



## Legal Protection of Anesthesia Technicians for Anesthesia Procedures Without an Anesthesiologist in Hospitals

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**Abstract:** This study aims to analyze the authority and forms of legal protection for anesthesia technicians in performing anesthesia procedures without the presence of an anesthesiologist in hospitals. The research method used is normative legal research with statutory and conceptual approaches, using primary, secondary, and tertiary legal materials analyzed qualitatively. The research results show that there is a gap between normative provisions in Minister of Health Regulation No. 18 of 2016 and empirical practice in the field. Although the regulation governs the delegation of authority (delegation and mandate) for anesthesia technicians under certain conditions, its implementation still faces limitations in supervision and unclear legal responsibility. Law No. 17 of 2023 on Health brings important changes by positioning anesthesia technicians as medical technical personnel and making competency standards the basis of authority, while providing legal protection for health workers who act to save patients' lives in emergency situations. However, legal protection for anesthesia technicians who perform elective procedures without an anesthesiologist remains weak as it may be considered exceeding authority. In conclusion, legal protection for anesthesia technicians in anesthesia procedures without an anesthesiologist is limited and contextual: strong in emergency situations, but weak in elective procedures. More explicit legal arrangements adaptive to health service conditions in regions are needed to provide proportional legal certainty and protection for anesthesia technicians and ensure patient safety.

**Keyword:** Anesthesia Technician, Legal Protection, Authority, Anesthesia Procedures, Health Law 2023.

### INTRODUCTION

Hospitals play an important role in providing safe, quality, and responsible medical services to the community, including in the field of anesthesia which is one of the crucial components in medical procedures. Anesthesia services involve anesthesiologists and anesthesia technicians who have different but interrelated roles in ensuring patient safety. Anesthesia technicians are competent health workers who assist anesthesiologists in preparing, implementing, and monitoring anesthesia procedures. However, in practice,

anesthesia procedures are often performed without the direct presence of an anesthesiologist due to limited number of specialists or emergency conditions in hospitals. This situation raises legal issues regarding the limits of authority, responsibility, and legal protection for anesthesia technicians. Although Minister of Health Regulation Number 18 of 2016 on Licensing and Implementation of Health Worker Practice has regulated the authority of health workers, provisions regarding the implementation of anesthesia without the presence of an anesthesiologist have not been explicitly regulated. This condition has the potential to create legal uncertainty and risks of legal consequences, whether administrative, civil, or criminal, if errors or negligence occur in anesthesia procedures.

Anesthesia technicians have special education and training in anesthesia, but do not have authority equivalent to specialist anesthesiologists and usually work under the supervision of anesthesiologists. Under certain conditions, such as limited medical personnel, emergencies, or remote hospital locations, anesthesia technicians are often forced to perform anesthesia procedures independently. This raises legal and professional ethical issues regarding the limits of authority, service standards, and potential legal responsibility if malpractice occurs. Although Law Number 36 of 2014 stipulates that every health worker can only practice according to their competence and authority, its implementation in the field is often unclear, especially when the health service system is under pressure.

Anesthesia procedures are high-risk medical procedures that require expertise, skills, and vigilance to ensure patient safety. According to Minister of Health Regulation Number 18 of 2016, anesthesia technicians have the authority to provide anesthesia care ranging from pre-anesthesia, intra-anesthesia, to post-anesthesia, but implementation remains under the supervision of an anesthesiologist. In many hospitals, especially in areas with limited specialist personnel, anesthesia technicians often become the main implementers of emergency and non-emergency anesthesia procedures. This unclear boundary of authority creates legal risks, so attention to regulation and legal protection for anesthesia technicians becomes important in the practice of anesthesia services in hospitals.

The presence of anesthesia technicians certainly greatly helps the implementation of surgical activities. According to Minister of Health Regulation Number 18 of 2016 which states that:

- (1) "Anesthesia technicians must have STRPA or anesthesia technician registration certificate to perform their professional practice.
- (2) To obtain STRPA as referred to in paragraph (1), anesthesia technicians must have a certificate of competence in accordance with statutory regulations.
- (3) STRPA as referred to in Article 1 paragraph (1) is valid for 5 (five) years.
- (4) STRPA as referred to in paragraph (1) can be obtained in accordance with statutory regulations."

Several requirements to become an anesthesia technician are having a Registration Certificate (STR), having an Anesthesia Technician Practice License (SIPPA), certification of competency testing in the field of anesthesia care in accordance with Law Number 36 Article 1 paragraph 1 of 2014 on Health Workers (Health Workers Law). This is done by the government to improve the quality of human resources, especially professional and competent anesthesia technician health workers in the field of anesthesia.

Based on Hospital Facilities, there are 4 operating rooms with the number of surgeries in a month being 250-270 people/month. Surgery activities every day are 8-10 people/day, but in performing Anesthesia Procedures in the operating room, anesthesia technicians are not permitted to perform anesthesia procedures. Legal Protection has been regulated in Minister of Health Regulation No. 18 of 2016 Article 19 which states "In performing their professional practice, Anesthesia Technicians have the right to obtain legal protection in performing their professional practice in accordance with professional standards of service,

Anesthesia technicians in carrying out their professional practice are authorized to perform Anesthesia Care Services in Pre-anesthesia, Intra Anesthesia and Post Anesthesia.

Every formation of legislation always aims to protect society from chaotic lawless conditions. So that the goals to be achieved are order, justice, and usefulness as well as legal certainty. The achievement of legal objectives mentioned above will certainly bring the greatest happiness for society in general, especially legal subjects involved in health services. Law without power will cause law not to be enforceable, but power without law will be very dangerous, will cause arbitrariness (anarchy) so that law must limit power by legitimizing it which is called authority. Authority permitted by law limits a person's actions beyond their power, so that if actions occur beyond authority, then unlawful acts occur. Every legal arrangement aims to provide the greatest happiness to society, so that legal certainty can be achieved. In addition, the purpose of law is also to provide justice and benefit for everyone according to their rights (Wahyudiono et al., 2024).

Legal protection is very necessary in anesthesia services considering the risks of anesthesia procedures, in closed rooms and facing unconscious patients. Legal protection is protection efforts carried out by the government or authorities with a number of regulations on legal subjects in the form of legal instruments both preventive and repressive (Sukmayoga Wiweka et al., 2024). In other words, legal protection as a benefit from the function of law itself, namely the process by which law can provide certainty, justice, order, benefit and peace. Legal protection for nurses focuses on nursing actions taken on their clients. Nurses are expected to be responsible for every action they take, especially while performing duties as an anesthesia team in hospitals according to their service placement letter.

The authority of anesthesia technicians is regulated in Article 10 and Article 11 of Minister of Health Regulation number 18 of 2016, there are three, namely in *pre-anesthesia* (before anesthesia is performed), *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 also regulated as referred to in Articles 12-16 that anesthesia technicians can carry out anesthesia service under supervision by delegation of authority by mandate from specialist anesthesiologists or other doctors; and/or government assignment according to needs.

The delegation of authority from doctors to other health workers is in accordance with statutory regulations, namely Number 36 of 2014 on Health Workers Article 62 paragraph 1 which reads "Health workers in carrying out practice must be in accordance with the authority based on the competence they have", and Article 65 "In carrying out health services can receive delegation of medical actions from medical personnel". One type of health worker referred to is anesthesia technician.

Minister of Health Regulation No. 519 of 2011 Chapter III Number 3b "stipulates that in the absence of an anesthesiologist, medical responsibility for anesthesia must be transferred to another doctor through procedures regulated by the Delegation of Internal Hospital Authority Regulations delegated. Anesthesia is performed by an anesthesia specialist under the authority and responsibility of the doctor."

A case that occurred in one hospital, allegedly due to an error in administering anesthesia medication at the Hospital that caused two patients to die, is hoped not to be repeated. As is known, the anesthetic drug *Buvanest Spinal* containing *Bupivacaine* in ampoules was allegedly exchanged with *Tranexamic acid* which is a blood clotting drug. Former member of the DPR legal commission, Didi Irawadi, stated that the problem of deadly anesthesia drugs that occurred some time ago must receive attention from law enforcement. As a note, the anesthesia technician's action was indeed not performed accompanied by an anesthesiologist, due to the limited number of anesthesiologists in the

region. If a legal umbrella is not created, anesthesia technicians are worried about being ensnared by Law Number 36 Article 62 paragraph 1 of 2014.

The non-conformity of the application of authority carried out by anesthesia technicians in performing medical procedures that are not in accordance with applicable regulations can cause various risks, because not a few anesthesia technicians are negligent in performing medical procedures. The relationship that occurs between anesthesia technicians and doctors is an important factor that must be considered for the implementation of good health services. The problem is if technicians perform procedures without anesthesiologists not permitted by hospital management, must be with an anesthesiologist. Whereas anesthesia technicians can perform American Society of Anesthesiologists (ASA) 1-2 but from hospital management anesthesia technicians are not allowed to perform even emergency patient anesthesia.

The delegation of authority according to Law Number 36 Article 1 paragraph 1 of 2014 (Health Workers Law), can only be given in writing by medical personnel to implementers to perform medical procedures and evaluate their performance. Done in 2 ways, including delegation, namely the transfer of responsibility from doctor to technician and only to trained, competent professional/professionals and supervisors, namely under the supervision and responsibility of the doctor.

Based on the background that has been presented, this study aims to analyze and understand two main things, namely the regulation of the authority of anesthesia technicians in performing anesthesia procedures without the presence of an anesthesiologist as regulated in Minister of Health Regulation Number 18 of 2016 on Licensing and Implementation of Health Worker Practice, as well as forms of legal protection for anesthesia technicians in the implementation of anesthesia procedures without the presence of an anesthesiologist in hospitals. Through this research, it is hoped that a comprehensive understanding can be obtained regarding the limits of authority and legal protection for anesthesia technician personnel so that health service practices can run in accordance with legal provisions and the principle of patient safety.

## METHOD

This research uses normative legal research or doctrinal method, which aims to find rules, principles, and legal doctrines to answer the problems being studied. The types of legal materials used include primary legal materials such as Law Number 29 of 2004 on Medical Practice, Law Number 36 of 2014 on Health Workers, and Minister of Health Regulation Number 18 of 2016 on Licensing and Implementation of Health Worker Practice; secondary legal materials such as books, journals, research results, and expert opinions; as well as tertiary legal materials in the form of dictionaries, encyclopedias, and official government sources. The approach used is the statutory approach to examine applicable legal provisions and the conceptual approach to understand health law principles and the legal relationship between anesthesiologists and anesthesia technicians. Research data was obtained through library research that examines literature, regulations, and relevant legal sources, then analyzed qualitatively-descriptively by grouping, selecting, and systematically arranging data so that it can be interpreted logically. Analysis was conducted deductively using inferential logic, starting from general legal concepts to more specific conclusions based on examination of statutory regulations and relevant cases.

## RESULTS AND DISCUSSION

### Normative and Empirical Reality Dualism of Anesthesia Technician Practice

This research identifies a significant gap (legal gap) between normative regulation and empirical implementation in health service facilities. This gap is especially visible in Type C and D Hospitals or in Remote, Island, and Border Areas (DTPK).

- 1) Normative (Ideal) Conditions: Based on professional standards (IPAI, 2019) and previous derivative regulations (such as Minister of Health Regulation No. 18/2016), anesthesia services are collaborative medical actions in a team (team work). Specialist Anesthesiologists (Sp.An) act as medically responsible persons, while Anesthesia Technicians carry out "Anesthesia Care Services" based on delegation of authority or mandate.
- 2) Empirical (Reality) Conditions: Findings in the field, supported by previous research, show that the scarcity of Sp.An Doctors has created a situation of necessity (Kemenkes RI, 2023). To maintain the continuity of emergency surgical services, anesthesia procedures in practice are often performed independently by Anesthesia Technicians without direct supervision of Sp.An Doctors.

Based on science, anesthesia technicians have 4 responsibilities: first, providing services to the community based on laws in accordance with the knowledge and competence they possess. Second, as administrators, anesthesia technicians are responsible for managing inter-professional medical collaboration which includes managing planning, implementation, and evaluation of actions on patients. Third, as educators, anesthesia technicians are responsible for helping patients increase knowledge of anesthesia procedures. Fourth, as researchers, anesthesia technicians evaluate, measure abilities and consider service effectiveness. The responsibilities and obligations of anesthesia technicians are regulated in article 20 which states that anesthesia technicians are obliged to respect patient rights, keep patient secrets in accordance with law, inform health problems and services to patients, comply with professional standards, services, and standard operating procedures.

In practice, anesthesia technicians must always improve service quality by updating knowledge and technology either through training or education. In addition to the above Minister of Health Regulation, the responsibilities of anesthesia technicians are also regulated in Minister of Health Regulation No. 519 of 2011 which states that anesthesia technicians have direct responsibility to the doctor responsible for anesthesia services, ensuring the implementation of services in hospitals, and in accordance with operational standards.

This research uncovers systematic tensions where Minister of Health Regulation No. 18/2016 clashes with empirical realities in underserved regions, particularly in Type C and D hospitals and DTPK. While normative frameworks envision supervised anesthesia services under Sp.An doctors, these requirements become operationally infeasible due to a scarcity of specialists. Consequently, anesthesia technicians often perform independent procedures, necessitating not only empirical adjustments but also a reconsideration of regulatory approaches that accommodate such exigencies.

The existence of special regulations on anesthesia technicians causes the principle of *lex specialis derogate legi generalis* to interpret law that is specific (*lex specialis*) overriding general law (*lex generalis*). Due to these special regulations, anesthesia technicians have an obligation to follow the latest regulations, namely Minister of Health Regulation No. 18 of 2016 on licensing for the implementation of anesthesia services. This regulation limits the authority of anesthesia technicians in emergency services. In emergency situations, anesthesia technicians are given authority to act beyond their authority, but in the following article it explains first aid and only to stabilize the condition. This is what raises the question, what kind of actions beyond authority are meant in the article.

Research shows that although the regulation of Minister of Health Regulation No. 18/2016 emphasizes the obligation to have STRPA and SIPPRA, its implementation in the field is still limited because some anesthesia technicians continue to practice without official permits (Kumala et al., 2023). In addition, the competence of anesthesia technicians in emergency situations, such as resuscitation, is still rarely applied so regulations limit their authority in critical clinical practice (Wahyudi et al., 2023). However, regulations still

provide room for actions beyond authority in emergency conditions to stabilize patients before being referred to more competent medical personnel (Negoro, 2025). Thus, the results of this study show that special regulations for anesthesia technicians and emergency clauses provide a legal basis for anesthesia technicians to act in critical situations, while affirming the obligation to follow Minister of Health Regulation No. 18 of 2016 regarding licensing and implementation of anesthesia services.

The impression of authority meant in the article does not provide benefits for the community and anesthesia technicians, which should be emergency services that can be provided by anesthesia technicians become impossible to provide. It would be much better to give emergency action authority to anesthesia technicians considering anesthesia technicians have competence in emergency anesthesia actions. Emergency actions will provide benefits for the community, especially in areas where there are no specialist anesthesiologists yet, and provide legal protection for anesthesia technicians. In article 16, anesthesia technicians are prohibited from performing emergency actions both in government and private health facilities because the role of anesthesia technicians is only to provide first aid to stabilize the patient's condition and then require them to refer the patient to more expert medical personnel. The problem in this article of the Minister of Health Regulation makes anesthesia technicians vulnerable to existing health laws.

### **Legal Basis for Providing Anesthesia Services**

Providing anesthesia services is one of the services available in hospitals. With increasing technology, it demands medical personnel, especially anesthesia, to provide quality services (Hatta, 2013). Therefore, improving service quality is very important to improve the quality of Indonesian people's health. Hospitals and health workers must be professional and quality in providing health services to patients.

The implementation of anesthesia services in hospitals is regulated in Minister of Health Regulation No. 519 of 2011. This regulation becomes the legal basis for medical personnel and health facility managers both in government and private hospitals. The regulation clearly explains health workers who have authority in the field of anesthesia and each medical personnel must be registered in accordance with applicable laws. Registration is a requirement that medical personnel must fulfill to obtain a practice license. Many regulations are used to regulate anesthesia technicians in their practice, namely: Law No. 36 of 2009 on health, Law No. 44 of 2009 on hospitals, Law No. 36 of 2014 on health workers, Minister of Health Regulation No. 46 of 2013 on registration of health workers and Minister of Health Regulation No. 18 of 2016 on licensing and implementation of anesthesia profession, and so on. In practice, based on the Law on health 2023 number 17 article 199 paragraph 1 states that medical personnel are categorized into several categories, one of which is medical technicians. One of the medical technical personnel is anesthesia technician. The guidelines used in providing anesthesia services and also intensive therapy are Medical Actions performed by specialist anesthesiologists in team work and include preoperative assessment (pre-anesthesia), intra-anesthesia, post-anesthesia, and other services such as intensive therapy, emergency, and pain management.

Minister of Health Regulation No. 519 of 2011 regulates the duties and responsibilities of anesthesia technicians, namely undergoing pre-anesthesia nursing care, collaborating with specialist anesthesiologists during intraoperative, and post-anesthesia nursing care. The main regulation for anesthesia technicians is Minister of Health Regulation No. 18 of 2018 which regulates licensing for the implementation of anesthesia technician practice. This regulation states that anesthesia technicians have the authority to organize health services, namely anesthesia care services. The duties and responsibilities of anesthesia technicians based on this regulation include pre-anesthesia care services and aim to ensure the right technique for

patients, identify perioperative risks, and so on (Sally et al., 2013). Intra-anesthesia actions are performed during the surgical process and aim to improve the quality of patient management. These actions include monitoring equipment and medications according to the plan at the pre-anesthesia stage, monitoring patient conditions, and documenting actions. Post-anesthesia actions are actions after surgery until the patient regains consciousness. These actions include planning post-anesthesia care actions, monitoring patient conditions after epidural catheter placement, monitoring patient conditions after regional anesthesia medication administration, monitoring patient conditions after general anesthesia medication administration, and so on.

The existence of law limits someone in carrying out their authority so that when actions beyond authority occur, then it is included in acts violating the law. The existence of law is aimed at providing happiness and legal justice for Indonesian society (Ta'adi & Ufran, 2017). In practice, anesthesia technicians are regulated in article 12 which states that anesthesia technicians can carry out their profession under the supervision of specialist anesthesiologists or other specialist doctors according to their needs (Indroharto, 1993). In receiving delegation of authority, anesthesia technicians are performed when in an area there is no specialist doctor as regulated in Minister of Health Regulation No.18 of 2016 on licensing for anesthesia technician implementation practice in article 14 related to delegation of authority based on government assignment as explained in article 12 b. However, in practice this delegation of authority is only given to anesthesia technicians who have obtained training and additional competence (Hadjon, 1998). This delegation of authority is also only applied in government hospitals and if there is a specialist anesthesiologist in the hospital, the delegation of authority to anesthesia technicians becomes invalid (Hadjon, 1994).

Article 17 requires anesthesia technicians to continuously improve knowledge and skills in health services through Education or through training organized by professional organizations or institutions accredited by professional organizations. In addition, in practice anesthesia technicians are required to keep records and store them in accordance with applicable laws. In addition to obligations, anesthesia technicians also have rights, namely to obtain legal protection in their practice based on professional standards, services, operational procedures, to obtain correct information from patients, to provide services based on competence, to receive compensation for services, and to obtain legal protection guarantees from work risks (Pradita et al., 2022).

In carrying out their duties, anesthesia technicians are required to have licensing issued by the government in accordance with applicable laws. Licensing is the most common juridical instrument applied in various aspects, its purposes and requirements as well as procedures have been regulated in Minister of Health Regulation article 2 which states that in their practice, anesthesia technicians are required to have an anesthesia technician registration certificate (STRPA) (Yustina, 2012). The requirements that must be met to obtain this certificate are that anesthesia technicians are required to have a certificate of competence based on law and is valid for 5 years. In practice, anesthesia technicians must have an Anesthesia Technician Practice License (SIPPA) regulated in article 4. SIPPA is issued when anesthesia technicians already have STRPA. SIPPA is issued by the regional government and is valid only in 1 place and article 5 paragraph 1 states that each anesthesia technician can have a maximum of 2 SIPPAs. Article 7 regulates licensing for foreign national anesthesia technicians who want to carry out their practice in Indonesia, namely must make a statement agreeing to comply with professional ethics and legal regulations, undergo competency evaluation, have a work permit and residence permit in accordance with legal regulations, and be able to speak Indonesian. Licensing is a government means to direct society to comply with stipulated regulations in order to achieve concrete goals (Yustina, 2012). In addition, with this licensing it provides legal protection and certainty for anesthesia technicians. This

condition places Anesthesia Technicians in a position of juridical dilemma: on one hand they are required to save patients' lives, on the other hand they have the potential to be considered exceeding stipulated authority (Guwandi, 2019).

Law No. 17/2023 marks a fundamental shift in legal authority, moving from delegation-based practices to competency-based authorization for anesthesia technicians. Under this framework, the regulation explicitly reclassifies anesthesia technicians as Medical Technical Personnel, independent from nursing designations, with authority determined by technical competency standards validated by professional councils. Moreover, the law introduces avenues for enhanced legal protections, particularly during emergency surgical events. Article 298 aligns with established principles like *negotiorum gestio*, reinforcing a technician's imperative to act in urgent cases without the risk of legal reprisal. However, the research underscores the lack of parallel protections in elective surgery contexts, where adherence to Standard Operating Procedures (SOPs) and lack of Sp.An supervision places technicians at significant risk of malpractice allegations.

### **Implications of Law No. 17 of 2023 on Anesthesia Technician Authority and Analysis of Legal Protection for Anesthesia Technicians Without Anesthesiologists**

Law No. 17 of 2023 on Health brings fundamental changes in the grouping and authority of health workers, which directly impacts the status of Anesthesia Technicians.

- 1) Professional Recategorization: According to Article 199 paragraph (1) letter c of Law No. 17 of 2023, Anesthesia Technicians are explicitly classified in the Medical Technical Personnel cluster. This confirms the Anesthesia Technician profession as an independent profession with specific technical competency standards, separate from the Nursing Personnel cluster.
- 2) Competency Standards as Basis of Authority: Law No. 17 of 2023 (for example in Articles 208 and 209) strongly emphasizes that the authority of a health worker is based on Competency Standards set by the Council and Professional Organizations (IPAI, 2019). The implication is that legal protection shifts from what was originally based on "delegation" to being based on recognized "competence".

Based on analysis of Law No. 17 of 2023, legal protection for Anesthesia Technicians who act without supervision of Sp.An Doctors can be reviewed from three aspects:

- 1) Legal protection in emergency situations which are the strongest protection for Anesthesia Technicians is found in emergency contexts.
  - a. Legal Basis: Article 298 paragraph (1) letter d of Law No. 17 of 2023 states that Medical Personnel and Health Workers receive legal protection for actions in order to save lives or prevent disability of Patients.
  - b. Analysis: In the context of emergency surgery in hospitals without Sp.An Doctors, anesthesia actions by Anesthesia Technicians are legally protected. This action can be categorized as *negotiorum gestio* or *zaakwaarneming* (actions for the benefit of others without orders) justified by law to save lives (Negoro, 2025), which is now confirmed in the new Health Law.
- 2) Legal protection in elective (planned) actions. This area is a critical finding showing the weak juridical position of Anesthesia Technicians.
  - a. Problem: Law No. 17 of 2023 does not provide explicit protection for health workers who "exceed authority" outside emergency situations.
  - b. Analysis: If Anesthesia Technicians perform independent anesthesia for elective surgery, they are at high risk of facing malpractice lawsuits (Guwandi, 2019). This is because they can be considered acting outside their professional competency standards (IPAI, 2019); and violating hospital Standard Operating Procedures

(SOP) which ideally (according to Minister of Health Regulation No. 18/2016) require the presence of Sp.An Doctors.

Protection in Article 298 paragraph (1) letter a (performing duties according to standards) will not apply if competency standards (namely working in teams) are violated.

3) Shift of responsibility to health service facilities. Law No. 17 of 2023 confirms corporate (Hospital) responsibility.

- a. Legal Basis: Article 274 paragraph (1) jo. paragraph (2) letter b of Law No. 17 of 2023 requires Health Facilities (Hospitals) "to fulfill the availability of Health Human Resources (...) in accordance with standards."
- b. Analysis: If a hospital (Director) consciously allows Anesthesia Technicians to work independently for elective cases due to the absence of Sp.An Doctors, then the hospital has failed to meet standards.
- c. Finding: In dispute situations, primary legal responsibility has the potential to shift from Anesthesia Technicians to Hospital Directors through the doctrine of vicarious liability or corporate responsibility (as regulated in Law No. 44 of 2009 on Hospitals).
- d. Protection for Technicians: Protection for Anesthesia Technicians in this context is administrative, that is, if they can prove that they acted on the basis of Clinical Assignment Letters (SPK) and Clinical Authority Details (RKK) given by the Director, and supported by internal SOPs that (although risky) legalize such practices in conditions of absence of Sp.An.

Based on this, Law Number 17 of 2023 on Health (Law 17/2023) brings fundamental changes in health profession regulation, including Anesthesia Technicians, by emphasizing competency standards as the basis of authority rather than merely doctor delegation (Heriyanto, 2024; Wahyudi et al., 2023). Study by Feriyanto et al. (2025) shows that competency standards, clinical skills, and professional attitudes determine health worker authority, while Law 17/2023 provides legal protection for health workers who act in saving lives or preventing patient disability, especially in emergency situations (Haryanto et al., 2025; Martianingsih et al., 2025). Thus, Anesthesia Technicians have a stronger legal basis to act independently in emergency conditions, although their juridical position is weak when performing elective procedures, due to the risk of violating competency standards or hospital SOPs (Secillia A et al., 2025).

In addition, Law 17/2023 affirms institutional responsibility, especially hospitals, to provide health workers according to standards and strengthen corporate accountability (Agustin & Syahuri, 2024; Aurelia & Maritza, 2025). If hospitals allow Anesthesia Technicians to act independently in elective procedures without specialist anesthesiologist supervision, legal responsibility has the potential to shift to the institution (Wahyudiono et al., 2024). Overall, this analysis strengthens the conclusion that Law 17/2023 brings professional recategorization, changes the basis of authority to competency-based (Lazuardi & Marwiyah, 2023), provides legal protection in emergency situations, and confirms institutional responsibility, although specific implementation for Anesthesia Technicians still requires further empirical research.

The findings demonstrate that hospitals have an explicit mandate under Article 274 of Law No. 17/2023 to "ensure staffing compliance with competence-based standards." When hospitals permit technicians to execute unauthorized procedures due to supervisory gaps, the legal paradigm potentially shifts liability from individuals to institutions. This builds upon theories of vicarious corporate accountability found in Law No. 44 of 2009 and emphasizes the need for consistent SOPs to protect healthcare workers operating against systemic limitations.

## Legal Risks for Anesthesia Technicians

Risk is a condition of uncertainty and contains dangerous elements that allow consequences as a result of ongoing or future events. In the realm of civil law there is a doctrine related to risk that teaches that risk is an unexpected consequence of when it occurs. In legal context, risk contains the meaning of legal uncertainty. Legal experts agree that risk is only to discuss losses due to overmacht, not losses caused by other things (Januarita et al., 2019).

Over time, health and law have developed very rapidly. Health is identical to law, where if examined in more detail regarding sanctions that have been regulated in writing in laws. Based on this, the implementation of health services must follow applicable laws to minimize legal risks. Anesthesia technicians in their practice must follow applicable laws considering the great legal risks in anesthesia services and the limited number of anesthesia technicians. In practice, anesthesia technicians can only work in 2 health facilities, this is in accordance with minister of health regulation No. 18 of 2016 which regulates licensing for anesthesia technician work implementation. However, in current practice many anesthesia technicians work in more than 2 health facilities both in cities and regions. This is caused by many factors including the limited number of anesthesia technicians causing anesthesia technicians to have to provide health services in many health facilities. In addition, it can also be caused by specialist anesthesiologist requests for anesthesia technicians to help them provide health services.

Based on this, health service actions become at risk to existing laws for health facilities and anesthesia technicians in their practice. Legal risks for anesthesia technicians include not having a practice license at that health facility. The limited number of anesthesia technicians is the government's responsibility to provide competent and professional anesthesia technicians. The non-uniformity of anesthesia education in Indonesia ranging from D3 to S1 causes differences in anesthesia service standards at health facilities, differences in cognitive abilities, skills, and performance. This causes anesthesia technicians to be involved in anesthesia health service teams either directly by health facilities or specialist anesthesiologists because of the abilities they possess even though legally they have not met administrative requirements. Legal regulations state that anesthesia education providers must shift from the ministry of health to the ministry of research, technology and higher education, which means the educational background of anesthesia must be applied bachelor education in anesthesiology nursing. This policy is implemented by the government together with professional organizations to align standards for professional, skilled and broad-minded anesthesia technicians, and able to work together in teams. This is useful for minimizing anesthesia technician risks to law and their practice.

Legal consequences are consequences that arise due to legal events and can eliminate legal relationships between subjects where rights and obligations between subjects face each other (Ishaq, 2008). All medical actions always pose risks no matter how small the medical action is. Medical personnel cannot be held accountable for all risks that may occur to patients either predictable at the beginning or not. The form of accountability that can be requested from anesthesia technician medical personnel if anesthesia technicians make mistakes or are negligent in their responsibilities. Malpractice lawsuits in the health world based on criminal law are categorized into several forms, namely abuse (mishandeling), negligence (culpa) which can cause injury to death to patients. All malpractice actions do not necessarily fall within the realm of criminal law and must fulfill 3 important elements, namely first the mental attitude of medical professionals; second, the actions given violate operational standards and are unlawful, and do not suit patient needs; third, cause injury to death to patients.

There are fundamental differences between medical crimes and ordinary crimes, namely in the focus of the action. If the focus of ordinary crimes is on the impact caused by crime, then in medical crimes the focus of action is on cause and criminal accountability which must be proven to be professional errors. Generally, medical crime errors are caused by negligence of anesthesia technicians or other medical personnel. This is because medical personnel do something that should not be done or vice versa. To find out the negligence committed by anesthesia technicians, it must be done comprehensively, namely by looking at the competence and authority of anesthesia technicians, which includes procedures that should be done by anesthesia technicians at anesthesia facilities (Poernomo, 1994). Anesthesia technicians can be criminally prosecuted only when culpa lata occurs, namely disability or even death in providing anesthesia services and also anesthesia technicians can be prosecuted if acting against existing law such as service practice that does not comply with applicable legal regulations. Anesthesia technicians can only act according to legal provisions to avoid the risk of unlawful acts that must be criminally accounted for.

Civil law is a stipulation used to regulate the rights and obligations of each individual in society. The source of civil law used in Indonesia is Burgerlik Wetboek or the Civil Code (KUHP). This can be interpreted as a set of rules that regulate rights, wealth, and relate to individuals based on logic. Civil law is also called private law because it regulates the interests of individuals not all subjects. Sources of civil law action accountability refer to unlawful acts or default. Anesthesia services can be said to violate the law if they meet the elements in the Civil Code article 1365, namely causing real losses as an impact of actions taken by anesthesia technicians (Djojodirdjo, 1979). In default, the form of accountability if meeting default elements explained in the Civil Code article 1234 which is categorized into several principles including accountability on the principle of respondent superior explained in article 1367 of the Civil Code. Second, accountability on the principle of zaakwarneming based on article 1354 of the Civil Code, and direct accountability based on article 1365 of the Civil Code.

Based on article 1234 of the Civil Code, default accountability if meeting default elements including not carrying out obligations or being negligent in obligations such as being late, not performing obligations correctly, and performing an action that should not be done, the basis of civil law accountability is divided into 2, namely accountability based on fault and accountability based on risk or absolute accountability. Unlawful acts by employing anesthesia personnel who do not have SIPPA are included in default acts, namely performing obligations that do not comply with regulations and acting that should not be done. The third law is administrative law, where anesthesia technicians are said to violate the law if they do not meet administrative law.

The government has full authority to regulate and issue medical provisions, such as requirements for anesthesia technicians in their practice, determining authority limits, and obligations that must be met by anesthesia technicians. If anesthesia technicians do not comply with applicable regulations, then anesthesia technicians can be considered to violate applicable administrative law according to regulations. Administrative violations include not having a registration certificate, practice license, and violating authority limits. Anesthesia technicians who have completed Education and wish to carry out practice are required to have permits. This permit has 2 meanings, first namely providing formal authority (*formeelle bevoegdheid*) and materially (*materieele bevoegdheid*) which in essence licensing in administrative law includes directing actions (Dewata & Achmad, 2010). By providing permits both formally and materially, it can contribute and also service standards that must be provided by anesthesia technicians in their practice. Second, preventing various risks that may occur during actions and preventing malpractice by parties who do not have authority in anesthesia. Third, selecting each prospective anesthesia technician from the administrative

side and technical abilities that must be possessed by anesthesia technicians. Fourth, providing public protection from practices by parties who are not competent in the field of anesthesia.

There are 4 types of sanctions for administrative law violations, namely verbal warnings, written warnings, fines, to revocation of practice licenses. This has also been explicitly explained in law that anesthesia technicians are required to have competency certificates and registration certificates. Anesthesia technicians who already have Registration Certificate (STR), in their practice are not subject to administrative law, but if in their practice they do not have STR and Practice License (SIP), then anesthesia technicians receive administrative sanctions.

The research demonstrates that anesthesia services conducted under emergency situations benefit from enhanced legal protection (as outlined in Article 298, Law 17/2023). It employs legal doctrines such as negotiorum gestio, enabling technicians to act independently during critical cases to stabilize patients. Through a comparative analysis of emergency and elective actions, the study provides a comprehensive review of the unequal legal protection conferred in different operational scenarios. It argues for a redefinition of responsibilities to ensure technicians are safeguarded from malpractice risks during elective procedures when supervisory constraints persist.

### **Legal Protection for Anesthesia Technicians**

Legal protection is a form of protection for legal subjects and can be preventive or repressive, both written and unwritten. The existence of law can provide justice, certainty, order, benefit and peace for the people of a country. Protection falls into the category of legal protection if it meets several elements such as protection from the government for its citizens, providing legal guarantees, relating to the rights of citizens, implementing sanctions for every party who violates applicable legal provisions, and finally as a form of legal protection. Criminal law used to discipline society has two forms of legal protection, namely preventive and repressive. In the perspective of criminal law, such legal protection becomes part of criminal policy (Arief, 1998).

Legal protection for anesthesia technicians is regulated in Law Number 17 of 2023 on Health. This law provides legal protection guarantees for medical personnel and health workers, including anesthesia technicians, as long as they perform duties in accordance with professional standards, professional service standards, standard operating procedures, and professional ethics, as well as patient health needs.

Health Law No.17 of 2023 explicitly states that medical personnel and health workers have the right to obtain legal protection in carrying out their practice (Sutanto, 2024). This protection is given as long as the health worker performs their duties in accordance with established standards. For anesthesia technicians, which provides legal certainty in carrying out their duties, they have the right to legal protection as long as anesthesia actions performed are in accordance with professional standards and patient needs. This will provide a sense of security and professionalism in providing health services.

In practice, anesthesia technicians use regulations stipulated by the Minister of Health Regulation. Anesthesia technicians become members of the anesthesia service team led by specialist anesthesiologists in their practice according to applicable law. Legal protection for anesthesia technicians aims to provide legal protection for victims of crime, ensure safety and comfort for witnesses or victims of crime realized in health services and also legal assistance. Anesthesia service regulations are stipulated in health laws, hospital laws, health worker laws, Minister of Health Regulation No. 519 of 2011 which regulates guidelines for implementing anesthesiology and intensive therapy, Minister of Health Regulation No. 46 of 2013 which regulates worker registration, Minister of Health Regulation No.18 of 2016

which regulates licensing for anesthesia technician professional implementation, Permenpan No. 10 and No. 11 of 2017 which regulate functional positions of anesthesia technician assistants, Permenpan No. 43 of 2017 which regulates health functional position formation, Permenpan No. 42 of 2018 which regulates appointment of civil servants in functional positions by impassing, Minister of Health Decree No. 779 which regulates anesthesia and resuscitation service standards, and BKN regulation No. 3 of 2018 which regulates implementation of anesthesia technician assistant functional position guidance and technician functional positions.

Minister of Health Regulation No. 18 of 2016 which regulates licensing for anesthesia professional implementation has not provided comprehensive legal protection for anesthesia technicians where delegation of authority to anesthesia technicians in their professional practice is based on delegation and mandate authority theory originating from delegation (Hadjon, 1998).

Based on delegation, anesthesia technicians receive delegation of authority from the government because in health facilities in an area there are no specialist anesthesiologists so all anesthesia actions are performed by anesthesia technicians. Mandate as authority given by specialist anesthesiologists to anesthesia technicians as evidenced in article 14 which regulates delegation of anesthesia technician authority including: (1) Based on article 12 b, delegation of authority based on government assignment if in an area there are no specialist anesthesiologists. (2) Based on paragraph 1, delegation of authority services are performed by anesthesia technicians who have received training and are competent. (3) Based on paragraph 2, delegation of authority services based on additional competence from training. (4) Based on paragraph 2, training for anesthesia technicians is the government's responsibility in cooperation with professional organizations. (5) Training based on paragraph 2 must be accredited according to legal regulations. (6) Delegation of authority originating from the government only applies in government health facilities.

Delegation of authority (delegation) to the anesthesia technician profession is done because of the vacancy of specialist anesthesiologists in several regional health facilities, regulations stipulate that if there are no specialist anesthesiologists then anesthesia technicians can be given mandates through government assignment (Minister of Health Regulation No. 18 of 2016 Article 14 paragraph (1) and paragraph (6)). On that basis, recipients of authority delegation must have received training and additional competence, accreditation is established as a requirement, and delegation only applies in government-owned health facilities (Negoro, 2025). A juridical study by Hasmita et al. (2025) shows that delegation of authority between health professions in Indonesia still faces obstacles such as recipient competence not being met, suboptimal supervision, and unclear legal responsibility of delegation recipients.

Gandara (2020) affirms that actions "beyond authority limits" can be canceled or cause legal responsibility if not in accordance with norms. Delegation of medical actions from doctors to other health workers (including in emergencies) must be implemented with legal certainty, competence and supervision (Huda & Huda, 2021). Sulistiowati (2021) also highlights that delegation of medical action authority to other health workers in ICU rooms has been regulated regulatively but its practice still requires clarity of authority limits and accountability. Assegaf & Nambung (2023) provides precedent that delegation of authority between health professions in conditions of limited specialist services raises legal responsibility issues. In line with the statement of Kumala et al. (2023) that although regulations such as Minister of Health Regulation No. 18 of 2016 have established anesthesia technician practice licensing arrangements, delegation of authority practices in the field are still marked by limited optimal regulation and implementation.

Based on paragraph 1, if in a health facility there are no specialist anesthesiologists, then anesthesia technicians can provide health services without specialist doctors and paragraph 6 shows that these services can only be provided in government health facilities which means anesthesia technicians are only permitted in government health facilities. The condition of one area differs from another, some have government hospitals and some have private ones. The problem is, if in a hospital there is no specialist anesthesiologist, automatically actions are performed by anesthesia technicians, whereas in paragraph 6 it states that anesthesia technician authority is only in government health facilities. Minister of Health Regulation article 16 states anesthesia technicians can act in emergency situations paragraph: (1) In emergency conditions to save lives, anesthesia technicians are given delegation to act beyond authority as a form of first aid to patients. (2) First aid in paragraph 1 aims to stabilize the patient's condition and reduce pain suffered by the patient. (3) Anesthesia technicians are required to refer patients to more competent medical personnel.

Paragraph 1 of article 16 states that anesthesia technicians act as first aid and continued in paragraph 2 that first aid actions are only to reduce pain and stabilize the patient's condition, then continued in paragraph 3 that anesthesia technicians are obliged to refer patients to competent medical personnel. The existence of article 16, limits anesthesia technicians in acting where in emergency conditions anesthesia technicians can only provide first aid to stabilize and reduce patient pain which then requires referring patients, whereas not all areas have specialist anesthesiologists. Based on this, more maximum and optimal regulations are needed in protecting anesthesia technicians based on existing facts and reality conditions in Indonesia.

Through the remediation of legal vulnerabilities and advocating for enhanced training pathways, this study contributes to reducing inequities in service quality across Indonesia. It also stimulates policy discourse on revisiting restrictive provisions within Ministerial Regulation No. 18/2016, empowering qualified anesthesia technicians to take on expanded roles without unnecessary legal barriers. Future research should explore how competency-based standards evolve in refining interdisciplinary collaborations amidst varying resource availabilities.

## CONCLUSION

Legal protection for anesthesia technicians in performing anesthesia procedures without the presence of anesthesiologists in hospitals is complex and depends on fulfilling various requirements and limitations regulated in statutory regulations. In anesthesia actions, anesthesia technicians work in accordance with Law No 17 of 2023 on health, Minister of Health Regulation No. 519 of 2011 on guidelines for implementing anesthesia and intensive therapy, and Minister of Health Regulation No. 18 of 2016 which regulates licensing for anesthesia technician professional implementation. Legal protection for anesthesia technicians stipulated in Minister of Health Regulation No. 18 of 2016 is considered not in accordance with existing facts and reality where there is an imbalance between the number of medical personnel and the Indonesian population. If in government health facilities where there are no specialist anesthesiologists it can be performed by anesthesia technicians, but in private health facilities anesthesia technicians cannot act without specialist anesthesiologists.

Overall, legal protection for anesthesia technicians who perform anesthesia actions without anesthesiologists in hospitals is highly dependent on fulfilling requirements and limitations stipulated in applicable statutory regulations. Such actions must be in accordance with professional standards, service standards, professional ethics, protocols applicable in hospitals, as well as competence limitations established for anesthesia technicians. Hospitals

also have responsibility to ensure that such actions are in accordance with safe and quality service standards.

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