



## Legal Safeguards for Anesthesia Practitioners Operating Independently: A Case Study at Prima Inti Medika Hospital, North Aceh

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**Abstract:** This study aims to analyze the Standard Operating Procedure (SOP) for anesthesia, the implementation of anesthesia procedures in the operating room without an anesthetist, and the legal protection for anesthesia practitioners. This issue highlights the importance of policy implementation and its impact on patient safety and legal accountability. The research utilized an analytical-qualitative method, which is descriptive and emphasizes analysis. Data were collected through interviews with specialist anesthetists and stylists at Prima Inti Medika Hospital. This approach allowed for an in-depth understanding of the policy implementation and related challenges. The findings reveal that the delegation of authority for anesthesia procedures and communication among related teams are implemented effectively. However, challenges were identified, including issues with policy standards, resource adequacy, and the disposition or attitudes of implementers. These challenges have hindered the optimal implementation of delegation policies, impacting legal protection for anesthesia practitioners. The study emphasizes the critical need for effective policy implementation regarding the delegation of authority in anesthesia services. Hospital management must monitor and evaluate the implementation process while ensuring administrative compliance. Supporting the development and competence of health workers, particularly anesthesia administrators, is essential to achieving quality services that prioritize patient and staff safety.

**Keywords:** SPO for Anesthesia Management; Delegation of Authority; Legal Protection.



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## INTRODUCTION

Health is an essential element in human life. Fulfillment of health is one of the needs that must be met by every human being and is the right of every individual. The fulfillment of health is obtained through health services based on Article 28H and Article 34 paragraph (three) of the 1945 Constitution, which states that health means the rights of citizens and the responsibility of the state to provide health services. Health care services are the rights of each person guaranteed in the 1945 Constitution to make efforts to improve the health of individuals and groups (society) as a whole (Veronica, 1989).

Health services are efforts carried out individually or in groups in an organization to maintain and improve health, prevent and cure various diseases, and restore health at the individual, family, group, or community level (Moynihan et al., 2022). Health services are one aspect of national development that is developed through health efforts (Sinaga et al., 2024). Health efforts can be carried out at health facilities, which are health service facilities that provide comprehensive individual health service efforts, including prevention, health promotion, treatment, and rehabilitation (Azwar, 1996).

Anesthesia services are one type of health service in a hospital where the medical service uses anesthesia that requires fast, perfect, and accurate action for rescue (Chen et al., 2022; Wahyuni et al., 2023). Anesthesiology services and intensive care hospital therapy are one part of the health service that is developing rapidly along with increasing knowledge and technology in the field of anesthesia. Anesthesia services in hospitals include anesthesia services in and outside the operating room, perioperative medical services, sudden pain management or persistent pain, cardiopulmonary and brain resuscitation, emergency services, and intensive therapy.

Hospitals can operate well in anesthesia management if they are supported by competent human resources, namely anesthesia technicians. Anesthesia technicians have responsibilities and liabilities in carrying out their professional practice. As a result, anesthesia technicians are also very bound by the rules governing the practice of health workers.

The practice of anesthesia in hospitals is very complex because it involves various disciplines of health workers, including health workers who provide anesthesia services. Anesthesia is a high-risk medical procedure that requires expertise, skills, and specific vigilance in order to facilitate surgery and claim patient safety, security, and comfort (Hobbs, 2021; Zheng et al., 2022). Thus, a competent anesthesiologist is needed. Anesthesiologists must improve their competence in many roles. Anesthesiologists must understand the characteristics of anesthesia services professionally, carefully, and quickly, as well as how to behave and communicate well, even in emergency conditions (Chen et al., 2022; Hecht et al., 2019). The broader the scope of responsibility carried out by anesthesiologists in anesthesia services, the more roles that must be carried out, and the heavier the workload experienced by anesthesiologists, including their responsibilities in the eyes of the law.

Anesthesiologists must have an Anesthesiologist Registration Certificate (STRPA) and an Anesthesiologist Practice License (SIPPA). The STRPA is written evidence that the government gives anesthesiologists a competency certificate per the provisions of laws and regulations. In contrast, the SIPPA is written evidence of the authority to carry out professional practice as anesthesiologists in health care facilities.

Medical actions performed by anesthesiologists are limited to their abilities. If viewed from the limitations of authority and function as an anesthesiologist in a dependent function, an anesthesiologist is only limited to assisting doctors in providing anesthesia services. Actions such as treatment and special actions, including anesthesia and surgery, are the authority of doctors. These actions can only be carried out by an anesthesiologist if there is a written request from the doctor to delegate authority to the anesthesiologist concerned (Proctor et al., 2011; Yulius et al., 2023).

Anesthesiologists are competent in providing professional patient care, not performing medical procedures. If anesthesiologists perform medical procedures, this is a collaborative activity with doctors and other health workers. Anesthesiologists and doctors perform medical procedures following their functions as regulated in the Decree of the Minister of Health No. 1239/Menkes/SK/XI/2001 concerning the registration and practice of nurses, Article 15 paragraph (4), namely: "medical procedures can only be carried out according to a written request from a doctor." The regulation states that medical procedures are only valid for doctors, not anesthesiologists. Suppose the doctor is not present or cannot perform medical procedures for one reason or another. In that case, the doctor may ask the anesthesiologist to perform the procedure if the doctor has made a clear written delegation of authority to the anesthesiologist to perform the medical procedure. According to the regulations above, no legislation allows anesthesiologists to perform medical procedures except in emergencies and at the written request of a doctor (Sila et al., 2019a).

Informed consent of anesthesiologists has not been regulated in writing until now. However, informed consent for medicine, as regulated by the Regulation of the Minister of Health No. 18 of 2016, stipulates that in the absence of an anesthesiologist, the medical responsibility for anesthesia must be transferred to another doctor through a procedure regulated by the Delegation in the Hospital. Anesthesia is performed by an anesthesiologist under the authority and responsibility of a doctor. This not only has implications for preventive and curative efforts but also in terms of ethics and regulations because medical actions performed by anesthesiologists in emergency conditions in practice do not provide clear limits of authority where this context needs to be formulated legally for the medical action so that the medical actions performed by anesthesiologists are legally protected.

The problem once occurred in a Hospital on Java Island. Allegedly, an anesthesiologist committed an error in administering anesthetic drugs. Bunavest spinal anesthetic drugs containing bupivacaine in ampoules are allegedly exchanged with another type of drug, which is an anti-bleeding drug, namely tranexamic acid. This problem occurred in a patient who was going to give birth by cesarean section. Came to the emergency installation because of painless vaginal bleeding since 6 hours ago. The anesthesiologist decided to give spinal anesthesia and asked the anesthesiologist to give her 1.5% bupivacaine. The anesthesiologist in the operating room took the ampoule from the box and gave it to the anesthesiologist without looking at the type of drug that was taken. The drug was immediately injected into the patient's central nervous system after confirmation of cerebrospinal fluid (CSF). About three minutes after the injection of the drug, the patient began to be irritable and complained of pain from the waist to the lower extremities (legs). The patient started to be restless and complained of dizziness. The patient began to experience decreased consciousness, the patient's general condition worsened, and finally, the patient died.

Spinal anesthesia was given to treat vaginal bleeding and fetal distress. The patient's twins were successfully delivered, but the mother was less fortunate. The patient experienced convulsions and an abnormal heart rate. After consulting a neurologist, the fatal reaction was caused by spinal anesthesia. Experts from Kermanshah University of Medical Sciences have studied this. The investigation results for this case showed that we found an empty tranexamic acid ampoule, not a bupivacaine ampoule. Tranexamic acid is not a routine drug in our operating room. Usually, it is

given to the patient (not an obgyn patient) who underwent surgery a few weeks ago.

When the bupivacaine ampoule was compared with the tranexamic acid ampoule, it was found that both had the same volume or size, color, shape, and alphabet on the label. This means that a double-check should have been done. In cases like this, the anesthesiologist is very vulnerable to lawsuits (Kurnia, 2015a; Palele et al., 2022; Susilo & Ermawan, 2024).

When I was doing initial research at Prima Inti Medika Hospital, there was a case of a patient who was planning to undergo a Section Caesarian surgery but had to be referred. The patient's position was already in the operating room because the patient's condition was unstable; HB at that time was 5 gr/dl, and at that time, there were only anesthesiologists and Sp—a doctor who was out of town. The condition at that time was because the patient's HB was low and the UTD was also far away, so in the end, the patient was referred to another hospital for surgery.

Legal protection has been regulated in the Minister of Health Regulation No. 18 of 2016 Article 19, which states, "In carrying out their professional practice, Anesthesia Technicians have the right to obtain protection in carrying out their professional practice following professional service standards, Anesthesia Technicians when carrying out their professional practice are authorized to provide Anesthesia Care services, both Pre-anesthesia, Intra-anesthesia, and post-anesthesia.

In the Regulation of the Minister of Health of the Republic of Indonesia No. 21 of 2019 concerning technical instructions for functional positions of anesthesia technicians, it is explained in articles 3 and 4 that in carrying out their professional practice, anesthesia technicians have the authority to provide anesthesia care services for pre-anesthesia, intra-anesthesia, and post-anesthesia. Anesthesia care services, as referred to, are carried out following the provisions of laws and regulations. In Article 4, in addition to the authority referred to in Article 3, Anesthesia Technicians can carry out services under the supervision of the delegation of authority by mandate from an anesthesiologist or other doctor and/or based on government assignments as needed.

According to Articles 10 and 11 of Permenkes No. 18 of 2016, the authority of an anesthesiologist consists of pre-anesthesia (before anesthesia), intra-anesthesia (during the anesthesia process), and post-anesthesia (after the anesthesia process), either directly, by delegation and collaboration. The procedure for delegation of authority is regulated in Article 12-16, which states that an anesthesiologist can carry out anesthesia services upon delegation of authority by mandate from an anesthesiologist or other doctor and/or government assignments as needed.

Partnerships lead to delegating authority and managing patients, especially in service facilities. Minister of Health Regulation Number 31 of 2013 concerning the Implementation of Anesthesia Nurse Work, Anesthesia Nurses can provide health services in the field of Anesthesia. Provisions regarding the application of Anesthesia services include (pre-anesthesia, intra-anesthesia, and post-anesthesia) carried out by Anesthesia Nurses are the same as those regulated in Minister of Health Regulation Number 519 of 2011 concerning guidelines for the Implementation of Anesthesiology and Intensive Therapy Services in Hospitals, which are the authority of Anesthesiology Specialists.

Minister of Health Regulation No. 31 of 2013 concerning the Implementation of the Work of Anesthesia Nurses regulates the delegation of authority and medical responsibility for Anesthesia actions to other Doctors in the absence of an Anesthesiologist. Anesthesia nurses carry out

anesthesia actions using supervision/collaboration with the doctor who receives the delegation of authority or the surgeon. Following the Minister of Health Regulation, anesthesia technicians can only perform anesthesia actions in an emergency.

The law in a state is formed by an elite group that has the authority to regulate all matters containing statutory regulations. Rules are formed so existing regulations bind humans to achieve order and justice. In addition, these rules are made to achieve certainty of legal rules.

Anesthesia services are essential to medical procedures, particularly in surgical operations requiring precision, speed, and patient safety. Over time, the role of anesthesiologists has evolved with advancements in medical technology and healthcare regulations. Several studies, such as those by (Kurnia, 2015b; Sumrall et al., 2016) have highlighted the importance of adherence to Standard Operating Procedures (SOPs) in anesthesia management to minimize medical errors and legal risks. However, the implementation of anesthesia procedures in hospitals, especially in cases where an anesthesiologist is not available, remains a controversial issue in the medical and legal fields.

Previous research has explored legal protections for medical professionals in various contexts, including delegation of authority in emergencies. For instance, a study by (Hariningsih, 2023; Sila et al., 2019b) examined the legal implications of anesthesia administration by non-anesthesiologists in rural hospitals. Similarly, (Mulyadi et al., 2024; Mulyani & Lisdiyono, 2020; van Velzen et al., 2023) discussed the ethical and legal challenges faced by anesthesia technicians working under delegated authority. Despite these studies, there is still limited discussion on how these legal frameworks apply in Indonesia -particularly in hospitals like Prima Inti Medika North Aceh- where resource limitations may necessitate such practices.

This study aims to analyze the implementation of anesthesia services without an anesthesiologist and the extent of legal protection for anesthesia practitioners under Indonesian healthcare regulations. By examining hospital policies, delegation procedures, and potential legal consequences, this research seeks to fill the gap in understanding how such practices are regulated and their implications for patient safety and medical accountability. The findings are expected to contribute to policy recommendations that enhance legal clarity and patient protection in anesthesia services.

## **METHOD**

The research approach used is descriptive-analytical, which reveals related laws and regulations using legal theories as the research object. Likewise, the law's implementation in society is related to the object of research. The specification of this research is descriptive analysis.

Descriptive research provides an overview. All data obtained related to the research title are clearly and in detail analyzed to answer the existing problems. In this case, the researcher wants to discuss the legal protection of anesthesiologists in performing anesthesia without an anesthesiologist in the operating room of Prima Inti Medika Hospital, North Aceh Regency.

The approach method used in this study is sociological juridical. The sociological juridical approach method is an approach that prioritizes legal regulations (juridical) combined with the

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investigation of social facts or realities affiliated with this study, especially regarding protection for anesthesiologists when providing health services without anesthesiologists. Using the deductive thinking method (a way of thinking in drawing conclusions drawn from something familiar that has been proven to be valid, and the conclusion is intended for something specific).

The legal aspects studied are the laws and regulations for anesthesiologists, the SOP for anesthesiologists, medical actions carried out without anesthesiologists, and legal protection for anesthesiologists.

The laws and regulations for anesthesiologists are stated in the fifth principle of Pancasila, Social justice for all Indonesian people, Article 27 paragraph (2) of the 1945 Constitution, every Indonesian citizen has the right to work and a decent living for humanity, Law No. 44 of 2009 concerning Hospitals, Regulation of the Minister of Health No. 18 of 2016, Part One, Authority, Articles 10 and 11, Part Two, Delegation of Authority, Articles 12-16 and Part Four, Rights and Obligations, Articles 19 and 20.

The specification of this research is descriptive analysis. Descriptive research provides a clear and detailed description of the data obtained related to the research title and then analyzes it to answer the existing problems. (Soekanto, 2007) In this case, the researcher wants to discuss the legal protection of anesthesiologists in performing anesthesia without an anesthesiologist in the operating room of Prima Inti Medika Hospital.

The research specification in this thesis is Descriptive Analysis research. This research is limited to an attempt to reveal a problem condition or event, as it is, so that it is merely to reveal facts. The research results are emphasized by providing an objective picture of the actual condition of the object being investigated.

Meanwhile, the term analysis means grouping, connecting, and comparing data obtained from a theoretical and practical perspective (Bachtiar, 2019; Miake-Lye et al., 2020; Mikhno et al., 2020) This study systematically and factually describes the legal symptoms regarding the legal protection of anesthesiologists who perform anesthesia in the operating room without an anesthesiologist. It is then analyzed based on a literature review and laws and regulations related to this study.

This study was conducted at Prima Inti Medika Hospital, North Aceh. The reasons why researchers chose the location at Prima Inti Medika Hospital, North Aceh, include the following: first, based on observations made in the initial observation, it was seen that in the last 1 year in 2023, the average operation reached 200 patients per month, and second, there has never been a similar study conducted at Prima Inti Medika Hospital, North Aceh.

This data consists of primary and secondary data. Primary data was obtained from interviews with Anesthesia Specialists and Technicians at Prima Inti Mediika Hospital. Meanwhile, secondary data is obtained from scientific books, research reports, scientific papers, theses and dissertations, regulations, provisions, yearbooks, encyclopedias, and other written sources, both printed and electronic. In this case, the author collects relevant information in the library, especially in the legal field. From the perspective of its binding power, the legal document consists of:

1. Primary Legal Materials from Basic Norms and 1945 Constitution
2. Secondary Legal Materials, namely legal materials that do not have force and only function as explanations of primary legal materials.

Population is the entire object that is the focus of research, and a place to generalize research findings (Sandjaja & Heriyanto, 2006a). Population is the entire unit of analysis whose characteristics will be estimated (Sandjaja & Heriyanto, 2006b). The population in this study is accessible, namely a population that meets the criteria of the study and can usually be reached by researchers from their group (Nursalam, 2019a). The population and sample in this study were Anesthesia Specialists and Anesthesia Technicians at Prima Inti Medika Hospital.

Sampling is a data collection procedure where only a portion of the population is taken and used to determine the desired nature and characteristics of a population (Siregar, 2017). Samples comprise a portion of the accessible population that can be used as research subjects through sampling. (Nursalam, 2019b).

Sample size In this study, the sample selection technique was carried out using total sampling, namely, the entire population, one anesthesiologist, and three anesthesiologists.

Inclusion and exclusion criteria 1) Inclusion criteria filter population members into samples that meet the research's theoretical criteria, namely criteria that are theoretically appropriate and related to the topic and conditions of the research.

Work in a health facility that provides surgical and anesthesia services

Have an anesthesia technician STR

Diploma III and Diploma IV in Anesthesiology Nursing or equivalent.

Willing to be a respondent

Exclusion criteria can be used to remove sample members obtained through the exclusion criteria process from the research object due to the existence of specific technical criteria in the sample members that can hinder the research process. a) Not cooperative during the research.

The primary data used in this study were obtained from interviews with anesthesia specialists and stylists at Prima Inti Medika Hospital. This study also requires supporting data, namely secondary data, which is data obtained from books related to the research object, research results in the form of theses/journals, and laws and regulations.

A literature study is the collection of data by conducting a literature study on legal materials, including primary, secondary, and tertiary legal materials.

Field Research is conducted to obtain primary data, namely, collecting the necessary data by establishing direct contact with the parties involved in this legal writing research. It is also conducted using interviews, namely, conducting questions and answers with the parties involved in this legal writing research.

The data analysis method in this study is the analytical-qualitative method. Qualitative research is

research on descriptive research and tends to use analysis. After obtaining the necessary data, the next step is to manage and analyze the research data using qualitative data analysis methods (Hardani et al., 2020; Moleong, 2021; Sekaran & Bougie, 2016). Namely, data is not in numbers but in a series of information excavated from research results, which is still in verbal facts or statements only. The purpose of qualitative data analysis is to collect information about legal protection for anesthesiologists performing anesthesia.

When analyzing, a deductive method is used, namely, the method used in the discussion, starting from general knowledge, and then assessing a specific event (Hadi, 1989). General knowledge in this study is reflected in the theories in the literature review, especially those related to the formulation of the problem. In other words, a theory that has been generalized is then proven by the existing reality. In this case, the author intends to specifically examine the method of legal discovery by the Hospital Director with conclusions based on the facts contained in the decision on the legal protection case for anesthesiologists in performing anesthesia.

## **RESULTS AND DISCUSSION**

### **Normative Analysis of Anesthesia SOP According to the Minister of Health Regulation**

The current health care system, including anesthesia and intensive care services, must prioritize patient—and family-centered care to provide quality services, ensure patient satisfaction, and avoid unwanted incidents. Therefore, a health team is needed to work together for the patient.

Collaboration means a complex and diverse interaction process involving several people working together to combine ideas continuously in responding to something where each party is interdependent, equal, responsible, and accountable (AMA, 1994; American Heritage Dictionary, 2000; Lidenke & Sieckert, 2005). The government is the center that has an important role in this (Ministry of Health and Ministry of Research, Technology and Higher Education), and Provinces and Districts act as regulators and create Laws, Regulations, and Technical Instructions in the field. The government must assist in providing educational facilities and health services with national health service standards (SNPK) to guarantee the quality of education and standardized services.

As a facilitator, the hospital must provide facilities and infrastructure, SOPs, or procedures that follow national health service standards (SNPK) to create effective and efficient services.

Anesthesiologists and nurses/surgeons are important in optimally preparing patients before surgery to prevent complications and as coordinators with other disciplines, such as in critical patient care in the ER, HCU, and ICU. Anesthesiologists can also be team leaders who can help patients achieve the best solutions.

Nurses/anesthetists act as important liaisons between patients in health services. In their practice, anesthesiologists are assisted by their closest partners, namely nurses/anesthetists. Nurses/anesthetists carry out their profession limited only to anesthesia nursing care, but anesthetists can perform medical actions if they get delegation from anesthetists. Permenkes No. 519 of 2011 and Permenkes No. 31 of 2013 regulate their positions, functions, and authorities.



Standard Operating Procedure (SOP) is a hospital (management) policy that has been reviewed and decided to be a standard based on the Law and the Minister of Health Regulation. SOP has a validity period and must be committed to its implementation (Regulation of the Minister of Health of the Republic of Indonesia No. 129, 2008). SOP is a guideline for health workers in carrying out their duties. Health workers are obliged to comply with professional standards and hospital service standards. They must be equipped with regulations and guidelines for organizing health services, including anesthesiology services in the hospital.

#### Normative Analysis of Anesthesia Administrators Without Anesthesiologists Performing Medical Procedures in the Operating Room

Anesthesiologists are medical personnel who have completed nursing education and are majoring in anesthesia. Every person who has graduated from nursing education in anesthesia or Anesthesia Technician following the provisions of laws and regulations. In 1962, this profession was first developed in Indonesia. The initiator of the profession of nurse anesthetist was Dr. Mohammad Kellan. He was the first anesthesiologist in Indonesia. The education program for anesthesiologists in Indonesia then was under the Ministry of Health.

The Professional Standards for Anesthesia Technicians are the minimum limits of knowledge, skills, and professional behavior that anesthesia technicians must master and possess to carry out their professional practice in the community independently. The Professional Organization creates these standards.

Written evidence from the Government to Anesthesia Technicians with a competency certificate following the provisions of laws and regulations is the Anesthesia Technician Registration Certificate, hereinafter abbreviated as STRPA. Written evidence of the granting of authority to carry out professional practice is the Anesthesia Technician Practice Permit, hereinafter abbreviated as SIPPA. Anesthesia Technicians can carry out their professional practice if they have a STRPA. Anesthesia Technicians can only have a maximum of 2 (two) SIPPAs. An application for a second SIPPA can be made by showing that the Anesthesia Technician already has the first SIPPA.

Authority is the right to do something or order others to do or not do something to achieve a specific goal. Authority is associated with power. The wise use of authority is a critical factor for organizational effectiveness. Authority is used to achieve the goals of the authorized party (Wikipedia, 2020). Authority is the power to make decisions, give orders, and delegate responsibility to others. Authority or authority in English literature is called authority or competence, while in Dutch, it is called *gezag* or *bevoegdheid*. Authority is the ability to carry out an action or act according to applicable laws to carry out legal relations (Sutarsih, 2018). Based on the understanding above, it can be concluded that authority can be exercised if it is legitimate or legitimized.

The authority will be legitimate when viewed from the source from which the authority is obtained; then, there are three categories of authority: attributive, delegative, and mandate (Ahmad, 2018). Here is the explanation:

Attributive authority is outlined or derived from the division of power by statutory regulations.

The official or agency listed in the basic regulations implements attributive authority, while attributive authority regarding responsibility and liability lies with the official or agency listed in the basic regulations.

Delegative authority comes from delegating a government organ to another organ based on statutory regulations. In this case, the delegated authority of responsibility and liability is transferred to the person given the authority and transferred to the delegate.

Mandate authority originates from the process or procedure of delegation from a higher official or agency to a lower official or agency. It exists in routine superior and subordinate relationships unless expressly prohibited.

According to Pamuji (2019), a health worker has the legal authority (*rechtbevoegheid*). A health worker can carry out his work and influence other parties authorized by those with the right to authorize. In the 2004 Medical Practice Law, article 35 states that doctors and dentists with a registration certificate (STR) have the authority to practice medicine according to their education and competence. The credentialing process for health workers is carried out in health facilities to provide specific medical services following the internal regulations of health facilities. Credentials assess a profession's competence/ability (knowledge, skills, professional behavior) based on clear criteria to verify information and evaluate someone who requests or is given clinical authority (PMK No. 519 of 2011).

Certain standards and targets must be highlighted to measure policy implementation performance. Van Meter and Van Horn say that policy performance is an assessment of the achievement of these standards and targets.

The delegation of authority procedure policy is made for the good of all parties, such as ensuring the safety of officers and patients. It has been carried out to protect the implementer/officer legally. All parties understand the good purpose of implementing the delegation of authority procedure policy, and all parties support and implement it. According to the study of legislation, this should be understood and implemented absolutely.

According to Van Metter and Van Horn, the attitude of acceptance or rejection of the implementing agent dramatically influences the success or failure of public policy implementation. This is likely to happen because the policies implemented do not result from the formulation of residents familiar with the problems and issues they feel. Public policies are usually top-down, which allows decision-makers not to know and not touch the needs, desires, or problems that must be resolved.

The available resources greatly determine the success of policy implementation. Human resources are the most important factor in determining the success of a policy implementation. Each stage of implementation requires quality human resources to follow the work required by the policy, which has been determined politically. In addition to human resources, financial resources and time are important calculations in the success of policy implementation.

From a legal perspective, authority must still be given based on a scientific basis; even though the Nurse Anesthetist has matured in managing Anesthesia procedures, it does not mean that he/she

becomes a specialist Anesthesiologist because the understanding and knowledge gained are indeed not the same. This is certainly a problem because the principle of availability and affordability of services must still be prioritized in addition to professionalism.

With the enactment of legislation in the field of health services, such an opinion is no longer the only opinion that can be maintained because, in the legislation relating to health services, there are provisions, not general criminal rules, in the sense that they are similar to those regulated in the Criminal Code in this case, especially if the criminal act in question is a similar criminal act, this is in line with the use of the principle of *lex an ahli derogat lex generalis*.

Surgical action is a high-risk medical action, so the procedure before performing surgery must be preceded by informed consent as a procedure for the patient's or the patient's family's approval for surgery. In the surgical process, additional anesthesia becomes a problem considered an action outside of informed consent, an emergency action, or an action due to negligence caused by an error in performing anesthesia initially. This has not yet been legally certain.

The legality of informed consent in Indonesian law is regulated in several health regulations such as the Health Law and the Medical Practice Law with specific regulations in No. 290/PERMEN/PER/III/2008 Concerning Consent to Medical Actions, which also regulates the permission to perform medical actions without informed consent in emergencies, namely in Article 4 paragraph (1) the responsibility of the operating doctor and the anesthesiologist in anesthesia. During the surgical process, if additional actions in anesthesia are categorized as actions without informed consent or negligent actions that harm the patient, the responsibility can be demanded civilly and criminally. However, suppose additional anesthesia is considered an emergency action. In that case, the operating doctor and anesthesiologist are not subject to legal responsibility. However, they must explain the actions taken after the procedure is completed to the patient or the closest family.

#### Normative Analysis of Legal Protection of Anesthesia Administrators Without the Presence of an Anesthesiologist in the Operating Room

Hospital anesthesia is very complex because various health workers, including those who provide anesthesia services, are involved. Anesthesia is a high-risk medical procedure and requires unique expertise, skills, and vigilance in patients to save and provide patient comfort; for that, anesthesiologists must be competent in their field. Anesthesiologists must improve their skills, and anesthesiologists must understand the characteristics of anesthesia services perfectly, carefully, and quickly, and understand how to behave and communicate well even in emergencies. The larger the scope of the anesthesiologist's duties, the heavier the workload experienced by the anesthesiologist, including his responsibilities in the eyes of the law.

Anesthesiology and intensive therapy services in hospitals are one part of health services that are developing rapidly along with the increase in science and technology in the field of anesthesia. Law No. 17 of 2023 concerning Health provides a glimmer of hope that there will be a solution to meet the needs of specialist/subspecialist doctors in various regions. The formation of Law No. 17 of 2023 concerning Health has proven to experience obstacles. The regulation has explained how hospitals, as an extension of the minister, provincial government, and district/city

government, should act, how to respond, and the sanctions.

Anesthesia services are high-risk medical procedures requiring unique expertise, skills, and vigilance to facilitate surgical procedures and ensure patient safety, security, and comfort. Anesthesia services are led by an Anesthesiologist and assisted by a team of Anesthesia service providers led by Minister of Health Regulation No. 519 of 2011 concerning Guidelines for the Implementation of Anesthesiology and Intensive Therapy Services in Hospitals and Minister of Health Regulation No. 31 of 2013 concerning the Implementation of Anesthesia Nurse Work are legal products that regulate the implementation of Anesthesia services. Both Minister of Health Regulations state that anesthesia services are the authority and responsibility of anesthesiologist specialists with the expertise and authority to do so. Anesthesia services in Indonesia, especially in district areas, are mainly carried out by Anesthesia Technicians. This profession has significantly contributed to health services, especially anesthesia services. Still, the significant contribution to health services carried out by anesthesia nurses is not widely known.

Referring to the Regulation of the Minister of Health of the Republic of Indonesia No. 519 of 2011 concerning Guidelines for Anesthesiology and Intensive Therapy Services, anesthesia services are carried out as a team between anesthesiologists assisted by anesthesia nurses. Along with developing health services in 2016, the Minister of Health issued Regulation of the Minister of Health No. 18 of 2016. The closing paragraph explicitly states the change in the nomenclature of anesthesia nurses to be interpreted as anesthesia administrators. Regarding regulations in hospital accreditation activities, the anesthesia and surgical service working group states that anesthesia and sedation services are carried out or carried out by competent care providers or professionals in their fields, one of which in the field of anesthesia is an anesthesiologist and anesthesia administrator.

Every formation of legislation always aims to protect society from chaotic conditions without law. So, the goals to be achieved are order, justice, benefits, and legal certainty. The objectives of the law mentioned above will undoubtedly bring the greatest happiness to society in general, especially legal subjects involved in health services. Law without power will cause the law to be unenforceable. Still, power without the law will be perilous and cause arbitrariness (anarchy), so the law must limit power by ratifying it, which is called authority. The authority permitted by law limits a person's actions beyond his authority so that if an action occurs beyond authority, an unlawful act occurs. The purpose of the law is also to provide justice and benefits for everyone according to their rights.

Given the risks of anesthesia, legal protection is essential in anesthesia services. The government or authorities make protection efforts with several regulations against legal subjects in the form of legal instruments, both preventive and repressive. In other words, legal protection benefits the function of law, namely the process by which law can provide certainty, justice, order, benefit, and peace. Legal protection for nurses focuses on nursing actions taken towards their clients. Anesthesia providers are expected to be responsible for every action they take, especially while carrying out their duties as a hospital anesthesia team following their assignment letter.

Law No. 17 of 2023 concerning Health is also expected to provide legal protection for health service providers. As we know, there are many cases or legal actions received by health workers, but no legal umbrella protects these health workers. In addition, the legal regulations in this health

law can advance Indonesia's people's health by providing the best health services. Thus, the public has a vast opportunity to access quality health services in their own country and can improve the image of the Indonesian nation in the eyes of the international world.

## **CONCLUSION**

The problem that occurs in the standard point and policy target/measure and purpose of the authority policy is that the policy application has not been implemented, so automatically, the application of the policy has not been felt by the implementers. All implementing organizations (Health Offices, health facilities, anesthesiologists, and anesthesiologists) have understood the legislation related to the policy of delegation of authority as it should be and have tried to implement it in the application of the process of delegation of authority for anesthesia service actions, but this is only a description of socialization and understanding. Communication-related to the policy of delegation of authority to PA in efforts to provide anesthesia services has been carried out well and as it should be from all related organizations (Provincial Health Office, District/City Health Office, and health facilities) as well as the giver of the delegation of authority in the form of a mandate (anesthesiologist) and the recipient of authority in this case is the anesthesiologist. The study's results illustrate that the policy's implementation has not been as planned. Implementing the policy according to the laws and regulations is absolute or must be implemented. This non-compliance is likely to occur because the management of health facilities does not take a firm stance on the completeness of administrative order as one of the requirements for recipients of the delegation of authority in carrying out anesthesia services. This affects legal protection for anesthesia technicians.

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