

Legal Authority and Protection for Anesthesia Practitioners Working Without Direct Anesthesiologist Supervision in Indonesian Hospitals

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Abstract

Anesthesia services are a critical component of hospital care and require clear legal authority and adequate legal protection to ensure patient safety and professional accountability. In Indonesia, the unequal distribution of anesthesiologists has resulted in anesthesia practitioners (penata anestesi) frequently providing services without direct specialist supervision, creating inconsistencies between legal norms and clinical practice. This study aims to analyze the legal authority and legal protection of anesthesia practitioners working without direct supervision from anesthesiologists within the Indonesian health law framework. This research employs a normative juridical method using statute and conceptual approaches by examining Law No. 17 of 2023 on Health, Minister of Health Regulation No. 18 of 2016, and relevant legal literature. Data were analyzed through qualitative normative legal analysis. The findings indicate that Permenkes No. 18 of 2016 imposes restrictive delegation of authority, particularly in private hospitals and emergency situations, which does not adequately reflect workforce shortages and exposes anesthesia practitioners to criminal, civil, and administrative legal risks. In conclusion, inconsistencies between legal regulations and healthcare realities weaken legal certainty and legal protection for anesthesia practitioners, highlighting the need for regulatory harmonization that balances professional competence, patient safety, and legal certainty.

Keywords: Anesthesia practitioners, Health law, Legal authority, Legal protection

INTRODUCTION

Hospitals are healthcare institutions that bear legal responsibility for every medical action provided to patients (Fakrulloh & Lubna, 2023; Haryono et al., 2025; Widjaja, 2025). In the Indonesian legal system, every individual has the right to obtain healthcare services in accordance with prevailing laws and regulations, and legal regulation functions as an instrument of public protection to ensure patient safety and prevent unlawful medical practices (Widjaja, 2025a). This responsibility is grounded in the doctrine of vicarious liability, particularly the principles of respondeat superior and ostensible agency (Nobel et al., 2025). The doctrine of

respondeat superior establishes that hospitals, as legal entities, are accountable for medical actions performed by their personnel in the course of healthcare delivery, while ostensible agency recognizes authority based on institutional delegation and public trust (Budiman et al., 2023; Ramdani, 2019). These doctrines form the legal basis for hospital accountability and the limitation of professional authority in medical practice to ensure legal certainty and patient protection.

The relationship between healthcare providers and patients in hospitals is inherently unequal, as patients rely entirely on the expertise and decisions of medical

personnel. Therefore, binding legal norms are essential to regulate medical authority and prevent abuse of professional discretion. Medical personnel are required to uphold professionalism based on ethical standards and statutory provisions, as well as the principle of beneficence in delivering healthcare services. This principle is reflected in Article 2 of Law No. 17 of 2023 on Health, which emphasizes that healthcare services must be grounded in humanitarian values, professionalism, justice, equality of rights, and the social function of hospitals (Ismail Koto, 2021; Undang-Undang Republik Indonesia Nomor 17 Tahun 2023 Tentang Kesehatan, 2023). Consequently, the exercise of medical authority must always be aligned with both ethical obligations and legal mandates.

Anesthesia services represent a critical component of hospital healthcare delivery due to their high-risk nature and the need for rapid and accurate clinical decision-making. Anesthesia practice encompasses perioperative care, pain management, emergency procedures, and cardiopulmonary and cerebral resuscitation, all of which require advanced competence and vigilance (Prayitno, 2021). In response to these risks, Minister of Health Regulation No. 519 of 2011 and Permenkes No. 18 of 2016 clearly stipulate that anesthesia procedures fall under the authority of anesthesiologists, while anesthesia practitioners (penata anestesi) are permitted to perform their duties only as assistants under direct supervision (Permenkes Nomor

18 Tahun 2016 Tentang Izin Dan Penyelenggaraan Praktik Penata Anestesi, 2016). Normatively, this regulatory framework aims to safeguard patient safety by ensuring that anesthesia services are conducted within clearly defined professional boundaries.

However, empirical data demonstrate a significant imbalance in the distribution of anesthesia personnel in Indonesia. Between 2016 and 2019, only 3,750 anesthesia practitioners were registered with the Indonesian Health Worker Council (MTKI), compared to 4,154 anesthesiologists (Sumantri, 2019). When these figures are considered alongside Indonesia's population of 284 million and the number of hospitals nationwide (BPS, 2025), the availability of anesthesiology services is disproportionately low. This condition is particularly evident in regional and remote hospitals, where anesthesiologists are often unavailable. As a result, anesthesia practitioners are frequently required to perform anesthesia services without direct supervision, despite the absence of explicit legal authority for independent practice. This situation creates legal vulnerability for anesthesia practitioners, as their factual responsibilities are not adequately supported by the existing regulatory framework.

Permenkes No. 18 of 2016 further restricts the authority of anesthesia practitioners by limiting actions beyond assistance to emergency conditions, confined to first aid measures aimed at relieving pain and stabilizing patients prior

to referral to more competent medical professionals. While this provision is intended to protect patients, it does not sufficiently accommodate Indonesia's geographic conditions and uneven distribution of medical specialists. In practice, anesthesia practitioners in underserved areas are compelled to make independent clinical decisions that exceed their legally defined authority, thereby exposing them to potential legal consequences. These consequences may arise from criminal liability in cases of negligence resulting in injury or death, civil liability under Article 1365 of the Indonesian Civil Code for unlawful acts, and administrative sanctions for violations related to registration and practice licensing requirements (Prayitno, 2021).

Several previous studies have addressed medical accountability and legal protection for healthcare workers. Ismail Koto (2021) emphasized that legal protection for healthcare professionals is essential not only to ensure professional security but also to safeguard patient rights. Edi Prayitno (2021) identified that many legal violations in anesthesia practice originate from discrepancies between regulatory authority and clinical demands. Budiman et al. (Budiman et al., 2023) highlighted the importance of aligning hospital practices with the respondeat superior doctrine to clarify institutional responsibility for medical actions. Nevertheless, these studies have not specifically examined the legal authority and protection of anesthesia practitioners

who perform anesthesia services without direct anesthesiologist supervision in regional hospital settings.

The core gap identified in this study lies in the lack of synchronization between normative legal regulations and the operational realities of anesthesia services. The restriction of delegated authority to government hospitals under Article 14 paragraph (6) of Permenkes No. 18 of 2016, as well as limitations on the number of practice locations, presents practical challenges for anesthesia practitioners working in private and regional hospitals (Undang-Undang Republik Indonesia Nomor 17 Tahun 2023 Tentang Kesehatan, 2023). This regulatory rigidity places anesthesia practitioners in a legal dilemma, as they are required to fulfill urgent clinical needs while simultaneously facing the risk of legal sanctions for exceeding administrative authority.

Based on these conditions, this study aims to analyze the legal authority and legal protection of anesthesia practitioners working without direct supervision from anesthesiologists in Indonesian hospitals. The novelty of this research lies in its integrative analysis that combines hospital liability doctrine, statutory regulation—particularly Permenkes No. 18 of 2016—and empirical data on anesthesia workforce distribution. By situating legal norms within actual service conditions, this study provides a distinct contribution to health law scholarship and offers a conceptual basis for adaptive regulatory reform that balances patient safety, professional

accountability, and legal protection for anesthesia practitioners.

METHOD

This study employs a normative juridical research design, focusing on the analysis of legal norms governing the authority and legal protection of anesthesia practitioners (penata anestesi) who perform anesthesia services in hospitals without direct supervision from anesthesiologists. This approach is appropriate because the research examines written legal provisions and their application within Indonesia's healthcare legal framework.

The research applies a statute approach and a conceptual approach. The statute approach is used to examine statutory regulations related to anesthesia practice and healthcare personnel authority, including Law No. 17 of 2023 on Health (Undang-Undang Republik Indonesia Nomor 17 Tahun 2023 Tentang Kesehatan, 2023), Minister of Health Regulation No. 18 of 2016 on the Licensing and Implementation of Anesthesia Practitioners (Permenkes Nomor 18 Tahun 2016 Tentang Izin Dan Penyelenggaraan Praktik Penata Anestesi, 2016), and Minister of Health Regulation No. 519 of 2011 on Guidelines for Anesthesiology and Intensive Care Services in Hospitals (Peraturan Menteri Nomor 519 Tahun 2011 Tentang Pedoman Penyelenggaraan Pelayanan Anestesiologi Dan Terapi Intensif Di Rumah Sakit, 2011). The conceptual approach is used to analyze legal concepts of authority, professional

responsibility, hospital liability, and legal protection relevant to anesthesia practice.

The legal materials consist of primary and secondary legal materials. Primary legal materials include binding statutory regulations governing healthcare services and anesthesia practice, particularly the laws and ministerial regulations relevant to anesthesia practitioners' licensing and authority. Secondary legal materials comprise scholarly books, peer-reviewed journal articles, and previous studies on health law and medical liability, including works by Edi Prayitno (2021), Ismail Koto (2021), and Budiman et al. (2023), which support doctrinal interpretation and legal analysis.

The data analysis technique employed is normative qualitative analysis, conducted through systematic interpretation of statutory provisions and legal concepts. The analysis focuses on assessing the consistency and adequacy of existing regulations in providing legal authority and protection for anesthesia practitioners, particularly in situations where direct supervision by anesthesiologists is unavailable. Legal conclusions are drawn through structured legal reasoning based on statutory interpretation and doctrinal analysis.

Through this methodological framework, the study aims to produce a coherent and objective legal analysis that contributes to the development of legal certainty and adaptive regulation in Indonesia's healthcare system.

RESULTS AND DISCUSSION

1. Legal Authority of Anesthesia Practitioners Under Minister of Health Regulation No. 18 of 2016

Normatively, the legal authority of anesthesia practitioners (penata anestesi) is strictly regulated under Minister of Health Regulation (Permenkes) No. 18 of 2016 concerning the Licensing and Implementation of Anesthesia Practitioners. This regulation affirms that all anesthesia procedures fall under the responsibility of anesthesiologists, while anesthesia practitioners are assigned an assistive role in the three stages of anesthesia services, namely pre-anesthesia, intra-anesthesia, and post-anesthesia care. All such actions must be performed based on instructions and under the direct supervision of an anesthesiologist (Permenkes Nomor 18 Tahun 2016 Tentang Izin Dan Penyelenggaraan Praktik Penata Anestesi, 2016).

This normative arrangement is further reinforced by Minister of Health Regulation No. 519 of 2011, which positions anesthesiology and intensive care services as specialist-driven medical services, with anesthesia teams acting as technical executors in accordance with specialist directives. From an administrative health law perspective, this framework aims to ensure patient safety by confining high-risk medical actions to professionals with the highest level of competence and legal authority. Consequently, anesthesia practitioners are not granted independent clinical authority and are not legally

recognized as autonomous anesthesia service providers.

2. The Gap between Legal Norms and Field Practice

Despite the clarity of the normative framework, anesthesia service delivery in practice reveals a significant gap between legal norms and operational realities. Data from the Ministry of Health indicate that as of 2019, Indonesia had approximately 3,750 anesthesia practitioners and 4,154 anesthesiologists (Sumantri, 2019). When assessed against Indonesia's population of 284 million and the uneven distribution of hospitals across a vast geographical area (BPS, 2025), this ratio highlights a structural shortage of anesthesiology specialists, particularly in regional and remote hospitals.

As a consequence, many hospitals operate without the continuous presence of anesthesiologists, compelling anesthesia practitioners to perform anesthesia-related actions without direct supervision. In emergency situations, anesthesia practitioners are often required to take immediate clinical action to preserve patient safety, even when such actions exceed their formally defined legal authority. Although these practices arise from service necessity rather than intentional non-compliance, they nevertheless expose anesthesia practitioners to legal uncertainty due to the lack of explicit regulatory accommodation for such conditions.

3. Legal Risks: Criminal, Civil, and Administrative Liability

The discrepancy between legal norms and actual practice generates potential legal risks in three domains: criminal, civil, and administrative law. From a criminal law perspective, anesthesia practitioners may be held criminally liable if negligence (*culpa*) in performing anesthesia-related actions results in patient injury or death. Indonesian criminal law distinguishes between intent (*dolus*) and negligence (*culpa*), and in the medical context, negligence causing harm may be classified as malpractice (Qintharah, 2019).

From a civil law standpoint, anesthesia-related actions performed without valid legal authority may constitute an unlawful act under Article 1365 of the Indonesian Civil Code. In such cases, patients or their families may pursue civil claims for compensation, regardless of the practitioner's good faith or the emergency nature of the intervention (Prayitno, 2021).

Administrative liability represents the most frequent form of legal exposure in anesthesia practice. Permenkes No. 18 of 2016 limits anesthesia practitioners to practicing in a maximum of two hospitals. However, due to workforce shortages and service demands, many practitioners work in more than two healthcare facilities, often at the request of anesthesiologists or hospital management (Ismail Koto, 2021). This situation results in administrative violations related to the absence of valid Registration Certificates (STR) and Practice Licenses (SIP), potentially leading to

sanctions ranging from warnings to license revocation.

4. Weaknesses in the Delegation of Authority in Private Hospitals

Permenkes No. 18 of 2016 also reveals structural weaknesses in regulating the delegation of authority, particularly in private hospitals. Article 14 paragraph (1) permits the delegation of authority to anesthesia practitioners when no anesthesiologist is available in a hospital. However, Article 14 paragraph (6) restricts such delegation exclusively to government-owned hospitals. As a result, anesthesia practitioners working in private hospitals lack a clear legal basis for delegated authority, even when they act to address urgent clinical needs comparable to those in public hospitals.

In contrast, Law No. 17 of 2023 on Health provides broader flexibility by allowing healthcare professionals to perform actions beyond their professional authority in emergency situations to protect patient safety (Undang-Undang Republik Indonesia Nomor 17 Tahun 2023 Tentang Kesehatan, 2023). The lack of harmonization between this statutory provision and Permenkes No. 18 of 2016 creates legal uncertainty, particularly for anesthesia practitioners in private and regional hospitals that lack immediate access to anesthesiologists or referral facilities.

These inconsistencies demonstrate that the regulatory framework governing the delegation of authority has not fully adapted to the realities of anesthesia service delivery. As a result, legal protection for

anesthesia practitioners remains limited and insufficiently preventive, leaving practitioners legally vulnerable despite their essential role in safeguarding patient safety (Budiman et al., 2023).

The results and discussion indicate that legal vulnerability among anesthesia practitioners primarily arises from inconsistencies between normative legal frameworks and the practical realities of anesthesia service provision. Rigid limitations on authority, unequal distribution of anesthesiology specialists, and weaknesses in delegation regulations particularly in private hospitals collectively increase the risk of criminal, civil, and administrative liability for anesthesia practitioners. These findings underscore the urgent need for regulatory harmonization to ensure legal certainty, adequate legal protection for healthcare professionals, and sustained patient safety within Indonesia's healthcare system.

CONCLUSION

This study concludes that the regulation of authority and legal protection for anesthesia practitioners in Indonesia has not yet achieved normative coherence with the realities of healthcare practice, particularly in regions experiencing a shortage of anesthesiologists. Minister of Health Regulation No. 18 of 2016 imposes restrictive delegation mechanisms that are insufficient to accommodate emergency conditions and service demands in both public and private hospitals, thereby exposing anesthesia practitioners to

criminal, civil, and administrative legal risks. The inconsistency between statutory norms and empirical practice undermines legal certainty and weakens effective legal protection for anesthesia practitioners, despite the broader protective principles recognized under Law No. 17 of 2023 on Health. These findings underscore the necessity of harmonizing health regulations with field realities to ensure legal certainty, patient safety, and professional protection within Indonesia's healthcare system.

To address these issues, this study recommends: (1) revising Minister of Health Regulation No. 18 of 2016 to clarify and expand the scope of delegated authority for anesthesia practitioners, particularly in emergency situations and in private hospitals; (2) strengthening legal protection mechanisms based on professional competence and standardized certification to ensure accountability without compromising practitioner security; and (3) developing structured remote supervision mechanisms, such as tele-anesthesia systems, to support anesthesia practitioners in remote and underserved regions while maintaining compliance with legal and professional standards.

ACKNOWLEDGMENT

The author expresses sincere gratitude to all parties who provided academic support in the preparation of this article. All views and conclusions presented are solely the responsibility of the author.

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