

IMPLEMENTATION OF UNLIMITED DENTAL SUPERVISION

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Abstract

Since the beginning of January 2013, the number of registered dental professionals is ± 75,000. There are still many dental artisan practices indicating that our society is interested in dental services. The legal basis for dental work has been regulated by the government, in this case the Ministry of Health issued Permenkes No. 53/DPK/1/K/1969 and Permenkes No. 339/MENKES/PER /V/1989 on dental work. The regulation regulates the authority, prohibition and licensing of dental artisans. In Indonesia, dental technicians who carry out dental work are required to register with the district/city government or the local district/city health office to obtain a dental technician's license. The dental technician's license is valid for two years and can be extended as long as it meets the requirements. Research with approach method normative juridical, namely the method of collecting data by conducting a literature review associated with problems as mentioned above. Based on the results of the research, dentists who carry out dental work without having a dental technician's license and work outside their authority can be subject to sanctions based on the Medical Practice Act article 73 paragraph (2). the person concerned is subject to sanctions. If the patient feels aggrieved by the services provided by the dental artisan, the patient can claim compensation. The Cirebon City Health Office has not carried out periodic supervision of dental artisans in the city of Cirebon. This is because there are obstacles in the workforce (HR) to carry out the supervision.

Keywords: Law, Dentist, Health

INTRODUCTION

Health is an important part in the framework of supporting development today. The government as the organizer of the public interest, in its implementation, seeks to improve the highest degree of health for all people by involving all levels of society in every effort to improve health. To realize an optimal level of health for every citizen, legal support is needed in the implementation of various activities in the health sector.¹¹

The dentist profession has been widely known by the Indonesian people, even before the world of dentistry was established in Indonesia. Since the beginning of January 2013, the number of registered dental professionals is \pm 75,000. There are still many dental artisan practices indicating that our society is interested in the services of a dentist. Even though they don't have medical safety standards like Dentists, the costs incurred to pay for dental services are relatively affordable. So not infrequently if the dentist is still attached to the hearts of the people of Indonesia. Dental services provide a variety of services, ranging from fillings, removing, performing dental implants, installing braces, making and installing dentures. The practice is almost equal to the competence of a dentist.²

Dentist is a job that does work in the field of dental health without having an official diploma from the Ministry of Health or from an educational institution recognized by the Ministry of Health. The other definition of dental artisan is regulated in Permenkes No. 39 of 2014 Article 1 number 1 states that "Dentist is anyone who has the ability to make and install removable dentures".³

Dentists provide health services in the field of dental and oral health to the public as consumers. Dental services provide many benefits to the people in Indonesia even though conventional health services have developed such as dentists.⁴

Dentists provide services that exceed the limits of authority determined by the government by performing dental treatments such as fillings, installing braces (braces), pulling teeth, making porcelain teeth like a dentist, and performing beauty treatments such as teeth whitening.⁵⁵

The work of dental artisans has been regulated in Permenkes No. 53/DPK/1/K/1969 and Permenkes No. 339/MENKES/PER/V/1989 concerning dental work. The regulation regulates the authority, prohibition and licensing of dental artisans. Just looking at the Permenkes is not enough, especially in Law no. 36 of 2009 concerning health does not regulate dental artisans.

Dentists carry out healing and maintenance work using methods and tools that are very similar to dentistry, but do not have an education in the field of science. dentistry, the work of dental artisans needs to be supervised and fostered so as not to harm the community.⁶⁶

¹Abdul Halim Barkatullah. *Legal Protection System Framework for Consumers in Indonesia*. Bandung. Nusa Media. First Print. 2016, p.

²Fitria Nita Bella. *Responsibilities, Dentists and PERMENKES Number 39 of 2014 concerning the Guidance, Supervision and Licensing of Dental Work*. Thesis. Faculty of Law, Pasundan University, Bandung. 2019

³Febia Astiawati Sugiarto. *The Legal Responsibilities of Dental Work to Consumers Recipient of Dental Services in Semarang City*. Thesis. Faculty of Postgraduate Soegijapranata Catholic University, Semarang. 2017

⁴Ibid, p. 1

⁵Alam Niti Satwiko Fudhail. *Legal Protection for Consumers of Health Services by Dentists*. Thesis. Faculty of Law, Islamic University of Indonesia, Yogyakarta. 2019

⁶Simanjuntak, B. Gomgom. 2015. *Legality of Dentists Regarding Constitutional Court Decision Number 40/PUU-X.2012 Regarding Application for Judicial Review of Law Number 29 of 2004 concerning Medical Practice Against the 1945 Constitution of the Republic of Indonesia*. Surabaya : Faculty of Social Sciences, State University of Surabaya

In Indonesia, there are still many people who work in the health sector who do not have the necessary scientific knowledge in carrying out their work beyond the limits of their authority and ability which can endanger or harm public health. With the issuance of Regulation of the Minister of Health Number 339/MENKES/PER/V/1989 concerning Dental Work.

Previously, dental artisans had found a way to practice through the decision of the Constitutional Court (MK) which granted the dentist's lawsuit so that the Minister of Health Regulation No. 39 of 2014 was issued as a derivative. The dental profession is back in legal practice. The Minister of Health stated that the work area of the dental artisan is set only to make and install partial or full removable acrylic dentures, and cannot cover the remaining roots of the teeth. Dentists who wish to practice are also prohibited from moving from place to place and must obtain a permit from the Regency/City Government or the local Regency/City Health Office, but its implementation in the field is difficult.

Currently, according to the Head of Health Human Resources Development (PSDMK), there is no definite data regarding dental artisans. But can confirm the number of more than 20 dental artisans. The Head of Human Resources Development for Health (PSDMK) does not know the exact number, because since 2009 there have been no more practicing dentists who have applied for permit extensions.⁷

Before the issuance of the Minister of Health Regulation No. 1871 of 2011 concerning Revocation and Minister of Health Regulation No. 339 of 1989 concerning the work of dentists, permits registration should be carried out every year. Dentists who carry out their work based on Permenkes No. 339 of 1989 can still carry out their work as dental artisans. However, the time is limited until the permit expires. Only after that can not be extended again.

LITERATURE REVIEW

The work carried out by dental artisans certainly needs a legal regulation that regulates it. Law No. 36 of 2009 on health does not regulate dental artisans.

Based on Article 73(2) of Law No. 29 of 2004, dental artisans who carry out their work may be subject to sanctions as stipulated in Article 78 of Law No. 29 of 2004, namely "a maximum of 5 (five) years imprisonment or a maximum fine of 5 (five) years. 150,000,000.00 (one hundred and fifty million rupiah)." The practice of dental artisans outside the authority violates the Regulation of the Minister of Health Number 39 of 2014 concerning Dental Work.

The responsibility of the dentist to his consumers becomes the relationship between business actors and consumers as service recipients which in principle is a civil law relationship, meaning that any behavior that harms consumers must be resolved in a civil manner.

The characteristics of the authority to practice dental artisans are considered illegal if they practice outside their authority. The legal responsibility of dental artisans when practicing outside their authority can be viewed from criminal, civil, administrative, and health laws. Dentists can be charged with Articles 359, 360, 361 of the Criminal Code, namely anyone who because of his mistake (negligence) causes another person to be injured, seriously disabled, or even die.⁸

In its consideration, the Constitutional Court stated, deviations and violations committed by dental artisans or also due to the limited ability possessed by dental artisans in carrying out their work can be resolved through guidance, licensing, and supervision by the

⁷Interview with the Head of Health Human Resources Development (PSDMK)

⁸Devi Dharmawan and Ivonne Jonathan. Legal Responsibilities of Dental Practices That Exceed Their Authority. 2015. Journal. Vol 8. No 1

Government. With the decision of the Constitutional Court, dental artisans cannot immediately carry out their work, but only dental artisans who get permission from the government can open a practice.

Dentists who get a permit from the government based on statutory regulations are those who have obtained a permit based on the Regulation of the Minister of Health Number 53/DPK/I/K/1969 and extended based on the Regulation of the Minister of Health Number 339/Menkes/Per/1989. The dentist's own authority is still limited to making removable partial or full acrylic dentures and making removable dentures, while the prohibition on installing braces, fillings and tooth extractions is in accordance with the Regulation of the Minister of Health of the Republic of Indonesia Number 339/MENKES/PER/V/1989 concerning Dentist work continues.

Supervision can be defined as a process to ensure that organizational and management objectives are achieved. This relates to ways of making activities according to the plan with the instructions that have been given and with the principles that have been outlined.

Supervision is a form of mindset and pattern of action to provide understanding and awareness to a person or persons who are given the task to be carried out using various available resources properly and correctly, so that there are no errors and irregularities that can actually create losses by the institution or organization. the organization concerned.

Practices carried out by dental artisans outside the scope of dental work are also opposed by the Professional Organization. Professional organizations related to dental and oral health services are the Indonesian Dental Association (PDGI) and the Indonesian Dental Nurse Association (PPGI). PDGI assesses that the existing dental services are not based on the understanding and application of dental science and technology.

RESULTS AND DISCUSSION

Implementation of Health Service Supervision of Unlicensed Dental Practices

The limit of the dental technician's authority in dealing with patients, dental artisans are only allowed to install removable dentures, that previously there has been a judicial review in the Constitutional Court regarding provisions regarding dental practice in Article 73 and Article 78 of Law Number 29 of 2004 concerning Medical Practice.

The dentist's authority based on the applicable laws and regulations is actually limited. If the patient feels aggrieved by the services provided by the dentist, the patient can claim compensation. In terms of handling patients who previously used the services of a dental handyman, it showed that there was a dental artisan error which sometimes had an impact on health. Dentists often see errors that can result in malfunction, not just aesthetics. For example, there are obstacles where teeth that should grow do not grow. He appealed to residents to use the services of competent health workers such as dentists to overcome dental and oral problems. We recommend that you seek treatment at a competent person, namely a dentist.

Dentists who carry out dental work without a dental technician's license and work outside their authority may be subject to sanctions based on the Medical Practice Law article 73 paragraph (2) which reads:

"Everyone is prohibited from using tools, methods or other methods in providing services to the public that gives the impression as if the person concerned is a doctor or dentist who already has a registration certificate and/or a practice license".

Based on the results of research by researchers, almost all traditional medical services, namely dental artisans in the city of Cirebon, do not meet standard operating procedures, as regulated in Law Number 36 of 2009 concerning Health, Regulation of the Minister of Health Number 39 of 2014 concerning Guidance, Supervision, and Dental Work Permit and other regulations.

All dental artisans who carry out dental work are required to register with the local district/city government to obtain a dental technician's license. The dental technician's license is only valid for 2 years and can be extended as long as it meets the requirements.

So basically the authority of dental artisans is only as regulated in Article 6 paragraph (2) of the Minister of Health 39/2014, namely:

- a. Making partial and/or full removable dentures made of heat curing acrylic material that meets the health requirements; and
- b. Installing partial and/or full removable dentures made of heat curing acrylic material without covering the remaining tooth roots.

However, these regulations are not in harmony with practice, where dental artisans provide services that exceed the limits of authority determined by the government by performing dental treatments such as fillings, installing braces (braces), pulling teeth, making porcelain teeth like a dentist, and perform beauty treatments such as teeth whitening.⁹

Article 9 of the Minister of Health Regulation 39/2014 also clearly stipulates that dental artisans are prohibited from doing work other than their authority. The contents of article 9 of the Minister of Health 39/2014 are:

Dentist Forbidden:

- a. Doing work other than the authority regulated in Article 6 paragraph (2);
- b. Represent work to others;
- c. Carry out promotions that include jobs other than those stipulated in Article 6 paragraph (2); and
- d. Doing work intermittently.

If the dental technician violates these provisions, the dental technician will be subject to administrative sanctions by the district/city government in the form of:

- a. written warning;
- b. Temporary license revocation; and
- c. Permanent license revocation.

The following is an example of a case regarding the consequences of a dentist's deviation, which occurred in a 29-year-old Palopo resident who had two teeth extracted at once, namely the right and left by a mobile dentist on April 28 2018. Then the day after the extraction the resident came to the dentist to do treatment because he complained that the blood did not stop coming out of his mouth after the tooth was extracted by the dentist. The condition of the residents when they went to the doctor for treatment was in a weak condition. Five days later the bleeding was still continuing in his mouth and the patient was referred for further treatment in the emergency department (ER) followed by a blood pressure check and the results were normal. However, the general condition is weak. The next day on May 4, 2018 the check showed a blood pressure of 80/50. Hb level 3.8. Diagnosis, acute anemia and immediate blood transfusion. On May 6 2018 the patient's consciousness decreased. Then at 03.00 on May 6, 2018, the patient was declared dead.¹⁰

1. Similar cases that occur in the community have clearly violated consumer rights, including: The right to comfort, security, and safety in terms of consuming goods and/or services;

The right to correct, clear and honest information regarding the condition and guarantee of goods/services. In health law the right to correct, clear and honest information can be in the form of information regarding the competence and authority of health workers who treat patients, whether the competence and authority of health workers

⁹<https://www.hukumonline.com/klinik/detail/review/lt54dcda3fcc3e1/ketanganan-tukang-gigi>/Viewed on May 16, 2020. At 11.16 WIB

¹⁰<http://www.tribunnews.com/regional/2018/05/09/warga-palopo-meninggal-usai-gigidiburan-by-tukang-gigi-keliling-pdgi-sulselbar-ambil-aksiseen> on May 16, 2020, at 13.00 WIB.

2. health is in accordance with the health services provided or not. The losses that arise and are experienced by consumers occur because of unlawful acts committed by business actors in an agreement legal relationship between the parties, namely business actors and consumers, where in fact the authority and prohibitions of dental artisans have actually been regulated by the government at that time. Minister of Health Regulation Number 39 of 2014 concerning Guidance, Supervision and Licensing, Dental Work.

Judging from the authority and prohibition, the regulations used to regulate the work of dental artisans are very clear, but some dental artisans as business actors are still committing violations or fraudulent actions. When a dental professional takes an action that exceeds his authority which causes harm to the patient/consumer, the dental technician is obliged to provide compensation and compensation to the patient. This is in accordance with the provisions stipulated in Article 19 paragraph (1) of the Consumer Protection Law, namely "Business actors are responsible for providing compensation for damage, pollution, and/or consumer losses due to consuming goods and/or services produced or traded. "The compensation can be in the form of refunds or replacement of goods and/or services of similar or equivalent value, or health care and/or compensation in accordance with the provisions of the prevailing laws and regulations Article 19 paragraph (2) of the Consumer Protection Act. . Even though the dentist has provided compensation, the provision of compensation does not eliminate the possibility of criminal prosecution based on further evidence regarding the existence of an element of error (Article 19 paragraph (4) of the Consumer Protection Law).

If the practice exceeds his competence/authority as a dental artisan, causing injury or even death due to negligence (his fault) can be charged with Article 359 of the Criminal Code, namely whoever because of his mistake (negligence) causes another person to die, is threatened with a maximum imprisonment of five years or a maximum imprisonment of five years. imprisonment for a maximum of one year. Whereas in Article 360, whoever because of his mistake (negligence) causes another person to be seriously injured, is threatened with a maximum imprisonment of five years or a maximum imprisonment of one year. Article (2) Whoever due to his/her mistake (negligence) causes another person to be injured in such a way as to cause illness or an obstacle to carry out work, position or search for a certain period of time,

The granting of the right to claim compensation for the patient is an effort to provide protection for each patient for any consequences that arise both physically and non-physically due to the error or negligence of health workers.

Based on the results of the research that has been carried out, it shows that dentists in the city of Cirebon both those who have a practice license and those who do not have a practice permit have been doing work outside their authority. As regulated in Article 9 of the Minister of Health Regulation No. 39 of 2014 that dentists are prohibited from doing work other than their authority. Although there are already legal rules that regulate the authority of dental artisans, in reality in the field there are still individuals who are still taking actions outside their authority.

In Cirebon City itself, dental artisans who do work outside of their authority still have no form of accountability such as verbal warnings, written warnings, administrative fines or revocation of business licenses. Basically the Regional Government/Health Office of the City of Cirebon did not take any action on the things that were done by the dental artisans because there were no reports from the public regarding the complaints experienced after treatment at the dental artisans.

Optimizing the Supervision of the Role of the Health Office to Optimize Its Performance

The guidance refers to Article 178, Article 179 and Article 180 of the Health Law. Article 178 of the Health Law states that the government and local governments provide guidance to the community and every organizer of activities related to health resources in the health sector and health efforts. Referring to Article 10 of the PERMENKES Number 39 of 2014 concerning Dentists, it regulates Guidance and Supervision, namely:

- a. The Minister, Governor, Regent/Mayor, Regional Apparatus and/or Dentist organization shall provide guidance and supervision in accordance with their respective authorities.
- b. The guidance as referred to in paragraph (1) is directed to ensure the protection of the community.
- c. The guidance as referred to in paragraph (1) can be in the form of:
1) Periodic supervision; and 2) regular briefing and/or counseling;
- d. The supervision as referred to in paragraph (1) is aimed at preventing dental artisans from doing work outside the authority stipulated by this Ministerial Regulation.

Coaching aims to make dental artisans have knowledge about their work in accordance with applicable regulations.

Based on Article 1 point 1 of the Regulation of the Minister of Health Number 10 of 2018 concerning Supervision in the Health Sector, supervision in the health sector is an activity to supervise and enforce the implementation of laws and regulations in the health sector. Article 182 of the Health Act states that:

- a. The Minister supervises the community and every organizer of activities related to resources in the health sector and health efforts.
- b. The Minister in carrying out supervision can grant permission to any health effort organizer.
- c. The Minister in carrying out the supervision as referred to in paragraphs (1) and (2) may delegate to non-ministerial government agencies, heads of provincial and district/city offices whose main tasks and functions are in the health sector.
- d. The Minister in carrying out supervision involves the community.

In the context of supervising the practice of dental artisans, the local Health Office based on Article 11 of the Regulation of the Minister of Health Number 39 of 2014, may take administrative action against dental artisans who practice practices that are not in accordance with the provisions of the legislation.

With supervision, it can be known to what extent deviations, abuses, leaks, waste, fraud, and other obstacles will occur in the future. So the whole of supervision is an activity to compare what is being or has been done with what was previously planned, because it needs criteria, norms, standards and measures of the results to be achieved.

Dentist supervision has been explained by Permenkes Number 39 of 2014 Article 10 paragraph (4): (4) Supervision as referred to in paragraph (1) is intended so that dental artisans do not do work outside the authority that has been stipulated in this Ministerial Regulation.

Any dental technician who violates the provisions in the regulation may be subject to administrative sanctions by the district/city government. In carrying out his work, dental artisans are required to carry out their work according to dental work standards.

The existence of dental artisans can be an alternative for the community to get affordable dental health services. The existence of a Dentist as a person who can open a practice of making and installing removable dentures is regulated in the Minister of Health Regulation No. 39 of 2014 concerning Guidance, Supervision and Licensing, Dental Work. In Permenkes No.39 of 2014 concerning Guidance, Supervision and Licensing, Dental Work in

Article 1 point (1) it is stated that the definition of a dentist is anyone who has the ability to make and install removable dentures.

There are also many dental artisans in the Cirebon City area, the exact number of which is not known. The Cirebon City Health Office has never done a comprehensive data collection on the number of dental artisans in the city of Cirebon. The number of dental artisans in Cirebon City recorded by the Cirebon City Health Office are dental artisans who have a practice permit from the Cirebon City Health Office. Based on the results of an interview with the Head of the Basic Health Services Section that until 2015 the Cirebon City Health Office had issued a license to practice dental work.

As time goes by, the practice of dental artisans has become a polemic of the PDGI and STGI professional organizations. The Head of the Basic Health Services Section stated that the Cirebon City Health Office has no longer issued practice permits for dental artisans although there are still many dental artisans who apply for practice permits.

Based on the results of interviews with the Head of the Basic Health Services Section of the Cirebon DKK, they have not carried out periodic supervision of dental artisans in the city of Cirebon. This is because there are obstacles in the workforce (HR) to carry out the supervision.¹¹

In its implementation, the Health Office has tried as much as possible so that whatever happens for the safety of the community, the Health Office always makes an appeal to maintain public health. Regarding the sanctions used on dental artisans, namely based on the following provisions:

Dental work can only be done if Article 6 paragraph (1) of the Regulation of the Minister of Health Number 39 of 2014:

- a. Does not endanger health, does not cause illness and death
- b. Safe
- c. Does not conflict with efforts to improve public health status; and
- d. Does not conflict with the norms and values that live in society.

Dentists are not required to report any work they do for one month to the Health Service and to the Indonesian Dental Association (STGI) and the Health Service itself comes to the dental artisan's practice only when the dental artisan registers the dental artisan business. before obtaining a license to practice, for one of the requirements of obtaining a permit.

Dentists do not need to report to the Indonesian Dental Association (STGI) because if they have received a certificate from the Indonesian Dental Association (STGI) they are considered to be proficient and able to open a dental artisan business practice, after becoming a dental artisan, they only come to the Dental Association. to help aspiring new dentists. The lack of attention from the Health Office triggers dental artisans to work not according to applicable regulations. With the example of installing braces that are not in accordance with the rules that should interfere with the health of the teeth and jaws of braces users.

Based on Article 34 paragraph (3) of the 1945 Constitution and Article 14 paragraph (1) of Law Number 36 of 2009 concerning Health, the government has the responsibility for providing adequate health care facilities and public service facilities and is responsible for planning, regulating Organizing, fostering, and supervising the implementation of health efforts that are equitable and affordable by the community. Government efforts to protect the public from harmful dental health service practices can be carried out by providing guidance and supervision so that consumers get quality and safe services for health.

¹¹Interview with the Head of the Cirebon DKK Basic Health Service Section

CONCLUSION

The Cirebon City Health Office has given counseling on the importance of fulfilling the administrative requirements to carry out the practice of dental artisans, but in reality there are still many dental artisans who have not carried out the appropriate administration. There are still many violations committed by dental artisans that are not in accordance with existing regulations, for this reason the service has not been able to provide strict sanctions, only giving verbal warnings.

The Cirebon City Health Office has not carried out periodic supervision of dental artisans in Cirebon City. This is because there are obstacles in the workforce (HR) to carry out the supervision. The Health Service should improve the guidance and supervision of dental artisans who have not met administrative permits and the service must participate in the fulfillment of knowledge in accordance with the performance of dental artisans that have been stipulated in the law according to the rules. As well as the relevant agencies formed a task force to improve services, so that the public understands what actions dental artisans can take. In carrying out its business activities, the dental profession must adhere to the applicable laws so that an honest and responsible attitude grows in doing business.

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