



Dental Practice That is Not Competent in The Perspective Of Legal Protection Of Patients

Khairunnisa Taha Oponu

Faculty of Law, University of Muhammadiyah Malang, Indonesia

Abstract. *This study aims to analyse incompetent dental practices and their implications for the legal protection of patients in Indonesia. With the rapid development of dentistry, high standards of practice are a must to ensure patient safety and health. However, there are still cases where dentists perform actions that are not in accordance with expected competence, which can result in physical and psychological harm to patients. This study uses qualitative methods and legal analysis to identify the forms of incompetence and the impact on patients. In addition, the study reviews existing regulations. The results show a gap between optimal dental practice and reality in the field, as well as low legal awareness among patients regarding their right to safe and quality health services. This study recommends improving education and training for dentists, as well as providing outreach to the community regarding their rights in health services. Through these efforts, it is hoped that more competent dental practices and more effective patient protection can be created.*

Keywords: *Dental practice, Incompetence, Legal protection, Malpractice, Patient rights.*

1. INTRODUCTION

This research is motivated by the problem of dentists who are not competent in practicing dentistry in Indonesia.

Some of the problems include dentists not practicing according to their competence, such as dentists performing the competence of specialist dentists, the absence of referrals by dentists to specialist dentists when the patient's illness is indicated as difficult, lack of information regarding the diagnosis and what action the dentist will take on the patient.

These issues cause harm to patients as users of oral health services provided by dentists.

Theoretically, in practicing dentistry, general dentists are required to adhere to the dental code of ethics. Article 11 states that 'Dentists in Indonesia are obliged to protect patients from harm'. Furthermore, Article 11 Paragraph (2) explains 'In the event of inability to carry out an examination or treatment, the dentist must refer the patient to a dentist or other professional with appropriate competence.'

There are two types of relationships between doctor and patient, namely contractual relationships, often referred to as therapeutic transactions, and relationships based on law. In both relationships, legal and ethical responsibilities arise. The relationship between doctor and patient according to the law is in the form of an agreement whose object is medical services or healing efforts. In the healing efforts carried out by doctors on patients, a bond arises called an *inspanning verbintenis*, a bond that is carried out carefully and requires hard work.

In the practice of dentistry by dentists, patients have the right to obtain health services in accordance with the code of ethics and professional standards of medicine. Basically, the existence of rights for patients is intended to protect patients from actions that endanger the

safety of their health. Patient rights are, in principle, the basic rights of individuals in health. These basic rights arise from the right to determine one's own destiny. However, in the position of the patient, they are relatively vulnerable because of their inability to defend their opinion.

2. METHOD

This method is divided into several easily manageable and detailed sub-sections.

Type of Research

The type of research used is normative law research. Normative law research is a research method related to laws and regulations, both from the point of view of the hierarchy of legislation (vertical) and the relationship between laws and regulations (horizontal).

Research Approach

The research approaches used are the *statute approach* and the conceptual approach. The approach to normative legal research is the statute approach because the research is based on existing legal materials.

Legal Material Collection Technique

The collection of normative legal materials involves the process of searching for and retrieving documents and information of a normative nature, namely documents containing legal rules such as laws, regulations, ministerial decrees, and other legal documents. The technique of collecting legal materials is carried out in order to obtain information related to the topic under study.

Legal Material Analysis Technique

The analysis technique is used with a qualitative method, which is a method of data analysis by grouping and selecting the data obtained. Furthermore, it is arranged in sequence and studied using deductive thinking methods and linked using theories from literature studies (secondary data), then concluded to answer the problem formulation in this study.

Originality of Research

1. Research written by Ricky with the title 'Legal Aspects of Medical Practice Performing Medical Actions That Are Not Within the Competence of His Profession', in the journal Lex Renaissance, Volume 5 Number 2 Year 2020. In his article, the author formulates the question of whether doctors are allowed to perform medical procedures that are not within

the authority of their professional competence. The results of the study explain that doctors' authority to practice medicine requires them to have a Registration Certificate (STR) and a Practice License (SIP), as regulated in Articles 29 and 36 of Law Number 29 of 2004 concerning Medical Practice. Doctors are not allowed to take medical actions that are not within their competence as long as they do not have a certificate of competence for what they obtained during the education process.

2. The first research was written by Cekli Setya Pratiwi with the title of the concept 'Authority of General Dentists for Medical Actions Based on Law Number 17 of 2023 concerning Health'. In the Tambusai Health Journal, Volume 5 number 1 of 2024. The results of the study explain that the authority of a dentist is that he or she must first have a STR and SIP, then the dentist has the right to practice medicine in accordance with his or her competence and is obliged to refer patients to certain specialist dentists if it is beyond his or her competence. The legal consequences of a dentist performing medical procedures outside his or her authority are considered by the Indonesian Medical Disciplinary Honorary Council through mediation and restorative justice mechanisms.

3. RESULTS AND DISCUSSION

Legal Liability of Uncompetent Dental Practices

Incompetent dentists are dentists who do not meet Indonesian dental competency standards. Dental competence is obtained through medical education and medical practice training. A competent dentist is marked by an Indonesian Dental Competency Test certificate issued by the Dental College. In dental practice, in addition to meeting Indonesian dental competency standards, dentists are also required to exercise their authority in accordance with the professional code of ethics.

Dentists and specialist dentists have a moral responsibility in carrying out medical practices by exercising their authority according to their competence and emphasising to medical personnel to keep up with the developments in science and technology in order to create professional dentists in accordance with the standards of competence for dentists as outlined in the Indonesian Medical Council Regulation Number 40 of 2015 concerning the Competency Standards for Indonesian Dentists.

General dentists are required to fulfil the domains that form the pillars of their authority. Professionalism is the first domain mentioned in the Dentistry Competency Standards regulation. The form of professionalism of a dentist is to practice in the field of dentistry in accordance with expertise, collegiality, ethics and applicable laws. In carrying out the practice

of dentistry, a dentist has a responsibility to his profession as a provider of health services and to the safety of patients as recipients of health services.

The responsibility of a general dentist is to exercise his authority in accordance with his competence, so as not to cause harm to the patient and the dentist himself.

The KKI has given dentists the right to increase and deepen their knowledge of dental practice by granting them additional competence and authority. However, this competence and authority can only be exercised in certain areas, such as areas where there are no specialist dentists.

Furthermore, the responsibilities of dentists are mandated in Articles 274 and 279 of Law Number 17 of 2023.

Article 11 paragraph (2) also states that 'In the Code of Ethics for Dentistry, Article 11 paragraph 2 states that 'In the event of inability to carry out an examination or treatment, the dentist must refer the patient to another professional dentist with the appropriate competence'

Legal Protection for Patients Who Receive Services from General Dentists Who Work Without Competence.

Legal protection is protection of human dignity and recognition of human rights by legal entities based on rules or regulations designed to protect something from others.

Legal protection needs to be given to patients receiving dental services from general dentists who use the competence of specialist dentists. Legal protection for patients is provided to guarantee their rights when the services they receive do not benefit them.

Article 11 of the Code of Medical Ethics states that: 'Dentists in Indonesia have an obligation to protect patients from harm'.

Legal protection of patients' rights has been explained in Law Number 29 of 2004 concerning Medical Practice, where patients have the right to receive a full explanation regarding the medical procedures provided, the right to request the opinion of another doctor or dentist, to receive services in accordance with medical needs, to refuse medical procedures and to obtain the contents of medical records.

Furthermore, if the dental practice services provided by a general dentist who carries out the competencies of a specialist dentist cause harm, the patient has the right to report any problems experienced to the Dental Medical Ethics Honorary Council (MKEKG). MKEKG is an institution tasked with upholding the ethics of the dental profession.

In the event of a violation of professional discipline, general dentists can be reported to the Professional Disciplinary Council (MDP). The Professional Disciplinary Council is tasked

with receiving and investigating complaints, investigating alleged disciplinary violations, determining whether or not there has been a violation, deciding on sanctions, and providing recommendations regarding violations of legal regulations in the field of medicine. In accordance with the provisions of Article 304 of Law Number 17 of 2023 concerning Health

Losses suffered by patients as a result of dental services by general dentists who use the competence of specialist dentists are regulated in civil law in Article 1365, which states that 'Every act that violates the law and causes harm to others obliges the person who caused the harm to compensate for it due to his or her fault'.

Article 308 paragraph (2) of Law No. 17 of 2023 concerning Health:

'(2) Medical Personnel and Health Workers who are held accountable for actions related to the implementation of Health Services that cause civil damages to Patients must be asked for a recommendation from the panel as referred to in Article 304.'

4. CONCLUSION AND ADVICE

Conclusion

1. General dentists have the responsibility to exercise their authority in accordance with their competence and are responsible for exercising their competence in accordance with the Indonesian dental code of ethics as a form of professionalism. In the event of inability, the dentist must refer the patient to a medical professional with special competence.

A general dentist can carry out the competence of a specialist dentist under certain conditions, for example, if there is no specialist dentist in the area and the patient requires emergency treatment. Dentists are given the right to develop their competence with additional competence or additional authority. However, this additional competence and authority can only be implemented in certain areas.

2. Promoting patient rights is a form of legal protection for patients and a form of professionalism for a dentist. These rights have been outlined in Article 276 of Law Number 17 of 2023 concerning Health. Based on the provisions of this Article, a dentist is obliged to provide clear information regarding the patient's health, the treatment that will be provided and must respect the patient if they refuse the proposed treatment, and allow the patient to seek the opinion of other medical personnel. This obligation has been mandated in Article 10 paragraphs (1) and (2) of the Indonesian Code of Dental Ethics.

If the services of a general dentist who handles specialised cases cause material and immaterial harm to the patient, the patient can hold the dentist accountable by reporting the problem to the Dental Medical Ethics Council (MKEKG). Furthermore, the patient can report this event as a violation of professional discipline by submitting it to the Professional Disciplinary Council in accordance with Article 304 of Law Number 17 of 2023. A civil lawsuit can be filed by holding a general dentist who provides health services liable, as stated in Article 1365 of the Civil Code.

Advice

1. Where necessary Where necessary, there is a need for regulatory enforcement, where the government and professional organisations in dentistry need to ensure the implementation of regulatory authority with stricter supervision to avoid violations of authority by general dentists who violate the domain of competence of specialist dentists and as a form of responsibility of dentists in exercising their authority, especially in ensuring that general dentists exercise their authority in accordance with their competence. Dentists should also understand the latest health regulations and carry out their responsibilities in accordance with the code of ethics for dentistry. Protection of patients' rights can be provided by promoting
2. Collaborative activities between general dentists and specialists, either directly or through online media, to facilitate consultation and treatment of patients who require further expertise. It is also necessary to strengthen the medical information system regarding the authority and competence of general dentists and specialists through digital platforms or other media that can be accessed by patients, so that patients can choose the appropriate service. There needs to be strict sanctions applied against professional violations to maintain trust in the dental profession.

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