

## LEGAL PROTECTION FOR CONSUMERS USING DENTURES BY DENTAL SERVICES

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### **ABSTRACT**

*The research aims to analyse the legal protection for consumers who use prosthodontics by dental worker, and the legal authority and responsibility of dental worker (dentists) regarding the installation of false teeth (prosthodontics). The research used is normative legal research, using a statutory approach and a conceptual approach with primary legal material and secondary legal material. Legal protection for consumers regarding dental service practices has not been fully implemented in the Consumer Protection Law. The authority of dental worker (dentists) has been regulated in Minister of Health Regulation 39 of 2014. However, in practice, it is not implemented following applicable regulations. The responsibility of dental worker (dentists) for patients who use dentures (prosthodontists) is they provide pain relief medication due to the installation of dentures as well as repairing the installation of the dentures they have made. Additionally, the dental worker shall provide compensation following the applicable law.*

**Keywords:** *Legal Protection, Service Users, Prosthodontics, Dentists.*

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### **INTRODUCTION**

Nowdays, health is one of the most important factors in supporting development. The government is an organization that is directly involved in supporting health development. It must carry out public interests and strive to increase the level of good and correct health according to optimal service standards for all its people by involving all elements of society to be involved in it to meet the increase in health status. To realize maximum health for its citizens, support from all people is needed so that the implementation of various activities in the health sector carried out by the government can run optimally following what is envisioned.

The rapid development of science and technology, especially in the health sector, accompanied by facilities and infrastructure that are getting much better, has also influenced the capabilities and development of health workers, which are increasingly developing day by day. This has resulted in more health treatment methods available to provide the best service to patients, where patients are consumers of health services. These health resources support efforts to fulfill health standards carried out by the government, one of the strategic issues of which is strengthening health services. Apart from that, 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, knowledge, and awareness of the community's

health. The health services provided to the community shall be without distinction of social status and with a sense of responsibility.

Article 4 Law Number 8 of 1999 concerning Consumer Protection regulated consumer rights including the right to have their opinions and complaints heard, the right to obtain clear, correct, and honest information, and the right to be served correctly. However, the reality is there are business actors who violate the fulfillment of consumer rights, especially in the health sector. Therefore, to implement and realize this program, professional health workers are required, both in the physical form of health facilities and infrastructure, planned health programs, and policies issued to supervise, guide, and develop health resources. In Article 1 paragraph 1 of Law Number 36 of 2014 concerning Health Workers, it is explained that a health worker is every person who dedicates themselves to the health sector and has knowledge and/or skills through education in the health sector which for certain types requires authority to carry out health efforts. Therefore, to create optimal health for the community, support from the parties is needed for implementing various programs in the health sector.

One of the health personnel is a dentist. In Law 29 of 2004 concerning medical practice, article 51 letter b, it is explained that in carrying out medical practice, a doctor or dentist must refer a patient to another doctor or dentist who has better skills or abilities, if they are unable to carry out an examination or treatment, which means a dentist can send patients to specialist dentists according to their competence in certain cases.

Dentists themselves have 9 branches of specialization, one of which is a specialist in prosthodontics or what is often called a prosthodontist, where this prosthodontist handles referral cases from general dentists to handle more specialized cases that cannot be done by general dentists, using one of the methods is the restoration of the function of the teeth by paying attention to the patient's health, comfort and impact on appearance. Apart from that, prosthodontists also have special sub-specialties, namely oral pain and temporomandibular joint disorders or what are often called Sp.Pros.,Subsp. OGST(K), then complex prosthodontics and implant dentistry which are called Sp.Pros.,Subs .PKIKG(K) and the last one is maxillofacial prosthetics which is abbreviated as Sp.Pros.,Subs.PMF(K).

Apart from modern health services, people still trust traditional health methods to deal with their health problems. As time goes by, <sup>1</sup> traditional health treatment methods are increasingly developing in the community. Traditional health services are difficult to eradicate and have been recognized for their existence. This method has existed since ancient times and is still used by the community today.

Research related to dental workers<sup>2</sup> was carried out by Anisa Nurlaila Sari in 2018 who researched "Legal analysis of the responsibilities of dental worker according to Minister of Health Regulation number 39 of 2014 concerning supervision and licensing of dental work".<sup>3</sup> The focus of the study in this research is the inconsistency in the practice of dental workers with the applicable regulations, namely installing braces.

According to Indonesian Health data in 2008, the national illness rate of the population was 33.24%, of this number, 65.59% chose to seek treatment themselves using modern and traditional medicines, while the remaining 34.41% chose to seek outpatient treatment, health

<sup>1</sup>Utami Nurani Ajeng Tri, Awaliya Nayla, "Perlindungan Hukum Terhadap Pelayanan Kesehatan Tradisional di Indonesia", *Jurnal Ilmu Hukum dan Konstitusi Volksgeist*, Vol.1, No.1 (2018): 12.

<sup>2</sup>Dental workers refers to the term TUKANG GIGI, namely traditional dental health services that are still widely used in Indonesia.

<sup>3</sup>Sari, A. N. (2019). Analisis Hukum Terhadap Tanggung Jawab Jasa Tukang Gigi Menurut Peraturan Menteri Kesehatan Nomor 39 Tahun 2014 tentang Pembinaan Pengawasan dan Perizinan Pekerjaan Tukang Gigi. *Cepalo*, 2(1), 21–32. <https://doi.org/10.25041/cepalo.v2no1.1759>

centers, doctor's practices, and other health facilities. This data shows that people have a high level of respect for traditional medicine.<sup>4</sup>

One of the professions that are given authority by the government to provide services in the health sector is dental worker (denturist). Minister of Health Regulation Number 39 of 2014 regulates the Guidance, Supervision, and Licensing of Denturist Work, which states that a denturist is anyone who can install removable dentures only. The dental service profession (denturist) and the dental profession are different. The dental service profession (dental technician) only serves to make dentures without considering its effect. Some of the risks posed by the practice of dental worker (denturist) include unbalanced occlusion, loose teeth as a result of tooth release from the socket, pain, damage to tooth enamel structure, difficulty in chewing, strong breath odor, damage to tooth structure and disturbing general health, such as heart disease and death.<sup>5</sup> Meanwhile, the dental profession (dentist) is a profession that has studied all the knowledge about the human body's organs, especially teeth and mouth, and taking into account patient safety.

Apart from that, the dental service profession (denturist) is different from a dental technician. Dental technicians are another type of health worker other than dentists. A dental technician is a person who is an expert only in making dentures, orthodontics, and maxillofacial. A dental technician must take formal education within three years.<sup>6</sup> Dental technicians carry out all their work activities in a laboratory using denture molds from a dentist and receive direction and supervision from a dentist. Based on that dental technicians work according to the abilities and skills obtained from formal education and these abilities are not obtained by autodidact and passed down from generation to generation as obtained by dental worker.<sup>7</sup>

Based on that situation, legal issues were studied and discussed in this research, namely 1) What is the legal health protection system for consumers who use denture fitting services (prosthodontics) carried out by dental worker.? 2) What is the legal authority and responsibility of dental worker regarding the installation of dentures (prosthodontics) based on applicable laws and regulations? The study aims to determine the legal protection for consumers who use orthodontics by dental worker, as well as to find out the legal authority and responsibility of dental worker regarding the installation of dentures (prosthodontics) based on applicable laws and regulations. The significance of this study is the development of legal science in the field of health law, particularly regarding the legal protection of consumers who use prosthodontics by dental worker, which covers the consumer's right to be heard their opinions and complaints, the right to obtain clear, correct and honest information and the right to get proper service. Health is a human right and fulfilling the right to health is the government's responsibility.

## METHOD

This study uses normative research, which determines legal rules, principles, and legal doctrine to provide answers regarding the legal issues studied.<sup>8</sup> This research uses a statutory approach and a conceptual approach. The sources of legal materials used are primary legal materials and secondary legal materials, which were obtained through literature study by

<sup>4</sup>Kartika, D., Sewu, P. L. S., & Rullyanto, W. (2016). Pelayanan kesehatan tradisional dan perlindungan hukum bagi pasien. *SOEPRA*, 2(1), 1-16.

<sup>5</sup>Dewi, S. R. P., Handayani, P., Beumaputra, A. P., & Mozartha, M. (2020). Tingkat Pengetahuan Masyarakat Terhadap Praktik Gigi Ilegal. *Jurnal Kesehatan Gigi dan Mulut (JKGM)*, 2(1), 1-5.

<sup>6</sup>[www.kompasiana.com](http://www.kompasiana.com), *Harus Tau! Perbedaan Tekniker Gigi Dengan Tukang Gigi*, accessed at 21 Juli 2023, 20.00 Wita.

<sup>7</sup>Sarnizia Meutuah, (2009), *Hubungan Karakteristik Pengguna Gigi Palsu Dengan Pemanfaatan Jasa Tukang Gigi Di Kota Medan Tahun 2008*, USU Repository, Medan, p. 30.

<sup>8</sup>Rizafaza, D. N. O. ., & Mangesti, Y. A. . (2022). PERLINDUNGAN HUKUM PENGGUNA JASA TUKANG GIGI TERHADAP DUGAAN MALPRAKTIK. *Bureaucracy Journal : Indonesia Journal of Law and Social-Political Governance*, 2(3), 660-674. <https://doi.org/10.53363/bureau.v2i3.56>

studying the substance of the legal materials. This research uses descriptive, argumentative, and prescriptive analysis, and topic assessment carried out through literature reviews so that new solutions, recommendations, and research findings can be obtained.<sup>9</sup>

## DISCUSSION

### **Health legal protection system for consumers using denture installation services (Prosthodontics) carried out by Dental Workers**

In the theory of legal protection expressed by Philipus M. Hadjon, legal protection is the protection of dignity, as well as the recognition of human rights possessed by legal subjects based on legal provisions against arbitrariness.<sup>10</sup> Hadjon classifies two forms of legal protection for the people, namely preventive and repressive protection. The definition of preventive protection is that the people are allowed to submit their opinions before the government's decision takes a definitive form to prevent disputes. The repressive protection aims to resolve disputes.<sup>11</sup> Legal protection is a guarantee provided by the state to all parties so they can exercise their legal rights and interests in their capacity as legal subjects. In terms of legal protection for dentists when providing health services, namely the existence of applicable regulations that can protect a dentist if a dispute or disagreement with consumers or patients emerges. The basis for this protection is Law Number 36 of 2009 concerning Health, Law Number 29 of 2004 concerning Medical Practice, and Law Number 36 of 2014 concerning Health Workers.

Based on the Regulation of the Minister of Health Number 39 of 2014 concerning the Development, Supervision, and Licensing of s, it is emphasized that s in Article 6 Paragraph 1 of the work of s can only be carried out if they do not endanger health, do not cause pain or death, safe, does not conflict with efforts to improve public health and does not conflict with the norms and values that exist in society. Apart from that, it is also stated in Article 7 that in carrying out their work the s are obliged to carry out their work following the work standards of the dental technician, respect the rights of the dental worker consumer, provide clear and precise information to consumers of dental worker about the actions they carry out, record their services in special bookkeeping and makes periodic reports every 3 (three) months to the head of the district or city health service which includes the number of users of dental worker and the actions taken. Therefore, have the right to obtain legal protection as long as they carry out their duties following the laws.

In Consumer Law Protection Number 8 of 1999, Article 1 number 1 stated that consumer protection law is all efforts to guarantee legal certainty to protect consumers.<sup>12</sup> Consumer protection is necessary for consumer independence, awareness, and ability to grow and take care of themselves, thereby creating a sense of responsibility for business actors in running their businesses and creating a sense of security for consumers in obtaining services, especially services in the health sector.

The Consumer Protection Law provides principles, namely the principle of benefit, the principle of justice, the principle of balance, the principle of consumer safety and security, and the principle of legal certainty. This principle is intended so that the rights and obligations of consumers can be fulfilled in carrying out their business and obtaining legal protection from the government. Health service providers or health workers have the task of providing health

<sup>9</sup>Trisna Putra, A., & Jayantiari, I. (2023). ANALISIS IMPLIKASI GAGASAN OMNIBUS LAW KESEHATAN SEBAGAI DASAR KEBIJAKAN LAYANAN TELEMEDISIN DI INDONESIA. *Kertha Semaya : Journal Ilmu Hukum*, 11(9), 2119-2130. doi:10.24843/KS.2023.v11.i09.p10

<sup>10</sup>[www.hukumonline.com](http://www.hukumonline.com), *Teori-Teori Perlindungan Hukum Menurut Para Ahli*, accessed at 23th July 2023, 18.00 Central Indonesian Time.

<sup>11</sup>*Ibid.*

<sup>12</sup>[www.hukumonline.com](http://www.hukumonline.com), *Hukum Perlindungan Konsumen: Cakupan, Tujuan, dan Dasarnya*, accessed at 24th July 2023, 09.00 central Indonesian Time.

services, one of the tasks of which is providing dental care services. In providing services for installing dentures (prosthodontics), special expertise that is competent in the field is required, namely dentists or prosthodontists. However, people in Indonesia are already familiar with dental worker (denturists) who practice as an option for the public to obtain dental care services. The characteristics of a general dentist or specialist prosthodontics dentist are different from dental worker. There is no hesitation in the ability of a dentist or specialist dentist to serve their customers to carry out dental care, especially in making dentures (prosthodontics).

In practice, the ability to provide health services such as dental worker is acquired from generation to generation based on beliefs that are self-taught and based on experience, not based on formal education and scientific research whose results can be accounted for. The provision of traditional health services provided by dental worker to consumers is based on the principle of helping consumers by referring to the concept of mutual need and interdependence between dental worker and consumers who use the services. Therefore, the form of legal health protection provided by dental worker to consumers for prosthodontics installation services shall follow the rules in Article 4 Consumer Protection Law, whereas as business actors, services dental worker have obligations that must be fulfilled as regulated in Article 7 Consumer Protection Law.<sup>13</sup>

Legal protection for consumers aims to create a sense of security, placid, and peace for consumers in fulfilling their basic life needs and ensuring consumer rights. However, in reality, consumers as recipients of services, especially health services, are often in a weak position because the protection provided to regulate consumer rights in Indonesia has not been fully implemented. Many consumers have disadvantages in their relationship with health services providers, which causes they can not obtain compensation and/or secure their rights as consumers. Meanwhile, Article 19 paragraph (1) of the Consumer Protection Law explains that Business Actors are responsible for providing compensation for damage, pollution, and/or consumer losses resulting from consuming goods and/or services produced or traded. This compensation can be in the form of a refund or replacement of goods and/or services of the same type or equivalent value, or health care and/or provision of compensation following the provisions of applicable laws and regulations (Article 19 paragraph (2) of the Consumer Protection Law). Compensation is provided within 7 (seven) days after the date of the transaction (Article 19 paragraph (3) of the Consumer Protection Law). Even though the dentist has provided compensation, the provision of compensation does not eliminate the possibility of criminal prosecution based on further evidence that there is an element of error (Article 19 paragraph (4) of the Consumer Protection Law). However, the compensation provisions do not apply if the business actor can prove that the error is the consumer's fault.<sup>14</sup> The government's role in guaranteeing the rights of consumers for services in the health sector is crucial. Apart from that, the government's most important role towards consumers is to guarantee, maintain, and provide good and correct health services under existing regulations, especially in the practice of dental worker .

#### **Legal Authority and Responsibility of dental worker for the Installation of False Teeth (Dentures) Based on Laws and Regulations.**

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

<sup>13</sup>Tengker, F, (1991), *Pelayanan Kesehatan dan Pendemokrasian*, Nova, Bandung, p.15.

<sup>14</sup>DM, M. Y., Akbar, F., Setianari, I., Mahendra, M., & Saragih, G. M. (2022). Tindakan Tukang Gigi Yang Dilakukan Di Luar Kewenangannya Di Nilai Dari Aspek Hukum. *Jurnal Pendidikan dan Konseling (JPDK)*, 4(6), 7091-7097.

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.

The services provided by dental worker are of various types, ranging from tooth extraction, tooth filling, making and installing dentures that do not comply with procedures and authority, cleaning tartar (scaling), and installing braces (brackets). The tools and materials used by dental worker are not necessarily clean and sterile like those used by dentists. The practices carried out by dental worker almost match the competence and abilities of a dentist. The abilities possessed by a dental service provider , acquired from generation to generation and self-taught, as well as sufficient education, can become a dental service provider . s do not have a certificate recognized by the Ministry of Health.<sup>15</sup> Prices given below those of dentists are the main attraction of dental worker to patients who want to use their services.

The authority of dental worker in Article 6 Paragraph 2 of Minister of Health Regulation Number 39 of 2014 states that the work of only makes and installs partial or full removable dentures made from heat-curing acrylic material that meet health requirements without covering the remaining tooth roots. However, there were uncovered cases of dental worker who performed health service actions that exceeded the limits of their authority as dental worker such as installing dentures other than acrylic and making porcelain teeth like a dentist or prosthodontist. They also conducted other health services that shall be the authority of a dentist and prosthodontist.

From a health perspective, the actions carried out by dental worker contrast with the rules of proper medical treatment. This issue has become a serious concern for the government, so it has made regulations regarding the implementation of dental worker practice. However, after the government has made these regulations, in practice there are still many dental worker who work beyond the authority given by the law. Unfortunately, not all people consider this issue.<sup>16</sup>

One example of proper dental health services is that before installing dentures, a patient shall consult his/her condition with a dentist or prosthodontist, and then the dentist or prosthodontist will examine the patient's general condition and teeth to determine and decide on an appropriate treatment plan. This examination also requires dental X-rays and even a CT scan. Patients should give honest information to the dentist or prosthodontist to facilitate accurate diagnosis and treatment. Patients who still have remaining tooth roots or who have healthy teeth that can no longer be maintained will have a tooth extraction procedure before the dentures are made. If the gums and tissue supporting the teeth around the extraction site are already in good condition, the patient can immediately undergo the final procedure, namely the installation of dentures.

The dental worker must be responsible for the denture product that is installed on the consumer. Before the denture is installed, the dental worker must provide painkillers to consumers who have had their teeth extracted and repair the installation of dentures made by the dental worker if the dentures are uncomfortable in the consumer's mouth. Dental workers must provide compensation to patients as enumerated in Article 19 number (1) Consumer Protection Law.

If consumers are harmed by the practice of dental workers in making dentures which is not under their authority and competence, the patient as a harmed consumer can report unlawful

<sup>15</sup>Anggarita, N., & Purwani, S. (2020). PENGATURAN TUKANG GIGI DALAM PERSPEKTIF UNDANG-UNDANG KESEHATAN. *Kertha Wicara : Jurnal Ilmu Hukum*, 9(3), 1-14. Retrieved from <https://ojs.unud.ac.id/index.php/kerthawicara/article/view/55609>

<sup>16</sup>Dharmawan, D., & Jonathan, I. (2019). Pertanggungjawaban Hukum Praktik Tukang Gigi Yang Melebihi Wewenang. *Interest: Jurnal Ilmu Kesehatan*, 8(1), 121-129.

services to the Local Health Office where the dental worker practices. After receiving reports from consumers, the Local Health Office may impose administrative sanctions under Article 11 of Minister of Health Regulation Number 39 of 2014, namely in the form of a written reprimand up to the permit revocation. The Health Service also has the right to revoke permits of the practice of dental workers who violate the provisions of Minister of Health Regulation Number 39 of 2014, namely the dental workers who do not have a practice license (SIP), perform service beyond their competence, such as tooth extraction, tooth filling, making and installing denture that does not comply with procedures, cleaning tartar (scaling), and the installation of braces.

## CONCLUSION

Regulations for consumers of orthodontic services have not been regulated in the Consumer Law Protection and specifically in the Medical Practice Law. Consumer protection is only based on Law Number 8 of 1999 concerning consumer protection, especially in Article 4 relating to the rights of consumers as well as in Article 7 which relates to the obligations of business actors. The authority of dental workers has been regulated in Minister of Health Regulation Number 39 of 2014 concerning Guidance, Supervision, and Licensing, Work of Dental Workers. However, in practice, there are still many dental workers who work outside their competence and authority, such as carrying out tooth extractions, filling teeth, making and installing false teeth that do not comply with procedures and authority, cleaning tartar (scaling), and installing braces (brackets). The form of legal responsibility of dental workers for the installation of dentures (prosthodontics) based on laws and regulations is to provide compensation in the form of administering pain relievers due to the installation of dentures and repairing that cause discomfort in the patient's mouth and provide compensation to the patient according to Article 19 point 1 UUPK.

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