

The Limits of Medical Authority of Midwives in the Delegation of Authority by Obstetricians

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ARTICLE INFO

Article history:

Received 29 July 2023

Revised 27 August 2023

Accepted 3 September 2023

Key words:

Delegation of authority,
Health law,
Obstetricians,
Midwives,
Patient safety,
Legal responsibility,
Health regulation.

ABSTRACT

The delegation of duties from specialist obstetricians to midwives has become a prevalent practice in areas with limited access to specialist medical personnel. However, this practice gives rise to numerous legal issues concerning the scope of authority, legal accountability, and patient safety. This study aims to examine the forms of legal liability associated with such delegation and to evaluate the effectiveness of existing regulations. Employing a normative juridical approach, data are analyzed with reference to pertinent legal instruments such as Law No. 17 of 2023 and Minister of Health Regulation No. 1464/MENKES/PER/X/2010. The findings indicate that delegations that do not adhere to legal standards can result in civil, criminal, and administrative consequences. In the civil context, delegations that cause harm may be subject to litigation as unlawful acts. From a criminal perspective, midwives who act beyond their authority and cause serious patient harm may incur criminal sanctions. Administratively, violations of practice license regulations may result in the revocation of professional licenses. Based on these findings, this study recommends stricter regulatory oversight, enhanced training for midwives, and improved referral systems to ensure that delegation practices are conducted legally and safely.

INTRODUCTION

In the medical domain, the delegation of authority by specialist obstetricians to midwives is a practice frequently encountered, particularly in regions with limited access to specialist medical personnel. This practice raises several legal issues related to the boundaries of authority, accountability, and patient protection standards. Supervision over the limits of authority is crucial to prevent potential harm to patients (Dharmawan & Jonathan, 2019). In Indonesia, midwives are bound by strict regulations regarding medical acts permitted within childbirth and women's reproductive health, especially those actions requiring advanced clinical reasoning or specific diagnoses, which hierarchically fall within the purview of specialist obstetricians (Saragih, 2020). The implementation of delegation must be accompanied by clear administrative procedures and adequate documentation to maintain the traceability of each clinical decision. Periodic evaluation of the delegation's implementation is necessary to ensure that the principles of prudence are consistently maintained.

Detailed standard operating procedures must be disseminated and enforced uncompromisingly at all levels of service. The presence of internal oversight systems within healthcare institutions plays a role in identifying and addressing potential violations. The involvement of professional organizations as government partners can strengthen oversight and enhance compliance with regulations. Ongoing education for midwives regarding the boundaries of authority and the latest developments in midwifery is highly relevant to prevent violations arising from ignorance or legal misunderstanding. Evidence-based governance, emphasizing transparency and shared responsibility, supports the creation of safe, high-quality, and patient-centered healthcare services. The standardization of the delegation process, with careful consideration and multidisciplinary consultation, further reduces the risk of malpractice and upholds the integrity of the healthcare delivery system.

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Delegation of authority may occur in emergency situations or when physicians are unavailable; however, such practices require a clear legal framework to ensure the protection of patient rights and safety (Mahalia et al., 2022). In cases of delegation, the delegating physician may remain liable in the event of negligence. This predominately applies if the midwife acts under the physician's instruction and if the actions performed are within the scope of the physician's delegated authority (Soekanto & Mamudji, 2009). A specialist obstetrician who delegates authority to a midwife must carefully consider the associated risks and legal responsibilities. These legal responsibilities extend to civil, criminal, and administrative aspects, each carrying distinct implications (Marzuki, 2017). The theory of patient safety emphasizes the need for high standards in medical practice to protect patients from risk. Within the context of delegation, the theory of patient safety is a fundamental reference since delegation must reflect the midwife's competencies and guarantee that the procedures performed do not endanger patients. This becomes a principal concern in determining the safe delegation limits for midwives.

Several legislative provisions, such as Law No. 13 of 2023 on Health and Minister of Health Regulation No. 1464/MENKES/PER/X/2010 on the Licensing and Practice of Midwives, provide boundaries and regulations for medical and midwifery practice in Indonesia. Nonetheless, legal gaps persist regarding liability in cases of errors or negligence arising from such delegation (Magrath, 2022).

Legal accountability in cases of medical delegation represents a highly significant aspect of health law. According to civil law, the delegation of authority from specialists to midwives that does not conform to standard requirements may give rise to lawsuits for unlawful acts. Patients or their families are entitled to seek compensation for damages sustained due to negligence (Suminar & Mufidi, 2019). In this context, the civil liability theory serves as a reference for determining whether non-standard medical delegation constitutes an unlawful act. This theory underscores the necessity of elements including fault, damage, and a causal relationship between the act and the loss incurred (Intan et al., 2022). From a criminal law perspective, midwives performing actions beyond their authorized capacity may be subject to criminal sanctions, particularly when such actions compromise patient safety. In this case, the theory of criminal responsibility can be applied to determine whether a midwife exceeding her authority may be regarded as a perpetrator of a criminal act (Parsa et al., 2019).

Within the realm of criminal law, non-standard delegation of medical authority may be classified as a criminal offense if it meets elements such as fault, harm, and a causal connection between the conduct and the resulting loss. Furthermore, a midwife may be regarded as a perpetrator if the elements of intent, fault, and resulting damage are present (Baunegoro et al., 2022).

The complexity of legal accountability in cases of medical delegation is compounded by ambiguities in regulations delineating the limits of authority and responsibility of each profession. Such regulatory ambiguities present challenges in determining whether non-standard delegation constitutes either an unlawful act or a criminal offense (Danilova, 2022). Additionally, issues of legal accountability are influenced by factors such as awareness and understanding of the importance of accountability in cases of medical delegation. This can lead to difficulties in establishing whether a midwife has engaged in criminal conduct when acting beyond her authority (Rahardjo, 2000).

Within administrative law, the government has established regulations that restrict the practice of midwifery and medicine through strict licensing and certification requirements. These regulations aim to ensure that health personnel possess competencies in line with established standards. Violations of these rules may result in administrative sanctions, including the revocation of practice licenses for either the midwife or the responsible physician. This illustrates that delegation without a solid legal basis may have serious consequences for the health professionals involved (Minister of Health Regulation No. 1464/MENKES/PER/X/2010).

This study aims to identify forms of legal accountability in the delegation of authority from specialist obstetricians to midwives, as well as to evaluate the effectiveness of existing regulations governing this practice. Consequently, this research is expected to illustrate how legal accountability can be applied to the delegation of authority by specialist obstetricians to midwives and to assess whether current regulations are sufficiently effective in governing the delegation process.

This study is also expected to contribute to the development of health law in Indonesia, particularly regarding the delegation of authority from specialist obstetricians to midwives. In this way, the research may help improve the quality of healthcare delivery in Indonesia while ensuring the protection and respect of patient rights.

RESEARCH METHOD

This study employs a normative juridical method, which aims to examine the legal aspects concerning the delegation of authority from specialist obstetricians to midwives. The normative juridical approach is appropriate for this research, as its primary focus is the analysis of statutory regulations governing medical authority and the assessment of legal accountability. This research adopts conceptual, statutory, and case-based approaches, which enable the researcher to comprehend legal problems from various theoretical and practical perspectives (Soekanto & Mamudji, 2009).

The data used in this research are secondary in nature, obtained through literature review. Secondary data comprise statutory regulations, legal textbooks, journal articles, and legal doctrines pertinent to the subject of legal accountability in the delegation of medical authority. The main regulatory instruments examined include Law No. 17 of 2023 on Health, Minister of Health Regulation No. 1464/MENKES/PER/X/2010 on Licensing and Practice of Midwives, as well as a range of relevant academic literature and health law journals related to this topic.

The data collected will be analyzed qualitatively using normative analysis methods. This method allows the researcher to interpret legal provisions related to the delegation of authority from physicians to midwives, as well as to understand the legal implications of each existing regulation. In this analysis, the researcher will compare Indonesian regulations with practices in other countries to observe how the concept of legal accountability is applied within an international scope. This approach facilitates the identification of opportunities for regulatory improvement within Indonesia's healthcare system (Hadjon & Hakim, 2019).

RESULT AND DISCUSSION

Medical practice is frequently carried out under specific circumstances, such as limited access to physicians in remote areas or during emergencies. Nevertheless, the delegation of authority in such situations has the potential to create legal risks if not conducted in accordance with prevailing regulations (Sylvana et al., 2021). The resulting consequences may be detrimental not only to patients but also to the medical profession itself.

In Indonesia, the scope of midwives' authority is strictly regulated, and any action exceeding their competencies may result in legal accountability. According to applicable regulations, both obstetricians and midwives are required to practice

in accordance with established standards to ensure patient safety (Minister of Health Regulation No. 1464/MENKES/PER/X/2010).

The limits of a midwife's authority, in the context of delegation from an obstetrician, encompass only those medical procedures that are commensurate with the midwife's competencies and skills, and do not include independent clinical decision-making. Such procedures must be performed under the supervision and responsibility of the delegating physician. The delegation must be documented in writing, must occur only in urgent and non-continuous situations, and must be directed solely to competent and adequately trained midwives.

The delegation of authority from physician to midwife entails several legal implications, covering civil, criminal, and administrative aspects. Indonesian legislation governing the practice of medicine and midwifery provides clear limitations regarding the medical acts that may be performed by midwives. According to Law No. 17 of 2023 concerning Health, Article 290 states: (1) Medical and healthcare personnel may receive delegated authority for the provision of healthcare services; (2) Such delegation may be either by mandate or by delegation; (3) Delegation may be from medical personnel to healthcare personnel, between medical personnel, or between healthcare personnel; (4) Further provisions are stipulated by Government Regulation. Thus, the delegation of authority to midwives must be approached cautiously and within the established regulatory framework to avoid legal disputes.

The delegation from physician to midwife is a procedure stringently governed by statutory and regulatory provisions, including ministerial regulations and relevant Acts. It must be formalized in writing for clarity and accountability. Furthermore, delegated tasks must correspond with the competencies and skills of the receiving midwife to maintain the delivery of care within a secure and professional framework (Zakariya et al., 2022).

Although midwives may receive delegated authority, their actions must remain under the supervision of the delegating physician. Midwives are not authorized to make clinical decisions as a basis for such actions, as these remain the responsibility of the physician. Additionally, such delegation is not to be habitual or ongoing, but reserved for specific circumstances, particularly when immediate medical services are unobtainable from a physician.

With respect to legal responsibility, physicians retain responsibility for delegated actions as long as they are performed in accordance with the

established guidelines. Midwives also incur responsibility for their role in the execution of such actions, particularly in instances of error or negligence that adversely affect the patient.

In general, the authority of midwives encompasses maternal and child healthcare, reproductive health, and family planning services. Midwives are authorized to provide care during normal pregnancy, delivery, the postpartum period, and breastfeeding. The delegation of authority from an obstetrician is intended to broaden the scope of health services in particular contexts, but must always remain within the boundaries of midwifery practice and comply with established delegation principles.

Delegation of authority that fails to meet legal standards may have significant civil law consequences. Should a midwife's action exceed her authority and result in harm to the patient, such action may constitute an unlawful act. Article 1365 of the Indonesian Civil Code clearly states that any act causing loss to another obliges the perpetrator to compensate for the loss (Mahalia et al., 2022). Consequently, patients or their families possess the legal right to pursue civil litigation in order to obtain reparations for damages suffered.

The legal consequences of delegating authority without adherence to established standards may involve civil liability, including claims for damages and compensation. Such delegation, when it fails to meet legal standards, may be construed as negligence or medical malpractice, with the potential to cause harm to patients. For this reason, it is imperative that both obstetricians and midwives ensure that any delegation of authority is executed in strict compliance with prevailing legal requirements (Intan et al., 2022).

Research conducted by Manala (2016) demonstrates that patients or their families possess legal standing to initiate civil proceedings in cases where harm results from the delegation of medical authority that does not conform to legal and professional ethical standards. Such lawsuits may be filed under the doctrine of civil liability in contract law, specifically for breach of obligation or unlawful acts. Hospitals or medical professionals who unlawfully delegate authority may be required to provide compensation for the resulting legal consequences of such actions. The importance of legally compliant delegation lies in safeguarding the principles of prudence and professionalism in medical services. These standards encompass compliance with the Medical Practice Act, medical codes of ethics, and pertinent regulations governing

the responsibilities, competencies, and boundaries of medical personnel. If authority is delegated without due regard for the recipient's competencies, the resulting medical actions may be legally deficient and risk violating patients' rights. Furthermore, Magrath (2022) asserts that legal protection for patients must integrate administrative and ethical aspects and should also include accountability mechanisms that offer victims access to justice. Where violations occur as a result of improper delegation, the legal system must be able to provide adequate and effective remedies. Therefore, it is crucial for hospitals and medical practitioners to fully understand the legal boundaries of delegation, ensure the validity of documentation, and guarantee that patients' rights as legal subjects are always respected and not compromised in the course of healthcare delivery.

To guarantee that the delegation of authority is conducted in accordance with legal standards, it is necessary to undertake a comprehensive analysis of the legal consequences resulting from non-compliant delegation. Such analysis can enhance awareness and understanding of the importance of adhering to legal requirements in the delegation process, as well as ensure the robust protection and respect of patients' rights.

From a criminal law perspective, the improper delegation of authority can have severe repercussions for midwives who undertake procedures beyond their legal scope of practice. Should such actions result in fatal consequences for patients, criminal sanctions may be imposed. Article 359 of the Indonesian Criminal Code (KUHP) clearly stipulates that any person whose negligence results in death or serious injury may be subject to criminal penalties.

Criminal consequences of improper delegation may include severe sanctions, such as imprisonment. This is due to the fact that actions by midwives that exceed their legally permitted authority may be considered gross negligence, potentially leading to injury or loss of life among patients. Consequently, it is essential for midwives to ensure that their interventions remain within the boundaries of their professional authority, particularly in situations where no physician supervision is present (Intan et al., 2022).

In this regard, actions by midwives that exceed their authorized scope may be classified as unprofessional conduct and in contravention of prevailing legal standards. Such conduct exposes the midwife to possible criminal prosecution if significant harm occurs to the patient. Therefore, it is

imperative for midwives to ensure that every action remains within the sanctioned legal framework and does not surpass their authorized boundaries (Mahalia et al., 2022). Strict adherence to professional regulations signifies respect for the ethical principles underlying healthcare service delivery. Clear awareness of statutory limits strengthens the reliability and accountability of healthcare professionals in safeguarding patient interests. Proactive consultation with relevant authorities or supervisors, when confronted with ambiguous cases, can reduce the likelihood of unintentional breaches of authority. Consistent participation in continuing education and legal literacy programs equips midwives to interpret and apply statutory rules accurately. Comprehensive recordkeeping provides both accountability and a credible defense if the appropriateness of a clinical action is later questioned. Supervisory mechanisms established by health institutions can serve as effective safeguards in monitoring compliance with professional mandates. Constructive multidisciplinary collaboration reinforces adherence to statutory demarcations, minimizing the risk of error rooted in miscommunication or overreach. Ultimately, strict legal compliance underscores the integrity of the midwifery profession and sustains public trust in the healthcare system.

From an administrative perspective, the improper delegation of authority may produce significant consequences for the medical professionals involved. Minister of Health Regulation No. 1464/MENKES/PER/X/2010 concerning the Licensing and Practice of Midwives explicitly stipulates that every midwife must possess a practice license that conforms to established competency standards. Breaches of these provisions may result in the revocation of practice licenses for both the midwife and the physician who delegates authority without a legitimate legal basis (Magrath, 2022).

Administrative consequences arising from non-standard delegation of authority can include severe administrative sanctions, such as the withdrawal of practice licenses. This is attributable to the fact that improper delegation constitutes a violation of prevailing regulations, potentially leading to harm to patients and undermining public trust in healthcare professionals. Accordingly, it is essential for medical personnel to ensure that any delegation of authority is carried out in full compliance with applicable legal standards.

Administrative accountability imposed on medical practitioners is aimed at ensuring that only qualified and authorized personnel undertake

specific medical actions. This approach contributes to improving the quality of healthcare services and assures that patients receive care consistent with prevailing legal standards. To guarantee that delegation practices adhere to legal requirements, a comprehensive analysis of the administrative consequences of improper delegation is imperative (Intan et al., 2022). Although existing regulations govern the delegation of authority, this study has found that the effectiveness of such regulations requires further enhancement. Instances of delegation leading to patient complications highlight a gap between written provisions and practical application, as numerous midwives engage in medical procedures that should remain within the purview of specialists. These findings underscore the necessity for stricter oversight of regulatory implementation and decisive enforcement of sanctions against violations observed in practice (Zakariya et al., 2022).

The findings of this study are consistent with the Theory of Legal Accountability, which posits that individuals or entities who violate legal provisions must be held responsible for the resulting consequences. In the context of the delegation of medical authority, physicians who delegate tasks without adhering to established legal standards and boundaries may be held liable if such delegation results in harm to patients. Thus, the potential for civil, criminal, and administrative liability inherent in the delegation process underscores the critical importance of accountability among healthcare professionals in exercising their authority.

These findings have significant managerial implications for hospital administration, particularly in the oversight of medical authority delegation. Hospital management must establish clear and firm internal policies regarding delegation, as well as ensure that both physicians and midwives are fully aware of their respective scopes of authority (Mahalia et al., 2022). This can be achieved by developing robust and effective supervisory procedures designed to minimize risks that may arise from delegation conducted outside of regulatory parameters (Magrath, 2022).

Risk management theory may serve as a reference framework for the development of effective internal policies. This theory stresses the importance of risk identification, analysis, and mitigation in organizational management (Kerzner, 2013). In the context of medical delegation, the theory can be applied to identify potential risks, analyze the possible ramifications, and develop effective mitigation strategies.

Moreover, these findings indicate the necessity to strengthen regulations governing the delegation of authority in the medical field. Existing regulations have not yet proven sufficiently effective in delineating the boundaries of authority and responsibilities among different professions (Purwandi, 2019). The government may enhance the authority of health supervisory agencies to ensure that the delegation of authority is performed in accordance with applicable standards while safeguarding patient safety.

Regulatory theory may be utilized as a conceptual reference for developing effective regulation. This theory highlights the importance of regulation in governing both organizational and individual behaviors (Baldwin & Cave, 1999). Specifically, in the context of the delegation of medical authority, regulatory theory can inform the formulation of precise rules concerning the scope of authority and responsibility attributed to each professional group.

In order to develop effective regulations, the government may apply a more comprehensive and inclusive approach. This method entails the involvement of various stakeholders, including physicians, midwives, patients, and the wider public, in the regulatory development process (Coglianese, 2012). As a result, the regulations produced are expected to be more effective in delineating the boundaries of authority and responsibility among professional groups and to ensure that delegation of authority occurs under established standards and does not endanger patients (Zakariya et al., 2022). Involving diverse stakeholders equips policymakers with multiple perspectives that enrich policy formulation and help anticipate potential implementation obstacles. A participatory process increases the degree of social acceptance and compliance, as affected parties can contribute directly to shaping regulatory provisions. Transparent dialogue among stakeholders fosters mutual trust and establishes a foundation for ongoing accountability. Incorporating feedback from the healthcare sector encourages the creation of adaptive regulations that remain relevant amid changing technological and clinical advancements. Periodic evaluation of regulatory effectiveness, informed by empirical data and professional input, ensures that regulations achieve their intended protective objectives. Legal certainty and procedural clarity resulting from well-crafted regulations minimize the likelihood of disputes and ambiguities in professional practice. Promoting outreach and education on regulatory changes empowers

healthcare professionals and patients alike to understand and uphold their rights and obligations. Ultimately, an inclusive approach to regulation fortifies the integrity of the health system, supporting both patient safety and professional accountability in a balanced and sustainable manner.

Patient safety is the paramount principle in medical practice. The theory of patient safety underscores the necessity of stringent standards to safeguard patients from potential risks. In cases involving the transfer of authority, the implementation of this theory requires unwavering compliance from both physicians and midwives, ensuring that authority is delegated only when the midwife possesses the requisite competence. This measure aligns with risk management strategies in patient safety theory, designed to minimize patient risk. Furthermore, clear delineation of professional tasks ensures accountability within the healthcare team and prevents ambiguities that could compromise safety. Rigorous assessment of midwives' qualifications prior to delegation reduces the likelihood of errors, fostering an environment where clinical judgment is exercised judiciously. Regular competency evaluations and structured supervision provide ongoing assurance that delegated responsibilities are executed effectively. The use of thorough documentation in the delegation process serves as a verifiable record, supporting transparent and traceable decision-making. Collaborating through interdisciplinary communication helps mitigate unforeseen challenges and promotes cohesive patient management. Clearly defined escalation protocols enable rapid intervention should complications arise, maintaining the protective framework around patient welfare. Adoption of evidence-based protocols ensures every delegation is guided by the latest scientific developments and professional standards. Additionally, fostering a culture of continuous learning encourages all parties to remain updated with best practices, thereby reinforcing a systematic commitment to patient safety at every operational level within healthcare institutions.

CONCLUSION

Based on the results of research on legal liability for the delegation of authority of obstetricians to midwives, it can be concluded that this delegation of medical authority contains serious legal risks if it is not carried out in accordance with applicable regulations. Legal liability in this delegation of authority includes three aspects: civil, criminal, and administrative. From the civil aspect, the delegation

that results in harm to the patient can be sued as an unlawful act (PMH), so that the patient has the right to sue for compensation. From a criminal perspective, the actions of midwives who exceed the limits of their authority and have fatal consequences for patients can be subject to criminal sanctions in accordance with Article 359 of the Criminal Code. In the administrative aspect, delegation that violates the limits of a practice license can result in administrative sanctions for midwives and doctors, ranging from reprimands to revocation of practice licenses, as stipulated in Permenkes No. 1464/MENKES/PER/X/2010 concerning Licenses and Midwife Practices.

Although existing regulations, such as Law No. 17 of 2023 on Health and Minister of Health Regulation No. 1464 of 2010, have provided a sufficiently clear legal framework governing the delegation of authority, the effectiveness of their implementation in practice remains suboptimal. This study has identified a gap between written regulations and actual practice, whereby midwives frequently perform procedures that should fall within the domain of obstetricians and gynecologists. This gap underscores the necessity for stricter regulation and enhanced monitoring of delegated authority, accompanied by the resolute enforcement of sanctions for violations.

To improve the quality of medical authority delegation and safeguard patient safety, several key recommendations must be considered. First, government agencies and healthcare institutions should strengthen oversight of the delegation of medical authority in hospitals and clinics, and enforce sanctions rigorously in the event of regulatory breaches. Such measures are likely to deter future violations and ensure that delegations of authority are conducted in accordance with prevailing legal standards.

Furthermore, the government should develop more specific regulations regarding authority delegation, particularly in delineating the scope of procedures that midwives may undertake in the absence of an obstetrician. More detailed regulations would help prevent the misuse of authority and minimize the risk of clinical errors in midwifery practice.

Midwives involved in delegated authority should also receive additional training and certification to ensure that they possess adequate competencies to address situations requiring specialized skills in childbirth and reproductive health. Hospitals and healthcare centers must also establish faster and more efficient referral systems to

enable midwives to refer patients to specialists promptly in cases requiring advanced management. An improved referral system would effectively reduce instances of delegation that exceed midwives' competencies and better protect patient safety.

Legal awareness campaigns regarding delegated authority must also be conducted for healthcare professionals, especially physicians and midwives, so they thoroughly understand the associated responsibilities and legal risks. Enhanced comprehension of regulatory requirements would foster more meticulous practice and adherence to established legal boundaries.

Through the implementation of these measures, the delegation of authority from obstetricians to midwives can be conducted safely, in compliance with regulation, and without compromising patient safety. The present study also seeks to encourage the government and relevant institutions to elevate the quality of health sector regulations and oversight, thereby creating a safe and accountable environment for the provision of medical services for all stakeholders.

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*Achwan., R. Hardyansah, Y. Vitrianingsih, F. Issalillah, & R. K. Khayru. (2023). The Limits of Medical Authority of Midwives in the Delegation of Authority by Obstetricians, *Journal of Social Science Studies*, 3(2), 153 - 160.