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Legal Liability of Nurses Who Perform Medical Procedures in Delegation of Authority at Private Hospitals in South Jakarta

Herlina Meilina Damayanti
Universitas Islam Nusantara, Bandung, Indonesia
herlina.meilina@gmail.com

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Abstract:

Hospitals are essential institutions for delivering healthcare services and play a strategic role in improving public health outcomes. In practice, hospitals face complex challenges, including high patient volumes, physicians holding multiple practice licenses, and the necessity to provide continuous services around the clock. These conditions require strong collaboration between doctors and nurses as an integral part of healthcare delivery. The delegation of medical authority from physicians to nurses has increasingly become a legal concern, particularly regarding the clarity of the boundaries of authority. Nurses often face uncertainty about the extent of their legal authority when performing delegated medical tasks, which can lead them to act beyond their professional scope. Errors arising from such delegated actions, whether due to limited competence, communication gaps, or workload pressures, may lead to serious legal consequences. This study aims to analyze the scope of authority, applicable legal frameworks, and legal accountability arising from delegated medical actions. Using a normative juridical approach, this research examines statutory regulations, legal doctrines, and relevant literature. The findings indicate that written delegation serves as a fundamental legal requirement. In cases where harm occurs despite proper delegation, both the delegating physician and the nurse may bear legal responsibility under civil, criminal, and administrative law.

Keywords: delegated authority; hospital; legal accountability.

INTRODUCTION

Health development is an integral part of national development, implemented sustainably to improve the community's quality of life. Within this framework, equitable access and the improvement of the quality of health services are top priorities that must be implemented systematically. Hospitals play a central role in the health care system, encompassing not only curative aspects but also promotive, preventive, and rehabilitative efforts. In practice, hospitals face various challenges, such as increasing patient numbers, limited medical personnel due to dual practices, and continuous service demands. These conditions encourage intensive collaboration between health workers, particularly doctors and nurses.

The professional relationship between doctors and nurses is based on the principle of partnership, although they have different legal authorities. Intense patient interaction makes these two professions crucial to determining the quality of care. Therefore, the implementation of each profession's duties must align with professional standards and applicable legal provisions. Beyond professional aspects, healthcare practice also has a legal dimension that is crucial to consider. One issue that frequently arises in daily practice is the transfer of medical procedures from doctors to nurses. Under certain circumstances, particularly in healthcare facilities with

high workloads, nurses often perform medical procedures based on a doctor's instructions, but this transfer is not always accompanied by written documentation that meets applicable legal requirements.

Legal accountability is a fundamental concept in the legal system that regulates the obligations of legal subjects to bear the consequences of their actions, whether due to errors or due to inherent legal obligations. In the context of healthcare, legal accountability is closely related to the implementation of medical procedures by healthcare professionals, which must comply with professional standards, service standards, and statutory provisions. Any medical procedure that causes harm to a patient has the potential to result in legal consequences, whether civil, criminal, or administrative.

Theoretically, legal liability can be explained through several approaches. First, the fault-based liability theory, which states that a person can only be held accountable if there is an element of error, whether intentional or negligent. In healthcare practice, this theory is the basis for determining medical malpractice. Second, the strict liability theory places responsibility on the perpetrator without requiring proof of fault, although its application in the medical field is relatively limited. Third, the vicarious liability theory, which states that certain parties can be held accountable for the actions of others in an employment relationship, such as a hospital against a healthcare worker. Fourth, the authority theory, which emphasizes that accountability follows the source and form of delegation of authority, whether through attribution, delegation, or mandate.

In Indonesian healthcare practice, doctors are often unable to handle all medical procedures directly due to time constraints and the large number of patients. Therefore, some authority to perform certain medical procedures is delegated to nurses. This is done to ensure more efficient and effective healthcare services, ensuring that patients continue to receive prompt, appropriate, and high-quality treatment. This delegation can generally be divided into two forms: mandate and delegation. A mandate is a delegation of authority that is of an implementing nature, where the nurse merely acts as the implementer of the doctor's instructions, thus legal responsibility remains with the doctor as the mandate giver. In this case, the nurse can only be held accountable if proven to have made errors in technical implementation or deviated from the instructions given.

Conversely, delegation is the transfer of authority accompanied by the transfer of responsibility to the recipient of the authority, in this case, a nurse. In delegation, the nurse has the authority to make professional decisions within their competence, thus shifting legal responsibility for the actions taken to the nurse. However, the physician retains certain responsibilities, particularly regarding the appropriateness of the delegation, such as its appropriateness to the nurse's competence and the patient's condition.

Regulations regarding this delegation of authority in Indonesia can be found in Law Number 38 of 2014 concerning Nursing, which states that nurses can carry out medical procedures based on the delegation of authority from medical personnel. Law Number 38 of 2014 concerning Nursing explains that nurses have the authority to carry out nursing procedures independently or collaboratively, including accepting the delegation of medical procedures from doctors (Indonesia, 2014). This delegation must be carried out in accordance with the nurse's competence while still taking into account aspects of legal responsibility. This demonstrates that the practice of delegation of authority is part of an integrated health care system and is clearly regulated in Indonesian laws and regulations. Furthermore, Law Number 17 of 2023 concerning Health also emphasizes the importance of implementing health services based on the competence and authority of health workers. Further technical regulations are contained in the Minister of Health Regulation Number 2052/MENKES/PER/X/2011 which stipulates that certain medical actions can be delegated with certain conditions, including clear supervision and responsibility (PRADIPTA, 2013).

From a legal accountability perspective, the distinction between mandate and delegation has significant implications. In a mandate, legal responsibility primarily rests with the physician, so if harm occurs to the patient, the physician can be held accountable. Conversely, in a delegation, the nurse, as the recipient of the authority, is directly responsible for the actions taken. However, in practice, shared liability often occurs, particularly when there is negligence on the part of either the physician in granting the delegation or the nurse in carrying out the action.

Therefore, the delegation of authority for medical procedures must be carried out carefully, observing the principles of prudence, competence, and compliance with standard operating procedures and laws and regulations. Clarity about the form of delegation (mandate or delegation) is a key factor in determining legal accountability, so it is important to document it in writing to provide legal certainty for all parties, both healthcare workers and patients (Sylvana et al., 2021).

Delegation of authority that does not comply with formal requirements as stipulated in regulations has the potential to lead to serious legal consequences, particularly if the action results in harm to the patient (Adnani et

al., 2023). In principle, medical procedures are the authority of medical personnel, such as doctors or dentists, based on their competence and educational qualifications. Meanwhile, nurses have their own limits of authority that focus on providing nursing care and do not include establishing diagnoses or making therapeutic decisions. Therefore, any delegation of medical procedures to nurses must have a clear legal basis and be implemented systematically and responsibly.

Clarity and consistency in regulations regarding the delegation of authority are essential to prevent legal uncertainty. Overlapping regulations or a lack of clarity can negatively impact all parties involved. Under certain circumstances, for example, when a doctor is unavailable, a nurse may be asked to perform certain medical procedures. However, the implementation of these procedures must be supported by a valid and written delegation document to clearly define the limits of authority and responsibility of each party.

From the perspective of the nursing profession, a code of ethics serves as a moral foundation and guideline for professional practice (Nasir & Purnomo, 2019). This code of ethics reflects nurses' responsibilities not only to patients but also to fellow healthcare workers, other professionals, and the institutions in which they work. Taking actions outside of their authority without a valid legal basis not only has the potential to result in sanctions but can also undermine the integrity and ethical values of the nursing profession.

Ethics in nursing practice is a fundamental and inseparable aspect of healthcare delivery, particularly in addressing the various ethical issues and dilemmas that frequently arise in clinical practice. Ethics is not only concerned with determining right and wrong, but also encompasses moral principles such as justice, veracity, fidelity, nonmaleficence, and the obligation to maintain patient confidentiality (Riskika et al., 2022). These principles serve as the normative foundation for regulating professional relationships between healthcare workers and patients, as well as between healthcare workers.

From a health law perspective, the study of nursing ethics is highly relevant, particularly in relation to the practice of delegating medical authority from doctors to nurses. This delegation of authority must not only meet legal and professional competency requirements, but also consider ethical principles such as accountability, patient safety, and professionalism (Vitrianingsih & Budiarsih, 2019). Therefore, integrating ethical and legal aspects is essential in analyzing healthcare practices, providing legal protection while ensuring quality patient-centered care.

Based on the above description, the study of nurses' legal accountability in the context of the delegation of authority for medical procedures, particularly in private hospitals in South Jakarta, certainly has significant academic and practical significance. The results of this study are expected to enrich the discourse on health law and serve as a useful reference for stakeholders and health law practitioners in realizing equitable, professional, and legally certain health services.

Operationally, the delegation of medical care to nurses can be done through two main mechanisms: delegation and mandate, each of which has different legal implications, particularly regarding who is responsible in the event of a problem. In a delegation mechanism, authority and responsibility are transferred to the recipient of the delegation, while in a mandate mechanism, legal responsibility remains with the person giving the mandate. This concept aligns with the principles of state administrative law as stipulated in Law Number 30 of 2014 concerning Government Administration, which distinguishes sources of authority into attribution, delegation, and mandate.

Specific regulations regarding the delegation of authority for medical procedures to nurses are stipulated in Law Number 38 of 2014 concerning Nursing (Sriwanto & Anwary, 2020). This provision emphasizes that delegation is only legally binding if it is made in writing and is specific to each case, not general. Delegation can only be granted to nurses with the appropriate competencies, while mandate delegation is carried out under the supervision of a physician for specific procedures (Riasari, 2021).

In practice at private hospitals in the South Jakarta area, the mechanism for delegating authority to nurses has referred to various applicable regulations, including the Minister of Health Regulation Number 26 of 2019. However, the implementation of legal protection for nurses in this practice is considered still not optimal and does not fully provide adequate legal certainty.

The effectiveness of legal protection for nurses is influenced by various factors, including legal factors related to the quality and consistency of regulations; technical factors including the availability of operational standards and the competency level of healthcare workers; and social factors including work culture and interprofessional relationships. These three factors interact and collectively determine the level of legal protection nurses receive in carrying out their duties.

Based on this description, the study of nurses' legal accountability in the implementation of the delegation of authority for medical procedures, particularly in private hospitals in South Jakarta, is significant both academically and practically. This research is expected to contribute to the development of health law and serve as a reference for practitioners and policymakers in creating professional, fair, and legally certain health services.

METHOD

This research uses a normative juridical approach, a method in legal research that focuses on analyzing legal norms through the study of relevant laws and regulations, legal principles, theories, and doctrines. This approach is specifically used to examine issues related to the authority of healthcare workers, the implementation of the delegation of medical procedures, and the forms of legal accountability that can be imposed on nurses. This research is descriptive and analytical in nature, aiming to systematically describe the prevailing legal conditions while conducting an in-depth analysis of the issues under study. This approach is expected to provide a comprehensive understanding of the limits of nurses' authority and the forms of legal accountability in carrying out medical procedures based on delegated authority. The approach used includes a statute approach, namely by examining various relevant legal provisions, such as Law Number 17 of 2023 concerning Health, Law Number 38 of 2014 concerning Nursing, and other implementing regulations that regulate the mechanism for delegating authority for medical actions.

The data used in this study are divided into two types: secondary data and primary data. Secondary data were obtained through a literature review that included primary legal materials in the form of laws and regulations in the health and nursing fields, secondary legal materials such as books, scientific articles, and relevant previous research results, and tertiary legal materials in the form of supporting sources such as legal dictionaries and encyclopedias. Meanwhile, primary data were obtained directly from the field through observation activities, interviews with nurses and the head of the nursing committee, and document reviews covering standard operating procedures, internal hospital policies, and documents related to the delegation of authority. The data collection process was conducted by combining several techniques, namely literature studies, semi-structured interviews with parties directly related to the research object, and documentation studies to strengthen the validity of the data obtained. Furthermore, all data were analyzed using qualitative methods by grouping them based on problem themes, comparing applicable legal provisions with empirical conditions in the field, and drawing deductive conclusions from general legal principles to more specific findings.

This research was conducted at a private hospital operating in South Jakarta, selected as a concrete representation of the practice of delegating medical authority to nurses. Through a combination of complementary normative and empirical approaches, this research is expected to produce a comprehensive picture of the relationship between regulatory dimensions and healthcare practices, as well as an in-depth analysis of nurses' legal accountability for carrying out medical actions under the delegation of authority.

RESULTS AND DISCUSSION

The Authority of Nurses' Actions Based on Law Number 17 of 2023 Concerning Health

In carrying out their professional functions, nurses provide nursing services both independently and in collaboration with physicians, while adhering to the boundaries of their respective professions' authority. Nursing practice is a concrete manifestation of professional action involving nurses, patients, and other healthcare professionals in providing nursing care in accordance with legally mandated responsibilities and authorities (Amir & Purnama, 2021).

Nursing care is an essential pillar of the modern healthcare system, implemented through two main functional domains: independent practice and partnership (interdependent practice). Within the realm of independent practice, nurses have full autonomy, based on nursing knowledge, to provide care that focuses on the patient's response to illness and fulfills basic human needs, including biological, psychological, social, and spiritual needs. This is realized from the assessment process and establishing a nursing diagnosis to implementing interventions such as wound care or health education. Furthermore, the partnership function occurs when nurses collaborate with physicians to implement medical therapy programs, such as administering medications or invasive procedures. In this collaborative context, nurses act as equal partners, ensuring that all medical instructions are safely and appropriately integrated into the patient's comprehensive care plan.

All of these professional actions are strictly limited by applicable legal regulations and professional codes of ethics. Clarity regarding the limits of this authority or scope of practice is crucial; nurses are not permitted to

assume medical authority, such as diagnosing illnesses or prescribing prescription drugs, except in certain emergency situations or through a legitimate delegation and written mandate mechanism. The regulations underlying nursing practice serve a dual purpose: protecting patients from the risk of malpractice resulting from treatment by incompetent personnel, while also providing certainty and legal protection for nurses in carrying out their duties in accordance with standard operating procedures (SOPs).

In practice, nursing practice creates a dynamic ecosystem of interactions or triadic relationships between nurses, patients, and other healthcare professionals. Because they are by the patient's side 24/7, nurses often act as case managers, bridging communication between patients and doctors, nutritionists, pharmacists, and physiotherapists. Through a systematic approach ranging from assessment to evaluation, along with humanistic therapeutic communication, nurses ensure that the care provided is holistic and sustainable. Thus, professional nursing practice is not simply the implementation of technical procedures, but rather a combination of science and the art of caring to ensure patient safety and optimize public health.

The scope of nursing practice encompasses services for individuals, families, groups, and the wider community, both in health and illness, with a primary focus on improving overall health and quality of life. As a profession, nursing has unique characteristics that distinguish it from other disciplines. Nursing practice integrates social sciences, behavioral sciences, and biomedical sciences. Furthermore, nursing has professional autonomy, unique competencies, and a system of oversight for its education and practice. Therefore, nurses are required not only to possess technical skills but also to uphold ethical values and professionalism in providing services, to ensure patient safety and comfort in accordance with applicable laws and regulations (Winata & Risdawati, 2024).

Based on Article 11 paragraph (2) of Law Number 36 of 2016 concerning Health, medical personnel include doctors, dentists, as well as specialist doctors and specialist dentists (Salindeho et al., 2023). This provision emphasizes that medical actions are in principle the authority of medical personnel who have the competence according to the education and training they have received. However, in the practice of health services that continue to develop, certain medical actions can be carried out by nurses as long as there is a legitimate delegation of authority from the doctor in accordance with applicable legal provisions (Siregar et al., 2024).

The duties and authorities of nurses in Indonesia are regulated in detail in Regulation of the Minister of Health of the Republic of Indonesia Number 26 of 2019 concerning Nursing. This regulation explains that nurses have several main roles, including as providers of nursing care, educators and counselors for patients, managers of nursing services, researchers in the field of nursing, executors of tasks based on delegation of authority, and executors of tasks under certain limited conditions (Sumantri et al., 2025). In carrying out their roles as care providers, nurses are authorized to conduct comprehensive assessments, determine nursing diagnoses, develop action plans, implement interventions, conduct evaluations, provide referrals, handle emergency conditions according to competence, and collaborate with medical personnel.

Regulation of the Minister of Health of the Republic of Indonesia Number 26 of 2019 concerning the Implementing Regulations of Law Number 38 of 2014 concerning Nursing is a comprehensive legal basis that emphasizes the legality, professionalism, and limitations of nurses' work in Indonesia. In this regulation, the role of nurses is outlined broadly and multidimensionally, no longer merely as companions to doctors, but as an independent profession with high accountability. The most fundamental role regulated in this Ministerial Regulation is as a provider of nursing care. In carrying out this role, nurses are authorized to conduct holistic nursing assessments, determine nursing diagnoses, plan actions, implement interventions, and evaluate patient responses. This care encompasses the realm of independent nursing that focuses on meeting basic human needs and addressing patient responses to health problems, both in primary health care facilities and referral levels.

In addition to providing direct clinical care, Minister of Health Regulation No. 26 of 2019 also mandates nurses to act as educators and counselors for patients and their families. This role requires nurses to possess strong therapeutic communication skills to disseminate health information, teach clean and healthy living behaviors, and guide patients in making appropriate decisions regarding their healing process. Furthermore, nurses' competencies are expanded into the managerial realm through their role as nursing service managers. In this capacity, nurses are responsible for organizing and leading the management of care in wards, community health centers, or other health institutions, ensuring efficient resource allocation, and ensuring that the quality of services provided consistently meets patient safety standards.

This regulation also supports scientific development by designating nurses as researchers in the field of nursing. Through this role, nurses are encouraged to conduct scientific studies, utilize evidence-based research results (evidence-based practice), and innovate in optimizing nursing interventions for the advancement of the health sector. Furthermore, this Ministerial Regulation regulates collaborative and emergency aspects through

two specific roles: as a task executor based on delegation of authority and as a task executor under certain limited circumstances. Delegation of authority can be delegative, where responsibility shifts entirely for certain medical actions, or mandated, carried out under the supervision of a physician. Meanwhile, in certain limited circumstances, such as life-threatening emergencies in areas where there are no doctors, nurses are given the legal authority to perform life-saving medical actions in accordance with their competencies and training. Thus, Ministerial Regulation Number 26 of 2019 not only serves as legal protection for nursing personnel but also as a guarantee for the public to receive safe, quality, and accountable health services.

Regarding delegation of authority, nurses can perform medical procedures based on delegation or mandate from a doctor. This mechanism is essentially a practical solution to the need for uninterrupted service, particularly when a doctor cannot be fully present at a facility due to practicing elsewhere. From an administrative law perspective, medical procedure authority falls into three categories: attribution that is directly attached to the medical professional and cannot be transferred; delegation that includes a transfer of responsibility; and mandate, where legal responsibility remains with the mandating party.

Operational dilemmas in healthcare, such as the limited availability of doctors due to multi-site practice permits, require a flexible yet accountable legal mechanism, which in this context is addressed through the instrument of delegation of authority to nurses. From the perspective of state administrative law, the concept of delegation of authority is supported by three main categories that clearly separate the boundaries of responsibility, starting with the authority of attribution. Attribution authority is a legal power that is directly and originally attached to the medical profession (doctors) by law, which includes medical diagnosis and therapy determination. Because it is inherent in the profession's core competencies, this authority of attribution is absolute and cannot be transferred or simply handed over to other professions, thus becoming a philosophical barrier that nurses will never be able to structurally replace doctors in establishing medical diagnoses.

However, to ensure continuity of care for patients, administrative law allows for the delegation of authority through a second mechanism: delegation. In a delegation scheme, the authority to perform medical procedures is transferred, followed by the transfer of full legal responsibility from the doctor to the nurse receiving the delegation. This mechanism can only be implemented if the nurse in question has the certified clinical competence to perform the specific procedure, and the delegating doctor has ensured that the patient's clinical situation is within a safe corridor for delegation. With this transfer of responsibility, the nurse independently bears the legal consequences of carrying out the procedure, as long as the action is in accordance with applicable standard operating procedures (SOPs).

In contrast, the third category, mandate, applies a completely different legal principle because it does not involve any transfer of legal responsibility at all. Through the mandate mechanism, nurses act as extensions or technical implementers of specific instructions from physicians, where ultimate legal responsibility for these medical decisions remains with the physician as the mandate giver. Nurses in this position are fully responsible for the accuracy of technical procedures, such as the correct dosage, timing, and method of medication administration, but the clinical impact of these medical decisions remains the physician's responsibility. The division of these three categories of authority in administrative law is not merely a bureaucratic formality, but rather an instrument of dual protection: providing legal certainty for nurses to avoid being trapped in illegal practices (unlicensed practice), while simultaneously protecting patients' rights to receive safe and accountable services amidst the operational dynamics of hospitals or community health centers.

The provisions regarding the requirements for delegation of authority to nurses are contained in the regulations on health workers, specifically Article 65 of Law No. 36 of 2014 (Okarisandi et al., 2025). This regulation stipulates three main things: the recipient of the delegation must have the appropriate competence, the implementation of the procedure must be carried out under the supervision of the person giving the authority, and the authority to make clinical decisions remains with the doctor. These provisions are further reinforced by the Nursing Law, which stipulates that every delegation must be in writing, case-specific, and accompanied by a post-action evaluation. This reflects the principle that nurses are not the ones who independently determine medical procedures, but rather professional partners working within normatively defined corridors.

A crucial aspect that is often overlooked in practice is the legal validity of the delegation document. Written delegations have much stronger evidentiary power because they can be presented as evidence in legal disputes, whether in administrative, civil, or criminal courts. Conversely, delegations made only orally do not meet the formal requirements stipulated by law. This situation creates a double vulnerability for nurses: not only do they lack adequate legal protection, but they also find it difficult to prove that their actions were based on valid

instructions when disputes arise. In other words, the lack of written documentation is not merely an administrative issue but also a real potential legal risk.

From a civil law perspective, the delegation relationship can be understood through the framework of obligations as stipulated in the Civil Code. However, in healthcare practice, the administrative law dimension is more dominant because it concerns professional licensing, official authority, and public service management. Therefore, compliance with the delegation mechanism stipulated in Minister of Health Regulation No. 26 of 2019 is not merely a formality, but rather the foundation of the legitimacy of nurses' actions in the field. The gap between normative provisions and field practice that is still found indicates the need to strengthen internal oversight at the hospital level.

From a civil law perspective, the relationship of delegation of authority between doctors and nurses can be understood through the framework of obligations (verbintenis) as regulated in the Civil Code (KUH Perdata), particularly those originating from agreements and laws. This relationship often intersects with the concept of zaakwaarneming (managing another person's affairs without orders) in emergency situations, or the concept of lastgeving (granting power of attorney) where nurses act for and on behalf of doctors within the scope of certain medical procedures. However, in the dynamics of modern healthcare practice, the dimension of state administrative law appears far more dominant and crucial. This occurs because healthcare governance is fundamentally based on public administration instruments, such as the professional licensing system (Registration Certificate and Practice Permit), the legitimacy of authority based on position (ambtelijke bevoegdheid), and the standardization of public service management for the benefit of the wider community. Therefore, medical actions carried out by nurses are not solely tested based on whether or not a civil agreement is valid, but rather on whether or not the action is valid administratively in the eyes of public law.

Consequently, strict adherence to the delegation of authority mechanism as mandated by Minister of Health Regulation (Permenkes) Number 26 of 2019 is no longer merely a bureaucratic formality or paperwork. This regulation is the foundation of absolute legal legitimacy for every clinical action taken by nurses in the field. Without a valid delegation document, either in the form of a written, competency-based delegation or a clear mandate from a doctor, a nurse's actions that fall within the medical realm can be categorized as acts without authority (onbevoegdheid). From an administrative legal perspective, this violation not only invalidates the legitimacy of the action but also opens the door to legal malpractice that can lead nurses to disciplinary violations, administrative sanctions in the form of revocation of practice licenses, and even criminal charges or civil lawsuits.

Despite the well-established normative foundation, a significant dissonance often exists between the legal regulations on paper and the operational reality on the ground. Phenomena such as the delegation of authority solely through verbal orders without prompt documentation for confirmation, or nurses being forced to make medical decisions beyond their authority due to the absence of a doctor, remain persistent challenges in various healthcare facilities. This disparity clearly demonstrates the urgent need for strengthened internal oversight at the hospital and healthcare facility level. Hospitals, through their Nursing and Medical Committees, must proactively conduct periodic credentialing, establish specific Clinical Privileges for each nurse, and regularly audit the implementation of delegations and mandates. This rigorous and systematic internal oversight is not intended to restrict the mobility of healthcare workers, but rather to establish a dual protection system: protecting nurses from unnecessary legal risks and ensuring that patients' rights to safe, high-quality, and legal healthcare are consistently met.

Legal Responsibilities of Nurses in Implementing Medical Procedures Based on Delegation of Authority

The delegation of medical authority from doctors to nurses is a common practice in hospital care. However, this practice carries significant potential legal risks, particularly when errors or negligence occur that harm patients. Therefore, the legal liability arising from the delegation of authority needs to be analyzed comprehensively from three perspectives: civil law, criminal law, and administrative law. The delegation of medical authority from doctors to nurses is an operational necessity in hospital care to ensure continuity of care. However, behind the clinical efficiency it offers, this practice carries the potential for significant legal risks, particularly when errors, negligence, or failure to act result in injury or death to patients. In the healthcare legal landscape, incidents that harm patients cannot be viewed from a single dimension but must be comprehensively analyzed through three distinct but interrelated legal perspectives: civil law, criminal law, and administrative law. These three realms have different parameters, standards of proof, and sanctions in determining who should be held responsible when a medical risk materializes into actual harm.

From a civil law perspective, liability analysis focuses on recovering patient losses (damages) through a lawsuit mechanism based on unlawful acts (onrechtmatige daad) as stipulated in Article 1365 of the Civil Code, or negligence in fulfilling obligations (breach of contract). In this realm, determining who is responsible for compensation depends heavily on the type of delegation that occurs, whether it is a delegation or a mandate. In a mandate delegation, because legal responsibility remains with the mandate giver, the doctor or hospital institution, through the doctrine of vicarious liability (Article 1367 of the Civil Code), is financially responsible for patient losses, as long as the nurse has worked according to technical instructions. Conversely, in an act of delegation, civil responsibility shifts to the nurse receiving the delegation because they are deemed to have independent competence. However, the hospital as a corporation can still be brought as a defendant based on the principle of corporate negligence, because the hospital is deemed negligent in carrying out its supervisory function, providing safe facilities, or incorrectly granting clinical privileges to its healthcare workers.

Meanwhile, criminal law examines this issue from the perspective of individual criminal responsibility, which is based on the principle of no crime without fault (geen straf zonder schuld). When gross negligence (culpa lata) occurs that causes a patient to suffer permanent disability or loss of life (as stipulated in the articles on criminal acts due to negligence in the Indonesian Criminal Code), criminal law does not recognize the transfer of responsibility. If a nurse makes a fatal error by failing to comply with standard operating procedures (SOPs) when executing a medical procedure, whether under a mandate or delegation scheme, the nurse can be held personally criminally responsible. However, the doctor who gave the authorization is not automatically exempt from criminal liability; the doctor can be implicated as a party who "participated in" (medepleger) or "ordered to do" (doen plegen) if proven to have given clearly incorrect instructions, delegated actions beyond the nurse's competence, or neglected to supervise actions that should have required direct supervision.

From an administrative law perspective, the primary focus is the enforcement of professional standards, the legality of official authority (ambtelijke bevoegdheid), and the protection of the public interest. Violations of the delegation of authority mechanism as stipulated in Minister of Health Regulation No. 26 of 2019 will trigger administrative sanctions, not in the form of monetary compensation or imprisonment, but rather in the form of restrictions on the right to practice. If the delegation of authority is proven to not meet formal requirements, such as the lack of written evidence of delegation or is carried out to a nurse who is not certified, the action is deemed legally flawed (onrechtmatige overheidsdaad). These administrative sanctions can be imposed by the Ministry of Health, the Health Office, or the respective professional councils, ranging from written warnings, temporary suspension of Practice Permits (SIP), to permanent revocation of practice permits, for both nurses who receive and doctors who provide illegal delegations. Therefore, an integrative understanding of these three legal domains is crucial for hospital management to develop solid clinical governance to mitigate legal risks in every line of service.

In situations of alleged malpractice related to delegation of authority, determining who is responsible cannot be done unilaterally. A thorough investigation of the service process, including a review of medical records, is required to identify the point at which the error actually occurred. Whether the error originated from the doctor's instructions, the nurse's implementation, or the overall service system. These errors could include procedural violations, limited competence, or flaws in the delegation mechanism itself.

When allegations of malpractice arise in healthcare services involving the delegation of authority for medical procedures, determining who should bear legal responsibility should not be hasty or unilateral. Directly blaming one profession, whether a doctor or nurse, without objective evidence is a form of error in healthcare jurisprudence. Instead, resolving this case requires an in-depth clinical and legal audit through a thorough investigation of the entire clinical pathway. The primary instrument underlying this investigation is a thorough review of the patient's medical records, which serve as authentic legal documents documenting each intervention. Through the medical records, the investigative team or professional disciplinary panel can reconstruct chronologically when instructions were given, the patient's clinical condition at the time, and the actions taken, thereby precisely identifying the point of care where the error or negligence actually occurred.

This scientific investigation specifically aims to map the root cause of the problem (root cause analysis) to determine whether the error stemmed from the medical instructions given by the doctor. For example, the doctor might have incorrectly prescribed a medication dose, misdiagnosed the patient's clinical indications, or given an ambiguous order that was then delegated to the nurse. Furthermore, the investigation must also examine the nurse's implementation as the authorized recipient. Errors at this point can occur if the nurse violates procedures (fails to adhere to standard operating procedures), misinterprets the doctor's instructions, or fails to regularly monitor the side effects of the medical procedures delegated to them.

In addition to focusing on human error, a comprehensive analysis must also examine the potential for system failure. In many healthcare cases, clinical errors are often triggered by systemic factors beyond the direct control of individual nurses or doctors. These include excessive workloads due to an unbalanced patient-to-patient ratio, poor interprofessional communication in hospitals, the absence of up-to-date clinical practice guidelines, and flaws in the delegation mechanism itself, such as the lack of a valid written delegation form or the lack of clarity regarding the boundaries of clinical privilege regulated by the medical and nursing committees. Therefore, by analyzing all elements, from personnel competence and the formal legality of delegation documents to the reliability of the hospital system, law enforcement and professional discipline can be carried out fairly, objectively, and proportionally to maintain the dignity of the healthcare profession while guaranteeing the right to patient safety).

1. Civil Liability

Normatively, Article 32 of the Nursing Law distinguishes between two types of delegation mechanisms: mandate and delegation (Ahmadi et al., 2022). This distinction has significant legal implications. In mandated delegation, legal responsibility remains entirely with the doctor as the instruction giver; the nurse acts only as the technical implementer (Pramudito & Widjaja, 2022). Meanwhile, in delegative delegation, responsibility shifts to the nurse as the delegatee. This distinction is important to understand because in practice, many delegations do not explicitly state the type, resulting in unclear responsibilities. This situation is exacerbated by the fact that many delegations are still conducted verbally, even though the Nursing Law and Minister of Health Regulation No. 2052/2011 both require written forms. Nurses' responsibilities in this context are also closely related to the concept of professional responsibility, namely the obligation to always work in accordance with competency, professional standards, and the nursing code of ethics.

In daily practice, this responsibility is realized through a series of concrete actions, such as assessing the patient's clinical condition, providing appropriate interventions, documenting each step, and ongoing monitoring. If an error occurs that results in harm, the nurse can be held accountable. However, it should be noted that not every error automatically falls on the nurse individually. In collaborative healthcare services, responsibility can also rest with the prescribing physician or the hospital as the provider of healthcare services. Provisions in the Hospital Law, in Article 46 of Law No. 44 of 2009, state that institutions are responsible for losses caused by the negligence of healthcare workers working under their auspices.

Within the civil law framework, liability can be established through two channels: breach of contract and unlawful acts. Breach of contract occurs when a healthcare professional deviates from the obligations arising from a therapeutic contract, resulting in harm to the patient (Darmin et al., 2024). On the other hand, a tort claim based on Article 1365 of the Civil Code does not require a prior contractual relationship (Kristianto & Nurgraheni, 2025). For this pathway, four elements must be cumulatively met: an unlawful act, an element of fault, actual harm, and a clear causal relationship.

Unlawful acts in healthcare can manifest in various forms, ranging from breaches of professional obligations, neglect of patient rights, violations of moral norms, to failure to adhere to professional standards of care (Salindeho et al., 2023). Healthcare regulations also provide a basis for patients to sue for compensation, except in emergency situations requiring immediate life-saving measures.

In the delegation mechanism, civil law principles state that the principal remains responsible for the actions of the person receiving the power of attorney (Firdaus et al., 2024). This means that in a mandate-based delegation, the doctor remains the primary person responsible. Responsibility only shifts to the nurse if the nurse exceeds instructions, deviates from agreed-upon procedures, or fails to report changes in the patient's condition to the doctor. In such situations, the nurse can be held independently liable, both civilly and criminally.

2. Criminal Responsibility

From a criminal law perspective, in accordance with Article 1 paragraph (1) of the Criminal Code, accountability is built on the principle of legality, namely that an act can only be subject to criminal sanctions if it has been explicitly regulated in applicable statutory provisions. In the context of healthcare services, the most relevant form of error is negligence (culpa), not intent (Ginting & Harahap, 2026). Negligence occurs when healthcare workers do not carry out their duties with adequate care, resulting in serious harm to patients. This confirms that nurses who act with good intentions but exceed their competence still have the potential to be subject to criminal liability if their actions cause proven harm.

In Indonesian criminal law, the main foundation of law enforcement is based on the principle of legality as stipulated in Article 1 paragraph (1) of the Criminal Code (KUHP), which states that an act cannot be punished except based on the force of criminal law provisions that existed before the act was committed (nullum delictum nulla poena sine praevia lege poenali). In the context of health services, this principle requires legal certainty regarding what acts are categorized as criminal acts, where the most relevant form of error and often the basis for prosecution is negligence or omission (culpa), which is often distinguished from the element of intent (dolus). Culpa or negligence in medical practice occurs when a health worker, in this case a nurse, does not carry out his/her professional duties with adequate levels of accuracy, vigilance, and caution (reasonable care), or deviates from the applicable standard operating procedures (SOP), resulting in fatal consequences in the form of injury, permanent disability, or loss of life of the patient as regulated in criminal articles related to negligence (such as Articles 359 and 360 of the Criminal Code).

The existence of this negligence element confirms a crucial principle in health law that good faith or bona fide alone is not enough to exempt someone from legal entanglements. A nurse who acts with a pure motive to help or save a patient, but consciously or unconsciously exceeds the limits of clinical competence and legal authority, for example by performing minor surgery or prescribing potent medication without a valid written delegation from a doctor, still has a high potential to be subject to individual criminal responsibility. Criminal law does not consider the nobility of intention behind an action if the execution of the action violates competency regulations and causes actual physical harm that can be proven causally (causa verband) in court. Therefore, the limits of competence stipulated in the Nursing Law and the Minister of Health Regulation are not merely professional corridors, but legal boundaries that must be adhered to in order to protect patients from the risk of malpractice and protect nurses themselves from criminal entanglements resulting from professional negligence.

3. Administrative Responsibilities

In addition to civil and criminal law, the administrative dimension is equally important. Administrative liability arises from violations of licensing requirements, professional standards, or operational procedures established by regulations. Sanctions that can be imposed include written warnings, limitations on the scope of practice, and even revocation of a license by the competent authority. The implication is clear: delegation of authority that fails to meet formal requirements is not merely a procedural flaw but can also end a nurse's professional career.

In addition to civil and criminal law, which focuses on material compensation and imprisonment, the dimension of state administrative law plays an equally important role and is even the upstream of nursing practice governance. This administrative accountability arises objectively when a healthcare professional violates licensing provisions (such as Registration Certificates and Practice Permits), professional standards, codes of ethics, or standard operating procedures (SOPs) established by government regulations. In administrative law, sanctions are not intended to physically punish the perpetrator, but rather to restore public legal order and protect the public from unsafe medical or nursing practices. Authorities such as the Ministry of Health, the Health Office, and the Indonesian Health Workers Council (KTKI) have full authority to impose tiered sanctions, ranging from light sanctions in the form of written warnings, moderate sanctions in the form of restrictions on the scope of clinical practice, to the most severe, permanent sanction, namely the definitive revocation of the practice license.

The implications of this strict administrative regime are clear and cannot be underestimated: the process of delegating medical authority from a doctor to a nurse that does not meet formal requirements (such as the lack of written evidence of delegation or the transfer to an uncertified nurse) is not simply a matter of procedural flaws or paperwork defects. Legally, the failure to fulfill these formal requirements undermines the entire legality of the nurse's clinical actions in the field, categorizing them as illegal practices outside their official authority (onbevoegdheid). When a medical action is deemed to lack a valid administrative legal basis, any error, no matter how small, will immediately trigger disciplinary action. The sanction of revocation of the practice license imposed for this violation can directly end a nurse's professional career, because without an active Nurse Practice License (SIPP), they lose their legal right to provide nursing care in any healthcare facility in Indonesia.

From the overall description above, it can be concluded that delegation of authority without proper procedures has the potential to trigger medical disputes that are detrimental to all parties, from patients, nurses, doctors, to institutions. A thorough understanding of the boundaries of authority, responsibility, and legal accountability mechanisms is not merely an academic requirement. It is an absolute prerequisite for every healthcare professional who wishes to provide safe, professional, and equitable services.

CONCLUSION

The delegation of medical authority from doctors to nurses is an unavoidable necessity in the provision of healthcare services in hospitals, particularly given the limited availability of doctors due to their practice in various facilities and the demands of 24-hour service. From a normative perspective, this delegation mechanism has a clear legal basis through Law Number 17 of 2023 concerning Health, Law Number 38 of 2014 concerning Nursing, and various other implementing regulations. However, research results indicate that the implementation of legal protection for nurses in the practice of delegation of authority is still suboptimal. Frequently encountered problems include the persistence of verbal delegation, a lack of understanding among healthcare workers regarding the difference between mandate and delegation, and suboptimal supervision by doctors of nurses' actions. These conditions have the potential to create legal uncertainty and increase the risk of legal liability for nurses in the event of harm to patients. Delegation of authority carried out in accordance with legal provisions, that is, in writing, case-specific, tailored to the nurse's competency, and accompanied by adequate supervision, can essentially provide legal protection for healthcare workers while ensuring patient safety. Conversely, delegation that does not meet legal requirements can lead to medical disputes and legal consequences in civil, criminal, and administrative contexts. Therefore, compliance with the delegation of authority mechanism is crucial in achieving professional, safe, and equitable healthcare services.

Based on the results of this study, several recommendations can be put forward. Hospitals need to strengthen their authority delegation systems through the use of clear, standardized written documents that align with nurses' competencies. Furthermore, the government and professional organizations are expected to increase guidance and outreach regarding health law for medical and nursing personnel to better understand the limits of their respective authorities and responsibilities. Strengthening the monitoring and evaluation systems is also necessary to minimize legal risks and improve the overall quality of healthcare services. This study has limitations because it uses a normative legal approach, which does not directly describe the practice of delegation of authority in the field. Therefore, further research is recommended using an empirical or sociolegal approach to obtain a more comprehensive picture of the implementation of legal protection for nurses in healthcare practice.

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