



## DELEGATION OF CLINICAL MANDATE IN ANESTHESIOLOGY: A LEGAL AND CHALLENGES PERSPECTIVE

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### **Abstract:**

*This study aims to critically analyze the delegation of authority for anesthesia and sedation procedures from anesthesiology and intensive care specialists to nurses or anesthesia assistants, and to examine the conformity of such practices with the prevailing legal framework in Indonesia. The research focuses on clarifying the boundaries of authority, legal protection for healthcare workers, and the effectiveness of regulations in ensuring patient safety. This is a normative juridical study using statutory and empirical approaches. Data were obtained through literature review of relevant legislation and in-depth interviews with anesthesiology specialists, nurse anesthetists/anesthesia assistants, and hospital administrators in several regions. The findings reveal that although the delegation of authority is normatively permitted under various regulations – such as Law No. 17 of 2023, Government Regulation No. 28 of 2024, and relevant Ministerial Regulations – its implementation in practice faces significant challenges. Regulatory disharmony, dual nomenclature between certified nurse anesthetists and anesthesia assistants, and the absence of clear professional standards have created legal uncertainty and inter-professional conflicts. On the other hand, these professionals have played a crucial role in providing anesthesia services, especially in regions with limited access to anesthesiologists. Therefore, a comprehensive regulatory reconstruction and restructuring of professional standards are urgently needed to ensure that delegation of authority is carried out safely, legally, and equitably, thereby strengthening a more accessible, equitable, and high-quality national health service system.*

**Keywords:** Anesthesia; Delegation of Authority; Anesthesia Assistant.

### **Abstrak:**

Penelitian ini bertujuan untuk menganalisis secara kritis pelimpahan wewenang tindakan anestesi dan sedasi dari dokter spesialis anesthesiologi dan terapi intensif kepada perawat atau penata anestesi, serta mengkaji kesesuaian praktik tersebut dengan kerangka hukum yang berlaku di Indonesia. Fokus penelitian diarahkan pada kejelasan batas kewenangan, perlindungan hukum bagi tenaga kesehatan, dan efektivitas regulasi dalam menjamin keselamatan pasien. Metode yang digunakan adalah penelitian yuridis normatif dengan pendekatan peraturan perundang-undangan dan pendekatan empiris. Data diperoleh melalui studi pustaka terhadap berbagai peraturan perundang-undangan serta wawancara mendalam dengan dokter spesialis anestesi, perawat/penata anestesi, dan pengelola rumah sakit di beberapa wilayah. Hasil penelitian menunjukkan bahwa meskipun pelimpahan wewenang secara normatif dimungkinkan melalui sejumlah regulasi, seperti UU No. 17 Tahun 2023, PP No. 28 Tahun 2024, dan Permenkes terkait, implementasinya di lapangan masih menghadapi tantangan serius. Ketidakharmonisan antar regulasi, dualisme nomenklatur antara perawat bersertifikasi pelatihan anestesi dan penata anestesi, serta belum adanya standar profesi yang jelas menyebabkan ketidakpastian hukum dan konflik antarprofesi. Di sisi lain, para

perawat/penata anestesi telah berkontribusi nyata dalam pelayanan anestesi, khususnya di daerah dengan keterbatasan dokter spesialis. Dengan demikian, dibutuhkan rekonstruksi regulasi dan penataan standar profesi secara komprehensif agar pelimpahan wewenang dapat dilakukan secara aman, sah, dan berkeadilan, sekaligus memperkuat sistem pelayanan kesehatan nasional yang merata dan berkualitas.

**Kata Kunci:** *Anestesi; Pelimpahan Wewenang; Penata Anestesi*

## **A. Introduction**

Anesthesiology services constitute an essential component of the modern healthcare system,(Kemenkes 2022) particularly in supporting surgical procedures, intensive care, and other medical interventions that require the management of patients' vital stability.(Sutoyo, Kadarsah, and Fuadi 2018) The role of anesthesiologists and intensive care specialists is critical, given their high-level clinical competencies in providing anesthesia, managing critically ill patients, and ensuring safety during medical procedures.(Rehatta et al. 2019) However, in practice, there is a significant disparity in the distribution of anesthesiologists, especially in regional and remote hospitals, where shortages of medical specialists are prevalent.

In response to this limitation, a practice has emerged involving the delegation of clinical mandates from specialist physicians to non-physician healthcare providers, such as nurses with certified anesthesia training and anesthesia technologists. Conceptually, this delegation constitutes the granting of limited authority to perform certain medical procedures under the supervision of a specialist physician who remains legally and ethically accountable for the delegated acts. As such, clinical delegation serves as a pragmatic and operational solution often implemented in the field to ensure continuity of care, especially when anesthesiologists are not physically present for every medical procedure.(Sylvana, Firmansyah, and Haryanto 2021)

Nevertheless, the implementation of clinical mandate delegation raises significant legal concerns. On one hand, laws such as Law Number 17 of 2023 on Health, Government Regulation Number 28 of 2024, and several ministerial regulations have opened legal avenues for such delegation of clinical authority. On the other hand, there remains regulatory disharmony, lack of clarity in professional nomenclature, and absence of standardized professional frameworks for nurse anesthetists or anesthesia technologists. Differing interpretations regarding authority boundaries, legal status, and professional responsibilities between these two categories of personnel often lead to conflicts, particularly concerning medical accountability and legal protection.(Agustini 2021)

Several studies have previously explored the issue of clinical mandate delegation. For instance, Yana Sylvana et al. conducted a study titled Legal Delegasi (Pelimpahan Wewenang Medis) Dokter Kepada Perawat Ditinjau Dari Perspektif Hukum, which found that Minister of Health Regulation Number 2052/Menkes/Per/X/2011 on Medical Practice Licensing and Implementation, Article 23 Paragraph (1), stipulates that all delegations of authority must be in writing, and failure to do so carries legal consequences.(Sylvana et al. 2021)

Another relevant study by Amy Shientiarizki et al., titled Pertanggungjawaban Dokter Atas Pelimpahan Wewenang Kepada Bidan pada Tindakan Asuhan Persalinan Normal di Puskesmas, concluded that the delegation of medical authority from doctors to other healthcare professionals, particularly midwives and nurses, is legally permissible when carried out within specific boundaries and in accordance with existing regulations. One legal reference cited is Article 73 Paragraph (3) of Law Number 29 of

2004 on Medical Practice, which allows non-physician healthcare workers to perform certain medical procedures under specific conditions. Additionally, Minister of Health Regulation Number 21 of 2021 mandates that childbirth must occur in healthcare facilities attended by doctors or midwives. This study also emphasizes that delegation carries legal risks if service standards are not met, including the potential for malpractice with criminal, civil, or administrative implications for both the delegating physician and the receiving healthcare provider.(Shientiarizki, Chomariyah, and Pramono 2023)

A third study by Anik Sulistiyowati, titled *Pelimpahan Wewenang dari Dokter Kepada Perawat dalam Melakukan Tindakan Intubasi*, concluded that the legal framework for the delegation of medical authority from doctors to nurses in hospitals has been comprehensively regulated. To prevent legal disputes and claims, it recommends the formulation of detailed regulations or laws outlining the legal responsibilities of both doctors and nurses in delivering healthcare services, whether administrative, criminal, or civil.(Anik Sulistiyowati 2021)

Based on the above studies, this research is distinguished by its specific focus on the delegation of clinical mandates within anesthesiology and intensive care, particularly concerning nurses with certified anesthesia training and anesthesia technologists, in the context of limited availability of anesthesiology specialists across Indonesia. Unlike previous studies that centered on the legality and accountability of delegation, this research aims to examine regulatory disharmony among laws and ministerial regulations, the duality of professional nomenclature between certified nurse anesthetists and anesthesia technologists, and the lack of clearly defined professional standards, all of which contribute to legal uncertainty and inter-professional conflict.

Hence, the novelty of this research lies in its comprehensive approach to the legal framework governing clinical mandate delegation in anesthesiology practice, including the need for regulatory reconstruction and the reorganization of professional standards based on legal justice and the practical healthcare needs of underserved regions.

Based on this novelty, the research is directed toward conducting a critical analysis of relevant provisions in the Minister of Health Regulations governing the delegation of clinical mandates from anesthesiologists to nurses or anesthesia technologists. Furthermore, this research seeks to identify and examine the key challenges in the implementation of such delegations across various healthcare facilities, focusing on regulatory gaps, technical implementation, legal protections, and patient safety. Through this approach, the study aims to provide a comprehensive overview of the effectiveness of current regulations and the real-world challenges faced in the clinical delegation of authority.

## **B. Research Method**

This research seeks to provide an analysis of the delegation of authority for anesthesia and sedation procedures from anesthesiology and intensive care specialists to nurses or anesthesia technologists, as well as examine how such delegation is regulated. The study adopts a normative juridical research method, utilizing both statutory and empirical approaches. The statutory (legislative) approach is employed to examine the legal norms governing the delegation of clinical authority, particularly within the field of anesthesiology and sedation. In contrast, the empirical approach is used to observe how such delegation is implemented in practice, including the perceptions and understandings of medical professionals and the obstacles they face in its application. This research draws on primary, secondary, and tertiary sources of data. Primary data is

obtained directly from the field; secondary data is gathered through document analysis of statutory regulations, court decisions, professional ethical guidelines, and relevant literature; while tertiary data consists of legal dictionaries, encyclopedias, and other reference materials that support conceptual legal interpretation .(Satria and Brandao 2023)

Data collection techniques include literature study and field study.(Arifin and Satria 2020) The literature study involves the review of various legal documents and scholarly literature, while the field study is conducted through observation and interviews with informants who possess expertise and direct experience in the delegation of authority within anesthesiology services. The data analysis and examination techniques are conducted qualitatively, focusing on legal interpretation and argumentation based on relevant legal principles. The objective of this analysis is to identify convergence between field practices and prevailing legal norms, as well as to uncover any legal vacuums, regulatory disharmonies, or the need for legal reconstruction in the regulation of delegated anesthesia and sedation procedures.

### **C. Discussion**

#### **1. Regulation of the Delegation of Authority for Anesthesia and Sedation Procedures from Anesthesiology and Intensive Care Specialists to Nurses/Anesthesia Technologists**

The regulation concerning the delegation of authority for anesthesia and sedation procedures from anesthesiology and intensive care specialists to nurses or anesthesia technologists intersects directly with the legal aspects of healthcare, patient safety, and professional accountability. Normatively, the delegation of clinical authority has been addressed in several regulations. One such provision is Article 290 paragraphs (1)–(4) of Law Number 17 of 2023 on Health. This article opens the possibility for delegation of authority from medical personnel to healthcare workers, provided it occurs under specific conditions and in order to ensure continuity of health services. The article also clarifies that delegation of authority consists of both mandated and delegated transfers and stipulates the delegation must be carried out from medical personnel to healthcare personnel, among medical personnel, and among healthcare personnel.(Baroto SP 2023)

Furthermore, Government Regulation Number 28 of 2024, as the implementing regulation of the Health Law, provides more technical provisions on the mechanism for clinical mandate delegation, whether through delegated authority or mandate. In the context of delegating anesthesia procedures, nurses or anesthesia technologists may perform specific actions as long as they possess verified competencies and the delegation is made by a specialist doctor with full accountability.

The delegation of authority as regulated in the Government Regulation is particularly outlined in Article 544. Article 544 of Government Regulation 28/2024 provides an affirmative and responsive legal framework that ensures the continuity of essential health services in situations of limited medical personnel. This provision serves as a legitimate normative basis for the delegation of clinical authority to nurses or anesthesia technologists, as long as the delegation is conducted in a structured and standardized manner, without compromising patient safety. The delegation of anesthesia procedures by specialist doctors to nurses certified in anesthesia training is legally justifiable under Article 544, especially in conditions of human resource scarcity. Through this provision, the state affirms that ensuring the continuity of services is a

priority, while still adhering to binding legal safeguards to maintain patient safety and professional accountability.(Vitrianingsih and Budiarsih 2019)

Meanwhile, Minister of Health Regulation Number 519/Menkes/Per/III/2011 on the Guidelines for Organizing Anesthesiology and Intensive Care Services in Hospitals provides more specific provisions regarding the implementation of anesthesia procedures. This regulation stipulates that anesthesia services must be carried out by a team consisting of anesthesiology specialists and other healthcare personnel, including nurses who have received anesthesia training. It asserts that anesthesia services are medical procedures that must be performed by medical personnel. However, the current number of anesthesiology specialists remains very limited, despite the urgent need for anesthesia services in hospitals. Given this situation, it is necessary to delegate the responsibility of anesthesiology services to residents in training (PPDS) or other physicians in hospitals lacking anesthesiology specialists. The procedure for such delegation must be regulated by internal hospital rules and in accordance with prevailing laws and regulations.(Lestari 2022)

As an ethical and professional guideline, the Decree of the Central Board of the Indonesian Society of Anesthesiology and Intensive Therapy Specialists (PERDATIN) Number 102/SK/PP-PERDATIN/XI/2021 establishes clear boundaries. The decree stipulates that anesthesia and sedation procedures may not be delegated if the anesthesiology and intensive care specialist is not present in the hospital. This means that direct supervision is an absolute requirement for such delegation to occur. This is consistent with the principle of non-delegable duty in health law, which maintains that primary responsibility for certain medical procedures remains with the specialist physician, especially for high-risk procedures such as anesthesia and sedation.

However, this PERDATIN decree has practical implications, particularly in remote areas without anesthesiology specialists. Referring to the spirit of Article 28H paragraph (1) of the 1945 Constitution, which guarantees the right to healthcare services, the state must ensure that the scarcity of medical personnel does not become a barrier to safe and quality anesthesia services. Therefore, there is a need for synergy between positive legal regulations and the real needs of the public for anesthesia services.(Basuki 2020)

Based on the above, the regulation of delegated authority for anesthesia and sedation procedures remains partial and requires harmonization between technical regulations, professional legal standards, and the needs of the national health service system. The state must be able to bridge the gap between formal legal constraints and social realities so that the delegation of authority does not lead to service gaps, while still safeguarding patient safety and the accountability of healthcare personnel.

## **2. Challenges in the Implementation of Regulations on the Delegation of Authority for Anesthesia and Sedation Procedures from Anesthesiology and Intensive Care Specialists to Nurses / Anesthesia Technologists**

The regulation of clinical delegation to Nurses Certified in Anesthesia Training in the provision of anesthesia and sedation services has been elaborated in the previous section, including:(Sutarih 2018)

- a) Law No. 17 of 2023 on Health;
- b) Government Regulation No. 28 of 2024 as the Implementing Regulation of Law No. 17 of 2023 on Health;

- c) Minister of Health Regulation No. 519/Menkes/Per/III/2011 on the Guidelines for the Provision of Anesthesiology and Intensive Care Services in Hospitals;
- d) Minister of Health Decree No. Hk.01.07/Menkes/425/2020 on Nursing Professional Standards;
- e) DPP HIPANI Decree No. 01/DPP.HIPANI/S.K/R.K.K/I/2019 on the Approval of Clinical Authority Details (RKK) for Indonesian Nurse Anesthetists (Second Edition) 2019;

Law No. 17 of 2023 and Government Regulation No. 28 of 2024 legally open the possibility of both mandated and delegated authority transfers from medical personnel to health workers, including nurses certified in anesthesia training.

In practice, however, the implementation of these regulations has not yet fully delivered justice. One of the main issues lies in the absence of a professional standard that specifically governs the competencies of nurses certified in anesthesia training. Article 291 paragraph (1) of Law No. 17 of 2023 states that medical and health personnel must deliver services in accordance with professional standards, service standards, and standard operating procedures. Unfortunately, the currently applicable professional standard for nurses remains general in nature and does not specifically accommodate the detailed competencies possessed by nurses certified in anesthesia training. Yet, it is precisely these professional standards that serve as the primary legal basis for determining the limits of practice and legal protection for healthcare workers.

This lack of clarity creates a normative vacuum that may cause hesitation in the execution of duties by anesthesia-certified nurses in the field. In response to this situation, the PPNI, through HIPANI, took the initiative to develop and publish a Clinical Authority Detail (RKK) book for nurse anesthetists, which can be used as a reference for the credentialing process in hospitals, in order to issue clinical assignment letters and clinical authority documentation by hospital management. While this initiative is important, the RKK book was not developed through a process involving the relevant council and collegium, nor was it ratified by the Minister. As such, its application lacks state recognition because it is not yet in accordance with prevailing laws and regulations.

Based on an interview with the Secretary General of HIPANI, it was conveyed that HIPANI has conducted workshops and certification for nurses who already possess anesthesia training certificates. These workshops aim to review and refresh the competencies previously acquired through training, education, or experience. For certification, CBP-INNA grants competency certification based on SNI ISO 17024:2012 to nurses who have completed the training program, thereby ensuring that anesthesia-certified nurses receive recognition. This certification holds clear legal standing under Law No. 20 of 2014 on Standardization and Conformity Assessment. The law defines conformity assessment as an activity to assess that goods, services, systems, processes, or personnel meet the reference requirements.

The lack of formal recognition for the role and competencies of nurses certified in anesthesia training in the professional nursing standards has resulted in a significant imbalance. On the one hand, the state requires their presence to address the shortage of anesthesiology and intensive care specialists, particularly in remote or underdeveloped areas. On the other hand, these nurses have not yet been granted adequate legal protection and professional recognition within their own professional standards. This situation is clearly unjust, especially when one considers the historical origins of nurse anesthetists in Indonesia, which emerged out of a genuine societal need for anesthesia

services. The original idea, initiated by Prof. Dr. Muhammad Kelan DSan and colleagues, was not to create an exclusive profession, but rather to offer a strategic solution to the public's need for safe and affordable anesthesia services. (DPR RI 2023)

To date, nurses certified in anesthesia training have demonstrated a tangible contribution to anesthesia and sedation services, both in healthcare facilities that have anesthesiology and intensive care specialists and in those that lack such specialists. The responsibilities they carry are by no means light. They often travel great distances for work and must move from island to island to pursue the necessary education or training. Furthermore, they handle medical procedures that pose high risks to both patient safety and their own well-being. Therefore, the recognition of their competence and the provision of legal protection are not only professional necessities but also expressions of respect for the principles of social justice and the values of civilized humanity.

In this context, the state should not be fixated solely on a juridical-normative approach. Health regulations should not be confined to administrative aspects alone, but must be inspired by the spirit of justice and the noble values of Pancasila. (Rizaludin 2022) The Second Principle (Just and Civilized Humanity) and the Fifth Principle (Social Justice for All Indonesian People) should serve as the moral and ethical foundation in formulating policies that affect the fate of healthcare workers, especially nurses certified in anesthesia training and the broader community.

Like it or not, the presence of nurses certified in anesthesia training remains critically necessary. With the limited number of anesthesiology specialists and the continuously increasing service burden, collaboration between medical and health personnel becomes imperative. It is thus deeply ironic that while the state relies on them for service delivery, it fails to provide adequate legal protection. Such imbalances, if allowed to persist, will hinder efforts to ensure equitable access to healthcare services and will ultimately disadvantage the general public.

Hence, it is time for the government to adopt a clear and decisive stance and to formulate both short- and long-term plans to provide adequate protection for nurses certified in anesthesia training. This stance is not only essential for ensuring legal certainty for health professionals, but is also part of the state's broader effort to establish a health system that is inclusive, fair, and oriented toward the well-being of the people.

Regulations governing the implementation of authority for anesthesia technologists in providing anesthesia and sedation services in Indonesia can, formally speaking, be said to have a fairly complete legal foundation. Several regulations—such as Law No. 17 of 2023 on Health, Government Regulation No. 28 of 2024 as the implementing regulation of Law No. 17 of 2023, Minister of Health Regulation No. 519/Menkes/Per/III/2011 on Guidelines for the Implementation of Anesthesiology and Intensive Care Services in Hospitals, Minister of Health Regulation No. 18 of 2016 on Licensing and Practice of Anesthesia Technologists, and Minister of Health Decree No. HK.01.07/Menkes/722/2020 on Anesthesia Technologist Professional Standards—collectively constitute the legal framework that underpins the existence and practice of this profession.

However, despite this normative appearance of regulation, the substance of several of these regulations raises various interpretative issues and even triggers inter-professional conflicts. One example of confusion arises from the provision in Article 24 letter a of Minister of Health Regulation No. 18 of 2016, which states that all nomenclature referring to “nurse anesthetists” as stipulated in Minister of Health Regulation No. 519 of 2011 must be read and interpreted as “anesthesia technologists.”

Methodologically, in the context of legislative drafting, this approach contradicts the principles of sound legal drafting because one regulation cannot unilaterally change or interpret the meaning of a previously established regulation without undergoing an official amendment or revocation mechanism. Ultimately, this provision has created a duality of interpretation in practice, leading to tensions and role conflicts between nurses certified in anesthesia training and anesthesia technologists.

This conflict did not arise spontaneously. Historically, the anesthesia technologist profession emerged from the state's practical need to provide anesthesia services to the public in the past, particularly when the number of anesthesiology specialists was severely limited. At that time, Prof. Dr. Muhammad Kelan DSan and colleagues initiated educational programs for nurses to equip them with competencies in anesthesia and sedation services. Nurses were selected due to their foundational knowledge in health sciences and clinical skills, making them relatively easier to train through education or certification programs. These educated and trained nurses eventually became the forerunners of the anesthesia technologist profession.

Until 2014, before the enactment of Law No. 36 of 2014 on Health Workers and Law No. 38 of 2014 on Nursing (both enacted on the same date, October 17, 2014), the relationship between nurses and anesthesia technologists was relatively harmonious, with no significant tensions. In an interview with Mr. Ns. Emmanuel I Lewer S.Kep., MM. (who is familiar with the situation), it was explained that there had been a discussion between the Indonesian National Nurses Association (PPNI) and the Indonesian Nurse Anesthetist Association regarding a proposal to accommodate nurse anesthetists under the Nursing Law as the Anesthesia Nurse Collegium. However, no agreement was reached due to differing views on the body of knowledge of nurse anesthetists, which was deemed incompatible with the core knowledge of nursing.

As a result of the lack of consensus on including nurse anesthetists within the nursing domain, and coinciding with the legislative process for the Health Workers Law, the profession was instead categorized as part of medical technical support. This position was further reinforced in Law No. 17 of 2023 on Health, which explicitly states that anesthesia technologists are part of the medical technical personnel group. However, this categorization has created new issues. According to the definition of "medical technical personnel" in the *Kamus Besar Bahasa Indonesia* (KBBI), the term refers more to professionals specializing in the operation and maintenance of medical equipment, not to those involved in direct clinical care with patients.

This interpretation was reinforced by the official response of the Indonesian Society of Anesthesiology and Intensive Therapy (PERDATIN) in letter No. 132/PP-Perdatin/IX/17 dated September 30, 2017. In this letter, PERDATIN stated that anesthesia services are part of medical services carried out by a team consisting of doctors, nurses, pharmaceutical personnel, and medical technical personnel including anesthesia technologists. However, according to PERDATIN, anesthesia technologists as part of medical technical personnel should not directly evaluate patients in the pre-, intra-, and post-anesthesia phases. From their definition, medical technical personnel are interpreted more as technical support roles, such as the maintenance or calibration of anesthesia equipment.

This situation clearly undermines the professional standing of anesthesia technologists, who have long performed direct clinical functions in anesthesia services within healthcare facilities. Anesthesia technologists are actively involved in patient care. These facts demonstrate that anesthesia technologists bear responsibilities and

competencies as care providers, not merely as technical support staff. Therefore, reducing their role to that of mere equipment technicians is grossly unfair and misrepresents the realities of practice in the field.(Hamzah, Susmiati, and Huriani 2019)

Moreover, from a historical perspective, the anesthesia technologist profession did not emerge from a vacuum. In its early development, the anesthesia nurse academy and anesthesia academy were included under the nursing domain, based on the recommendation of Prof. Dr. Karyadi Sp.An in 1983, which was well received by the PPNI chairman at the time, Mr. H. Oyo Radiat. In 1986, during the IKLUM National Congress, a professional organization named the Indonesian Nurse Anesthetist Association (IPAI) was established, with its first chairwoman being Mrs. Dra. Hj. Susbandiyah BSc.An.

However, over time, the profession's regulatory position became increasingly unstable. It seemingly lost its place within the nursing domain while also failing to be fully recognized within the medical technical personnel category. At that time, the state appeared unable to protect the rights of an already-established profession, despite anesthesia technologists being born out of the needs of both the state and the Indonesian people.

This condition is evidence that the state must intervene to correct the historical trajectory and rectify past regulatory missteps. The government must take an active role in providing legal certainty and clarity of status for anesthesia technologists in terms of education, competence, and scope of practice.(Sapri 2019) The uncertainty regarding the *body of knowledge* frequently attributed to anesthesia technologists should be understood in its historical context: the initial curriculum was developed based on the anesthesiology approach and the nurse anesthetist model in the United States, intended to promote public welfare in the health sector.

A frequently raised question is how a legally recognized profession can lack a clearly defined *body of knowledge*. It must be reiterated that anesthesia technologists are not the product of institutional engineering but emerged from the real needs of Indonesia's healthcare system. Therefore, the current ambiguity represents a form of structural injustice that must be addressed through rational, fair, and public-service-oriented regulatory reform.

From the perspective of health law, the disharmony of norms in regulations governing anesthesia and sedation services in hospitals—particularly concerning certified anesthesia-trained nurses and anesthesia technologists—can lead to serious implications:

- a) Legal certainty: Articles 28A through 28I of the 1945 Constitution affirm that the state guarantees the right to health and legal certainty as fundamental rights. Disharmonious regulations compromise this guarantee and place healthcare professionals in a vulnerable position. (Trisna 2021)
- b) Professional protection: Ambiguity regarding legal standing may expose certified anesthesia-trained nurses and anesthesia technologists to risks of exceeding their authority, despite their proven competence.
- c) Internal justice: In an unharmonized system, professional organizations and hospital administrations risk violating non-discrimination principles, leading to professional frustration and diminished motivation among healthcare workers.
- d) Public health: Normative disharmony that causes inter-professional tension and potential discrimination may result in underutilization of certified

anesthesia-trained nurses or anesthesia technologists, despite the fact that communities in such regions urgently require their services for anesthesia and sedation care.

Thus, this regulatory disharmony and unclear legal standing generate legal uncertainty that contradicts the rule-of-law principle as articulated by Julius Stahl and the norm hierarchy theory of Hans Kelsen, which states that all administrative and medical actions must be based on legitimate written law.(Ochtorina S 2021)

#### **D. Conclusion**

The delegation of anesthesia and sedation authority from anesthesiology specialists to trained nurses or anesthesia technicians represents a pragmatic response to the shortage of medical personnel in the field. However, this practice continues to face serious challenges related to legal certainty, scope of authority, and professional recognition. Although existing regulations have normatively opened the space for such delegation, the lack of regulatory harmonization, the absence of specific professional standards, and the dualism in professional interpretations have created significant legal uncertainty. This situation threatens both the legal protection of healthcare workers and patient safety. Therefore, regulatory reforms are urgently needed to ensure legal clarity, uphold professional justice, and accommodate the practical realities of anesthesia services in the field in a fair and proportional manner—ultimately contributing to the realization of an inclusive, high-quality, and people-oriented national health system.

#### **E. Recommendations**

The recommendations drawn from the findings of this study emphasize the need for regulatory structuring and the recognition of professional competence. First, the government, in collaboration with the relevant health councils and professional collegiums, must formulate and legally establish a dedicated set of professional standards for nurses certified in anesthesia training. These standards should include detailed descriptions of clinical competencies, defined boundaries of delegated authority, and mechanisms for professional supervision. This would allow the standards to serve as a basis for credentialing processes and legal protection across all healthcare facilities. Subsequently, comprehensive harmonization of existing regulations is necessary—particularly between Ministry of Health Regulation No. 519/2011 and Regulation No. 18/2016—in order to eliminate the dualistic use of the terms "nurse anesthetist" and "anesthesia technician." This harmonization should ideally involve either the revision or formal repeal of overlapping regulations, along with clear designation of official nomenclature and the legal standing of each professional role. Furthermore, the government must formally legitimize the Clinical Authority Details (Rincian Kewenangan Klinis, or RKK) document developed by HIPANI. Legal ratification through the official council–collegium mechanism would grant the RKK national operational status and fill the normative gap regarding anesthesia authority delegation in practice.

### **REFERENCE**

- Agustini, Ni Wayan Mita. 2021. "Gambaran Pelaksanaan Komunikasi Terapeutik Perawat Anestesi Pada Pasien Pre Operasi." *Repository Itekes Bali*.
- Anik Sulistiyowati. 2021. "Pelimpahan Wewenang Dari Dokter Kepada Perawat Dalam

- Melakukan Tindakan Intubasi.” *Jurnal Hukum Dan Etika Kesehatan*. doi: 10.30649/jhek.v1i1.17.
- Arifin, Zaenal, and Adhi Putra Satria. 2020. “Analisis Kritis Pengelolaan Perairan Pesisir Dan Pulau-Pulau Kecil Di Indonesia.” *Ganec Swara* 14(1).
- Baroto SP, AK Wisnu. 2023. “PRESUMED CONSENT ATAS TINDAKAN MEDIS BERISIKO TINGGI PADA KEGAWATDARURATAN: PERSPEKTIF UU NOMOR 17 TAHUN 2023.” *Jurnal Hukum Dan Etika Kesehatan*. doi: 10.30649/jhek.v3i2.131.
- Basuki, Udiyo. 2020. “Merunut Konstitusionalisme Hak Atas Pelayanan Kesehatan Sebagai Hak Asasi Manusia.” *Jurnal Hukum Caraka Justitia* 1(1).
- DPR RI. 2023. “Naskah Akademik Rancangan Undang-Undang Tentang Kesehatan.” *Badan Legislasi Dewan Perwakilan Rakyat Republik Indonesia 2023*.
- Hamzah, Hamzah, Susmiati Susmiati, and Emil Huriani. 2019. “GAMBARAN BUDAYA KESELAMATAN PROFESIONAL PEMBERI ASUHAN DI KAMAR OPERASI.” *Jurnal Perawat Indonesia* 3(2). doi: 10.32584/jpi.v3i2.318.
- Kemenkes. 2022. “Pedoman Nasional Pelayanan Kedokteran Tata Laksana Anestesiologi Dan Terapi Intensif.” *Keputusan Menteri Kesehatan Republik Indonesia*.
- Lestari, Sevi. 2022. “Tinjauan Hukum Pelimpahan Wewenang Dokter Kepada Profesi Perawat Dalam Tindakan Medis.” *Jurnal Pendidikan Dan Konseling* 4.
- Ochtorina S, Dyah. 2021. “PANCASILA DALAM TEORI JENJANG NORMA HUKUM HANS KELSEN.” *Jurnal Legislasi Indonesia* 18(4). doi: 10.54629/jli.v18i4.860.
- Rehatta, n. Margarita, Elizeus Hanindito, Aida R. Tantri, Ike S. Redjeki, R. f. Soenarti, D. Yulianti Bisri, Takdir Musba, and Mayang 1. Lestari. 2019. *Anestesiologi Dan Terapi Intensif.Pdf*.
- Rizaludin, M. Abdu. Wahid. 2022. “Nilai Luhur Pancasila Dalam Pendidikan Dan Kehidupan Masyarakat Di Indonesia.” *Paidea : Jurnal Pendidikan Dan Pembelajaran Indonesia* 2(2). doi: 10.56393/paidea.v2i2.1105.
- Sapri, Akhmad. 2019. “Tanggung Gugat Perawat Asisten Operator Bedah Dalam Menjalankan Profesinya Di Kamar Operasi (Studi Di Rumah Sakit Umum Daerah H.Abdul Moeloek Provinsi Lampung).” *Cepalo* 1(1). doi: 10.25041/cepalo.v1no1.1755.
- Satria, Adhi Putra, and Eugenia Brandao. 2023. “Understanding the Nature of Legal Knowledge: In-Depth Critique of the Legal Fiction Principle.” *Walisongo Law Review (Walrev)* 5(2). doi: 10.21580/walrev.2023.5.2.17560.
- Shientiarizki, Amy, Chomariyah, and Agung Pramono. 2023. “Pertanggungjawaban Dokter Atas Pelimpahan Wewenang Kepada Bidan Pada Tindakan Asuhan Persalinan Normal Di Puskesmas.” *Jurnal Preferensi Hukum* 4(3).
- Sutarih, Ayih. 2018. “SINKRONISASI PENGATURAN PELIMPAHAN WEWENANG TINDAKAN MEDIS KEPADA PERAWAT UNTUK PELAYANAN KESEHATAN DI RUMAH SAKIT.” *HERMENEUTIKA : Jurnal Ilmu Hukum* 2(1). doi: 10.33603/hermeneutika.v2i1.1112.
- Sutoyo, Dessy, Rudi Kurniadi Kadarsah, and Iwan Fuadi. 2018. “Sindrom Burnout Pada Peserta Program Pendidikan Dokter Spesialis Anestesiologi Dan Terapi Intensif Fakultas Kedokteran Universitas Padjadjaran.” *Jurnal Anestesi Perioperatif* 6(3). doi: 10.15851/jap.v6n3.1360.
- Sylvana, Yana, Yohanes Firmansyah, and Imam Haryanto. 2021. “Legal Delegasi

- (Pelimpahan Wewenang Medis) Dokter Kepada Perawat Ditinjau Dari Perspektif Hukum.” *Cerdika: Jurnal Ilmiah Indonesia* 1(12). doi: 10.36418/cerdika.v1i12.217.
- Trisna, Wulandari. 2021. “Makna Pasal 28 Dalam UUD 1945 Untuk Hak Asasi Manusia.” *DetikEdu*.
- Vitrianingsih, Yeni, and Budiarsih Budiarsih. 2019. “PELIMPAHAN WEWENANG DOKTER KEPADA PROFESI PERAWAT DALAM TINDAKAN MEDIS DARI PERSPEKTIF HUKUM.” *Jurnal Hukum Magnum Opus* 2(2). doi: 10.30996/jhmo.v2i2.2545.