurse, there was a patient suffering from a tear that hit the blood vessels and had been handled by the nurse in the emergency action, but the patient was still in a bad condition when referred to the Regional Hospital the blood was still seeping from the stitched wound at the time at the puskesmas, at the time of the incident the doctor was not in place because there was a meeting. this made the patient in a critical condition where a lot of blood loss at the time of referral to the Regional Hospital, and the family also asked for accountability from this incident, with mediation between the family and the puskesmas and from the government, this case can be done, This made the patient in a critical condition where a lot of blood loss at the time of referral to the RSUD, and the family also asked for accountability from this incident, with mediation between the family and the puskesmas and from the government, this case can be handled properly, where the doctor handed over the authority for emergency action which was taken over by nurses who had been trained to provide assistance to patients in accordance with procedural but experienced obstacles.

In the journey, emergency patients get emergency services by nurses and end up getting critical or not improving, then it will be the responsibility of the doctor as the authoriser to the nurse where as long as it is still in accordance with the procedures that have been directed by the doctor to the nurse, and the medical personnel are protected by the protection institution in this case which will provide protection or legal umbrella if there is an unfortunate incident for the patient. From this case, it can be analysed that not all emergency actions always go well even to make the patient become critical, but the patient can be handled properly and safely and the Fasyankes who are held accountable by the family are cooperative so that this case is resolved properly and amicably in a family manner.

As well as in the second case at Rs Delima Asih in December 2017, at that time the patient came directly directed to the emergency room because of a seizure that was quite alarming, at the same time the doctor on duty was in the ICU room handling critical patients, so the patient's family in the emergency room asked where the doctor was because they were worried about their family who had seizures, in this case the nurse contacted the doctor to get advice on what action was needed in the emergency, the doctor gave the nurse authority to handle the patient by communicating directly by telephone, and the nurse took action according to the direction of the doctor even though the family panicked and looked for a doctor where the doctor was, asking for responsibility if the family was not helped. The hospital also gave an explanation that the doctor was handling a critical patient in the ICU so that the nurse would take emergency action against the patient's family. Although there was tension between the hospital and the patient's family but it can be mediated properly and the patient is safe.

From the above case, the researcher analyses the importance of support and cooperation between doctors and nurses as frontline medical personnel, especially in cases of emergencies, if everything is done according to procedures by not ignoring professional ethical responsibilities, everything will go well. In addition, the importance of legal protection for medical personnel, which if in cases of emergency the patient's family does not accept or sue for actions that they consider deviant, medical personnel get legal protection as full support from the health facility and the government so as not to make medical personnel afraid to take big decisions in emergency actions to provide help for patient survival.

Delegation of authority from doctors to nurses is a practice where doctors give full authority to perform certain medical actions to nurses. This practice is carried out with the aim of improving the efficiency of health services so that all can run well and be covered, expanding patient access to care and periodic checks, and making optimal use of nurses' expertise, as well as making doctors more efficient time shared with other patients. Both professions in the health sector have a very important role in providing health services to the community. Anwar Kurniadi said that doctors still show their hegemonic attitude in health practices, this is because doctors have a dominant and main role in diagnosing and treating diseases.

### **C. Legal Effects of the Exercise of Authority**

The legal basis for delegation of authority is confirmed in Article 290 of Law Number 17 of 2023 concerning Health. In Article 290 Paragraph (1) of Law Number 17 of 2023 concerning Health, it is confirmed that medical personnel and health workers can receive delegation of authority to perform Health Services.

Medical and Health Workers in carrying out practices must be carried out in accordance with the authority based on their competence. So it can be understood, in line with Article 285 and further confirmed in Article 290 of the Health Law, the delegation of authority from doctors to nurses either by mandate or delegation, must pay attention to the competence possessed by the nurses themselves. Basically, this delegation of authority aims to increase efficiency and effectiveness in health services.

If there is a complaint or report from the patient's family regarding medical actions taken by medical personnel, the health facility will prioritise the mediation route first to find the cause and is in accordance with the sop or standard handling of emergency actions or not by referring to Law no 17 of 2023 concerning health. The doctor is responsible for the service (Article 66): In the event of malpractice or error in emergency care, doctors can be held legally liable if the negligence stems from non-standardised instruction or supervision.

Nurses are independently liable if they violate professional standards despite doctor's orders (Article 67). Legal Protection: Both are protected while acting according to emergency procedures (Article 68). Doctors and nurses are obliged to document emergency actions as a form of legal accountability (Article 70). This law emphasises the Good Samaritan Principle (Article 69): Doctors and nurses should not be prosecuted as long as they act in good faith in life-threatening emergencies. Responsibility is shared according to the proportion of fault based on the investigation of the Medical Disciplinary Honour Council (MKDKI) or nurses (MKDP).

The delegation of authority from medical personnel such as doctors to health workers such as nurses is regulated in Article 290 of Law Number 17 Year 2023 on Health, with the condition that the recipient of the authority must have appropriate

competence. The purpose of this delegation is to improve the efficiency and effectiveness of health services. In the event of a complaint from a patient or family, the health facility (Fasyankes) will prioritise mediation first to assess the suitability of actions with standard operating procedures (SOPs) and legal provisions. Thus, the delegation of authority must be carried out carefully, competency-based, and still maintain legal accountability for patient safety and compliance with established regulations and still maintain professional ethics as a standard of patient service.

#### **4. CONCLUSIONS**

From the above explanation, It can be concluded that the legal responsibility of doctors to nurses in medical emergencies regulated in Government Regulation No. 28 of 2024 can be concluded that in an emergency the doctor as the person in charge of the service is obliged to coordinate nurses and health workers who are competent to carry out medical responsibilities in accordance with the established SOPs which in this case the doctor must ensure that the selected nurses have been given good supervision and guidance so that they will not cause malpractice other than that doctors and nurses on duty are required to have STRs as proof that they will not cause malpractice. In this case the doctor must ensure that the selected nurse has been given good supervision and guidance so that it will not cause malpractice other than that doctors and nurses on duty are required to have an STR as proof that they are fit to work and are in accordance with the SOP and health service regulations which are the main requirements for medical personnel to have an active STR. and not forgetting that the doctor is responsible for ensuring that the medical staff has an active STR, and do not forget that doctors are responsible for coordination, supervision, and instructions given to nurses before taking emergency action. To anticipate the occurrence of undesirable things, health workers who receive delegation of authority must continue to improve competence through training and certification, so that they can carry out their duties according to standards, as well as provide socialisation and understanding of regulations. Each health facility must have a detailed Standard Operating Procedure (SOP) related to the delegation of authority, including supervision and documentation mechanisms to ensure accountability. Periodic evaluation of SOPs should be conducted to adjust to medical and legal developments. Health facilities should establish a professional mediation team to handle patient/family complaints before the matter progresses to the legal realm. In the event of a dispute, documentary evidence (such as medical records and informed consent) should be complete to facilitate resolution.

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