



## Legal Protection of Midwives in Providing Health Services at Village Health Post

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### Abstract

*This study aims to identify and analyze the legal protection arrangements for midwives who work in the Poskesdes (Village Health Post) Majene Regency as well as the forms of implementation of legal protection for midwives who work in the poskesdes. The research method used is empirical research. The research location is in Majene Regency with a total sample of 41 poskesdes with regular categories spread over 8 districts, the types and sources of legal materials used are primary and secondary legal materials. Collection techniques through interviews, direct observation and literature study and then analyzed qualitatively and described to describe, describe and explain the results of the research. The author concludes that the implementation of health services at the poskesdes has not provided legal protection to midwives because midwives still carry out services that are not their authority and competence as a midwife. The implementation of legal protection through the delegation of authority is not in accordance with the regulations, the existing Standard Operating Procedures are not in accordance with the conditions of the Poskesdes facilities and the guidance and supervision system for midwives has not been maximally implemented.*

## Introduction

Health is a human right in a person. This means that everyone has the same right to access health services. The quality of health services that are safe, quality and affordable is the right of the whole community. Law no. 36 of 2009 Article 19 of Law No. 36 of 2009 concerning Health states that: The government is responsible for the availability of all forms of quality, safe, efficient and affordable health efforts for the community. To fulfill the responsibilities of the government, a health service facility that is relatively affordable to the general public is made, namely the Puskesmas (Community Health Center).

In its implementation, the Puskesmas has a working area covering one sub-district or half of the sub-district area. To expand the reach of health services, puskesmas need to be supported by a simpler health service unit. Article 58 paragraph (1) Minister of Health Regulation No. 43 of 2019 concerning Puskesmas explains that in order to create a healthy health center work area, the Puskesmas is supported by the Puskesmas service network and the Puskesmas network. Poskesdes is one of the Puskesmas networks formed to bring daily basic health services closer to the community in the village as well as a means to unite community health efforts and government support. Poskesdes services include promotional, preventive and curative efforts in accordance with their authority which are carried out by health workers (especially midwives) by involving health cadres.

Midwives as service providers at Poskesdes in carrying out health services are entitled to legal protection in accordance with Article 21 paragraph (1) of the Health Law, which explains that

"Health workers are entitled to legal compensation and protection in carrying out their duties according to their profession" and Article 57 of Law no. 36 of 2014 concerning Health Workers, which will be abbreviated to (Law on Health Workers) explains that "In carrying out their practice, health workers are entitled to legal protection as long as they carry out their duties in accordance with professional standards, professional service standards and standard operating procedures"

In providing health services to people in rural areas, the burden of the midwife profession is very heavy. Midwives must carry out activities that support the implementation of services, especially essential public health enterprises (UKM) carried out by primary health centers and first-level individual health businesses (UKP), especially outpatient care. First-level public health enterprises (UKM) and first-level individual health businesses (UKPs) must be organized to achieve Regency/city minimum service standards in the health sector, the Healthy Indonesia Program and the performance of Puskesmas in administering National Health Insurance (Puspitasari, 2019).

In carrying out service efforts at the Poskesdes, due to the lack of a doctor's profession in rural areas, midwives intervene in the medical field which should be the authority of doctors such as conducting patient examinations, diagnosing diseases and administering drugs according to patient complaints. The community does not want to know and will not tolerate if there is no service and they still tolerate it even though the one serving is not a doctor. This often occurs due to cost factors, easily accessible places or other factors. This is a dilemma for midwives in providing services to the community, especially those assigned to the poskesdes (Village Health Post). Therefore, based on the above background, the researchers are interested in conducting research on legal protection of midwives in providing health services at Poskesdes (Village Health Post).

## **Methods**

This study uses empirical research methods. The approach method used in this study is a statutory approach (statute approach) and a conceptual approach (Marzuki, 2005). The research was conducted in 41 Poskesdes with regular categories with 41 village midwives in 8 (eight) Districts, namely Banggae District, Banggae Timur District, Pamboang District, Sendana District, Tammerodo District, Tubo Sendana District, Malunda District and Ulumanda District. Working area of 10 Puskesmas in the working area of the Majene Regency Health Office

## **Results and Discussion**

Legal protection is a protection given to the subject of law in the form of a legal device both preventive and repressive, both written and unwritten. Legal protection is an illustration of the function of the law is a concept where the law can provide justice, order, certainty, benefit and peace (Indar, 2017).

According to Panggabean, (2018) A protection can be said as legal protection if it contains the following elements: (1) the existence of a government investigation of its citizens; (2) provide assurance of legal certainty, (3) Relating to the rights of citizens, (4) The existence of legal sanctions against parties who violate.

Village Health Post abbreviated as Poskesdes is a Community-Sourced Health Effort (UKBM) formed in the village in order to bring closer / provide basic health services to the village community. Poskesdes (Village Health Post) was formed as an effort to bring closer basic health services every day to the community in the village as well as a means to bring together community efforts and government support of the Ministry of Health of the Republic of Indonesia. Midwife as a service executor in Poskesdes is a person who has undergone a

midwife education program, which is recognized by the country of residence, and has successfully completed studies related to midwifery and meets the requirements to be registered and / or have formal permission for midwife practice (Mamik, 2014).

Village midwives who practice at the Poskesdes base on their authority are regulated in Law No. 36 of 2014 concerning health workers, Law no. 4 of 2019 concerning Midwifery and Minister of Health Regulation No. 28 of 2017 concerning licensing and implementation of midwife practices. In order not to violate or exceed their authority, midwives must comply with this regulation because they have legal force to bind the midwife profession. Midwife competence is the ability of a midwife which includes knowledge, skills, and attitudes to provide midwifery services. The competence of midwives is regulated in the decree of the minister of health Number 369 / MENKES / SK / II / 2007 concerning Midwife Professional Standards. Midwifery services focus on prevention, health promotion, help with normal delivery, detection of complications in mothers and children, carrying out the care in accordance with authority or other assistance if needed and taking emergency measures.

Legitimate authority when viewed from the source where the authority was born or obtained (Zartman, 1995; Ali, 2002; Karp, 2009). There are three categories of authority, namely attribute authority, mandate authority and delegation authority. The attribute authority is usually outlined or derived from the division of state power by the constitution. Another term for what is not distributed to anyone. In the authority of the attributes, the implementation is carried out by the official or agency itself as stated in the basic regulations. The mandate authority is the authority that comes from the process or procedure of delegation from a higher official or agency to a lower official or agency. Mandate authority resides in the routine relationship between superiors and subordinates. Delegative authority is the authority that comes from the delegation of an organ of government to another person on the basis of statutory regulations. In contrast to the authority of the mandate in the delegating authority, responsibility and accountability are transferred to those given the delegation of authority or shift to the delegation (Russell, 1991).

In addition to the authority to provide maternal health services, female reproductive children and family planning midwives also have the authority stipulated in Law Number 4 of 2019 concerning Midwifery Article 46 paragraph (1), namely providing services for the implementation of tasks based on the delegation of authority; and / or implementation of tasks under certain limitations. The delegation of authority in question is the delegation of authority mandated and delegated (Jamillah et al., 2018).

The mandate delegation of authority is regulated in Law Number 4 of 2019 concerning Midwifery Article 54 paragraph (1) The delegation of authority is mandated by doctors to midwives according to their competence. Paragraph (2) The delegation of authority as mandated as referred to in paragraph (1) must be done in writing.

The midwives on duty at the Poskesdes all provide services that are not a midwife or a medical authority. The services provided are general medical services (examining, diagnosing, pharmaceutical services), handling minor wounds and sewing wounds. The exercise of medical authority is not accompanied by a written delegation of authority and is only given orally. The implementation of medical authority for midwives at Poskesdes is made into the job description of the midwife which is signed by the Head of the Puskesmas to become the main activity of the midwife at the Poskesdes "Implementing the delegation of authority from doctors in medical services"

The delegation of authority referred to is the delegation of authority mandated by doctors. The provisions for the delegation of health service actions mandated by doctors are regulated in the

Minister of Health Regulation Number 28 of 2017 Article 27 paragraph (3), namely: (Lastini et al., 2020): (a) The actions that are delegated are included in the competencies that have been owned by the midwife receiving the grant; (b) The implementation of the delegated action remains under the supervision of the granting physician; (c) The actions bestowed do not include taking clinical decisions as the basis for the implementation of the action; and (d) The actions of bestowed are not continuous.

Based on interviews with the head of the health center implementation of medical services, the handling of minor injuries and sewing wounds are carried out in poskesdes (Village Health Post) because it is an essential service that must exist in health care facilities namely Individual Health Business (UKP) in the Regulation of the Minister of Health No. 43 of 2019 on Public Health Centers article 51. If they do not carry out medical services, handling minor injuries and sewing wounds, the health center will have complaints from the community, community leaders and the village and village governments. Because there are no medical personnel assigned in the countryside and medical personnel who are in the health center at most 2 (two) people and must provide outpatient and inpatient services in the health center, the midwives who served in the poskesdes are given the authority to perform treatment services, handling minor injuries and sewing wounds.

Midwives are recognized as responsible and accountable professionals, who work as female partners to provide support, care and advice during pregnancy, childbirth and maternity leave, lead childbirth on their own responsibility and provide care to newborns, and infants. This care includes prevention efforts, promotion of normal childbirth, detection of complications in mothers and children, and access to appropriate medical assistance or other assistance, as well as carrying out emergency measures (Anggraini, 2018). In the Regulation of the Minister of Health No. 43 of 2019 concerning Public Health Centers article 54 paragraph (1) of the first level of individual health businesses (UKP) as referred to article 51 is implemented by doctors, dentists, and primary care doctors and other Health Workers in accordance with their competencies and authorities in accordance with the laws and regulations. The implementation of medical services, handling minor injuries and sewing wounds is not the competence of midwives so it does not meet the criteria for granting authority by mandate.

Delegative delegation of authority is stipulated in Law No. 4 of 2019 on Midwifery Article 55 outlining that the delegation of authority is delegated by the Central and Local Governments. Delegative delegation of authority is accompanied by the delegation of responsibility. The delegation of authority in the framework of the implementation of tasks in certain circumstances of limitations and government programs. Implementation of delegation of authority in the framework of the implementation of tasks within certain limitations in Law No. 4 of 2019 on Midwifery article 56 paragraph (1) The implementation of duties in certain limited circumstances as referred to in article 46 paragraph (1) letter e is a government assignment carried out in the absence of medical personnel and or other health workers in an area where midwives are on duty. (2) The absence of medical personnel and/or other health workers as referred to in paragraph (1) shall be stipulated by the Regional Government. (3) The implementation of duties in certain limited circumstances as referred to in paragraph (1) shall be carried out by midwives who have attended the training by paying attention to the competence of midwives.

The implementation of medical services, handling minor injuries and sewing wounds if categorized in the implementation of tasks within certain limitations are not qualified because of medical services, handling minor injuries and sewing wounds and there is no determination from the local government about the state of health workers in each village in the working area

of majene reGENCY and the service is still carried out by midwives in the poskesdes even in the village where they are located or in the neighboring village where they work there are nurses.

In the technical guidelines for the development and implementation of village health posts health services held poskesdes include promotional efforts, preventive without prejudice curative efforts (treatment) in accordance with the competence of health workers in poskesdes. In the implementation of medical services in poskesdes is the authority of nurses. In Law No. 38 of 2014 on Nursing article 29 paragraph (1) In conducting nursing practice, nurses serve as letter f executor of duties within certain limitations. The implementation of duties within certain limitations referred to in article 29 letter f is stipulated in Law No. 38 of 2014 on Nursing article 33 and Regulation of the Minister of Health No. 26 of 2019 on Nursing Article 30. The implementation of tasks within certain limitations is a government assignment carried out in the state of no medical personnel and pharmaceutical personnel in an area where nurses are on duty. The absence of medical personnel and /or pharmaceutical personnel in an area where nurses are on duty is determined by the Head of the Health Office Regency / City. In carrying out the task in certain limited circumstances the nurses are authorized to: (a) Carry out treatment for common diseases in the case of no medical personnel. (b) Refer patients in accordance with the provisions of the referral system. (c) Doing pharmaceutical services on a limited basis in the case of no pharmaceutical personnel.

From the description above if the Puskesmas (Community Health Center) want to carry out medical services in poskesdes (village Health Post) can use nursing personnel assigned in the village poskesdes area is located. In terms of procurement of health workers if there are budget constraints at the district/city health office health center can cooperate with the village government in terms of procurement of nurses. From the results of research from 41 (forty-one) poskesdes that exist as many as 16 (sixteen) poskesdes or 39.0% have midwives abdi village who procure through the village budget. From the description above if the Puskesmas (Community Health Center) want to carry out medical services in poskesdes can use nursing personnel assigned in the village poskesdes area is located. In terms of procurement of health workers if there are budget constraints at the Regency/city health office health center can cooperate with the village government in terms of procurement of nurses. From the results of research from 41 (forty-one) poskesdes that exist as many as 16 (sixteen) poskesdes or 39.0% have midwives abdi village who procure through the village budget. In the technical guidelines for the development and implementation of village health posts mention the fulfillment of health workers poskesdes initially can be done with the help of the local government, and subsequently carried out gradually by the community itself. It is expected that health workers who help poskesdes domiciled in the local village.

The implementation of government programs is regulated in Law No. 4 of 2019 on Midwifery Article 57 explaining the government program is the assignment of the Central Government or Local Government to conduct government programs. The government program in question is carried out by midwives who have attended the training by paying attention to the competence of midwives. The training was conducted by the Central Government and or Local Government by involving Midwives Professional Organization and/or related professional organizations organized by accredited institutions.

Midwives in carrying out authority based on government programs and authority due to the absence of other health workers in an area where midwives are in charge must get a decree from the Head of the Regency/city Health Office described in the Regulation of the Minister of Health No. 28 of 2017 Article 23 paragraph (5) Midwives who are authorized as referred to in paragraph (1) must get the determination from the head of the regency/city health office.

What is meant by the authority in paragraph (1) is authority based on government programs and authority because there are no other health workers in an area where midwives are on duty.

Authority based on government programs is stipulated in Regulation of the Minister of Health No. 28 of 2017 Article 25 paragraph (1) Authority based on government programs as referred to in Article 23 paragraph (1) letter a, including: (a) Provision of contraceptive services in the womb and contraceptives under the skin; (b) Antenatal care is integrated with special interventions of certain diseases; (c) Handling sick infants and toddlers in accordance with established guidelines; (d) Provision of routine and additional immunizations in accordance with government programs; (e) Fostering community participation in the field of maternal and child health, school-age children and adolescents and environmental health; (f) Monitoring the growth of infants, toddlers, preschoolers and schoolchildren; (g) Carry out early detection, referencing and counseling on Sexually Transmitted Infections (STIs) including condom feeding and other diseases; (h) Prevention of Narcotics Abuse, Psychotropics and other Addictive Substances (NAPZA) through information and education; and (i) Carry out community midwifery services of the 41 midwives who served in poskesdes as many as 32 midwives or 78.0% exercised authority based on government programs and there were 9 midwives did not exercise authority based on government programs or 22.0%. Midwives who do not exercise authority based on government programs because they have not attended the training related to the government program.

Types of government program services provided by 32 midwives in Poskesdes are Installation of IUD Implants as many as 19 midwives or 59.4%, Routine Immunization Services in Posyandu as many as 19 midwives or 59.4% and MTBS services as many as 12 midwives or 37.5%.

Midwives in Poskesdes who carry out the service of installation of contraceptive devices in the uterus IUD and contraceptives under the skin (Implant) who have attended the training CTU (Contraceptive technology Update) as one of the conditions for midwives to provide IUD and Implant contamination services as many as 15 midwives or 78.9%. There are 4 midwives or 21.1% who perform the service of installation of contraceptives in the uterus IUD and contraception devices under the skin (Implants) without attending training on the grounds that they have experience in carrying out the installation of contraceptives in the womb IUD and contraceptives under the skin (Implant) with friends who have participated in CTU (Contraceptive technology Update) training. Competency will be recognized if you have attended an education as evidenced by a diploma or training as evidenced by a training certificate. Through an interview with the Head of Puskesmas claimed not to know if there are midwives who carry out the service of installation of contraceptives in the uterus IUD and contraceptives under the skin (Implant) without attending the training CTU (Contraceptive technology Update). Similarly, the Chairman of IBI (Indonesian Midwives Association) they will sanction members of IBI (Ikatan Bidan Indonesia) who carry out the service of installing contraceptives in the womb of IUD and contraceptives under the skin (Implant) without attending CTU training (Contraceptive technology Update).

Midwives in Poskesdes who carry out routine immunization services do not participate in routine immunization training (Indar, 2013). They provide routine immunization services previously given socialization from the manager of the immunization program puskesmas (Community Health Center) who have participated in routine immunization training. Based on the results of interviews with the Head of puskesmas this policy was taken to increase the coverage of basic immunizations and achieve the target of SPM village UCI (Universal Child Immunization), because the immunization officers puskesmas not able to serve all immunization services in posyandu so they are against their duties with officers in pustu and

poskesdes who have long served and previously given socialization or mentoring by immunization program officers who have attended routine immunization training before. This policy is not applied to all officers in Pustu (Integrated Service Center) and Poskesdes (Village Health Post).

Of the 12 midwives in Poskesdes who carry out MTBS (Integrated Management of Sick Toddlers) who have participated in MTBS (Integrated Management of Sick Toddlers) training as many as 6 midwives or 50% have attended MTBS (Integrated Management of Sick Toddlers) training and there are 6 people or (50%) not participating in MTBS (Integrated Management of Sick Toddlers) training but only following the socialization of MTBS (Integrated Management of Sick Toddlers) from the mtbs (Integrated Management of Sick Toddlers) program managers at the Puskesmas level. The results of an interview with the Head of Puskesmas said that the implementation of MTBS services aimed at detecting early symptoms of pneumonia in toddlers because the scope of the discovery of low pneumonia, one of which is influenced by the implementation of the MTBS program is not implemented. Therefore, the regency health office socializes MTBS services through visits to all health centers (Community Health Centers).

In carrying out the authority based on the government program midwives who served in the Poskesdes are not legally protected because they do not get a decree (Surat Keterangan) determination and delegation of delegative authority from the Head of the Regency Health Office.

There are still midwives in charge of poskesdes carrying out the installation of contraceptives in the womb IUD and contraceptives under the skin (Implants), Immunization Services and MTBS Services without attending training, this is contrary to Law No. 4 of 2019 on Midwifery Article 57 paragraph (3) "the implementation of government programs as referred to in paragraph (1) is carried out by midwives who have attended training with attention to the competence of midwives" and Regulation of the Minister of Health No. 28 of 2017 Article 23 paragraph (2)"authority as referred to in paragraph (1) obtained by midwives after receiving training". The training in question is a training organized by the central government or local government together with related professional organizations based on standardized modules and curriculum in accordance with the provisions of the legislation.

As one of the health workers, midwives in carrying out the practice must be in accordance with their authority and competence. Law No. 36 of 2014 on Health Workers Article 62 paragraph (1) Health workers in carrying out practices must be carried out in accordance with the authority based on their competencies. What is meant by authority based on competence is the authority to conduct health services independently in accordance with the scope and level of competence, among others for midwives are conducting maternal health services, child health services and reproductive health services for women and family planning.

If midwives do not implement the provisions in Law No. 36 of 2014 on Health Workers Article 62 paragraph (1) midwives will be subject to administrative sanctions stipulated in article 82 paragraph (1) Any health worker who does not implement the provisions of article 82 paragraph (1) Any health worker who does not implement the provisions of article 82 Article 52 paragraph (1), Article 54 paragraph (1), Article 58 paragraph (1), Article 59 paragraph (1), Article 62 paragraph (1), Article 66 paragraph (1) , Article 68 paragraph (1), Article 70 paragraph (1), Article 70 paragraph (2), Article 70 paragraph (3) and Article 73 paragraph (1) are subject to administrative sanctions (Indar, 2010)

Administrative sanctions as referred to can be in the form of verbal reprimands, written warnings, administrative fines and/or license revocation. It can be concluded that midwives in

Poskesdes in providing services based on government programs are not legally protected because there is no decree of determination from the Head of the Regency Health Office and there are still midwives who perform services without attending training.

## Conclusion

From the description above, it can be concluded that midwives in providing health services in poskesdes Implementation of health services in poskesdes have not provided legal protection to midwives because midwives still carry out services that are not competence as midwives and the implementation of legal protection through the delegation of authority is not in accordance with the rules. Poskesdes (Post Health Village) as a Community Based Health Business (UKBM) which is the place of practice of village midwives, in carrying out services in the midwife poskesdes protected and regulated its authority in Law No. 36 Year 2009 on Health, Law No. 36 Of 2014 on Health Workers, Law No. 4 Year 2019 on Midwifery, Regulation of the Minister of Health No. 28 of 2017 concerning License and Implementation of Midwife Practice, Regulation of the Minister of Health No. 43 of 2019 concerning Health Centers, Decree of the Minister of Health No. 369/Menkes/SK/III/2007 concerning Midwifery Professional Standards and Decree of the Minister of Health No. 938/Menkes/SK/VIII/2007 concerning Midwifery Standards.

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