

NURSE AUTHORITY IN INVASIVE CARE AT THE PRIVATE NURSING CLINIC, SURAKARTA

Aris Prio Agus Santoso¹⁾, Musta'in²⁾, Endrat Kartiko Utomo²⁾,
Aknes Galih Sumirat¹⁾

¹⁾Faculty of Law and Business, Universitas Duta Bangsa Surakarta

²⁾Faculty of Health Sciences, Universitas Duta Bangsa Surakarta

ABSTRACT

Background: Professional authority encompasses the power, relative autonomy, intellectual and political influence and respect that we as professional nurses are accorded within health care systems and society at-large because we provide our distinctive service very well. Nurses' accountability - our being answerable - to individuals, families and communities in relation to the profession's social mandate by which we are obligated to provide a particular public service. This study aimed to investigate nurse authority in invasive care at the private nursing clinic, Surakarta.

Subjects and Method: This was a normative-sociological juridical qualitative study with a descriptive design. The study was conducted in Surakarta, Central Java, Indonesia from July to September 2021. The number of samples in this study was seven respondents throughout Surakarta City. The key informants were 7 nurses. They were selected by purposive sampling. The data were collected by in-depth interview, document review, and observation. The data were analyzed by triangulation.

Results: There is the principle of *lex superior derogate legi inferior* in nursing law. The law no. 36/2009 should take precedence over the Minister of Health Regulation No. 26/2009. There is no regulation regarding the prohibition of nurses from performing invasive actions, thus giving rise to the growth of the principle of legality (*nullum delictum nulla poena sine praevia lege poenali*) in nursing services.

Conclusion: There is a low nurse's authority in carrying out invasive procedures.

Keywords: nurse authority, invasive action, independent nursing practice

Correspondence:

Aris Prio Agus Santoso. Duta Bangsa University. Bhayangkara Tipes, Serengan, Surakarta 57154, Central Java, Indonesia. Email: Arisprio.santoso@udb.ac.id. Mobile: 081335096775.

BACKGROUND

The Indonesian constitution has guaranteed health insurance for its citizens, as embodied in Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia. This means that the Government has the responsibility to pay attention to and provide guarantees in accordance with the constitutional mandate, because Indonesian citizens have the same rights in eyes of law in accordance with

the Concept of Human Rights. In order to achieve the national goals as stated in the 1945 Constitution of the Republic of Indonesia, a sustainable development effort is carried out which is a comprehensive, directed and integrated series of development, including health development. Health development is one of the elements of general welfare that must be realized by the government in accordance with the ideals of the Indonesian nation as referred to in the 1945 Constitution of

the Republic of Indonesia, namely to fortify the entire Indonesian nation and the entire homeland of Indonesia and to improve general welfare, educate the nation's life and participate in implementing world order based on freedom, lasting peace and social justice.

One of the efforts to realize Health Development in the community is to organize Individual Health Efforts (UKP). This UKP service to the community has been developed by professional organizations including the nursing profession which aims to find solutions to health problems that often occur in the community. UKP services in the form of independent nurse practice must be able to provide health services to the community in accordance with the authority of a professional nurse. Nursing services are in the form of comprehensive or holistic bio-psycho-socio-spiritual services aimed at individuals, families, and communities, both sick and healthy, covering all processes of human life.

The form of service that can be provided by nurses to the community is in the form of preventive, promotive, curative and rehabilitative services. Forms of preventive and promotive services are such as early detection and identification of risk factors for the occurrence of a disease in individuals or families and communities, as well as providing education or counseling and counseling to individuals, families or communities who are at risk or have experienced illness.

Based on the Central Regional Commission II National Working Meeting on the Healthy Paradigm of

Promotive and Preventive Efforts in Disease Control and Environmental Health, it was stated that one of the focal points in the 2015-2019 RPJMN was the increase in promotive and preventive efforts by health workers. This is due to the high mortality and morbidity rates in Indonesia, which shows that promotive and preventive efforts are not yet optimal, and still places more emphasis on curative aspects. With the presence of independent nursing practice, preventive and promotive efforts can be used as a solution to overcome various health problems that exist in the community.

Reflecting on the rampant medical malpractice carried out by nurses, which is caused, among other things, by the absence of strict regulations from the Government. Especially the lack of supervision of independent nursing practice, plus the absence of regulations that clearly describe what things are allowed or prohibited in independent nursing practice, thus making nurses perform several nursing actions in the form of invasive actions which are considered very risky, especially if they are carried out independently without supervision from a doctor. In fact, the nurse's authority is the authority to carry out nursing care actions, while the authority to carry out medical actions is only obtained if there is a delegation of authority from the doctor.

Article 1 Permenkes No. 290/Menkes/Per/III/2008 states that an invasive procedure is a medical action that can directly affect the integrity of the patient's body tissues. It is very possible that invasive measures, such as; injection, circumcision, and so on

which are carried out by nurses are medical actions and are the authority of doctors. This is where there is a legal dilemma in the health sector, plus there are not yet available instructions or regulations regarding the types of medical actions that can be performed by nurses in independent nursing practice, which often causes overlapping of nursing care tasks and tasks that are delegated from the doctor's authority.

SUBJECTS AND METHOD

1. Subjects and Method

Descriptive research was conducted using normative juridical and sociological juridical approaches. The study variable is the nurse's authority in invasive actions. The nurse's authority is the ability and competence to provide nursing care, counseling and counselors for clients, manage nursing services, research nursing, carry out tasks based on delegation of authority, and carry out tasks under certain limitations. Data collection techniques in this study were carried out by collecting primary and secondary data. Primary data were obtained from literature review and also legislation or statutes of approach, while secondary data was obtained by purposive sampling technique on nurses who performed invasive actions in independent nursing practice through questionnaires. The population in this study were nurses in the city of Surakarta, while the sample in this study were nurses who practiced independent nursing. The number of samples in this study were 7 respondents throughout the city of Surakarta. The object of this research

is an invasive action that has been carried out in independent nursing practice. This research was conducted in Surakarta City for a period of three months starting from July 2021 to September 2021. The data analysis technique in this study was a qualitative analysis technique which was carried out to answer problems regarding the authority of nurses in carrying out invasive actions in independent nursing practice in terms of state administrative law.

2. Population and Sample

The population in this study were nurses in the city of Surakarta as many as 5370 people, while the sample in this study were nurses who practiced independent nursing. The number of samples in this study were 7 respondents throughout the city of Surakarta. The object of this research is an invasive action that has been carried out in independent nursing practice.

3. Study Instruments

The data collection instruments in this study were questionnaires, interviews, and observations.

4. Data analysis

The data analysis technique in this study is a qualitative analysis technique, to answer the problem of the nurse's authority in carrying out invasive actions in independent nursing practice in terms of state administrative law.

5. Research Ethics

The ethics of this research include informed consent, anonymity, confidentiality, and voluntary principles which are carried out in the field.

RESULTS

Data obtained from the Health Human Resources Information of the PPSDM Agency of the Ministry of Health of the Republic of Indonesia As of December 31, 2020, the number of nurses in Central Java Province was 5370 people. In Surakarta, the number of nurses was 853 people as of December 31, 2020. Meanwhile, the data on nurses who practice Independent Nursing is only 7 people in the data

held by the Surakarta City Health Office related to the independent practice licensing process that was issued. The data obtained is reinforced by the statement of Yuli Muhammad Kartiko who said that the nurses in the city of Surakarta mostly practice independent outside the city of Surakarta, such as in Karanganyar, Boyolali, Sragen, and Sukoharjo, so for exact data from the PPNI DPD of Surakarta itself doesn't know it yet.

Table 1. Nursing Certificate Type

Type	Available (%)	Unavailable (%)
Ownership of D3/S1 Nursing Certificate	100%	-
Possession of Competency Certificate (Wound Care, Cupping, Circumcision)	100%	-

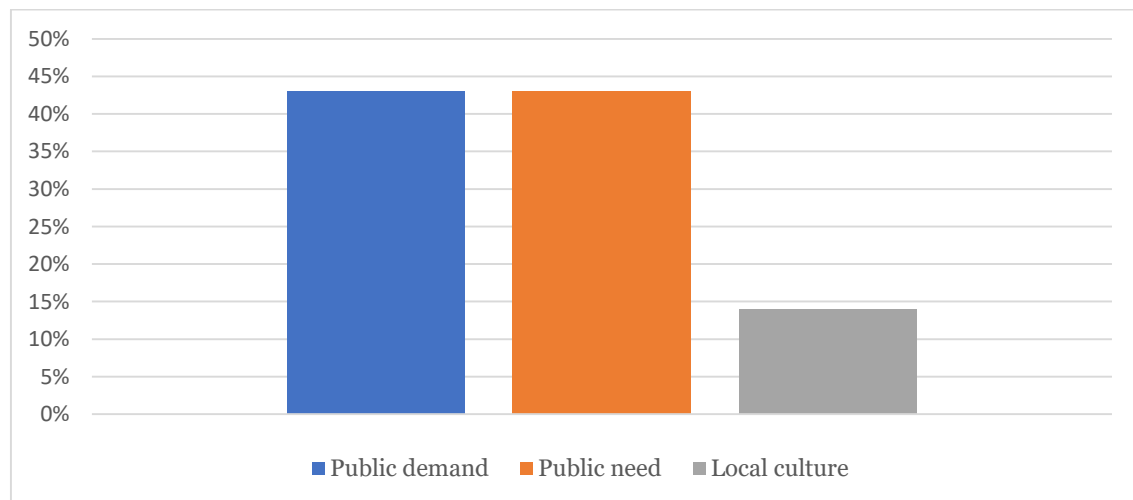


Figure 1. Reasons for Nurses Performing Invasive Actions

Table 2. Types of Invasive Actions Performed by Nurses

Invasive Action	Injection	Circumcision	Cupping	Acupuncture	Infusion Installation	Necrotomy
Nurse 1	✓	✓	✓		✓	✓
Nurse 2	✓					✓
Nurse 3	✓	✓			✓	✓
Nurse 4	✓					✓
Nurse 5	✓	✓			✓	✓
Nurse 6	✓					✓
Nurse 7	✓				✓	✓

DISCUSSION

Authority (authority, gezag) is formalized power both over a certain group

of people, as well as power over a certain area of government unanimously originating from legislative

power or from government power, while authority (competence, *bevoegdheid*) only concerns certain parts or certain fields. just. So authority is a collection of powers. Authority is the ability to carry out a public legal action or juridically, authority is the ability to act given by the applicable law to carry out legal relations. Whereas power itself is the ability to, in a social relationship, carry out one's own will despite resistance and whatever the basis of this ability (*macht beduuetet jede chance innerhalb einer soziale beziehung den eigenen willen durchzusetchen auch gegen widerstreben durchzustzen, gleichviel worauf diese chance beruht*) (de Raeve, 2002).

Authority is the power obtained by legal subjects on the basis of the ability they have to carry out such an authority, while the ability itself is closely related to competence. A person is called competent if he or she already has the skills to work in a particular field. From this point of view, competence is also defined as something that describes a person's qualifications or abilities, both qualitatively and quantitatively. Competencies are obtained from (1) formal education and (2) non-formal education (training, inheritance, and tradition).

Permenkes No. 26/2019 concerning Implementing Regulations of Law No. 38/2014 on Nursing explains the authority of nurses, namely (1) providing nursing care, (2) providing counseling and counseling, (3) managing nursing services, and nursing researchers.

Delegation of authority to perform medical actions from doctors can be in the form of delegation of delegated authority or mandate. The delegation of authority is mandated by medical personnel to nurses to perform a medical action under the supervision of medical personnel who delegate authority. Meanwhile, the delegated delegation of authority to carry out a medical action is given by medical personnel to nurses accompanied by the delegation of responsibilities.

Types of medical action in the delegation of authority by mandate include:

- 1) Provide parenteral therapy;
- 2) suturing the wound; and
- 3) Other medical actions in accordance with the competence of the nurse.

Types of medical action in the delegation of authority in a delegative manner include:

- 1) Install infusion;
- 2) Inject;
- 3) Basic immunizations; and
- 4) Other medical actions carried out in accordance with the competence of the nurse.

From the results and discussion above, it can be concluded that nurses have the authority to carry out invasive actions as long as these actions are used as alternative methods / choices that are incidental. The nurse's authority in carrying out invasive procedures is very limited, it can only be done if they have competence in the field of action. What has been done by the nurse aims to prevent complications and unwanted things from the patient being treated.

The situation of overmacht coupled with requests from patients/families themselves creates a law of engagement which gives birth to the authority to take invasive actions. Besides that, what the nurse did was an attributive order from Law no. 36/2009 concerning Health, which states that every person who does self-practice medicine is obliged to realize, maintain, and improve the health status of the community. This triggers the attachment of the principle of *lex superior derogate legi inferior* to nursing law, which means that Law no. 36/2009 must take precedence over the Permenkes No. 26/2009. In addition, there are no regulations regarding the prohibition of nurses from performing invasive actions, which has led to the growth of the principle of legality (*nullum delictum nulla poena sine praevia lege poenali*) in this type of nursing service.

FUNDING AND SPONSORSHIP

This International Proceedings article received a grant and full support from the Deputy for Strengthening Research and Development, Ministry of Education, Culture, Research and Technology in the amount of Rp. 19,700,000 which was maximized to complete research with the title "juridical analysis of invasive actions by nurses in independent nursing practice".

ACKNOWLEDGEMENT

The author would like to thank the Deputy for Strengthening Research and Development, Ministry of Education, Culture, Research and Technology for providing the Beginner

Lecturer Research Grant. Hopefully in the next opportunity the author can be given the trust again to continue this research.

The author also expresses his gratitude to Universitas Duta Bangsa Surakarta for helping and guiding the author to be able to access the Beginner Lecturer Research Grant from the Ministry of Education, Culture, Research and Technology.

CONFLICT OF INTEREST

The research output in the form of international proceedings is in accordance with the requirements that must be met according to the expectations of the Deputy for Research and Development Strengthening, Ministry of Education, Culture, Research and Technology and has been supported by a good and correct process during research. In addition, the researcher states that there are no political and social personal interests that can affect the overall objectivity of this research.

REFERENCES

- A'an E, Freddy P (2017). *Hukum Administrasi (Administrative Law)*, Jakarta: Sinar Grafika.
- BPPSDMK (2021). *Data Tenaga Kesehatan di Indonesia (Data on Health Workers in Indonesia)*. http://bppsdmk.kemkes.go.id/info_sdmk/info/.
- de Raeve L (2002). Medical authority and nursing integrity. *J Med Ethics*. 28(6). <http://dx.doi.org/10.1136/jme.28.6.353>.
- Gerardus G, Prio AS (2021). *Analisis Yuridis Kewenangan Perawat dalam Pengobatan Bekam Pada Praktik Keperawatan Mandiri*

- (Juridical Analysis of Nurse Authority in Cupping Treatment in Independent Nursing Practice). 5(3): 348-356. <http://dx.doi.org/10.36312/jisip.v5i3.2151>
- Gerardus G (2021). Perlindungan Hukum Tenaga Kesehatan Di Masa Pandemi Covid-19 (Legal Protection for Health Workers During the Covid-19 Pandemic). *Jurnal Ilmiah Ilmu Hukum QISTIE*. 14(2): 28-42. <http://dx.doi.org/10.31942/jqi.v14i2.5589>.
- Hapsara HR (2016). Penguatan Upaya Kesehatan Masyarakat dan Pemberdayaan Masyarakat Bidang Kesehatan di Indonesia (Strengthening Public Health Efforts and Community Empowerment in the Health Sector in Indonesia), Yogyakarta: Gadjah Mada University Press.
- Marbun (2012). *Hukum Administrasi Negara I (State Administrative Law I)*, Yogyakarta: FH. UII Press.
- Marbun (2015). *Peradilan Administrasi Negara dan Upaya Administratif di Indonesia (State Administrative Courts and Administrative Efforts in Indonesia)*, Yogyakarta: UII Press.
- Miriam B (2008). *Dasar-Dasar Ilmu Politik (Political Science Fundamentals)*, Jakarta: Gramedia Pustaka Utama.
- Nomensen S (2016). *Hukum Administrasi Negara (State Administrative Law)*, Jakarta: Jala Pertama Aksara.
- Nurcahyati, et al. (2017). Praktik Mandiri Perawat Sebagai Alternatif Solusi Masalah Kesehatan (Nurses' Independent Practice as an Alternative Solution to Health Problems) <https://www.kompasiana.com/tridi8789/58doeb8c357b6133199f9cea/praktik-mandiri-perawat-sebagai-alternatif-solusi-masalah-kesehatan-anda-sudahkah-anda-tau>.
- Peter MM (2015). *Pengantar Ilmu Hukum (Introduction to Law)*, Jakarta: Prenadamedia Group.
- Prio AS, Tatiana SW (2020). Juridical analysis of nurse authority in granting of red label drugs in the independent nursing practice. *SOEPRA*, 6(1): 70-80. <https://doi.org/10.24167/shk.v6i1.2603>
- Prio AS (2020). *Pengantar Hukum Administrasi Negara (Introduction to State Administrative Law)*, Yogyakarta: Pustaka Baru Press.
- Prio AS (2020). *Hukum Kesehatan (Suatu Pengantar Bagi Program Studi Sarjana Hukum) (Health Law (An Introduction to the Law Degree Study Program))*, Yogyakarta: Pustaka Baru Press.
- Prio AS (2022). Analisis Yuridis Tindakan Invasif Oleh Perawat Pada Praktik Keperawatan Mandiri (Juridical Analysis of Invasive Actions by Nurses in Independent Nursing Practice). *Jurnal Delima Harapan*, 9 (1). 37-50. <https://doi.org/10.31935/delima.v9i1.149>
- Prio AS, et al. (2022). Kajian Yuridis Tindakan Circumsisi Oleh Perawat Pada Praktik Keperawatan Mandiri (Studi Kabupaten Sidoarjo) (Juridical Study of Circumcision Actions by Nurses in Independent Nursing Practice (Sidoarjo District Study)). *Jurnal*

- Ilmu Sosial dan Pendidikan. 6(2): 3611-3625. <http://dx.doi.org/10.36312/jisip.v6i2.2816>.
- Ridwan HR (2003). Hukum Administrasi Negara (State Administrative Law), Yogyakarta: UII Press.
- Peraturan Menteri Kesehatan Nomor 290/Menkes/Per/III/2008 tentang Persetujuan Tindakan Kedokteran.
- Peraturan Menteri Kesehatan Nomor 26 Tahun 2019 tentang Peraturan Pelaksanaan Undang-Undang Nomor 38 Tahun 2014 Tentang Keperawatan.
- Undang-Undang Nomor 36 Tahun 2009 Tentang Kesehatan.
- Undang-Undang Nomor 36 Tahun 2014 tentang Tenaga Kesehatan.
- Undang-Undang Nomor 38 Tahun 2014 tentang Keperawatan.
- Sahya A (2018). Hukum Administrasi Negara (State Administrative Law), Bandung: Pustaka Setia.
- Sukendar et al. (2021). Juridical Review of Nurse's Legal Responsibility for Patient Safety in Self Nursing Practice. UNIFIKASI: Jurnal Ilmu Hukum, 8(2): 167-175. <https://doi.org/10.25134/-unifikasi.v8i2.2693>
- Sigalingging YE, Santoso APA (2021). Analisis Yuridis Pengaturan Sanksi Bagi Penolak Vaksinasi Covid-19. Juridical Analysis of Sanctions for Refusal of Covid-19 Vaccination JISIP. 5(3): 478-485. <http://dx.doi.org/10.36312/jisip.v5i3.2192>.