



## LEGAL ACCOUNTABILITY IN THE DELEGATION OF AUTHORITY FROM OBSTETRICIANS TO MIDWIVES IN MATERNAL AND CHILD HOSPITALS

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### ABSTRACT

According to Law No. 4 of 2019 concerning Midwifery, midwives are recognized as part of the health workforce, alongside physicians, who are authorized to provide medical services. In practice, midwives interact directly with both patients and other healthcare professionals during service delivery. In many instances, a delegation of authority from physicians, especially specialists, to midwives is necessary to ensure effective inter-professional collaboration. This study aims to know about legal accountability in the delegation of authority from obstetricians to midwives in maternal and child hospitals. The research employed a literature review design using a comprehensive strategy. Articles were sourced from international research journal databases accessed via the internet, specifically ScienceDirect, PubMed, and Google Scholar. All searches were conducted in May-June 2025, focusing on articles published between 2016 and 2024. The keywords used in this literature review were adapted from the Medical Subject Heading (MeSH) terms, including "legal accountability," "the delegation of authority from obstetricians to midwives," "maternal," and "legal and policy aspects." A total of 265 articles were identified, with 40 articles meeting the criteria and having full-text access, and 6 articles ultimately meeting the inclusion criteria. The findings of various juridical studies reveal two major themes concerning the delegation of authority from obstetrician-gynecologists to midwives within hospital settings: (1) the limitation of delegation authority, and (2) the lack of legal responsibility from both parties involved. The legal accountability involved in the delegation of authority from an obstetrician to a midwife encompasses three domains: civil liability, criminal liability, and administrative liability.

Keywords: delegation of authority; law; legal accountability; midwives; obstetrician

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## INTRODUCTION

Scientific knowledge is a fundamental component enabling healthcare professionals to perform medical actions for the benefit of patients, and it is primarily acquired through formal education (Wahyudi, 2011). With the rapid advancement of science and technology, the knowledge acquired must be continuously updated to remain relevant (Maskawati, Iswanti, & Misdar, 2018). The expertise possessed by medical doctors is distinct, particularly in its legal legitimacy, which allows them to perform invasive interventions on the human body with the purpose of preserving and improving health (Wahyudi, 2011). According to Law No. 4 of 2019 concerning Midwifery, midwives are recognized as part of the health workforce, alongside physicians, who are authorized to provide medical services (Undang-Undang No. 4 Tahun 2019). In practice, midwives interact directly with both patients and other healthcare professionals during service delivery (Damayanti, Mulyanti, & Poddar, 2023). In many instances, a delegation of authority from physicians, especially specialists, to midwives is necessary to ensure effective inter-professional collaboration (Assegaf, Mathius, & Mansyur, 2023). Article 23 paragraph (1) of the Minister of Health Regulation No. 2052 of 2011 on Medical Practice Licenses stipulates that any delegation of medical authority must involve a formal written agreement between the delegating party (the physician) and the delegate (the

midwife), clearly outlining the scope of delegated responsibilities (Kementerian Kesehatan RI, 2011; Maskawati et al., 2018).

A legal dilemma arises when such delegation leads to harm or loss (Suhelianah, Fauziah, & Fitriana, 2022). Ideally, the delegating physician should be exempt from legal liability if the harm results from the execution of delegated authority (Pattypeilohy, Sutarno, & Adriano, 2018). In such cases, full responsibility should lie with the midwife as the recipient of the delegation (Isnanto, 2021). However, in practice, physicians are still required to obtain formal declarations to exercise their authority, and there remains a prevailing perception among the public and legal experts that physicians continue to bear legal accountability for delegated actions (Ubassandrio et al., 2024). Shifting societal norms and changes in healthcare practice have also influenced the dynamics of interaction between physicians and midwives (Jefford, Nolan, & Jomeen, 2020). Legally, the relationship between the two can be categorized either as a referral or as a delegation of authority (Indar, 2017). In referral cases, midwives operate within the scope of their own professional discipline and clinical judgment (Suhelianah et al., 2022). However, in cases of delegation, midwives are restricted to acting strictly within the boundaries defined by the physician's instructions (Setyianta, 2018). Legal disputes involving physicians often arise due to patient dissatisfaction with medical services, particularly when treatment outcomes do not meet patient or family expectations (Flaga-Gieruszyńska et al., 2020). Such unsatisfactory outcomes are frequently interpreted by patients as professional negligence or error on the part of the physician (Arief Fakrulloh & Lubna, 2023).

In maternal and child hospitals, obstetricians cannot work in isolation and rely heavily on midwives as professional partners (Kilpatrick et al., 2019). Conversely, midwives are not permitted to perform certain procedures without a referral or delegation from an obstetrician, except in specific cases that fall within their defined scope of practice (Law No. 36/2014; Wahyudi, 2011). In hospital settings, midwives are frequently tasked with responsibilities that overlap with those of obstetricians, resulting in a blurring of professional boundaries and potential legal ambiguities regarding roles and responsibilities (Assegaf et al., 2023). According to Indar (2017), nearly 90% of midwives in hospitals perform activities that fall outside their formal scope of authority, often without written delegation from an obstetrician. Additionally, many obstetricians remain unaware of their legal responsibility, with approximately 80% of their duties being informally transferred to midwives, often without appropriate supervision (Indar, 2017). Such delegation of authority, particularly when lacking regulatory clarity or formal documentation, may lead to legal consequences if the midwife performs medical actions that are not explicitly authorized by current legislation (Damayanti et al., 2023). This situation increases the risk of legal conflict or medical disputes arising from the professional relationship between physicians and midwives and their shared responsibility for patient care (Ubassandrio et al., 2024).

With the rapid development of information and technology, especially in healthcare, legal awareness among the public is also increasing (Yang & Kozhimannil, 2015). In everyday practice, it is not uncommon for physicians to assign responsibilities to midwives without fully understanding the potential legal implications (Russell, 2018). A lack of awareness among doctors regarding the legal consequences of such delegation and the associated liabilities continues to pose challenges in professional accountability within the healthcare system (Maskawati et al., 2018). This study aims to know about legal accountability in the delegation of authority from obstetricians to midwives in maternal and child hospitals.

## METHOD

### Identify The Research Question

The research question investigated in this literature review was: What is known in the existing literature about legal accountability in the delegation of authority from obstetricians to midwives in maternal and child hospitals? This research question was intentionally broad to align with the purpose of the literature review, which aimed to include multiple concepts and provide researchers with a deeper understanding of legal accountability in the delegation of authority from obstetricians to midwives in maternal and child, focusing on legal and policy aspects.

### Identify Relevant Studies

The research employed a literature review design using a comprehensive strategy. Articles were sourced from international research journal databases accessed via the internet, specifically ScienceDirect, PubMed, and Google Scholar. All searches were conducted in May-June 2025, focusing on articles published between 2016 and 2024. The keywords used in this literature review were adapted from the Medical Subject Heading (MeSH) terms, including "legal accountability," "the delegation of authority from obstetricians to midwives," "maternal," and "legal and policy aspects."

### Study Selection

The initial search yielded 265 results, of which 5 were duplicates. Hand-searching relevant journal articles added one unique article. Of the 260 remaining results, 40 were retained after a title and abstract review. Following a full-text review, 6 articles were included in the study. A PRISMA flowchart outlining the search process is presented in Figure 1. Articles were included if they met all the following criteria: 1) peer-reviewed journal articles, 2) legal accountability, (3) the delegation of authority from obstetricians to midwives, (4) legal frameworks related to delegation of authority, and 5) empirical studies of any design, including qualitative, quantitative, or mixed method. Exclusions were articles not in the delegation of authority from obstetricians to midwives, and were solely about students or existing literature reviews.

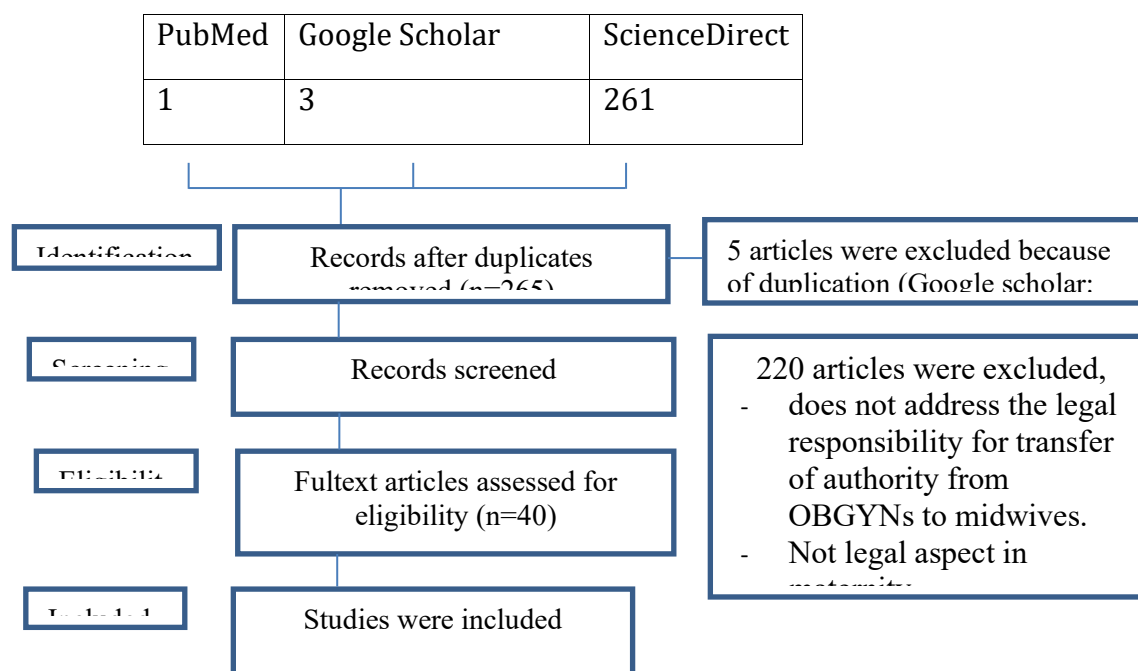


Figure 1. Literature Search Flow Chart Diagram

No date limits were applied to include all relevant literature. The database search and hand-searching were conducted by one reviewer (R.C-D). Title and abstract reviews, as well as full-text reviews, were conducted independently by two reviewers (R.C-D. and I.K-N.), with any conflicts resolved by consensus or a third reviewer (N.K-S). A minimum of two reviewers participated in each stage to reduce bias.

**Charting the Data**

Data in the literature review were logically and descriptively charted, ensuring relevance to the research question. A form for charting data was developed based on the study by Peters et al. [15], which suggested extraction fields for systematic literature reviews. Table 1 lists the included articles and the extracted data. From these data, two themes were identified, limitation of Delegation of Authority from Obstetrician-Gynecologists to Midwives, and Lack of Legal Responsibility of Obstetrician-Gynecologists and Midwives in Hospitals. These themes were recurrent across the articles and relevant to the research question. Charting and theme identification were conducted by a single author (R.C-D). Note that the total number of themes exceeded the number of included articles, as most articles addressed multiple themes.

**Collating, Summarising, and Reporting the Results**

The 6 identified articles focused on legal accountability in the delegation of authority from obstetricians to midwives in maternal and child hospitals. One article on clinical practice and five studies employed a normative juridical legal research. There was a good distribution of international sources, covering two countries. Indonesia contributed the highest number of studies (5), followed by India (1). The remaining countries each contributed one study, as summarized in Table 1.

Table 1.  
Studies selected for inclusion and extracted data

Author, Place	Year	Objective	Methods	Outcome
Damayanti et al	2023	The 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.	The study uses normative juridical analysis with secondary data sources, involving a literature review of legal materials and qualitative normative analysis of primary and secondary legal data.	<ul style="list-style-type: none"> <li>- The delegation of authority from physicians to midwives is based on a mandate from doctors and requires ongoing monitoring and evaluation.</li> <li>- The responsibility for this delegation rests with healthcare institutions, with physicians conferring authority and midwives executing it.</li> <li>- The analysis of criminal liability for malpractice involves both physicians and midwives, indicating a shared responsibility.</li> </ul>
Lastini et al,	2020	To examine the form of legal protection for the midwife profession in connection with the delegation of authority in carrying out medical actions.	The study uses a normative juridical research approach to examine the form of legal protection for midwives in the delegation of authority for medical actions.	<ul style="list-style-type: none"> <li>- The study examines the form of legal protection for midwives in relation to the delegation of authority in medical actions.</li> <li>- There are gaps in the operational management of hospitals regarding the delegation of authority for medical procedures.</li> <li>- Allegations of abuse of authority can lead to civil and criminal lawsuits.</li> </ul>
Setyianta	2018	To analyze the provisions of the medical act	- Juridical Normative approach - Type of research: Preskripsi - Data sources:	- The study analyzes the delegation of authority from doctors to midwives in obstetric and neonatal

	related to the delegation of authority by doctors to midwives.	Primary and Secondary Data - Data collection: Study of librarianship - Analysis: Normative Qualitative	emergency services. - Due to a shortage of doctors, midwives are often required to perform tasks that are not within their legal authority. - Many medical services are carried out by nurses/midwives due to the inability of doctors to fully implement these services, despite midwives lacking legal authority to do so.
(Susiswo dan Wulan, 2023)	To discuss more deeply the legal protection for midwives who carry out medical procedures at Kebonjati Hospital in Bandung.	Legal research normative study using primary and secondary legal material sources	Legal protection for midwives performing medical procedures, authority of midwives in carrying out their jobs, protection conducted by the Indonesian Midwives Association (IBI), review and legal assistance in case of violations.
(Assegaf., et al, 2023)	To understand the legal responsibility for the delegation of authority from specialist obstetricians to midwives in hospitals, focusing on civil, criminal, and administrative liability.	The study uses a normative legal research methodology supported by empirical data, combining legal analysis with real-world data to examine the delegation of authority from specialist doctors to midwives.	- The roles of obstetric specialists and midwives are crucial for patient care. - Legal responsibility for delegation involves civil, criminal, and administrative liability. - A significant percentage of midwives perform tasks outside their authority without written delegation, and there is a lack of awareness among obstetric specialists about their responsibilities.
(D. Habek, 2019)	- To discuss the importance of medico-legal responsibility in managing acute and chronic pain in obstetrics. - To emphasize the need for proper information and education of healthcare professionals to reduce legal issues. - To highlight the importance of respecting perinatal pharmacology and toxicology principles for safe treatment. - To ensure patient safety through proper presentation of treatment options.	The methodology involves following good clinical practice, reducing side effects, proper education of healthcare professionals, use of various treatment modalities (medication, acupuncture, surgery, neural blockade), and emphasis on patient safety and informed consent.	- Medico-legal responsibility in obstetric pain management involves adhering to good clinical practice and minimizing side effects. - Patients should be informed about treatment methods, side effects, and impacts on fetal development. - The management of pain should respect perinatal pharmacology and toxicology principles, using minimally invasive procedures.

## RESULT

The findings of various juridical studies reveal two major themes concerning the delegation of authority from obstetrician-gynecologists to midwives within hospital settings: (1) the limitation of delegation authority, and (2) the lack of legal responsibility from both parties involved.

### 1. Limitation of Delegation of Authority

The delegation of medical authority from obstetrician-gynecologists to midwives is constrained by the existing legal and regulatory frameworks. According to Indonesian health law and professional regulations, midwives are only permitted to perform medical procedures within the scope of their competency and licensure. However, due to systemic challenges such as limited human resources, especially in emergency and maternal care units, midwives are often compelled to carry out tasks that exceed their legal authority. These actions are frequently conducted without formal written delegation from physicians, leading to an ambiguous legal status. The absence of clear operational guidelines and documentation procedures in hospitals exacerbates the risk of unauthorized practice and increases the potential for legal disputes.

### 2. Lack of Legal Responsibility

A recurrent issue identified in the studies is the insufficient awareness and implementation of legal responsibility by both obstetrician-gynecologists and midwives in the context of delegated medical acts. Many obstetricians are unaware of the legal implications of delegating authority without adequate supervision or formal documentation. Consequently, they often fail to provide the necessary oversight, exposing both themselves and midwives to potential legal liability. On the other hand, midwives who perform medical procedures beyond their scope of practice, even under informal or verbal delegation, are at risk of being held accountable for medical malpractice. The lack of institutional mechanisms to monitor, evaluate, and enforce the delegation process results in fragmented responsibility and weakens the legal protection of both professionals. This condition underscores the urgent need for hospitals to establish clear legal and administrative protocols to govern the delegation of authority and delineate the scope of accountability for each professional role.

Midwife-led care for low-risk pregnancies has been shown to reduce unnecessary interventions and improve maternal and neonatal outcomes compared to obstetrician-led care (Sriram et al., 2024). However, the legal responsibility and authority of midwives vary across healthcare systems. In Indonesia, midwives have limited authority and require legal protection when performing certain procedures (Suhelianah et al., 2022; Susiswo & Wulan, 2023). The delegation of authority from doctors to midwives must be in writing to have legal force (Pattypeilohy et al., 2018). Hospitals can be held legally responsible for negligence by healthcare workers (Fakrulloh & Lubna, 2023). Historically, the medicalization of childbirth has shifted control from midwives to male physicians (Vernon, 2015). To improve patient safety and outcomes, some hospitals have developed collaborative models integrating home birth midwives into the larger maternity care system (Neilson, 2015). Midwives may be liable for patient losses under consumer protection laws (Bidja, 2021).

## DISCUSSION

### *Limitations of Delegation of Authority from Obstetrician-Gynecologists to Midwives*

In the practice of medicine, physicians inevitably collaborate with other healthcare professionals, including midwives, particularly in maternal and child hospitals (King, 2015; Bernitz et al., 2016). While the primary responsibility of physicians lies in the diagnosis, treatment, and recovery of patients, there is no legal distinction between general practitioners and specialists in terms of their professional accountability (Damayanti, Mulyanti, & Poddar,

2023). The distinction lies in their clinical competencies, with obstetrician-gynecologists being specifically trained and authorized to perform procedures within the fields of obstetrics and gynecology (Assegaf, Mathius, & Mansyur, 2023; Damayanti et al., 2023). Generally, the contractual terms between a physician and a patient are not explicitly stipulated in written agreements but are assumed to be governed by the ethical standards and professional conduct expected of physicians (Indar, 2017). Within this framework, patient information is interpreted as a generalized understanding accessible to all patients, reinforcing the physician's central role in healthcare service delivery (Wahyudi, 2011). Physicians, particularly in hospital settings, cannot operate in isolation and depend heavily on the collaborative support of nurses, midwives, and other healthcare personnel (King, 2015). In maternal and child hospitals, obstetrician-gynecologists and midwives are most directly involved in patient care (Damayanti et al., 2023). Their interaction with patients can be described as therapeutic relationships that entail specific rights and obligations between the physician, midwife, and patient (Maskawati, Iswanty, & Misdar, 2018).

In cases where physician availability is limited, midwives may be required to perform medical interventions that exceed their independent scope of practice (Suhelianah, Fauziah, & Fitriana, 2022). Such actions are often undertaken based on instructions or authorization from a physician (Assegaf et al., 2023). This practice of delegated authority is commonly accepted in clinical settings and affects both midwifery and medical practices (Setyianta, 2018). Delegation, in this context, refers to the formal transfer of certain healthcare responsibilities from a physician to a midwife (Damayanti et al., 2023). According to the Indonesian Ministry of Health Regulation No. 2052/MENKES/PER/X/2011 on Licensure and Implementation of Medical Practice, Article 23(1) states that: "Physicians and dentists may delegate medical or dental procedures to nurses, midwives, or other health workers in writing" (Kementerian Kesehatan RI, 2011; Maskawati et al., 2018). Under certain circumstances, specific diagnostic and therapeutic procedures may be delegated to midwives (Pattypeilohy, Sutarno, & Adriano, 2018). However, it is crucial to note that the ultimate responsibility remains with the delegating physician (Assegaf et al., 2023).

The midwife, on the other hand, assumes responsibility for the execution of the delegated tasks, provided they possess the necessary training and competencies (Suhelianah et al., 2022). (1) The delegation of medical authority must meet specific legal criteria based on existing competencies and comply with prevailing laws and regulations (Kementerian Kesehatan RI, 2011). (2) The delegated task must fall within the recipient's competencies and skills (Maskawati et al., 2018). (3) The execution of the delegated task must remain under the supervision of the delegator (Assegaf et al., 2023). (4) The delegator retains responsibility for the delegated task as long as it is performed in accordance with the delegated instructions (Damayanti et al., 2023). (5) The delegated task must not include independent clinical decision-making (Suhelianah et al., 2022). (6) The delegation must not be continuous in nature (Setyianta, 2018). It is essential for obstetrician-gynecologists to thoroughly understand a midwife's qualifications and limitations before delegating tasks (Hollander & van Dillen, 2016). Midwives' professional scope is governed by Ministry of Health Regulation No. 1464 of 2010 on Licensing and Implementation of Midwifery Practice (Kementerian Kesehatan RI, 2010). The updated Midwifery Act (Law No. 4 of 2019), specifically Article 53, delineates two types of delegation: mandated and delegative (Suhelianah et al., 2022; Lastini et al., 2020).

Mandated delegation involves direct assignment from a physician to a midwife based on competency, with legal responsibility remaining with the physician (Assegaf et al., 2023). In contrast, delegative delegation refers to authority granted to midwives by government bodies (central or regional), and both types of delegation must be based on clear statutory

authorization (Damayanti et al., 2023). A valid delegation requires that the delegator indeed possesses the authority under constitutional or legislative frameworks (Setyianta, 2018). Similarly, in administrative law, authority can stem from either attribution or delegation (Indar, 2017; Setyianta, 2018). Attribution refers to authority derived directly from legislation or the constitution, allowing a body to independently create regulations (Indar, 2017). Delegation, however, involves a legally authorized body transferring part of its regulatory power to another body (Setyianta, 2018). In the medical context, delegation of authority from a specialist to a midwife must respect the boundaries of each profession's competencies and follow legal statutes (Suhelianah et al., 2022). A midwife may only perform specific delegated procedures if they have undergone relevant training (Jefford, Nolan, & Jomeen, 2020).

### ***Lack of Legal Responsibility of Obstetrician-Gynecologists and Midwives in Hospitals***

Hospitals are healthcare institutions that provide comprehensive services, including inpatient, outpatient, and emergency care (Arief Fakrulloh & Lubna, 2023). According to the Indonesian Hospital Association (PERSI), hospitals serve as an integral component of the national health system, tasked with delivering equitable health services to the public (Wahyudi, 2011). Maternal and child hospitals, in particular, are facilities focused on diagnosing, treating, and caring for women and children, both as inpatients and outpatients (Kilpatrick et al., 2019). Healthcare delivery involves a binding legal relationship between healthcare professionals and patients (Indar, 2017). This relationship establishes legal norms that govern the conduct and responsibilities of both parties (Maskawati, Iswanty, & Misdar, 2018). In this relationship, medical delegation from physicians to healthcare workers, such as midwives, restricts the latter from making autonomous decisions (Setyianta, 2018). They must adhere strictly to the instructions of the delegating physician (Suhelianah, Fauziah, & Fitriana, 2022).

The legal framework governing these relationships includes Law No. 36 of 2014 on Health Workers, particularly Article 65, which specifies that midwives may not act independently without a physician's instruction, except in general areas explicitly recognized as within the midwife's professional domain (Undang-Undang No. 29 Tahun 2004; Wahyudi, 2011). Legal accountability in hospitals can be categorized as follows: (1) Vicarious liability – responsibility for errors committed by subordinates (2) Personal liability – individual responsibility for one's own professional conduct (3) Respondent liability – shared or joint responsibility (4) Corporate liability – institutional responsibility borne by the healthcare facility (5) Administrative liability – obligations tied to compliance with regulatory frameworks (Franchuk et al., 2023; Indar, 2017; Arief Fakrulloh & Lubna, 2023; Wahyudi, 2011; Maskawati et al., 2018). Legal accountability for both physicians and midwives may arise under civil, criminal, and administrative law (Suhelianah et al., 2022). In civil law, liability may result from either unlawful acts (Article 1365, Indonesian Civil Code) or breach of contract (Article 1239) (Peraturan Perundang-Undangan KUHPERdata, 2008). Failure to respect patients' rights may constitute a civil offense (Isnanto, 2021). Both physicians and midwives are obliged to uphold patient rights (Jefford, Nolan, & Jomeen, 2020). For instance, if an obstetrician fails to obtain informed consent, or a midwife discloses patient confidentiality, both may be held legally accountable and may be subject to lawsuits (Arief Fakrulloh & Lubna, 2023).

Under criminal law, liability is principally personal (Pattypeilohy, Sutarno, & Adriano, 2018). If a midwife knowingly engages in an unlawful act based on a physician's order, the physician may also bear criminal liability (Damayanti, Mulyanti, & Poddar, 2023). Furthermore, if both practitioners are hospital employees, the hospital may be subject to criminal penalties, including fines, under Article 46 of Law No. 44 of 2009 on Hospitals

(Undang-Undang No. 44 Tahun 2009). Administrative liability arises when healthcare professionals breach administrative regulations (Maskawati et al., 2018). Physicians are governed by Law No. 29 of 2004 on Medical Practice, while midwives are governed by Law No. 4 of 2019 on Midwifery (Suhelianah et al., 2022). A key administrative requirement is the possession of a valid license to practice (Surat Izin Praktik) (Maskawati et al., 2018). Administrative law regulates the legal competence and authority of government actors, including their right to oversee and restrict professional practice (Indar, 2017). Health workers must operate within their authorized scope of practice (Wahyudi, 2011). Educational qualifications, licensing requirements, and compliance with regulatory frameworks all fall under administrative responsibilities (Pattypeilohy et al., 2018). Thus, physicians and midwives possess different levels of competence and authority, and both must hold practice licenses in the same facility for valid delegation to occur (Maskawati et al., 2018). If either party lacks a valid practice license at the facility where delegation occurs, this constitutes administrative malpractice, subject to administrative sanctions (Maskawati et al., 2018; Pattypeilohy et al., 2018).

## **CONCLUSION**

The roles of obstetricians and midwives are critically important in patient care, particularly within maternal and child health services. However, due to the limited availability of medical personnel, it is sometimes necessary for obstetricians to delegate certain medical procedures to midwives. The scope of medical practice, particularly when medical authority is delegated to midwives, is strictly governed by statutory regulations that delineate the respective competencies and responsibilities of each profession. The legal accountability involved in the delegation of authority from an obstetrician to a midwife encompasses three domains: civil liability, criminal liability, and administrative liability. If errors occur in the provision of medical services as a result of such delegation, both the obstetrician and the midwife may be held legally responsible in accordance with their respective roles and obligations.

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