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Juridical Study of Criminal Law on Delegation of Authority of Obstetricians and Gynecologists to Midwives in Health Services

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Abstract

Introduction to the Problem: The entitlement to health services represents an inherent right accorded to each citizen within the Indonesian jurisdiction. Within this framework, health practitioners assume a pivotal role in augmenting the optimal provision of healthcare to the populace. Specifically, midwives play a critical function in delivering health services aligned with the directives of medical professionals, particularly in exigent situations and referral services. The legal ramifications surrounding a midwife's engagement in illicit childbirth practices underscore the imperatives of statutory compliance. Within the confines of the Penal Code, responsibility is construed as an imperative, denoting that transgressions of criminal statutes necessitate accountability in accordance with the prescribed legal provisions.
Purpose/Objective Study: This study seeks to elucidate the juridical examination of the delegation of authority within the realm of healthcare services, specifically focusing on the intricate dynamics between medical practitioners and midwives.
Design/Methodology/Approach: The employed research methodology involves normative juridical analysis utilizing secondary data. Within the purview of this investigation, the research framework adheres to legal principles, encompassing an examination of both codified positive law and uncodified positive law.
Findings: The delegation of authority upon midwives to execute health service activities is predicated upon a mandate from doctors, necessitating recurrent monitoring and evaluation by the medical practitioners. This delegation of authority pertaining to health-related responsibilities to midwives is effectuated through both written documentation and oral communication via telephone. The locus of responsibility for this delegation rests with the healthcare institution, where physicians assume the role of conferring authority, and midwives act as the executors entrusted with such delegated responsibilities.
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Introduction

The entitlement to health services is universally recognized as a fundamental right, constitutionally enshrined in the 1945 Constitution of the Republic of Indonesia. This commitment to health is further underscored by legal provisions, specifically articulated in Law Number 36 of 2009 concerning Health (Sahari, 2022). The evolution of health service initiatives, spearheaded by both governmental and community entities, initially emphasized curative interventions for those in need. Over time, there has been a progressive shift toward a more comprehensive integration of promotive, preventive, curative, and rehabilitative measures, emphasizing a holistic approach to healthcare delivery (Soewono, 2005).

Medical personnel are individuals vested with the authority to execute medical interventions. Indonesian regulations delineate distinctions between health workers and medical practitioners (Azizah, 2021). Health workers play a pivotal role in enhancing the quality of maximal healthcare services rendered to the populace. Positioned at the forefront of public health services, health workers contribute significantly to realizing health development objectives aligned with national goals. Serving as a fundamental element in the execution of health services, the presence, role, and responsibilities of health workers bear profound significance in activities pertaining to the development of health and safety, impacting both the well-being of health workers and the community availing healthcare services (Damayanti, Absori, Wardiono, et al., 2020).

A medical practitioner functioning within a healthcare setting frequently engages in collaborative efforts with various healthcare professionals, including midwives (Mohamad, 2019). Obstetricians and gynecologists assume the responsibility of delivering thorough and integrated healthcare services pertaining to a woman's reproductive health, spanning periods of non-pregnancy as well as encompassing the stages of pregnancy, childbirth, and the postpartum period. Their multifaceted roles encompass preventive measures aimed at averting diseases, curative interventions focused on remedying ailments, and rehabilitative strategies directed at rectifying abnormalities within the reproductive organs.

Midwives are professional and accountable health providers who work as women's partners to provide support, care, and advice during pregnancy, childbirth, and puerperium, lead childbirth on their own responsibility, and provide care to babies, even newborns (Damayanti, et al., 2020). Midwife services consist of: prevention services, normal delivery services, detection of maternal and child complication services, and access to medical assistance and other assistance (Zakariya et al., 2022). These services include prevention efforts, promotion of normal childbirth, detection of maternal and child complications, and access to medical assistance or other

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appropriate assistance, as well as taking emergency measures (Lastini et al., 2020). In addition, midwifery services are services provided by midwives in accordance with their authority with the aim of improving maternal and child health in order to create a quality, happy, and prosperous family. The targets of midwifery services are individuals, families, and communities, which include efforts to improve, prevent, heal, and recover (Jamillah & Yulianto, 2018).

In exercising her authority, a midwife must meet professional standards, have the skills and abilities to carry out the actions taken, and prioritize the health of the mother and baby or fetus (Mujiwati, 2020). Under the provisions of Law No. 4 of 2019 concerning Midwifery, as articulated in Article 59(1), midwives are legally empowered to administer health services beyond their designated scope of practice in emergency situations, provided it aligns with their competencies. Specifically, midwives are authorized to deliver health services in conformity with a physician's directives under the watchful supervision of a medical doctor, particularly in circumstances demanding urgent intervention or referral services. Furthermore, it is imperative to note that certain medical procedures necessitate collaboration, wherein doctors are not permitted to act autonomously but require the assistance of midwives within the healthcare facility (Jamillah & Yulianto, 2018).

The delegation of authority from physicians to midwives is contingent upon a mandate in accordance with Law Number 4 of 2019, which specifically addresses midwifery in Article 54. Under this law, the government is authorized to delegate specific and constrained powers to midwives. However, the regulatory framework for the delegation of authority from doctors to midwives lacks clarity. Although Law Number 4 of 2019 outlines the mandated delegation of authority from doctors to midwives, it does not explicitly specify the particular types of medical actions subject to delegation (Mujiwati, 2020). In the execution of medical actions, a doctor may delegate certain tasks in writing to designated midwives. Nevertheless, the technical guidelines governing such delegation are not definitively outlined in existing laws and regulations. This gap persists despite the fact that numerous patients in need of emergency obstetrics and gynecology care often rely on doctor (Setyianta, 2018).

The transference of authority commonly takes place through oral means, either in face-to-face interactions or via telephone communication. This is often necessitated by the unavailability of the doctor and the geographical disparity between the doctor's location and the provision of health services. While the legal framework governing this practice lacks explicit clarity, its potential implications may be mitigated if proper accountability measures are in place, and if it does not result in any detriment to patients (Anam, 2018). The legislative landscape exerts substantial influence on health management, playing a pivotal role in achieving optimal health outcomes. A midwife, defined as a woman who has undergone government-recognized midwifery education, successfully completed requisite examinations, and held registration or a valid practice license, typically exercises delegated authority in

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alignment with pertinent laws and regulations, thereby assuming responsibilities traditionally associated with medical practitioners (Saraswati, 2023; Hanifa Muslimah & Arrisman, 2022).

The legal responsibility of a midwife engaged in illicit birthing practices is governed by the tenets of the Penal Code. According to Himawan et al., (2022), the principle of responsibility asserts that individuals contravening criminal law must be held accountable for their actions in accordance with statutory provisions. Consequently, any deviation from legal norms exposes one to criminal liability, contingent upon the nature of the transgression. To incur criminal liability, an error must meet three elements: the capacity for responsibility means being in good physical health; the act is in the form of intent (*dolus*) or negligence (*culpa*) and there is no excuse for the cure or remission of any sin (Thrakul et al., 2023).

Methodology

The research methodology employed is normative juridical, utilizing secondary data sources. Normative juridical research involves a literature review of legal materials or reliance on secondary data (Mahmudji, 2003). The study aims to gather theoretical constructs, conceptual frameworks, and legal principles related to the subject matter, adhering to both codified and uncodified positive laws (Soekanto, 1996). Primary legal materials, including Law Number 36 of 2014 concerning Health Workers, Law Number 29 of 2004 concerning Medicine, and Law Number 4 of 2014 concerning Midwifery, form the basis of the research. Secondary legal data consist of books and journals addressing the delegation of authority from doctors to midwives. Following data collection, the study results underwent qualitative normative analysis, interpreting the legal aspects and implications of the delegation of authority from doctors to midwives.

Results and Discussion

The complete execution of health services extends beyond the exclusive purview of physicians, leading to the delegation of certain medical responsibilities by doctors to midwives, even though the latter lack the legal authority for such tasks (Setyianta, 2018). The transference of authority from doctors, acting as authorizers (delegans), to midwives, as recipients of authority (delegataris), represents an authorization rooted in trust. It is imperative to note that the delegating authority retains responsibility for the medical actions delegated to the recipient of authority. This intricate framework operates within the framework of extant laws and regulations (Hadiwijaya et al., 2017).

The constrained availability of doctors precipitates a scenario wherein midwives are compelled to undertake medical procedures that may exceed the scope of their professional competence. Article 73(3) of Law Number 29 of 2004 offers an avenue for midwives to engage in medical procedures, contingent upon their adherence to stipulated legal provisions and regulations. According to the Minister of Health

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Regulation Number 2052/Menkes/Per/X/2011 addressing Practice Licensing and the Execution of Medical Practice, as articulated in Article 23(1), doctors or dentists possess the authority to formally delegate medical or dental procedures in writing to nurses, midwives, or specific other healthcare practitioners during the execution of medical or dental processes.

Doctors or dentists possess the authority to formally assign the execution of medical or dental procedures to nursing professionals, midwives, or other healthcare practitioners through written directives during the course of medical or dental interventions. The procedural specifications for such delegation, as delineated in Article 23(1) of Law Number 29 of 2004, lack precise regulatory frameworks. Concurrently, a substantial contingent of patients necessitating emergent interventions in the realm of Obstetrics and Gynecology heavily depend on the expertise of medical practitioners (Setyianta, 2018).

Article 11 of Law Number 36 of 2014 underscores the inclusion of midwives within the category of health workers, highlighting that these professionals, along with their counterparts, are mandated to execute their authority in adherence to the prevailing regulations. Moreover, Law Number 36 of 2009 on Health, specifically in Article 23, delineates that "Health workers are vested with the authority to administer health services." Conversely, the jurisdiction of midwives is explicitly delineated in Law Number 4 of 2014, which governs Midwifery Practices. This statutory framework assigns midwives the responsibility for delivering a spectrum of health services encompassing maternal care, child health, women's reproductive health, and family planning. Their role involves the execution of tasks based on delegated authority and, alternately, performing assigned duties under specific, circumscribed conditions (Setyianta, 2018).

The legitimacy of health workers to deliver health services is grounded in legal frameworks, as asserted by Supriadi (2001). Constitutional law delineates three avenues through which authority, emanating from statutory regulations, is acquired: attribution, delegation, and mandate. HD Van Wijk provides nuanced definitions for these concepts:

1. Attribution pertains to the conferment of governmental authority by legislative bodies to government organs.
2. Delegation involves the transference of governmental authority from one governmental organ to another.
3. A mandate is characterized by a government organ permitting the exercise of its authority by another organ on its behalf (Ridwan, 2003).

The legal framework governing the transfer of authority from physicians to midwives is articulated in Law Number 4 of 2019 on Midwifery, with particular emphasis on Article 54. This provision delineates that the delegation of responsibilities to midwives in executing health service interventions is contingent upon a mandate

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from physicians. Such a mandate involves physicians entrusting specific health services to midwives. In assuming the role of the delegator, the physician assumes responsibility for the midwife and is obligated to conduct systematic and periodic monitoring and evaluation processes.

The conferral of physician authority to midwives can be effectuated through either delegation or mandate (Merdekawati, 2021). Delegated authority is concomitant with delegated responsibility, whereas a mandate does not entail the transfer of responsibility (Pramesti, 2013). The implementation of health services in the field of midwifery often involves midwives receiving assignments from doctors in the form of a mandate (because the responsibility remains with the doctor). Among them are the provision of medical services (curative) and special actions (which fall under the doctor's authority and should be carried out by the doctor), such as the installation of infusions and giving injections (Setyianta, 2018). Doctors may delegate their authority to midwives given in writing, and it must be in accordance with educational ability, competence, and the provisions of laws and regulations.

In the realm of comparative analysis, the principles delineated in German Jurisprudence assert that a medical practitioner possesses the entitlement to place reliance upon meticulously trained and supervised staff for the competent execution of duties. However, this allowance does not extend to the delegation of professional responsibilities, as such an act renders the doctor personally accountable for any negligence in the delegation process and subsequent errors committed by the entrusted personnel (Sylvana et al., 2021). The act of transferring legal responsibility through delegation of authority to a midwife does not absolve the doctor of culpability in the event of malpractice leading to severe patient harm or loss of life. Consequently, a thorough examination of this practice is imperative, given that inaccuracies in the doctor's directives could potentially yield fatal consequences for the patient (Jamillah & Yulianto, 2018).

In instances where the allocation of responsibilities between physicians and midwives results in malpractice, it can lead to catastrophic outcomes, including severe disabilities, paralysis, or even fatalities. Such circumstances may expose both doctors and midwives to potential criminal liabilities. To proactively mitigate the risk of malpractice arising from delegated tasks, physicians assume the role of overseers, ensuring the adherence to prevailing medical standards and practices. The Ministry of Health has engaged in consultations with the National Academy of Physicians, categorizing delegated responsibilities into two distinct types. The first category encompasses routine tasks automatically assigned to competent assistants. These tasks, which involve daily activities such as household upkeep, vital sign monitoring, and relaying information to physicians, are commonly executed by midwives and nurses.

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The second category involves more intricate duties, such as surgical preparation and blood sampling, which are typically performed without direct supervision. These tasks fall under the purview of straightforward therapeutic and nursing responsibilities. The delineation of such responsibilities seeks to establish a structured framework that minimizes the likelihood of negligence and upholds the highest standards of patient care.

The lack of precise regulations governing specific midwifery procedures often leads to a convergence of responsibilities between midwifery services and tasks delegated by physicians. Delegations of health-related responsibilities to midwives occur through both written documentation and verbal communication via telephone. The responsibility for overseeing the delegation process lies with health facilities (such as Puskesmas (community health center), hospitals, clinics, etc.), with doctors and midwives acting as the designated executors of the delegated authority. To mitigate the risk of misinterpretations, physicians meticulously and appropriately carry out these delegations, employing both oral communication and written documentation.

The legal concept of delegation of authority engenders legal ramifications, specifically consequences governed by legal norms (Saswanti, 2012). In instances where midwives assume delegated authority for medical procedures from physicians, and allegations of authority abuse arise (Sirait, 2016), leading to patient harm, the legal responsibility does not solely rest upon the midwife. Physicians also assume legal responsibility, as such repercussions may emanate from lapses in the delegation of authority, implicating both parties in legal liability.

Individuals vested with authority bear an imperative duty of accountability within the legal framework. They are obligated to assume responsibility for potential risks that may precipitate losses for other parties. The nexus between responsibility and risk is inherently latent. As risks materialize and demands surface, the concomitant issues of responsibility and authority assume prominence. Legal ramifications, particularly lawsuits initiated by affected parties such as patients, can ensue as a consequence of malpractices or deviations from the prescribed performance of their duties, coupled with a disregard for the rights of patients. Conversely, the broader populace exhibits an elevated degree of legal acumen and awareness. Concurrently, contemporary legislative frameworks have incorporated measures for patient protection, fostering an escalating inclination among the public to assert their rights through legal claims in response to deviations in the conduct of healthcare practitioners (Anam, 2018).

From a jurisprudential standpoint, an act assumes the characterization of a criminal offense when it satisfies the circumscribed criteria delineated within the ambit of criminal law. The maxim "Nullum delictum noella poena sine" encapsulates the foundational precept that denotes the absence of culpability and, consequently, the absence of penal consequences in the absence of antecedent legal prescription. The primacy of the legality principle is enshrined in Article 1, paragraph (1) of the

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Criminal Code, affirming that criminal liability is contingent upon explicit statutory proscriptions. Article 36 of 2009 intricately delineates the contours of criminal sanctions in a comprehensive manner. Consequently, transgressions perpetrated by healthcare professionals in the form of negligence during the execution of healthcare services render them susceptible to legal prosecution (Nurhalimah, 2017).

The criminal law obligations pertaining to midwives, with due consideration to criminal transgressions committed by midwives, are delineated as follows within a nuanced legal framework:

1. Commission of acts in violation of the law: Midwives engaging in health services beyond the scope of their authorized practice, as defined by the Minister of Health Regulation Number 28 of 2017 on Permission and Implementation of Midwifery Practice, are deemed to be in contravention of the law.
2. Demonstrating accountability: A midwife is expected to comprehend the ramifications of each action, possessing the capacity to undergo requisite training and education to fulfill their responsibilities.
3. Manifestation of culpable errors: Whether deliberate or resulting from negligence, errors (*schuld*) hold significance. In instances of intentional acts with elements of intentionality, the midwife may face criminal charges. For instance, administering a lethal injection with the intent to cause the patient's demise constitutes a criminal offense.
4. Absence of justification and/or rationale: Criminal liability arises when there is an absence of legal justification or rationale. This could manifest in the absence of rules permitting a specific action or when inherent risks associated with the committed action lack justification and rationale.

In a broader context, the criminal responsibility of midwives stands as an independent entity, distinctly diverging from civil and administrative responsibilities within the legal framework.

In his book, Moeljatno delves into the intricacies of articles 55 to 62 within the Criminal Code, specifically addressing the legal framework surrounding participation in criminal activities. Inclusion, as elucidated, transpires not through the solitary involvement of an individual in the perpetration of a criminal act but rather through the collaborative engagement of multiple individuals. Those deemed participants must satisfy specific qualifications, signifying their active involvement in, contribution to, or facilitation of a criminal act (Moeljatno, 1985). Pertinently, articles 55, 56, and 57 of the Criminal Code render midwives and physicians susceptible to criminal prosecution.

The delegation of authority entrusted by doctors to midwives, as stipulated in Article 55 of the Criminal Code, falls under the category of ‘a person who gives an order’, where in this crime there are at least two perpetrators, namely the person who gives an order and who receives an order. The person who gives an order can be subject to

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punishment as a person who commits a criminal offense, while the person who receives an order may not face punishment due to specific conditions that absolve them of responsibility. These conditions may include lack of sanity, coercion, an invalid official order, or being completely blameless. Referring to Article 56 of the Criminal Code, the delegation of authority by trust, as a category of accomplices, midwives may face prosecution if they commit a criminal act intentionally, while under Article 57 of the Criminal Code, the penalties for accomplices can be reduced by one-third.

These three legal provisions are applicable to criminal offenses arising from the mandated delegation of authority. It is imperative to scrutinize the criminal liability of both physicians and midwives in instances of medical malpractice resulting in harm to patients. A meticulous examination of medical records is requisite to ascertain the conformity of the midwife's actions with the prevailing standard procedures of the hospital at the time of admission. Legal accountability extends to midwives for the mandated delegation of authority by physicians. Nonetheless, physicians cannot exonerate themselves from their responsibilities when delegating authority; inaccuracies in delegating medical responsibilities to midwives may have severe consequences and prove detrimental to patient outcomes (Suryanda et al., 2018).

Article 46 of Law Number 44 of 2009 on Hospitals can be construed as a legal derivative or instantiation of the principles delineated in Article 1367(3) of the Civil Code, albeit with a specific application tailored to the context of hospitals. Alternatively, one may view Article 46 as a *lex specialis*. The provisions within this article seamlessly align with the doctrine of respondeat superior. Respondeat superior, a legal doctrine, posits that an employer, endowed with the authority to instruct and oversee the actions of subordinates, bears responsibility for both the outcomes and methodologies employed by these subordinates. This doctrine assumes particular relevance in the domain of hospitals, where the intricate landscape of health laws and advancements in medical technology underscores the imperative for hospitals to be answerable for the actions of their personnel, including medical professionals. Eschewing accountability for the work performed by employees is an untenable proposition in the contemporary milieu of healthcare regulation and technological sophistication (Nasution, 2005). In Article 340 of the Criminal Code, nowhere does it specify that a motive must be present; it is but one possibility. The motive is solely evident in the perpetrator's intent to carry out unlawful actions, as elucidated earlier – criminal acts initiate from a motive (Putri et al., 2021).

In the context of superiors' responses, the doctrine may be analogized to the professional relationship between physicians and mid-level practitioners, given the mandated delegation of authority. Nevertheless, the indiscriminate application of this doctrine is precluded, and specific prerequisites must be satisfied for its invocation. These prerequisites encompass the establishment of a functional relationship between superiors and subordinates, with subordinates demonstrating a

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comportment aligned with the prescribed scope of their assigned responsibilities. The recognition of an employment relationship hinges upon the superiors' entitlement to directly supervise and control the activities of subordinates during the discharge of their duties. In such instances, the tasks undertaken by subordinates must be characterized by adherence to directives issued by the superior (Jamillah & Yulianto, 2018).

In the realm of delegating authority within the healthcare domain, a formal written instrument is necessitated for the purpose of entrusting the responsibilities of physicians to midwives. This procedural measure is imperative to obviate any potential legal ambiguity between the roles of physicians and midwives (Gunawan & Christianto, 2020). Within the ambit of health jurisprudence, contemporary medical documentation predominantly centers on records pertaining to the procedural aspects of medical interventions administered to patients. These records are meticulously recorded by both physicians and midwives, thereby reflecting the collaborative nature of healthcare provision. Access to and knowledge of the contents of such medical records are restricted solely to the pertinent healthcare professionals, encompassing both doctors and midwives involved in the patient's medical care. However, this restricted accessibility constitutes an inherent vulnerability in the prevailing framework of medical record-keeping, warranting critical examination within the legal discourse (Susanto, 2018).

In adherence to statutory provisions and the imperative for explicit authorization in written form, the legal potency of written delegation of authority is unequivocal. This is particularly manifest in instances where medical professionals delegate authority from physicians to midwives through meticulous documentation in medical records, thereby conferring indisputable legal validity. Such documentation stands as a substantive piece of evidence in conformity with the classifications of evidence delineated in the criminal procedure law as adopted in Indonesia. Conversely, oral delegation of authority is characterized by diminished legal efficacy due to its lack of explicit regulation within the legal framework. Instances of oral delegation commonly transpire in settings under surveillance, such as rooms equipped with closed-circuit television (CCTV), or through telephonic communication. Nevertheless, the evidentiary value derived from these oral exchanges is often insufficient to attain the status of robust legal evidence. Consequently, the reliance on oral delegation of authority fails to guarantee the commensurate legal potency upheld by its written counterpart, accentuating the inherent legal frailty associated with such oral arrangements (Rafael, 2019).

Therefore, it is necessary to conduct a review of the patient's medical record to identify the source of errors, whether the midwife's execution of delegated authority complies with the hospital's standards or not, or whether the fault lies with the doctor as the provider of the delegation of authority. If it is proven that an error has occurred, leading to a potential lawsuit, both civil and criminal actions may arise due to the legal

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relationship associated with the engagement. In addition to civil liability, doctors and midwives may also face criminal prosecution (Lastini et al., 2020).

The legal responsibility directed towards midwives and doctors, as a result of the delegation of authority, to midwives who commit negligence leading to patient losses during health services at the Puskesmas, remains in effect. Nonetheless, a review of the existing medical records is still required to determine whether the delegated actions were in accordance with standard procedures or not. The civil claims or lawsuits that can be filed (legal liability) as mentioned earlier are:

a. Liability based on default, non-performance, or breach of promise based on contractual liability as stipulated in Article 1239 of the Civil Code.
b. Liability based on unlawful acts (*onrechtmatige-daad*) as stipulated in the provisions of Articles 1365 and 1366 of the Civil Code.

As stipulated in Article 46 of Law No. 44 of 2009, which imposes responsibility on medical institutions for negligence attributable to healthcare practitioners, the civil liability pertaining to midwives arising from the delegation of authority by physicians exhibits distinctions contingent upon the setting in which such instances transpire. Notably, the legal ramifications diverge when negligence transpires within a hospital context. Conversely, should instances of negligence arise within a Puskesmas, the legal framework necessitates scrutiny due to the absence of specific provisions within the regulatory framework governing Puskesmas concerning the legal accountability of these institutions for negligence attributed to medical personnel and healthcare practitioners (Mujiwati, 2020).

The inquiry into indemnification stemming from lapses or negligence arising from the delegation of authority by physicians to midwives in a reliable fashion, with commensurate accountability ascribed to the physicians, remains the subject of ongoing scrutiny. This examination draws upon evidentiary data extracted from extant medical records, professional norms, and the standard operating procedures established at the Puskesmas. It is imperative to underscore that accountability extends not solely to the physicians but also encompasses the midwive as the executor of the actions, grounded in the doctrine of joint responsibility as articulated by the judiciary in the precedent of Pitra Azmirla and Damitri Almira (Jamillah & Yulianto, 2018).

In the perspective articulated by Satjipto Raharjo (Raharjo, 2000), legal safeguarding serves as a mechanism to shield infringed human rights, extending such protection to the broader community to facilitate the full enjoyment of rights enshrined in the legal framework. The efficacy of laws lies in their capacity to actualize protections characterized not only by adaptability and flexibility but also by a prescient and anticipatory nature. The indispensability of legal frameworks is particularly pronounced for individuals lacking societal, economic, and political strength, as they strive to attain social justice.

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Legal protection for midwives is contained in Article 60 of Law No. 4 of 2019, which states that midwives, when carrying out midwifery practice, have the following rights:

a. Obtaining legal protection as long as they carry out their duties in accordance with competence, authority, and compliance with codes of ethics, professional standards, professional service standards, and standard operating procedures;
b. Obtain accurate, clear, honest, and complete information from clients and/or their families;
c. Reject the wishes of clients or other parties that are contrary to the code of ethics, professional standards, service standards, standard operating procedures, and provisions of laws and regulations;
d. Receive remuneration for Midwifery Services that have been provided;
e. Receive work facilities according to standards; and
f. Have the opportunity to develop their profession.

The evidentiary demonstration of errors or omissions attributable to midwives constitutes a pivotal prerequisite for the elucidation of accountability in the domain of health services. The legal doctrine of *Res Ipsa Loquitur*, being inherently germane, serves as a particularly efficacious means to substantiate instances where a midwife has erred, thereby facilitating the establishment of negligence or malpractice (Mujiwati, 2020). Midwives engaging in medical practice through delegated authority from physicians may face criminal sanctions in the event of malpractice, as stipulated by Article 84 of Law 36 of 2014. This provision dictates that any health worker found culpable of gross negligence leading to severe harm to the recipient of health services may be subject to a maximum imprisonment term of three years. Should such negligence result in the death of the recipient, health workers, including midwives, could be liable for a maximum imprisonment term of five years (Setyianta, 2018).

The prosecution of malpractice offenses within the health service sector continues to be guided by the legal frameworks set forth in Law Number 29 of 2004, Law Number 44 of 2009, and Law Number 36 of 2009. However, these statutes lack explicit provisions addressing specific or undisclosed malpractice-related crimes. Nevertheless, legal provisions concerning such matters are delineated in Article 84 of Law Number 36 of 2014. This article stipulates that any health practitioner found guilty of gross negligence leading to severe harm to the recipient of health services may be subject to a maximum imprisonment term of 3 (three) years. Furthermore, in instances where such gross negligence results in the demise of the individual, each health practitioner involved may face a maximum imprisonment term of 5 (five) years.

The normative assessment of the presence or absence of negligence in the conduct of medical professionals, specifically doctors and midwives, necessitates a scrupulous and exhaustive examination on a case-specific basis. Judges, serving a pivotal function in definitively discerning adherence to professional standards as opposed to

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procedural norms, are susceptible to potential errors or omissions in this evaluative process.

The allocation of authority from physicians to midwives, whether effectuated through delegation and mandate, and its implications in cases of malpractice, transcends the singular responsibility of either the physician or the midwife. The analysis of criminal liability concerning malpractice resulting in patient harm necessitates a nuanced examination of both physicians and midwives. A comprehensive scrutiny of medical records becomes imperative to ascertain whether the midwife's actions deviate from established protocols when executing delegated authority pursuant to the physician's mandate, thereby implicating the midwife in legal culpability. However, it is imperative to underscore that the physician cannot absolve themselves of accountability when delegating authority. Errors in the delegation of medical responsibilities to midwives can precipitate grave consequences for patients. Thus, the assessment of criminal liability extends beyond the actions of the midwife alone, encompassing the judicious review of the physician's role in the delegation process.

Conclusion

In the execution of healthcare services within medical institutions, physicians possess the legal prerogative to delegate medical authority to midwives in accordance with statutory provisions. The delegation of health-related responsibilities to midwives is effectuated through both written instruments and telephonic communications. The entity accountable for such delegation is the healthcare facility, where physicians act as the delegating party, and midwives serve as the appointed executors of delegated authority. Article 46 of the Hospital Law assumes responsibility for hospital-related negligence attributed to healthcare personnel, delineating distinct civil liabilities for midwives contingent upon whether the delegation transpires within a hospital setting. However, instances of negligence in alternative healthcare facilities such as Puskesmas warrant further examination when attributable to medical practitioners or healthcare personnel, potentially culminating in both civil and criminal liabilities for physicians and midwives.

A requisite imperative involves a meticulous demarcation of the modalities of authority delegation, explicating the procedures undertaken to circumscribe the scope of a midwife's authority in the execution of assigned duties. Given the intrinsic connection between the midwifery profession and patient safety within the broader healthcare framework, it becomes imperative to promulgate legislation specific to midwifery. This legislation should not only elucidate the implementation of delegation of authority but also safeguard the practice of midwifery by providing lucidity on the parameters within which such delegations transpire.

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