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**LEGAL PROTECTION OF PATIENTS WHO DO CARE IN DENTAL AND ORAL THERAPISTS BASED ON PERMANENCE NO. 20 OF 2016 ON PERMISSION AND MAINTENANCE OF DENTAL THERAPIST PRACTICE**

**Putu Ria Purnami**

Universitas Udayana

[riapurnami@gmail.com](mailto:riapurnami@gmail.com)

**Sagung Putri M.E Purwani**

Universitas Udayana

[sagung\\_putri@unud.ac.id](mailto:sagung_putri@unud.ac.id)

**I Gusti Ayu Putri Kartika**

Universitas Udayana

[igustiayuputrikartika@unud.ac.id](mailto:igustiayuputrikartika@unud.ac.id)

**Ni Nengah Adiyaryani**

Universitas Udayana

[ninengahadiyaryani@unud.ac.id](mailto:ninengahadiyaryani@unud.ac.id)

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**ABSTRACT**

*The field of health is one that is given authority by the government in carrying out the service by dentists and oral therapists. The purpose of this paper is to analyse the legal protection of patients in dental and oral therapy, as well as the legal authority and responsibility of oral and dental therapists in providing care in accordance with their competence. This study utilizes normative law. Using a Legal and Conceptual Approach to Primary Legal Materials, Secondary Law Materials, and Tertiary Legislative Materials. The Consumer Protection Act does not fully implement the legal protection for consumer patients against dental and oral therapy practices. The authority of dental and oral therapists has been regulated in Permenkes 20 of 2016, but in practice, it is not implemented in accordance with the competence and provisions in force. The dental and oral therapist's responsibility to the patient is to give only painkillers, refer to the dentist, and provide compensation according to the rules in force.*

**Keywords:** *dental and oral therapists, consumers and dentists.*

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**INTRODUCTION**

In today's era, health is crucial in supporting development. The Government is an organization that is directly involved in it and is organized in the general interest and strives to improve the level of good and right health according to the standard of optimal service for all its people by involving all elements of the layer of society to engage in it to meet the improvement of the degree of health. To optimal health for citizens, the support of all the people is required so that the government can carry out activities in the field of health as expected.

The rapid development of science and technology, especially in the field of health, influence the development of treatment method and requiring the enhancement in the ability of health care workers. This has resulted in an increasing number of treatments being developed whose aim is to provide the best service to the patient as the healthcare consumer.

One factors that supports health development is health resources. As is known, these health resources support efforts to maintain the achievement of health degrees run by the government. In addition, the government is obliged to carry out its social functions and responsibilities properly and correctly by providing adequate health facilities to improve the quality of services and, by providing knowledge and awareness of health to the public so they are aware of the importance of health. The provision of health services to the people is provided without social status discrimination and with a sense of responsibility.

To implement the program, there is a need for health professionals, both in the form of physical health facilities and other facilities, planned health programs, and published policies to oversee, guide, and build health resources. In Act No. 17 of 2023 on health, it is explained that a health worker is any person who is dedicated to the field of health and possesses knowledge and skills through education in the area of health, which for a particular type requires the authority to undertake health work. As the end of the spear of the health service provider, the health work is located and spread throughout Indonesia. Therefore, to create comprehensive health for the community, it is necessary to support the parties to advocate various programs in the field of health.

Nowadays, many people use the dental service profession. Almost along the road, we can see many health services, especially dental worker who are opening practices, both those who have a practice permit and those who do not have a practice permit. This indicates that many people trust and provide their dental care services to dental worker. One of the reasons is the costs are cheaper and affordable compared to the expense of dentists.<sup>1</sup> Dental and oral therapists (DOTs) play a vital role in delivering dental and oral healthcare, particularly in areas where access to dentists is limited. However, it is essential for society to recognize that while this profession is acknowledged and regulated by government policies, such as Ministry of Health Regulation Number 20 Year 2016, the scope of their authority is distinctly different from that of dentists.

The healthcare workers' activities are to maintain and improve community health. Healthcare efforts by governments and communities beginning with the curative efforts of the sufferers are progressively evolving towards a blend of promotional, preventive, curative, and rehabilitative. Health services shall provide services according to the standards of the medical profession, standards of service, and complying with its authority. Legal issues may arise when health workers perform tasks that exceed their professional authority. Healthcare services violate professional standards when health personnel perform tasks beyond their defined authority.<sup>2</sup> This breach occurs because professional norms explicitly establish the scope of practice for each healthcare role, ensuring that practitioners operate within their competencies to maintain patient safety and service quality

Ministry of Health Regulation Number. 20 Year 2016 on Permission and Maintenance of Dental and Oral Therapy Practice explains that dental and oral therapists are among health workers who have the authority to organize dental health nursing services according to their field of expertise. The dental and oral therapist professions are distinct from those of dentists, with differences in scope, authority, and responsibility, which directly impact patient safety and consumer protection. Dentist provide comprehensive oral health services, including diagnosis, treatment, surgical procedures, orthodontics, and advanced restorative care. Dentist also responsible for managing complex oral health conditions and supervising multidisciplinary care. As for the Dental and Oral Therapist Focus on preventive and basic therapeutic care, such as cleaning teeth, applying fluoride, and simple restorative procedures within their training. They also have limited scope to less complex cases and excludes surgical or specialized dental procedures. These two professions also have different level responsibility. Dentists hold broader accountability due to their ability to perform high-risk procedures. As for the Dental and oral therapists are accountable for delivering care strictly within their authorized scope to avoid harm or malpractice.

<sup>1</sup>Adevia Ayu Restiana, Sagung Putri M.E.Purwani, (2023) "Legal Protection From Consumers Using Dentures by Dental Service", Vol 7 Issue 2, P. 220.

<sup>2</sup>Khoirul Anam, "Tanggung Jawab dan Kesenangan Perawat Gigi Dalam Melakukan Tindakan Medik Kedokteran Gigi", *AJUDIKASI Jurnal Ilmu Hukum*, Vol.2, No.1 (2018):P. 68.

Patient safety is a system that makes patient care safer, including risk assessment, identification and management of patient risk, reporting and analysis of incidents, the ability to learn from incidents and their follow-up, as well as the implementation of solutions to minimize risks and prevent the occurrence of injuries caused by the misconduct of an action or failure to take action that should be taken.<sup>3</sup>

Based on the above description, there is a legal problem with the presence of a dentist and oral therapist who provide treatment to the patient that exceeds his abilities, such as performing adult tooth removal, installing braces, and so on, in his practice, which should be performed by the dentist for other authorities that are not the competence of the dental therapists or the oral itself. Such incidents must have a negative impact and infringe on the rights of consumer patients, which ultimately cause material and non-material losses to consumers themselves. The study seeks to address the following legal issue: 1) How are patients' rights safeguarded under existing healthcare and consumer protection laws? 2) What is the scope of authority and legal responsibility for dental and oral therapists as defined in Permenkes No. 20 of 2016?

This research aims to Explore the legal frameworks that protect consumer patients from harm caused by unauthorized or incompetent healthcare practices, and to define the boundaries of dental and oral therapy practices as regulated by **Permenkes No. 20 of 2016**, and analyse the legal responsibilities therapists hold, particularly when they act beyond their competence. This research contributes to patient, health care professional and policy maker. This study will empower patient as consumers by outlining their rights and legal protections. For Healthcare Professionals, this study clarifies the boundaries of practice, emphasizing the importance of adhering to professional standards to maintain trust and safety. For Policymakers and Regulators, this study identifies areas for improvement in enforcement mechanisms and policy frameworks, contributing to better healthcare governance.

## METHOD

This research employs a normative legal research methodology. This type of research emphasizes the analysis of laws and regulations as written, conceptualizing law as a set of rules or norms that serve as standards for appropriate human behavior.<sup>4</sup> The approach use are legislative approach and conceptual approach. The legislative approach Involves reviewing relevant legal instruments, including Ministry of Health Regulation Number 20 of 2016, consumer protection laws, and health service regulations. It also examines how these laws regulate the authority, responsibilities, and limits of dental and oral therapists. While the conceptual approach Provides a theoretical understanding of the principles underlying patient protection and professional accountability.

## ANALYSIS AND DISCUSSIONS

### Legal Protection in the Context of Consumer Rights

The concept of legal protection for patients receiving treatment from dental and oral therapists is grounded in the theory of legal protection put forth by Philipus M. Hadjon. According to Hadjon, legal protection involves the protection of dignity and the recognition

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<sup>3</sup>Nurul Hidayatul Ulumiah, "Meningkatkan Mutu Pelayanan Kesehatan Dengan Penerapan Upaya Keselamatan Pasien di Puskesmas", *Jurnal Administrasi Kesehatan Indonesia*, Vol.6, No.2 (2018): P. 150.

<sup>4</sup>Amirudin, H Zainal Asikin, (2006), *Pengantar Metode Penelitian Hukum*, Raja Grafindo Persada, Cetakan Pertama, Jakarta.

of human rights of individuals as subjects of law.<sup>5</sup> This protection is provided based on legal provisions, ensuring that individuals can exercise their rights within the boundaries of the law.

Hadjon divides legal protection into two forms, namely Preventive Protection and Repressive Protection. Preventive Protection is a form of protection allows individuals the opportunity to express their opinions before a government decision becomes final, which helps to prevent disputes from arising. For dental and oral therapists, this could mean setting regulations or safeguards in place before a therapist exceeds their scope of practice, potentially harming patients. Repressive Protection is a form of protection that occurs after a dispute has arisen, offering legal remedies such as lawsuits or compensation to patients who have been harmed by improper treatment. For patients harmed by dental and oral therapists exceeding their authority, repressive protection would involve legal actions against the therapist or institution responsible.

The Consumer Protection Act, commonly referred to as the UUPK in No. 8 of 1999. Consumer protection law aims to establish and guarantee legal certainty to safeguard consumers. Its primary purpose is to ensure a secure framework that not only protects consumer rights but also fosters their awareness, independence, and ability to advocate for themselves. At the same time, it emphasizes the responsibility of entrepreneurs to uphold ethical business practices, creating an environment of trust and accountability. This legal framework is especially critical in sectors like health services, where the safety and well-being of consumers are paramount. By enforcing these principles, consumer protection law seeks to provide a sense of security and fairness for consumers as they access essential services.

The Consumer Protection Law is built on fundamental principles such as **benefits, justice, balance, security, safety, and legal certainty**. These principles serve as a foundation to safeguard consumer interests by ensuring their rights and obligations are met in all business transactions. By upholding these values, the law aims to create an equitable relationship between consumers and businesses, where consumers are protected from harm and exploitation while businesses operate responsibly. Additionally, the government plays a crucial role in enforcing these principles, providing legal protection to ensure that consumer rights are respected and upheld in practice.

Health care providers have a duty to provide health care, and one of their duties is to provide dental care services. Providing care requires specialized expertise that is competent in their fields, i.e., dentists, even dentist specialists in certain fields, but in fact, the people in Indonesia already know in advance about the existence of dental and oral therapists who used to be called dental nurses, practicing as an alternative for the community to obtain dental services.

Dental therapists are health care professionals who are in the middle of medical technology. Medical technicians are health workers who provide technical assistance in the field of the medical industry and medical professions. Within this cluster of medical technicians, there are only two professions that have orphanage services, like the nursing cluster, which is the profession of anaesthetist and dental therapist. Oral dentistry is a change in the former nomenclature of the dentist's profession. Since the enactment of Act No. 36 of 2014 on Health Energy, dental nurses have changed their names to dental and oral therapists.

A dentist and oral therapist are a graduate of formal education organized by the educational institutions of dental therapists and oral therapists, recognized by the state, and given the competence to carry out dental and oral health care to individuals, families, groups, and communities in accordance with the provisions and regulations of the laws. But in practice, many dental and oral therapists do work beyond their authority and endanger the safety of patients.

<sup>5</sup>[www.hukumonline.com](http://www.hukumonline.com), *Teori-Teori Perlindungan Hukum Menurut Para Ahli*, accessed at 23rd July 2023.

The basic principles of health care are to save patients using safe procedures and measures and without endangering patients or health care providers. Every health care facility, is obliged to maintain the safety of the health care process and its patients to avoid the medical errors that will affect the quality of healthcare. Patient safety is a structured system designed to enhance the safety of care delivery, aiming to prevent injuries arising from errors or omissions in medical actions. This system is governed by established regulations to ensure accountability and adherence to best practices in health care. In this context, dentists and oral therapists must provide legal health protection for their patients, aligning their practices with the provisions of Article 4 of the Consumer Protection Act (UUPK), which outlines the rights of consumers. These rights include receiving safe, accurate, and reliable services. Simultaneously, as entrepreneurs offering dental services, they are obligated to comply with Article 7 of the UUPK, which stipulates the responsibilities of service providers. These responsibilities include delivering services in accordance with applicable standards, ensuring patient safety, and preventing harm. By fulfilling these legal obligations, dental professionals contribute to a safer health care environment, fostering trust and upholding the principles of consumer protection.

Consumer legal protection is particularly crucial in health services, where consumer vulnerabilities are heightened due to the critical nature of care. Legal safeguards are designed to empower consumers to claim their rights and ensure accountability from service providers. However, in practice, many consumers remain in a disadvantaged position because existing protections are not consistently enforced. This gap often leaves consumers unable to secure compensation or remedies when they suffer harm due to the actions or negligence of health service providers. Such shortcomings undermine the intended security and fairness of consumer protection frameworks. The government plays a pivotal role in addressing these challenges by ensuring that consumer rights are upheld. Among most important role of the government in upheld consumer rights are Establishing and enforcing regulations that protect consumers in health care, especially vulnerable areas such as dental and oral therapy; Monitoring and maintaining the quality of health services; Creating accessible mechanisms for consumers to seek redress when their rights are violated.

### **Authority and Responsibilities of Dental and Oral Therapists Based on Ministry of Health Regulation Number 20 Year 2016 On Permission and Maintenance of Practices of Oral and Dental Therapists**

The professions of dentist and oral therapist have become increasingly prominent and widely utilized by society today. The prevalence of signage advertising the services of dental and oral therapists indicates that many people continue to rely on these professionals for their dental care. One significant reason for this reliance is the affordability of services provided by dental and oral therapists compared to dentists, making them an accessible option for broader segments of society. The services provided by dental and oral therapists range from the removal of both milk and permanent teeth, tooth embroidery, the manufacture and installation of counterfeit teeth, the cleaning of dental corals (scaling), to the installation of dental wires. (brackets).

The tools and materials used by dental and oral therapists are the same as those used by dentists. The practice performed by the dentist and the oral therapist is almost the same as the competence of a dentist. The price given below the price of the dentist earns the trust of dental and oral therapists to attract patients who want to use their services even if the treatment given does not correspond to their competence.

Article 11 of Ministry of Health Regulation Number 20 of 2016 on Permission and Maintenance of Dental and Oral Therapists explains the authority of dental nurses and oral therapists, whether they perform their professional practice independently or work in health care facilities.

A dental and oral therapist practicing independently must possess at least a Diploma III (D3) in dental health, dentistry, or dental and oral therapy, ensuring they have adequate educational qualifications to provide oral health services. According to Article 12, Paragraph 1 of Ministry of Health Regulation No. 20 of 2016, a Dental and Oral Therapist are granted five key powers in delivering dental and oral health services. Such authority include measures to improve dental and oral health, dental disease prevention measures, management of dental or oral health services, basic dental health services in limited dental health cases, and dental assisting.<sup>6</sup> However, there is an exception when a Dental and Oral therapist practicing independently, that is a Dental and Oral therapist do not perform dental assisting as it requires supervision from a licensed dentist.

Article 14 of Ministry of Health Regulation describe the preventive efforts for dental diseases that fall under the authority of Dental and Oral Therapists. These preventive measures typically involve activities such as educating patients on oral hygiene practices, applying fluoride treatments, and taking other steps to minimize the occurrence of dental problems. Article 16 elaborates on the scope of basic dental health care in limited dental health cases as outlined in Article 12 Paragraph (1) Letter d. These services include the following:<sup>7</sup>

- (1) Removal of primary and permanent one-root teeth with local anesthesia
- (2) Tooth restoration (embroidery) of one or two surfaces with ionomer glass or other materials
- (3) Post-treatment care.

The provision of health services or care by dental and oral therapists (DOTs) derives its authority from the law, which serves as the legal foundation for their practice. In the context of state administration law, authority can be obtained through three main mechanisms: attribution, delegation, and mandate.<sup>8</sup> Attribution is an Authority granted directly by legislation or regulations. Delegation refers to the transfer of authority from one institution or individual to another, often between different governmental bodies or healthcare institutions.<sup>9</sup>

The attribution authority of dental and oral therapists is primarily defined by Ministry of Health Regulation Number 20 of 2016, which governs the scope of their practice and responsibilities. According to Article 12 Paragraph (1), Dental and Oral therapist have the following attributed powers; Efforts to improve dental and oral health; Dental disease prevention; Management of dental and oral health services; Basic health services for limited dental health cases; Dental assisting.

Beyond these attributed powers, Article 20 provides specific provisions regarding the exercise of Dental and Oral Therapist authority in government-owned health facilities (e.g., Puskesmas) in areas without a dentist. This reflects a broader assignment of authority in response to local healthcare needs. Under Paragraph (1) DOTs may perform additional duties based on government assignment, when there is no dentist in an area. This allows for expanded service provision to address dental and oral healthcare needs in underserved regions. As enumerated in Paragraph (2) DOTs providing services under this additional authority must receive specific training to acquire the necessary competencies. These competencies are related to the additional

<sup>6</sup>Prima Nerito, Sutarno, Lufsiana, (2022), "Analisis Yuridis Kewenangan Terapis Gigi Dan Mulut Paska Disahkannya Kepmenkes No. 671 Tahun 2022", *Jurnal Darma Agung*, Vol.31, No.3: P. 397-398.

<sup>7</sup>*Ibid.*

<sup>8</sup>*Loc.cit.*, Khoirul Anam, P.68.

<sup>9</sup>*Opcit.*

responsibilities assigned, ensuring patient safety and effective care delivery. Under Paragraph (4) The responsibility for providing this training lies with the provincial and/or district/city governments, in collaboration with professional organizations and related professional bodies. Scope of Authority according to Paragraph (6) can only be exercised in government-owned or local government health service facilities, such as Puskesmas. This restriction ensures that the expanded roles are strictly regulated and confined to public health contexts.

The **mandate authority** in the provision of dental and oral healthcare reflects situations where dentists transfer specific tasks to dental and oral therapists (DOTs) in order to meet patient needs. This is governed by Ministry of Health Regulation Number 20 of 2016 and other related regulations, and it ensures that such tasks are performed within the boundaries of the DOT's training, competence, and legal framework. According to Ministry of Health Regulation Number 20 of 2016, dentists can delegate certain actions to DOTs through a mandate. These include:

1. Tooth embroidery (restorations) involving more than two surfaces.
2. Root canal treatment.
3. Prescribing medication and providing treatment based on prescriptions.

Further provisions concerning the exclusion of the authority of restricted medical actions in the field of dentistry are regulated in the Ministry of Health of the Republic of Indonesia Regulation No. 512/Menkes/Per/IV/2007 On the Permission of Practice and Implementation of Medical Practices, in Article 15, which contains as follows: (1) The doctor and dentist may grant a prescription for a medical or dental action to a nurse, midwife, or other specific health personnel in writing for carrying out a medical or dental action. (2) Medical or dental actions as referred to in paragraph (1) shall be in accordance with the ability and competence possessed and carried out in conformity with the provisions of the legislation. (3) The discharge of authority to the nurse, nurse, or other energy in certain circumstances where health services are strictly necessary and there are no doctors or dentists in such a place is further regulated by the Ministerial Regulations.<sup>10</sup> A dental and oral therapist can only perform such actions in a health care facility owned by a private government maulun and not in an independent practice.

Dental and oral therapists (DOTs) are entrusted with responsibilities to ensure the quality and safety of the services they provide to patients. They are required to operate within their scope of authority and competence, as regulated by Ministry of Health Regulation Number 20 of 2016 and other relevant laws. If situations arise that exceed their expertise or authority, specific guidelines and consequences are in place, included Refer patients to other healthcare providers when cases fall outside their scope of competence or authority. If an error or adverse event occurs, DOTs are responsible for compensating the patient in accordance with Article 19, Paragraph 1 of the Consumer Protection Act (UUPK), which states: "Businesses, including healthcare providers, must provide compensation to consumers for losses incurred due to their service."

If a dental and oral therapist (DOT) provides services that exceed their authority and competence and this results in harm to a patient, the affected consumer has the right to seek redress. The regulations governing such situations are outlined in Ministry of Health Regulation Number 20 of 2016, specifically in **Article 28**, which describes the steps and sanctions that can be imposed.

When a patient (consumer) is harmed by improper actions of a DOT, steps of solving this violation are: (1) Reporting the Incident, patient can report the incident to the relevant

<sup>10</sup>*Op.cit.*, P. 68-69.

governmental organization or Health Service where the DOT practices. This report should detail the harm and the actions that caused the losses. (2) Investigation by Local Health Service, upon receiving the report, the local Health Service evaluates the claim to determine whether the DOT acted outside their competence or authority. This process ensures transparency and fairness in addressing consumer complaints.

If the DOT is found to have violated their professional scope, the Health Service may impose sanctions based on Ministry of Health Regulation Number 20 of 2016, **Article 28** Paragraph (1). These sanctions include: (1) Oral Sanction: A verbal warning or reprimand, typically issued for minor infractions as a cautionary measure. (2) Written Sanctions: A formal notice that details the violation and may specify corrective actions required from the DOT. (3) Revocation of Practice License (SIPTGM): For serious or repeated violations, the DOT's Practice License (Surat Izin Praktik Terapis Gigi dan Mulut - SIPTGM) may be revoked, preventing them from continuing their professional practice.

## CONCLUSION

The legal protection of patients in the field of dental and oral therapy provided in the Consumer Protection Act (UUPK) and Permenkes No. 20 of 2016, however, the legal protection is still not fully aligned with the laws. There are still gap between regulation and practice, involves many DOTs continue to perform dental services beyond their legal competence, including Performing extractions of teeth with more than one root (beyond their authorized scope), Making and installing dentures or false teeth improperly or outside the correct procedural framework and Installing braces (tooth wires) or performing orthodontic work, which requires more advanced qualifications and authority than those granted to DOTs.

The legal liability for DOTs who step beyond their defined authority often follows the same structure as for dentists. This includes: Holding the therapist accountable for negligent practices and providing compensation to the patient under the provisions of the UUPK, even though the level of education, training, and scope of practice differs between dentists and dental therapists. The legal liability of dental and oral therapists who perform unauthorized procedures is defined in Ministry of Health Regulation Number 20 of 2016 and other health regulations. Article 19, paragraph 1 of the UUPK requires that patients receive compensation for any harm or loss incurred due to the actions of a healthcare provider, including dental therapists, who act beyond their authority.

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