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Legal Status and Regulatory Synchronization of Traditional Birth Attendants in Indonesia: The Case of Banyumas Regency

Charista Louis Nismara Yoseph[1], Nayla Alawiya[2*]
[1]Faculty of Law, Universitas Jenderal Soedirman
[1]nayla.alawiya@unsoed.ac.id

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Abstract

Traditional birth attendants continue to play a social role in community health services in Banyumas Regency, although childbirth assistance is legally within the authority of authorized health workers. This condition raises legal issues concerning their status, the scope of permissible services, and the synchronization of laws and regulations governing traditional birth-attendant practices. This study aims to analyze the legality of traditional birth attendants in providing health services in Banyumas Regency and to examine the vertical synchronization of the relevant legal framework. The study employs normative juridical research using statutory, conceptual, and analytical approaches, supported by primary and secondary legal materials analyzed qualitatively through legal interpretation and regulatory synchronization. The findings show that traditional birth attendants receive limited and conditional legal recognition as traditional health practitioners and may perform supporting functions in maternal and community health services, provided that they comply with registration, licensing, competence, safety, cooperation, and referral requirements. Such recognition does not confer independent authority to perform clinical childbirth procedures, which remain within the competence of authorized health workers. The applicable legal framework demonstrates formal vertical synchronization, but substantive and operational harmonization remains incomplete, particularly regarding registration mechanisms, the one-practice-location requirement under the STPT, and mobile or home-based services. The study concludes that regulatory adjustment is necessary to clarify the limits of authority, strengthen legal certainty, and accommodate traditional health practices without compromising maternal and infant safety.

Keywords: health law, legality, traditional birth attendants

Abstrak

Dukun bayi masih memiliki peran sosial dalam pelayanan kesehatan masyarakat di Kabupaten Banyumas, meskipun pertolongan persalinan secara hukum merupakan kewenangan tenaga kesehatan yang berwenang. Kondisi tersebut menimbulkan persoalan mengenai status hukum, ruang lingkup pelayanan yang diperbolehkan, serta sinkronisasi peraturan perundang-undangan yang mengatur praktik dukun bayi.

***Nayla Alawiya**
Email: nayla.alawiya@unsoed.ac.id

Penelitian ini bertujuan menganalisis legalitas dukun bayi dalam memberikan pelayanan kesehatan di Kabupaten Banyumas dan mengkaji sinkronisasi vertikal kerangka hukum yang mengaturnya. Penelitian menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan analitis, serta menggunakan bahan hukum primer dan sekunder yang dianalisis secara kualitatif melalui penafsiran hukum dan sinkronisasi peraturan. Hasil penelitian menunjukkan bahwa dukun bayi memperoleh pengakuan hukum yang terbatas dan bersyarat sebagai penyehat tradisional serta dapat menjalankan fungsi pendukung dalam pelayanan kesehatan ibu dan masyarakat sepanjang memenuhi persyaratan pencatatan, perizinan, kompetensi, keselamatan, kerja sama, dan rujukan. Pengakuan tersebut tidak memberikan kewenangan mandiri untuk melakukan tindakan klinis persalinan yang tetap menjadi kewenangan tenaga kesehatan yang kompeten. Kerangka hukum yang berlaku menunjukkan sinkronisasi vertikal secara formal, tetapi harmonisasi substantif dan operasional belum sepenuhnya tercapai, terutama terkait mekanisme pencatatan, ketentuan satu tempat praktik dalam STPT, serta pelayanan yang bersifat bergerak atau berbasis rumah. Penelitian ini menyimpulkan bahwa penyesuaian regulasi diperlukan untuk memperjelas batas kewenangan, memperkuat kepastian hukum, dan mengakomodasi praktik kesehatan tradisional tanpa mengurangi perlindungan terhadap keselamatan ibu dan bayi.

Kata kunci: *dukun bayi, hukum kesehatan, legalitas*

1. INTRODUCTION

Childbirth is a physiological process through which the fetus, placenta, and fetal membranes are expelled from the uterus following progressive cervical dilation and uterine contractions. Although childbirth is fundamentally a physiological event, its safe management requires appropriate assistance because the competence of the birth attendant influences maternal and neonatal safety as well as the course and comfort of labor.[1] Contemporary maternity care therefore places childbirth within a professional health-service framework while still recognizing certain non-invasive and culturally embedded practices that may accompany the process.

Traditional birth attendants remain part of maternal and infant care practices in many Indonesian communities, including Banyumas Regency. Data from the Central Java Provincial Statistics Agency indicate that, in 2021, traditional birth attendants were still present or recognized in 255 villages and urban wards in Banyumas Regency. Local

[1] Paramitha Amelia K, *Konsep Dasar Persalinan* (Umsida Press, 2019), https://doi.org/10.21070/2019/978-602-5914-75-1.

studies further demonstrate their continuing social relevance. Kurniati and Muflihah[2] found that 21 traditional birth attendants were operating within the service area of the Kalibagor Community Health Center and remained involved particularly in postpartum and newborn care. Similarly, a preliminary survey conducted in Karangklesem Urban Ward found that nine out of ten mothers contacted traditional birth attendants to provide baby massage, illustrating the persistence of community reliance on their services even when formal health services are available.

The continuing presence of traditional birth attendants creates a distinctive relationship between formal health regulation and community-based traditional practices. Banyumas Regency Regional Regulation Number 4 of 2014 concerning Maternal, Newborn, Infant, and Under-Five Child Health expressly accommodates a partnership model. Article 10(2) provides that health workers may establish partnerships with traditional birth attendants in providing childbirth assistance.[3] Nevertheless, this partnership does not place traditional birth attendants in the same legal position as midwives or other authorized health workers. Rather, the partnership model is intended to preserve socially and culturally accepted roles while ensuring that professional childbirth assistance remains within the competence and authority of qualified health personnel. Previous studies have similarly shown that traditional birth attendants continue to be socially accepted but that their role should be differentiated from the professional functions of midwives and integrated into a supervised partnership framework.

Existing studies on traditional birth attendants in Indonesia have predominantly examined their sociocultural position, the implementation of partnerships between midwives and traditional birth attendants, and practical obstacles to such partnerships. Surtimanah and Herawati[4] emphasize the continued cultural positioning of traditional

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[2] Citra Hadi Kurniati and Ima Syamrotul Muflihah, "Pengaruh Pandemik Covid 19 Terhadap Eksistensi Dukun Bayi Di Wilayah Kerja Puskesmas Kalibagor Banyumas," *Journal of Health Educational Science And Technology* 4, no. 2 (December 29, 2021): 151–62, https://doi.org/10.25139/htc.v4i2.4374.

[3] irfan Nafis Sjamsuddin And Tri Krianto, "Ragam Kegiatan Dan Permasalahan Kemitraan Dukun Bayi Dan Bidan Dalam Pemeliharaan Kesehatan Ibu dan Anak," *Jurnal Sehat Masada* 17, no. 2 (July 21, 2023): 53–66, https://doi.org/10.38037/jsm.v17i2.434.

[4] Tuti Surtimanah and Yanti Herawati, "Traditional Birth Attendants (TBAs) Positioning on Strengthening Partnership with Midwives," *Jurnal Kesehatan Masyarakat* 13, no. 1 (July 28, 2017): 77–87, https://doi.org/10.15294/kemas.v13i1.7452.

birth attendants and the need to strengthen their partnership with midwives, while Sjamsuddin and Krianto[5] identify practical problems relating to trust, communication, economic interests, community support, and the absence of sufficiently clear partnership arrangements. More recent literature also confirms that collaboration between midwives and traditional birth attendants remains relevant for culturally sensitive maternal health services. These studies provide important sociological and public-health perspectives, but they do not specifically examine the legal status of traditional birth attendants within the restructured national health-law framework following the enactment of Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024.

This normative issue is particularly important because the legal framework governing traditional birth attendants consists of regulations enacted at different times and at different hierarchical levels. Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024 constitute the current national health-law framework, whereas Regulation of the Minister of Health Number 61 of 2016 concerning Empirical Traditional Health Services and Banyumas Regency Regional Regulation Number 4 of 2014 were enacted under the previous regulatory framework.[6] The coexistence of these instruments raises a legal question that cannot be answered merely by establishing that traditional birth attendants continue to be socially accepted. It is necessary to determine whether and under what conditions they may be legally classified as traditional health practitioners or health-support personnel, what services they may lawfully perform, how administrative requirements such as registration apply to them, and whether the older ministerial and regional regulations remain substantively consistent with the current national health legislation.

Accordingly, this study lies in examining traditional birth attendants not merely as sociocultural actors or partners of midwives, but as legal subjects situated within a multi-level regulatory structure after the reform of Indonesian health law in 2023–2024. The

[5] Nafis Sjamsuddin and Krianto, "Ragam Kegiatan Dan Permasalahan Kemitraan Dukun Bayi Dan Bidan Dalam Pemeliharaan Kesehatan Ibu dan Anak."

[6] Minda Habibah et al., "Literature Review: Kemitraan Bidan Dan Dukun Anak," *Media Ilmu Kesehatan* 13, no. 3 (December 19, 2024): 289–301, https://doi.org/10.30989/mik.v13i3.1312.

study combines an analysis of their legal classification, permissible scope of services, administrative requirements, and partnership status with an examination of vertical regulatory synchronization.[7] In particular, it distinguishes between formal hierarchical synchronization, in which lower-ranking regulations do not directly conflict with higher-ranking norms, and substantive or operational synchronization, which concerns whether those regulations can actually accommodate the characteristics of traditional birth-attendant practices, including services provided on a mobile or home-based basis. This analytical distinction is intended to identify regulatory gaps that may persist even in the absence of a direct hierarchical conflict.

In this study, legality refers to conformity with positive law and the formal legal recognition of an act or status. Legality must therefore be distinguished from social legitimacy, as a practice may continue to receive community recognition without necessarily satisfying all requirements imposed by statutory regulations. Regulatory synchronization, meanwhile, concerns the consistency and alignment of legal norms within the hierarchy of laws and regulations so that lower-level norms derive their validity from, and do not contradict, higher-level norms. Synchronization and harmonization are therefore essential not only for maintaining coherence within the legal system but also for ensuring legal certainty and preventing overlapping, ambiguous, or ineffective regulation.[8] On this basis, this study focuses on two principal issues, namely the legal status and scope of authority of traditional birth attendants in providing health services in Banyumas Regency, and the extent to which the regulations governing their practices are vertically and substantively synchronized within the current Indonesian health-law framework.

[7] Siti Opih Muhapilah et al., "Synchronization of Laws and Regulations Promulgated in the Indonesian Law Country According to the Principles of Establishing Legislation," *International Journal of Advanced Multidisciplinary* 1, no. 4 (January 29, 2023): 287–96, https://doi.org/10.38035/ijam.v1i4.125.

[8] Syahlan Syahlan, "Effective and Efficient Synchronization in Harmonization of Regulations Indonesia," *Journal of Human Rights, Culture and Legal System* 1, no. 1 (March 30, 2021), https://doi.org/10.53955/jhcls.v1i1.7.

2. RESEARCH METHODS

This study employs normative juridical research, which examines law as a system of norms by analyzing statutory regulations, legal principles, doctrines, and relevant scholarly literature rather than collecting empirical data. The study applies the statute approach to examine the hierarchy, consistency, and regulatory framework governing traditional birth attendants, the conceptual approach to analyze the concepts of legality, legal-rational legitimacy, and regulatory synchronization, and the analytical approach to interpret the legal implications of the applicable norms.[9] The primary legal materials consist of Law Number 17 of 2023 concerning Health, Government Regulation Number 28 of 2024 concerning the Implementing Regulation of Law Number 17 of 2023 concerning Health, Regulation of the Minister of Health Number 61 of 2016 concerning Empirical Traditional Health Services, Banyumas Regency Regional Regulation Number 4 of 2014 concerning Maternal, Newborn, Infant, and Under-Five Child Health, and relevant provisions of the 1945 Constitution of the Republic of Indonesia. Secondary legal materials include books, peer-reviewed journal articles, and other scholarly publications concerning normative legal research, traditional health services, legal legitimacy, and the synchronization of laws and regulations.

The legal materials were collected through a systematic literature review and document study, followed by inventory, classification, and organization according to their hierarchy, regulatory subject matter, and relevance to the legal status and scope of authority of traditional birth attendants. The analysis was conducted qualitatively through grammatical and systematic legal interpretation and vertical synchronization by comparing lower-ranking regulations with higher-ranking legal norms to identify consistency, regulatory gaps, and potential substantive or operational disharmony within the applicable legal framework.[10] Conclusions were subsequently drawn deductively by relating the applicable legal norms and concepts to the specific legal position of traditional

[9] Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: PT Raja Grafindo Persada, 2006).

[10] Tunggul Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Originis and Approaches," *Audito Comparative Law Journal (ACLJ)* 4, no. 1 (February 2, 2023): 1–9, https://doi.org/10.22219/aclj.v4i1.24855.

birth attendants in Banyumas Regency, particularly regarding their status as traditional health practitioners or health-support personnel, their permissible scope of services, administrative requirements, and partnership with authorized health workers.

3. RESULTS AND DISCUSSION

3.1. The Legality of Traditional Birth Attendants in Providing Health Services in Banyumas Regency

Legality refers to the conformity of an act, status, or authority with applicable positive law, whereas legitimacy concerns the basis upon which an authority or social position is accepted as valid. These concepts must be distinguished when examining traditional birth attendants because social acceptance does not automatically constitute legal authority. Traditional birth attendants may continue to be trusted by communities because their practices are embedded in local traditions, yet the legality of the health services they provide depends on their classification, competence, scope of authority, registration, and compliance with health legislation.[11] Accordingly, the legal status of traditional birth attendants in Banyumas Regency cannot be determined solely by their historical or sociocultural existence but must be assessed within the current national and regional health-law framework.

The distinction between legality and social legitimacy can be further analyzed through Max Weber's theory of authority. Weber distinguishes traditional, charismatic, and legal-rational authority. Traditional authority derives from long-established beliefs and customs, while charismatic authority derives from the perceived exceptional qualities of an individual, and legal-rational authority rests on formally enacted rules and legally established competence.[12] In the context of traditional birth attendants in Banyumas Regency, traditional legitimacy is particularly relevant because their continuing social position is closely associated with community customs, intergenerational practices, and trust. However, such traditional legitimacy does not in itself confer legal-rational

[11] Hadi Kurniati and Syamrotul Muflihah, "Pengaruh Pandemik Covid 19 Terhadap Eksistensi Dukun Bayi Di Wilayah Kerja Puskesmas Kalibagor Banyumas."

[12] Lun Du, "'Legitimate Authority' in the Chinese Tradition: Ethics-Politics," *International Confucian Studies* 1, no. 1 (September 5, 2022): 81–95, https://doi.org/10.1515/icos-2022-2010.

authority to perform health procedures that legislation reserves for medical personnel or health workers.

The national legal framework provides a basis for recognizing traditional health services without granting traditional practitioners unrestricted authority. Article 160 of Law Number 17 of 2023 concerning Health recognizes traditional health services based on skills and/or preparations and requires those services to be grounded in knowledge, expertise, and/or values derived from local wisdom. In addition, Article 197 classifies health human resources into medical personnel, health workers, and health-support or auxiliary personnel. Nevertheless, Article 197 alone should not be interpreted as automatically classifying every traditional birth attendant as health-support personnel.[13] Such classification must be read together with the more detailed provisions of Government Regulation Number 28 of 2024 concerning the implementation of the Health Law.

Government Regulation Number 28 of 2024 provides a more specific legal basis for determining the position of traditional birth attendants. Article 487 recognizes that, apart from formally educated traditional health workers, traditional health services may also be provided by traditional health practitioners whose knowledge and skills are acquired through intergenerational experience or non-formal education.[14] Traditional birth attendants whose knowledge is obtained through inherited practices may therefore fall within this category insofar as their activities constitute legally recognized traditional health services. This classification is reinforced by the framework governing health-support or auxiliary personnel, under which traditional health practitioners may perform supporting functions within the health system. Thus, the legal position of traditional birth attendants is better understood as one of limited and functional recognition, rather than as recognition equivalent to the professional authority of midwives or other health workers.

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[13] Tengku Keizerina Devi Azwar And Princess Alyssa D. Tee-Anastacio, "Assessing Traditional Medicine, Health Law, And Globalization In Indonesia: Toward Accountability And Safeguards," *Kanun:Jurnal Ilmu Hukum* 27, no. 3 (January 19, 2026): 613–34, https://doi.org/10.24815/kjih.v27i3.134.

[14] Surtimanah and Herawati, "Traditional Birth Attendants (TBAs) Positioning on Strengthening Partnership with Midwives."

This distinction becomes particularly important in relation to maternal health measures. Article 12 of Government Regulation Number 28 of 2024 provides that maternal health measures must be carried out by medical personnel and health workers in accordance with their competence and authority, although such measures may be assisted by health-support or auxiliary personnel. Consequently, the word "assisted" should not be interpreted as transferring professional health authority to traditional birth attendants. Rather, it permits a supporting function within clearly defined competence boundaries.[15] The differentiation between professional childbirth assistance and traditional or supportive services is therefore essential to prevent the legal recognition of traditional health practices from being misconstrued as independent authority to conduct childbirth.

The same limitation is apparent in Banyumas Regency Regional Regulation Number 4 of 2014 concerning Maternal, Newborn, Infant, and Under-Five Child Health. Article 10(1) requires childbirth assistance to be provided at a health facility and handled by competent health workers, while Article 10(2) allows health workers to establish partnerships with traditional birth attendants. When these provisions are interpreted systematically, the partnership model does not place traditional birth attendants in the same legal position as health workers. Instead, it recognizes their sociocultural role while maintaining childbirth authority within the professional competence of health workers. The elucidation of Article 10(2), which describes a traditional birth attendant as a woman who has received training and guidance from the local Community Health Center and is trusted by the community to accompany women preparing for childbirth and care for newborns, further demonstrates the supporting rather than clinical nature of the role.

Accordingly, a distinction must be drawn between traditional health services and childbirth assistance. Traditional birth attendants may lawfully participate in services that fall within the scope of empirical traditional health practices and supporting functions, but this recognition cannot be extended to clinical childbirth procedures that fall within the authority of competent health workers. Studies concerning partnerships between

[15] Sri Mumpuni Yuniarsih et al., "Integration of Traditional Medicine Services into Public Health Centers in Indonesia: A Qualitative Study," *BMC Complementary Medicine and Therapies* 26, no. 1 (May 4, 2026): 216, https://doi.org/10.1186/s12906-025-04885-z.

midwives and traditional birth attendants similarly indicate that an effective partnership should distinguish professional clinical responsibilities from culturally sensitive functions such as accompaniment, communication with families, health promotion, and timely referral.[16] This distinction simultaneously accommodates local cultural practices and protects maternal and neonatal safety.

The legality of traditional birth attendants is also conditioned by administrative requirements. Article 487(3) of Government Regulation Number 28 of 2024 requires traditional health practitioners who provide traditional health services to possess proof of registration issued by the Minister, while the registration is integrated into the national health-information system. The Government Regulation also provides for practice permits issued by district or municipal governments and requires traditional health practitioners to provide services according to their competence and authority and to follow cooperation and referral pathways with conventional health services.[17] Thus, legal recognition does not arise merely from possessing inherited knowledge or community trust; it depends upon compliance with registration, licensing, competence, safety, cooperation, and referral requirements.

Regulation of the Minister of Health Number 61 of 2016 concerning Empirical Traditional Health Services provides more detailed administrative requirements under the earlier regulatory framework. Article 4 requires an empirical traditional health practitioner to possess a Traditional Health Practitioner Registration Certificate, limits each practitioner to one STPT, and provides that the STPT is valid for only one practice location. The same provision limits registration to practitioners who do not conduct invasive interventions and whose practices remain consistent with the characteristics of empirical traditional health services. The regulation therefore seeks to provide legal

[16] Tina Miller and Helen Smith, "Establishing Partnership with Traditional Birth Attendants for Improved Maternal and Newborn Health: A Review of Factors Influencing Implementation," *BMC Pregnancy and Childbirth* 17, no. 1 (December 19, 2017): 365, https://doi.org/10.1186/s12884-017-1534-y.

[17] Putri Puspita Dewi Maharani, Anik Tri Haryani, and Retno Catur Kusuma Dewi, "Licensing Legality and Administrative Liability of Traditional Healthcare Services from the Perspective of Administrative Law," *Mendapo: Journal of Administrative Law* 7, no. 2 (July 5, 2026): 288–310, https://doi.org/10.22437/mendapo.v7i2.56964.

certainty through registration, identifiable practice locations, and limitations on the nature of services that may be provided.

However, applying the single-location requirement to traditional birth attendants reveals an important regulatory problem. Traditional birth attendants frequently provide community-based services by visiting patients' homes rather than operating exclusively from one fixed practice location, a characteristic also reflected in studies conducted in Banyumas. Government Regulation Number 28 of 2024, meanwhile, recognizes that traditional health services may be provided at several legally recognized settings, including independent practices, while introducing a registration system integrated with the national health-information system. The difference does not necessarily constitute a direct contradiction between the two regulations, but it creates an operational regulatory gap regarding the application of the older STPT location requirement to mobile or home-based traditional health practices.

The legal-rational legitimacy of traditional birth attendants should not be determined merely by whether they provide services inside a health facility. Government Regulation Number 28 of 2024 recognizes independent traditional-health practices as one of the possible service settings.[18] The decisive legal considerations are therefore whether a traditional birth attendant has satisfied applicable registration and licensing requirements, whether the services provided fall within the legally permitted scope of traditional health services, whether the practitioner complies with competence and safety requirements, and whether childbirth procedures reserved for health workers are excluded from the practitioner's activities. Partnership with health workers remains particularly important where the service relates directly to pregnancy and childbirth.

When analyzed using Weber's theory, traditional birth attendants consequently possess different forms of legitimacy that should not be conflated. Their longstanding acceptance within Banyumas communities primarily reflects traditional legitimacy.

[18] Sudirman Nasir et al., "Cultural Norms Create a Preference for Traditional Birth Attendants and Hinder Health Facility-Based Childbirth in Indonesia and Ethiopia: A Qualitative Inter-Country Study," *International Journal of Health Promotion and Education* 58, no. 3 (May 3, 2020): 109–23, https://doi.org/10.1080/14635240.2020.1719862.

Charismatic legitimacy may exist in individual cases where the community attributes exceptional abilities to a particular practitioner, but community trust alone is insufficient to establish charisma in the Weberian sense. Legal-rational legitimacy, by contrast, emerges only when the traditional birth attendant acts within a regulatory system that clearly establishes legal status, competence, registration, permitted services, supervision, cooperation, and accountability.[19] This distinction provides a more precise theoretical explanation than treating all socially accepted traditional birth attendants as automatically possessing legal legitimacy.

The foregoing analysis demonstrates that traditional birth attendants in Banyumas Regency receive limited and conditional legal recognition within the Indonesian health-law framework. They may be recognized as traditional health practitioners and may perform supporting functions where their services fall within the legally permitted scope of traditional health care, but they do not acquire independent authority to perform childbirth procedures reserved for competent health workers. Their legality is conditioned upon registration, appropriate competence, compliance with non-invasive practice requirements, cooperation and referral obligations, and adherence to administrative rules. Therefore, the central legal problem is no longer the complete absence of recognition of traditional birth attendants, but rather the need to clarify the precise boundaries between traditional health services, supporting maternal-health functions, partnership arrangements, registration requirements, and mobile or home-based practice.

3.2. Synchronization of the Legal Framework Governing Traditional Birth Attendants in Providing Health Services

Regulatory synchronization is essential for ensuring that legal norms operate consistently within a coherent legal system. Vertical synchronization examines whether lower-level regulations derive their validity from and remain consistent with higher-level norms, whereas substantive harmonization concerns the compatibility of regulatory concepts, institutional authority, administrative mechanisms, and implementation

[19] Donald Willem Srianto Aronggear and Abdullah Sulaiman, "The Urgency of Legal Certainty for Traditional Healthcare Who Do Not Have a Practice License," *Athena: Journal of Social, Culture and Society* 3, no. 1 (February 13, 2025): 476–82, https://doi.org/10.58905/athena.v3i1.389.

standards. This distinction is particularly important in the regulation of traditional birth attendants because the relevant legal instruments were enacted under different health-law regimes.[20] Accordingly, the synchronization analysis in this study does not merely determine whether a direct hierarchical conflict exists, but also evaluates whether the older ministerial and regional regulations remain substantively and operationally compatible with Law Number 17 of 2023 concerning Health and Government Regulation Number 28 of 2024.

The theoretical basis for vertical synchronization is consistent with the hierarchical conception of legal norms developed by Hans Kelsen and Hans Nawiasky, according to which lower legal norms must derive from and remain consistent with superior norms. In the Indonesian legal system, Article 7 of Law Number 12 of 2011 concerning the Formation of Laws and Regulations, as amended by Law Number 13 of 2022, establishes the formal hierarchy of legislation, consisting of the 1945 Constitution, Decrees of the People's Consultative Assembly, Laws or Government Regulations in Lieu of Laws, Government Regulations, Presidential Regulations, Provincial Regulations, and Regency/Municipal Regulations.[21] Ministerial regulations occupy a different juridical position because they are not expressly included in the hierarchy under Article 7; instead, their existence and binding legal force are recognized under Article 8 when they are mandated by higher legislation or established pursuant to lawful authority. Therefore, Regulation of the Minister of Health Number 61 of 2016 should be assessed as delegated or implementing legislation rather than simply treated as a formal hierarchical level between a Government Regulation and a Regency Regulation.

At the constitutional level, Articles 28H(1) and 34(3) of the 1945 Constitution provide the normative foundation for the right to health and the State's responsibility for the provision of adequate health-service facilities. These constitutional guarantees are implemented through Law Number 17 of 2023 concerning Health, particularly Articles

[20] Yeni Nel Ikhwan and Khairani Khairani, "Kerangka Hukum Harmonisasi Peraturan Daerah Dalam Perspektif Teori Hirarki Perundang-Undangan," *Nagari Law Review* 7, no. 2 (February 1, 2024): 401, https://doi.org/10.25077/nalrev.v.7.i.2.p.401-419.2023.

[21] Sholahuddin Al-Fatih et al., "The Hierarchical Model of Delegated Legislation in Indonesia," *Lex Scientia Law Review* 7, no. 2 (November 12, 2023): 629–58, https://doi.org/10.15294/lesrev.v7i2.74651.

160–164, which recognize traditional health services as part of the national health framework while requiring them to be based on knowledge, expertise, and/or values derived from local wisdom.[22] The Law therefore accommodates traditional health practices without removing the requirements of competence, safety, accountability, and professional authority applicable within the health system. At this level, the recognition of traditional health services is consistent with the constitutional objective of protecting public health while simultaneously accommodating forms of health care rooted in community traditions.

Government Regulation Number 28 of 2024 further specifies this statutory framework. Articles 479–494 regulate traditional health services as an integrated component of the national health system, while Article 485 recognizes several possible service settings, including independent practice, Community Health Centers, hospitals, traditional-health facilities, and other designated health facilities. Article 487 recognizes traditional health practitioners whose knowledge and skills are acquired through intergenerational experience or non-formal education and requires them to possess proof of registration issued by the Minister, while Article 488 assigns the issuance of practice permits to district or municipal governments. Article 489 further requires practitioners to provide services according to their competence and authority and to follow cooperation and referral pathways with conventional health services. These provisions demonstrate that Government Regulation Number 28 of 2024 does not merely recognize traditional practices but places them within a regulated structure of registration, licensing, competence, safety, cooperation, and referral.

The relationship between Law Number 17 of 2023 and Government Regulation Number 28 of 2024 therefore demonstrates a high degree of formal and substantive vertical synchronization. The Law establishes general principles and categories, whereas the Government Regulation operationalizes those principles through more specific provisions concerning practitioners, practice settings, registration, licensing, competence,

[22] Hendra Kurnia Putra et al., "Legis Ratio of Minister Regulation Arrangement in Law Number 15 of 2019 about the Amendment to Law Number 12 of 2011," *International Journal of Research in Business and Social Science (2147- 4478)* 9, no. 3 (April 30, 2020): 182–90, https://doi.org/10.20525/ijrbs.v9i3.685.

and supervision. No direct normative contradiction is apparent between the two instruments; instead, the Government Regulation performs its implementing function by specifying the conditions under which traditional health services may lawfully operate. This relationship is consistent with the principle that delegated legislation should elaborate rather than alter or expand the authority established by superior legislation.

A more complex regulatory relationship emerges with Regulation of the Minister of Health Number 61 of 2016 concerning Empirical Traditional Health Services. The Regulation remains formally in force and requires empirical traditional health practitioners to possess a Traditional Health Practitioner Registration Certificate, with one STPT limited to one practice location. However, the Regulation was enacted under the previous health-law framework and originally implemented Government Regulation Number 103 of 2014 concerning Traditional Health Services. Law Number 17 of 2023 preserves previous implementing regulations insofar as they do not conflict with the new statutory framework, while Government Regulation Number 28 of 2024 has introduced a new structure involving ministerial proof of registration, integrated health-information systems, district or municipal practice permits, and broader recognition of traditional-health practice settings.[23] Consequently, the continuing application of the 2016 Ministerial Regulation should be assessed on the basis of compatibility with the newer regulatory framework rather than on its historical legal basis alone.

The difference between the old and new administrative models does not necessarily constitute a direct normative conflict, but it reveals a substantive and operational synchronization problem. The one-STPT–one-practice-location requirement under the Ministerial Regulation reflects a fixed-location administrative model, whereas Government Regulation Number 28 of 2024 recognizes independent traditional-health practice and establishes a more integrated registration and licensing system. This issue becomes particularly relevant to traditional birth attendants whose services may be

[23] Mutia Aprilia Suhartono et al., "Legal Governance of Traditional Health Practitioners in Plural Legal Systems: Indonesia and China," *SASI* 32, no. 2 (June 30, 2026): 163–76, https://doi.org/10.47268/sasi.v32i2.3706.

mobile or provided in community members' homes.[24] Therefore, the regulatory problem is not simply whether the STPT requirement remains valid, but how it should be interpreted and adjusted within the newer registration, licensing, supervision, and health-information framework. Such a situation illustrates how regulations may remain formally applicable while requiring substantive adaptation to subsequent superior legislation.

A similar temporal issue arises in Banyumas Regency Regional Regulation Number 4 of 2014 concerning Maternal, Newborn, Infant, and Under-Five Child Health. Article 10 establishes that childbirth assistance must be provided at a health facility and handled by competent health workers, while allowing health workers to establish partnerships with traditional birth attendants. Substantively, this rule remains consistent with the current national framework because it does not transfer professional childbirth authority to traditional birth attendants.[25] Rather, it accommodates their role through a partnership model while maintaining the competence and authority of professional health workers. Research on midwife–traditional birth attendant partnerships similarly demonstrates that collaboration is most effective when professional and traditional roles are clearly differentiated and supported by communication, training, referral mechanisms, and institutional recognition.

Banyumas Regency Regional Regulation Number 4 of 2014 predates both Law Number 17 of 2023 and Government Regulation Number 28 of 2024. As a result, it does not yet incorporate the current terminology of traditional health practitioners, the contemporary registration and licensing framework, integrated health-information requirements, or the more detailed cooperation and referral mechanisms established under the new national health-law regime. The Regional Regulation also does not comprehensively distinguish between permissible traditional-health services, supporting maternal-health functions, prohibited clinical actions, and circumstances requiring

[24] Ronny Sutanto, Hilda Muliana, and Sabda Wahab, "Legal Gaps in the Supervision and Practice of Traditional and Non-Medical Alternative Medicine," *Soepra Jurnal Hukum Kesehatan* 12, no. 1 (June 22, 2026): 86–97, https://doi.org/10.24167/sjhk.v12i1.14128.

[25] Nawir Rahman, "Policy Implementation of Midwife Traditional Birth Attendant Partnerships to Reduce Maternal and Child Mortality," *Jurnal Edukasi Ilmiah Kesehatan* 3, no. 3 (December 1, 2025): 149–57, https://doi.org/10.61099/junedik.v3i3.159.

referral to professional health workers. Thus, the Regional Regulation is not vertically incompatible with the current national framework, but it requires substantive updating to ensure legal certainty and operational consistency.

Table 1. Synchronization of Regulations Governing Traditional Birth Attendants

Legal Instrument	Main Regulatory Focus	Relationship with Other Norms	Synchronization Assessment	Remaining Regulatory Issue
1945 Constitution of the Republic of Indonesia	Constitutional right to health and State responsibility for health services	Highest constitutional basis	Vertically consistent	Requires implementation through statutory legislation
Law Number 17 of 2023 concerning Health	Recognition of traditional health services and general health-system framework	Implements constitutional health guarantees and provides the statutory basis for implementing regulations	Formally and substantively synchronized	Does not specifically regulate traditional birth attendants as a separate profession
Government Regulation Number 28 of 2024	Traditional-health services, practitioners, registration, licensing, competence, cooperation, referral, and supervision	Implements Law Number 17 of 2023	Formally and substantively synchronized with the Law	Further technical regulation remains necessary for certain forms of practice
Regulation of the Minister of Health Number 61 of 2016	Empirical traditional-health services and STPT, including the one-practice-location requirement	Recognized as implementing legislation under Article 8 of Law Number 12 of 2011 and remains applicable insofar as consistent with	Formally applicable, but only partially harmonized substantively and operationally	STPT terminology, registration mechanism, and single-location requirement require adjustment to

		the newer framework		the post-2023 framework
Banyumas Regency Regional Regulation Number 4 of 2014	Childbirth by competent health workers and partnership with traditional birth attendants	Regional implementation consistent with the principle of professional childbirth authority	Formally vertically synchronized, but substantively incomplete	Does not fully regulate current classifications, registration, scope of permitted services, referral, supervision, and mobile practice

Source: Author's analysis based on Law Number 17 of 2023 concerning Health

The comparative findings presented in Table 1 demonstrate that the regulatory framework governing traditional birth attendants is generally consistent at the level of its fundamental legal principles. At the constitutional and statutory levels, the right to health and the recognition of traditional health services provide a normative basis for accommodating traditional practices while maintaining requirements concerning competence, safety, and professional responsibility. Government Regulation Number 28 of 2024 further operationalizes these principles by regulating traditional health practitioners, registration, licensing, service locations, cooperation, referral, and supervision, thereby maintaining substantive consistency with Law Number 17 of 2023. Banyumas Regency Regional Regulation Number 4 of 2014 is also compatible with this framework insofar as it reserves childbirth assistance for competent health workers while permitting traditional birth attendants to participate through partnership arrangements. Regulation of the Minister of Health Number 61 of 2016 similarly pursues the objectives of registration, supervision, and limitation of traditional health practices, although its administrative structure was formulated under the previous health-law regime. Accordingly, the regulatory instruments demonstrate formal vertical synchronization, because no lower-level provision expressly grants traditional birth attendants clinical

childbirth authority that is prohibited or reserved for competent health workers under higher-level legislation.

The principal weakness identified in Table 1 lies not in a direct hierarchical conflict but in the incomplete substantive and operational adjustment of older regulations to the current national health-law framework. The 2016 Ministerial Regulation continues to rely on the STPT model and the one-practice-location requirement, whereas Government Regulation Number 28 of 2024 introduces ministerial registration, district or municipal practice permits, integrated health-information arrangements, and broader recognition of legally permissible traditional-health service settings. Likewise, Banyumas Regency Regional Regulation Number 4 of 2014 recognizes partnership with traditional birth attendants but does not comprehensively regulate their current legal classification, registration requirements, permissible and prohibited activities, referral obligations, supervision, or mobile and home-based services. These differences create a temporal and operational regulatory gap, particularly when traditional birth attendants provide community-based services that do not correspond neatly to the fixed-location administrative model established by the older regulation. From the perspective of regulatory synchronization, formal validity must therefore be distinguished from substantive harmonization, because a regulation may remain legally applicable while its terminology, procedures, and implementation mechanisms no longer fully correspond to a subsequently enacted superior regulatory framework. Therefore, the legal framework should be characterized as formally synchronized but substantively and operationally incomplete, requiring regulatory adjustment rather than the resolution of a direct conflict of norms.

To clarify these regulatory relationships, the vertical structure of the relevant legal framework is illustrated in Figure 1. The figure should be interpreted as an analytical representation of the relationship between superior norms and implementing or regional regulations, rather than as a literal reproduction of the formal hierarchy established in Article 7 of Law Number 12 of 2011, particularly because Ministerial Regulations derive their recognition from Article 8 of that Law. The pyramid therefore visualizes the normative foundation of traditional birth-attendant regulation from the 1945 Constitution

through the national health-law framework to the ministerial and regional instruments that operationalize traditional health services in Banyumas Regency.

Figure 1. Pyramid of the Vertical Synchronization of the Legal Framework Governing Traditional Birth Attendants in Providing Health Services

Figure 1 illustrates the vertical regulatory relationship governing traditional birth attendants in providing health services in Banyumas Regency. The 1945 Constitution of the Republic of Indonesia occupies the highest normative position by guaranteeing the right to health and establishing State responsibility for the provision of health services, which is further implemented through Law Number 17 of 2023 concerning Health. Government Regulation Number 28 of 2024 subsequently operationalizes the Law by regulating traditional health services, traditional health practitioners, registration, licensing, competence, cooperation, referral, and supervision. Regulation of the Minister of Health Number 61 of 2016 provides more specific administrative provisions concerning empirical traditional health services, while Banyumas Regency Regional Regulation Number 4 of 2014 regulates the local partnership between health workers and

traditional birth attendants. However, the pyramid should be understood as an analytical representation of normative relationships rather than a literal reproduction of the hierarchy under Article 7 of Law Number 12 of 2011, because Ministerial Regulations derive their recognition and binding force from Article 8 of that Law. Accordingly, the figure demonstrates how national and regional regulations are connected within a regulatory framework that must remain consistent with superior legal norms while simultaneously addressing the specific implementation of traditional health services.

The findings of this study demonstrate that the legal framework governing traditional birth attendants exhibits formal vertical synchronization, as no lower-level regulation expressly contradicts the fundamental principles established by the higher-level health legislation. Law Number 17 of 2023 and Government Regulation Number 28 of 2024 consistently recognize traditional health services while maintaining competence, safety, registration, licensing, and professional-authority requirements. Banyumas Regency Regional Regulation Number 4 of 2014 is also substantively consistent with this principle because it reserves childbirth assistance for competent health workers while allowing traditional birth attendants to participate through partnership arrangements. Similarly, Regulation of the Minister of Health Number 61 of 2016 pursues objectives consistent with the current framework by requiring registration and limiting the scope of empirical traditional health practices. Therefore, the principal regulatory issue does not arise from a direct conflict of norms or an infringement of the lex superior derogat legi inferiori principle. Rather, the findings confirm that the core legal principle remains vertically coherent: traditional birth attendants may be accommodated within the health system, but their recognition does not confer professional authority to perform clinical childbirth procedures reserved for competent health workers.

Nevertheless, the study identifies incomplete substantive and operational harmonization between the older implementing regulations and the post-2023 national health-law framework. Regulation of the Minister of Health Number 61 of 2016 continues to employ the STPT system and a one-practice-location requirement, whereas Government Regulation Number 28 of 2024 introduces ministerial registration, district or municipal practice permits, integrated health-information mechanisms, and broader

recognition of traditional-health service settings. Banyumas Regency Regional Regulation Number 4 of 2014 likewise does not yet comprehensively regulate the current classification of traditional health practitioners, administrative requirements, permissible and prohibited activities, referral obligations, supervision, accountability, or mobile and home-based services. These differences demonstrate a temporal and operational regulatory gap rather than a direct hierarchical inconsistency, because the older regulations remain formally applicable but have not been fully adapted to the concepts and mechanisms established by the newer national framework. The legal implication is that formal validity alone is insufficient to guarantee legal certainty when terminology, administrative procedures, and implementation mechanisms are not fully synchronized. Accordingly, the principal finding of this study is that the regulatory framework is formally vertically synchronized but requires substantive and operational harmonization to establish clearer boundaries of authority, registration and licensing procedures, partnership and referral mechanisms, and legal certainty for both traditional birth attendants and professional health workers.

CONCLUSION AND SUGGESTION

This study concludes that traditional birth attendants in Banyumas Regency have limited and conditional legal recognition as traditional health practitioners and supporting actors in maternal health services. Their recognition does not authorize them to independently perform clinical childbirth procedures, which remain within the competence of authorized health workers. Legal-rational legitimacy therefore depends on compliance with registration, licensing, competence, safety, cooperation, and referral requirements. The relevant regulations demonstrate formal vertical synchronization, as no lower-level regulation directly contradicts Law Number 17 of 2023 and Government Regulation Number 28 of 2024. However, substantive and operational harmonization remains incomplete because Regulation of the Minister of Health Number 61 of 2016 and Banyumas Regency Regional Regulation Number 4 of 2014 have not been fully adjusted to the current regulatory framework. The main issue lies in regulatory gaps concerning registration, practice locations, referral mechanisms, and mobile or home-based services.

Accordingly, legal certainty requires harmonization between older implementing regulations and the current health-law framework.

The Ministry of Health should update Regulation of the Minister of Health Number 61 of 2016, particularly regarding registration, licensing, and mobile traditional-health services. The Banyumas Regency Government should also revise Regional Regulation Number 4 of 2014 to clarify the permitted functions, limitations, referral obligations, and supervision of traditional birth attendants. Local health authorities should strengthen training, registration verification, partnership mechanisms, and referral procedures. These measures are necessary to maintain the sociocultural role of traditional birth attendants without compromising professional authority and maternal and infant safety. Future research should empirically evaluate the implementation of these regulatory arrangements.

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