

# Research Horizon

ISSN: 2808-0696 (p), 2807-9531 (e)

## Research Horizon

Volume: 05

Issue: 06

Year: 2025

Page: 3021-3030

## Citation:

Syahrudin, C., & Jamaludin, A. (2025). Juridical analysis of delegated authority from anesthesiologist to nurses in performing anesthetic procedures. *Research Horizon*, 5(6), 3021-3030.

## Article History:

Received: October 4, 2025

Revised: November 9, 2025

Accepted: December 12, 2025

Online since: December 31, 2025

## Juridical Analysis of Delegated Authority from Anesthesiologist to Nurses in Performing Anesthetic Procedures

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## Abstract

The growing public demand for professional and legally accountable healthcare services, coupled with the limited availability of anesthesiology personnel, has led to the increasingly common practice of delegating anesthetic procedures to nurses, creating significant legal controversy that requires thorough examination. This study examines the legal aspects of the delegation of authority from anesthesiologists to nurses in performing anesthesia or sedation. The method used in this study is normative legal research, which is research using legislation covering three layers of legal science consisting of legal dogmatics, legal theory, and legal philosophy. The results of the discussion found that from a positive legal perspective, the delegation of authority from anesthesiologists to nurses to perform anesthesia within the scope of anesthesia services is contrary to the legal norms or rules as stipulated in Law Number 36 of 2014 concerning Health Workers and also Law- Law Number 38 of 2014 concerning Nursing, which is *Lex Specialis* for nurses, and Law Number 17 of 2023 concerning Health. Therefore, the delegation of authority from anesthesiologists to nurses can be categorized as an unlawful act because anesthesia is a special medical procedure that can only be delegated to health workers who have been authorized by the government.

## Keywords

Anesthesia Procedures, Anesthesiologists, Legal Aspects, Nurses.

## 1. Introduction

The progress of a nation is often measured by its level of mastery of science and technology. In line with this, in the era of open information systems, health workers are required to act professionally. The public has become more critical of the services they receive, including from doctors, nurses, pharmacists, and other health workers, resulting in increased legal awareness (Solihin et al., 2023). These demands require health workers to work in accordance with Standard Operating Procedures (SOPs) because any violation is susceptible to being sued by patients, and even public complaints can easily go viral on social media. Therefore, healthcare workers must minimize even the smallest mistakes, and if they do occur, they must be attributed to *force majeure* or circumstances beyond human control (Frimpong et al., 2023; Runggandini et al., 2024). This increased legal awareness sometimes causes the public to confuse ethical and legal issues due to a lack of understanding of the differences between the two, even though both adhere to applicable norms (Yusdheaputra, 2023).

The public is now increasingly critical of healthcare services and the professionalism of healthcare workers. They demand optimal service quality, even though the government faces limitations in meeting these demands. To improve service quality, skilled healthcare workers and adequate facilities are needed. This condition causes complexity in the healthcare system, especially in anesthesiology and intensive care services, which are developing rapidly in line with scientific advances (Siregar, 2019). Demand for anesthesiology services continues to rise, yet the availability and distribution of qualified professionals, specifically anesthesiologists and anesthesiologists, remain insufficient. This shortage has led to situations in which anesthesiologists assign anesthesia-related tasks to nurses, despite the fact that anesthesia is legally categorized as a medical procedure that may only be carried out by authorized medical personnel or specific health workers under applicable regulations. Such practices, regardless of whether formal delegation is provided, carry a high potential for legal disputes (Perwira, 2021; Muhali & Kuntardjo, 2024).

Although the delegation of medical procedures from medical personnel to health workers in general is regulated in Article 65 paragraph (1) of Law Number 36 of 2014 concerning Health Workers, as well as in Article 29 paragraph (1) letter e and Article 32 paragraph (1) of Law Number 38 of 2014 concerning Nursing, there are fundamental differences between nurses and anesthesiologists, both in terms of competence, job descriptions, and authority (Sutarih, 2018). Specifically, nurses do not have competence in the field of anesthesia. Therefore, the delegation of anesthetic procedures from anesthesiologists to nurses, even if given in writing and accompanied by supervision and evaluation, can be categorized as an unlawful act because nurses do not have authority in the field of anesthesia. If health workers are proven to have committed negligence that harms patients, they will face legal consequences. The gap between practice in the field, especially the delegation of anesthetic procedures to nurses, and the applicable regulatory provisions needs to be further examined (Yakub, 2024).

There have been several previous studies on the delegation of authority from doctors to nurses, including a study by Listyaningrum and Sari (2023), whose qualitative research results on the legal protection of the implementation of anesthesiologist duties in delegation. The research by Santika et al. (2024) on the delegation of medical authority from doctors to nurses based on health law, and Fadli and Dahlan (2024), which examines the legal protection of anesthesia nurses regarding the delegation of authority from anesthesiologists in health services based on laws and regulations. There is a difference between this study and the previous studies in terms of the research object. Substantively, the previous studies focused

on legal protection for nurses as recipients of delegated authority, while this study focuses on the legality of the delegation of authority by anesthesiologists to nurses. Specifically, this study is a refutation of the novelty of the study by Muhali et al. (2024), which concluded that there is norm obscurity of nurses as recipients of delegated tasks from anesthesiologists.

Given the legal challenges linked to the delegation of anesthesia procedures, this research holds significance in examining the legal implications involved. The study focuses on two primary questions: how the transfer of authority from anesthesiologists to nurses in carrying out anesthesia is regulated, and what forms of legal responsibility, both criminal and civil apply to anesthesiologists and nurses in connection with such delegation. The outcomes of this analysis are intended to offer a thorough understanding of legal certainty and safeguards for anesthesiologists, nurses, and patients within the scope of anesthesia services.

## **2. Methods**

This study employs a library-based research method, relying primarily on written sources such as books, journals, legal documents, and relevant statutory regulations. It adopts a descriptive-analytical format using a normative legal approach that centers on Indonesia's positive law and applicable legal doctrines (Arifuddin et al., 2025). As a form of normative legal research, it is grounded in literature review and seeks to derive legal principles, both written and unwritten, through the examination of legislative rules.

In collecting data, the researcher used documentation methods from various written sources. However, this study also does not rule out the possibility of being strengthened by field studies, such as discussions with experts and practitioners in related fields, to obtain more robust data. The data sources in this study are classified into three types. Primary legal materials refer to the main data sources in legal research, namely authoritative legal documents and information directly related to the issues studied, which in this research include interview results and discussions with practitioners in the field. Secondary legal materials function to support and explain the primary materials, providing analysis and interpretation that deepen understanding of the legal context being examined. Meanwhile, tertiary legal materials serve as additional references that clarify concepts contained in both primary and secondary materials, such as legal dictionaries, encyclopedias, and other indexing sources that assist in strengthening the interpretation and analysis.

The regulations that form the core focus of this study include Law Number 38 of 2014 on Nursing, Law Number 36 of 2014 on Health Workers, and Minister of Health Regulation Number 26 of 2019 as the implementing regulation governing the delegation of medical authority, which is further analyzed in relation to Minister of Health Regulation Number 3 of 2025 on the Enforcement of Professional Discipline for Medical and Health Personnel as the legal basis for evaluating the implications of delegating authority from anesthesiologists to nurses.

## **3. Results and Discussion**

### **3.1. Regulation of Delegated Anesthetic Authority**

Black's Law Dictionary describes authority as a lawful power, the right to direct or take action, and the power vested in public officials to require compliance with orders issued legitimately within the bounds of their official duties. Authority represents a core concept in both constitutional and administrative law. In the context of administrative law, authority may arise through attribution, delegation, or mandate. It is inherently linked to the principle of legality, a foundational doctrine in states governed by the rule of law, especially within the continental European

legal system. In criminal law, the principle of legality signifies that penalties cannot be imposed without a pre-existing legal basis, whereas in administrative law, it obligates government actions to conform to statutory provisions (Chiao, 2018).

In the Big Indonesian Dictionary, the word *wewenang* is equated with authority, which means the right and power to act. This includes the ability to make decisions, give orders, and delegate responsibilities to other people or institutions (Hidjaz, 2010). However, in a legal context, the meaning of *wewenang* is different from power (Ridwan, 2011). Power merely describes the right to do or not do something, while authority encompasses both rights and obligations. According to Intan et al. (2022), in general, authority has three important elements, namely, Influence is the use of authority to direct or control the behavior of legal subjects. The legal basis is that authority must be based on valid legal rules. Legal conformity is that the use of authority must be in accordance with applicable legal standards, both general and specific. From various expert opinions, it can be concluded that authority is the right to do something or order others to act or refrain from acting in order to achieve a specific goal.

Regarding how authority is obtained, there are three ways, namely attribution, which is the granting of authority to a new government through legislation. attribution, delegation, and mandate are all forms of transfer or division of authority in government (Indroharto, 1993). Attribution (or in Dutch: *attributie*) refers to the granting of authority to a specific body that exercises it on its own behalf, not on the orders of another body. Usually, attribution originates directly from the constitution or legislation, without the need for derivative rules first (Peters, 2017; Al-Arif, 2023). This usually occurs when a new government body is formed and is immediately given authority based on the law. Delegation, which is the transfer of authority from one State Administrative Body (*Tata Usaha Negara/TUN*) that already has authority to another TUN body or official. A mandate differs from the previous two in that there is no granting or transfer of authority in a mandate. There is only a transfer of duties in implementation, but the responsibility remains with the party giving the mandate. Furthermore, according to Hadjon (1998), there is a fundamental difference between delegation and mandate. In delegation, there is a transfer of authority and responsibility. This means that the official who receives the delegation becomes fully responsible for the implementation of that authority. Meanwhile, in a mandate, only the implementation tasks are given, but the responsibility remains with the official who gives the mandate (Kirlan & Sanjoyo, 2022).

Healthcare is one aspect of national development that is pursued through health initiatives. Health initiatives can be carried out in healthcare facilities (Lakoro, 2025). One such facility is a hospital, which is a healthcare facility that provides comprehensive individual healthcare services, including preventive, promotive, curative, and rehabilitative efforts (Widjaja, 2023). This involves doctors and nurses as medical and healthcare personnel.

The collaborative relationship between physicians and nurses in delivering patient care constitutes a binding professional partnership that requires aligned duties, roles, and responsibilities supported by transparent communication (Putri et al., 2025). This interaction carries legal consequences because any transfer of authority, whether through delegation or mandate, originates from the physician (Nugraha et al., 2022). From a legal standpoint, accountability remains with the physician, as nurses act based on the physician's directives (Sanusi & Setiadi, 2024). Statutorily, the transfer of medical authority from a doctor to a nurse must be documented in writing, as mandated by Article 32(1) of Law Number 38 of 2014 on Nursing. Furthermore, the specific procedures being delegated must be explicitly defined, ensuring that delegation applies to particular cases rather than generally. Delegation of authority can only be assigned to health personnel who possess the

appropriate qualifications and legal authorization, while mandated tasks are carried out by nurses under direct supervision.

Transferring certain medical tasks from physicians to nurses is a common practice in Indonesia's healthcare system, largely driven by the unequal distribution of doctors across regions. Such transfers of responsibility may occur through delegation or mandate, meaning nurses are required to carry out actions based on physicians' instructions and are not permitted to make independent clinical decisions regarding those tasks (Sugiharti, 2025). It is important to emphasize that only limited, basic medical procedures may be delegated to nurses. This is regulated in Law Number 38 of 2014 concerning Nursing, particularly in the explanation of Article 32 paragraph (4), which specifies that delegable procedures include activities such as administering injections, inserting intravenous lines, and providing routine immunizations under government programs. Paragraph (5) clarifies that mandate-based delegation may involve tasks such as parenteral therapy and wound suturing. Accordingly, complex and specialized anesthetic procedures fall outside the scope of actions that can be legally delegated to nurses.

Legal regulations on the transfer of authority are also outlined in Law Number 36 of 2014 on Health Workers. Article 65, Paragraph (1) stipulates that health workers may receive delegated medical procedures from medical personnel when providing healthcare services. Paragraph (3) further explains that such delegation is permitted only if the tasks assigned fall within the competence and skill set of the recipient. The execution of delegated actions must occur under the supervision of the delegating party, who continues to bear responsibility for those actions, provided they are carried out in accordance with the delegation granted. Additionally, delegated tasks may not involve making independent decisions that serve as the basis for implementing the procedures (Sugiharti, 2025). Paragraph (4) specifies that further details concerning delegation procedures are governed by ministerial regulations. Regulations concerning the transfer of medical authority from physicians to nurses are detailed in Minister of Health Regulation Number 26 of 2019, which serves as the implementing regulation for Law Number 38 of 2014 on Nursing. Article 28, paragraph (1) states that such delegation may take the form of either delegative authority or a mandate. Paragraph (6) emphasizes that any delegated medical action must align with the nurse's professional competence. The scope of nursing competence itself is defined in the Decree of the Minister of Health of the Republic of Indonesia Number HK.01.07/MENKES/1558/2024 on the Technical Competency Dictionary for Functional Health Positions, which identifies core nursing competencies across medical-surgical services, inpatient care, emergency departments, ICU, HCCU, NICU, maternal care, pediatric nursing, mental health services, and community and family health care.

Therefore, assigning anesthesia procedures to nurses by anesthesiologists can be classified as a breach of medical and health professional discipline under Minister of Health Regulation Number 3 of 2025 regarding the Enforcement of Medical and Health Professional Discipline, Chapter II, Article 4(1). The regulation identifies several forms of disciplinary violations, including practicing without adequate competence, failing to refer patients to qualified professionals, referring patients to unqualified personnel, neglecting professional duties, and misusing professional authority. Both anesthesiologists and nurses involved in such misconduct may be subject to identical sanctions, ranging from written reprimands and temporary suspension of registration certificates to the revocation of practice licenses (Agustina et al., 2020).

### **3.2. Criminal and Civil Liability in the Delegation of Anesthesia Services**

Responsibility, according to the General Dictionary of the Indonesian Language, is a condition in which a person must bear all of their obligations. This means that a person must take responsibility, answer for their actions, and bear the consequences.

In the legal dictionary, responsibility means an obligation for a person to carry out what has been required of them. Legal responsibility includes a person's awareness of intentional and unintentional actions. It also reflects how a person acts in accordance with their awareness of their obligations. In addition, legal responsibility is the result of a person's freedom to act, which is closely related to ethics and morals. From a legal perspective, legal responsibility is divided into two categories: public law and private law. In public law, responsibility covers state administration and criminal law. Meanwhile, in private law, an example is responsibility in civil law. In civil law, there are two main types of responsibility, namely responsibility for unlawful acts and breach of contract (Tampubolon, 2023).

Based on this description, it can be concluded that the delegation of authority by an anesthesiologist to a nurse to perform anesthesia is an act that violates the law and also constitutes a violation of patient rights, so it can be categorized as an Unlawful Act, meaning that both the anesthesiologist and the nurse can be held liable (Sugiharti, 2025). Legal liability for medical personnel and healthcare workers can be examined based on three legal frameworks, consisting of personal liability and vicarious liability. Civil claims brought against nurses may be pursued under two legal grounds: unlawful acts (*onrechtmatige daad*) as provided in Article 1365 of the Civil Code, and breach of contract (contractual liability) under Article 1239 of the Civil Code. Responsibility arising from the transfer of authority from an anesthesiologist to a nurse is evaluated through two key principles.

First, direct and personal liability (personal liability) based on Articles 1365 and 1366 of the Civil Code. When a nurse independently commits an error in carrying out their duties that results in patient injury, they are personally accountable. Jurisprudence establishes that an act is deemed unlawful when it contradicts the legal obligations of the actor, infringes the rights of others, violates moral norms, or conflicts with standards of appropriateness, diligence, and caution expected in interactions within society or in relation to another person's property. Given that anesthesia falls outside the professional competence of nurses, performing anesthesia without appropriate authority may be regarded as an unlawful act (Thomas et al., 2022).

Liability may also arise under the doctrine of respondeat superior or vicarious liability, in accordance with Article 1367 of the Civil Code. In this framework, nurses who work as part of a medical team or under the direction of physicians or hospitals share responsibility for any harm caused to patients. In relation to claims based on breach of contract, a nurse may be held liable if the essential elements of contractual breach are satisfied, which include: failure to perform an obligation, performing an obligation but in a delayed manner, performing an obligation incorrectly, or undertaking an action that should not have been performed. If these elements are proven, liability is attributed directly to the nurse based on the principle of personal responsibility.

Criminal liability may also be imposed on both anesthesiologists and nurses involved in delegated procedures when the legal requirements are met, namely: the presence of an unlawful act, fault (*schuld*) in the form of intent (*dolus*) or negligence (*culpa*), actual or non-material damages incurred, and a causal link between the fault and the resulting loss. Since anesthesia lies outside the permitted scope of nursing competence, anesthesia performed by a nurse may constitute an unlawful act, particularly when carried out deliberately. Furthermore, damages are not limited to material losses; non-material harms such as fear, anxiety, or emotional distress may also serve as a legitimate basis for legal claims (Sugiharti, 2025).

Administrative violations may be subject to administrative sanctions if a nurse performs nursing actions without a practice license and registration certificate as stipulated in the 2014 Health Workforce Law. The forms of administrative sanctions imposed include verbal warnings, written warnings, administrative fines, and

revocation of licenses. These are specifically regulated in the Ministry of Health Regulation Number 3 of 2025 concerning the Enforcement of Professional Discipline for Medical Personnel and Health Workers.

#### **4. Conclusion**

The findings of this study indicate that the delegation of anesthetic procedures from anesthesiologists to nurses in Indonesia is not legally permissible because anesthesia falls outside the scope of nursing competence as defined in Law Number 38 of 2014 on Nursing, Law Number 36 of 2014 on Health Workers, and Minister of Health Regulation Number 26 of 2019. Although the legal framework allows delegation or mandate for certain basic medical procedures, specialized actions such as anesthesia are explicitly excluded. Therefore, the transfer of anesthetic authority to nurses constitutes a violation of professional discipline and may give rise to civil, criminal, and administrative liability. In civil law, liability may arise from unlawful acts and breach of contract under Articles 1365, 1366, 1367, and 1239 of the Civil Code, based on personal and vicarious liability principles. Criminal responsibility may apply if elements of wrongdoing and causation are proven, while administrative sanctions may be imposed for violations of licensing requirements. These findings affirm the urgency of legal certainty and patient safety protection mechanisms in anesthesia services.

This study has important implications for strengthening regulatory enforcement, improving supervision systems in hospitals, and ensuring that delegation practices align with legal competence standards to prevent legal risks and protect patient rights. It highlights the need for policymakers to develop clearer operational guidelines and clinical protocols related to delegation boundaries in high-risk medical procedures. The main limitation of this study is its reliance on normative legal analysis and the absence of comprehensive empirical data regarding the frequency and practical implementation of anesthetic delegation in healthcare facilities. Future research should include field-based empirical studies across various hospital settings, comparative legal analysis with other jurisdictions, and policy evaluation to identify systemic challenges that contribute to unauthorized delegation practices. Further studies could also explore legal reform strategies to address the shortage of anesthesiologists without compromising patient safety and professional accountability.

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### ***Acknowledgment***

We gratefully acknowledge the contributions of individuals who supported the completion of this article.

### ***Funding Information***

This research did not receive any funding.

### ***Conflict of Interest Statement***

The authors declare that there is no conflict of interest.

### ***Ethical Approval and Originality Statement***

Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

### ***Data Disclosure Statement***

The data that support the findings of this study are available from the corresponding author upon reasonable request.



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