



Legal Protection for Consumers of Health Services by Dentists in Indonesia

Dandy Saputro¹, Rosita Candrakirana²

^{1,2} Faculty of Law, Universitas Sebelas Maret, Indonesia

Abstract. *The purpose of this study was to analyze legal protection for users of health services managed by dentists. Data for this letter were collected through literature review and interviews, followed by descriptive analysis as legal material. The description of the data received in the letter was written and arranged systematically in the form of a sentence description whose meaning is understood as a statement or conclusion. The investigation revealed that the dentist was involved in activities that did not comply with the laws and regulations applicable to dental practice. This caused the victim to suffer losses. The state, which is responsible for supervision and regulation, did not provide guidance or supervision over the work of dental technicians. The dentist committed a violation in providing dental services outside his authority and had a valid dental practice permit from the government as stipulated in the Regulation of the Minister of Health Number 39 of 2014 (Regulation on the Development, Supervision, and Licensing of Dental Practice); The author recommends that the central government work together with local governments to conduct regular and continuous supervision of dental clinic locations and provide training to dentists so that they do not become victims of dental clinics.*

Keywords: *Legal protection, medicine, dentist*

1. BACKGROUND

Law Number 36 of 2009 concerning Health, hereinafter written as the Health Law, states that anything that causes health problems in the Indonesian community will cause great economic losses for the country, and every effort to improve the health of the community also means investment for national development.

The development of science in the field of health, as well as the support of increasingly adequate health facilities, has also influenced health experts who have also continued to develop over time. Various treatment methods continue to be developed in order to provide the best service to patients as consumers of health services.

Along with the development of the era, the need for consumption of goods and/or services is increasing, but it is not followed by public awareness in choosing, using or buying goods or services that are good and correct so that they are safe for consumers themselves. One of the causes is the price or tariff of the goods and/or services themselves, such as the significant difference in tariffs between competent services and less competent services, where less competent services are more affordable for the public. This is the reason why people prefer goods or services that are less competent and more affordable. The problem of choosing dental health services is a real example that still often occurs in society. This happens because there are parties who open or practice dental care services, namely dentists. The profession of dentists in Indonesia has existed since the Dutch colonial era and continues to live because of the encouragement of the community, which until now many still seek dental care and treatment

from dentists than dentists. However, dentists do not have the competence to carry out this practice. According to the Regulation of the Minister of Health Number 39 of 2014 concerning Guidance, Supervision, and Licensing, the Work of Dentists, the authority of dentists is basically only to make dentures and install dentures from acrylic materials. However, the regulation is not in line with the practice, where dentists provide services that exceed the authority limits determined by the government by performing dental treatments such as fillings, installing braces, extracting teeth, making porcelain teeth like a dentist, and performing beauty treatments such as teeth whitening. In the modern era like this, social media is one of the most widely used media to provide information about the dangerous impacts of dental treatment and care by dental services, including victims of tooth extraction, braces, and teeth whitening. These victims usually experience infections in their mouths ranging from mild to infections that result in death. Law Number 8 of 1999 concerning Consumer Protection, hereinafter referred to as UUPK, is a form of government effort to carry out supervisory functions and provide legal certainty to parties, both for business actors as providers of goods and/or services and consumers as users of goods and/or services. Between consumers and business actors there is a reciprocal relationship, which basically business actors need consumers to use their services services or buy goods offered and aim to make a profit, conversely with consumers who need business actors to offer various kinds of goods and/or services to consumers to meet all their needs. In this case, considering the state's goal of maintaining and preserving order, it is hoped that the state will pay attention, in order to guarantee consumer rights and conversely the fulfillment of business actors' obligations as producers can be ensured.

The reciprocal relationship that arises between consumers and business actors, sometimes does not match what is desired by one party or both parties and more often there are consumers themselves who are harmed by goods and/or services originating from business actors. Not a few actions by business actors who prioritize profit without seeing the risks or impacts that will occur on their actions and of course this is an unhealthy work activity for the duration of their business.

2. METHOD

The research method is a method used to solve a problem in order to develop and test the truth of a scientific research work. This research is conducted by collecting, compiling and interpreting data in accordance with applicable regulations. The research approach method used used is the legislation. This approach is carried out by examining all laws and regulations related to the problem (legal issue) being faced. This legislative approach is like studying the

consistency/conformity between the Constitution and the Law, or between one Law and another Law.

3. RESULTS AND DISCUSSION

Based on the provisions of Article 64 of Law Number 29 of 2004 concerning Medical Practice, if an error occurs involving health services by a doctor, a complaint is submitted to the Indonesian Medical Disciplinary Honorary Council. Complaints related to errors in the implementation of a doctor's duties are determined in Article 66 paragraph (1) of Law Number 29 of 2004 concerning Medical Practice, which states that anyone who knows or whose interests are harmed by the actions of a doctor or dentist in carrying out medical practice can complain in writing to the Chairperson of the Indonesian Medical Disciplinary Honorary Council. The dental health service provider in this case is a dentist who provides or serves dental health services and can also be said to be a business actor. Theoretically, the responsibility related to the legal relationship that arises between the party demanding responsibility and the party demanded to be responsible can be divided into two, as follows:

1. Responsibility based on error, namely responsibility that can arise due to default, the emergence of legal acts, careless actions.
2. Responsibility based on risk, namely responsibility that must be borne as a risk that must be taken by a business actor for the business activities he carries out.

There are principles of responsibility in consumer protection law, the principle of responsibility is a very important matter in consumer protection law, in cases of violation of consumer rights, caution is needed in analyzing who should be responsible and how far responsibility can be differentiated to the related parties. In general, the principles of responsibility in consumer protection law are divided as follows: 1. The principle of responsibility based on the element of error This principle explains that a person can only be held legally responsible if there is an element of error that is committed. 2. The principle of presumption to always be responsible This principle explains that the defendant is always considered responsible, until he can prove that he is not guilty, so the burden of proof lies with the defendant which is usually called the reverse burden of proof. 3. The principle of presumption not always responsible This principle is only known in very limited consumer transactions and such limitations are common sense justified. 4. The principle of absolute responsibility This principle is a principle of responsibility that determines that error is not a factor that determines responsibility, but there are exceptions that allow a business actor to be released from his responsibility to provide compensation, for example, force majeure. 5. The

principle of responsibility with limitations The principle that is often included as an exoneration clause in the standard agreements that they make. In this principle, business actors certainly feel they benefit because they can include an exoneration clause unilaterally, and limit the maximum responsibility given to consumers. So this principle is very detrimental to consumers. consumers. In Articles 19 to 28 of the UUPK, it has regulated the civil liability of business actors towards their consumers. According to Article 19 of the Consumer Protection Act, the responsibility of business actors is to provide compensation to consumers as a result of damage, pollution, and/or consumption of goods or services produced or traded by the business actor concerned. The compensation is not always in the form of payment of a sum of money, but can also be in the form of replacement of goods and/or services of the same type or equivalent value, or in the form of health care and/or provision of compensation in accordance with applicable laws and regulations. Considering the substance of the provisions of Article 19 paragraph (2), it actually has weaknesses that are detrimental to consumers, especially in cases where consumers suffer from an illness. Through this article, consumers only receive one form of compensation, namely compensation for the price of goods or only in the form of health care, even though consumers have suffered losses not only in the form of losses in the price of goods but also losses arising from health care costs. For this reason, Article 19 paragraph (2) should determine that compensation can be in the form of a refund and/or replacement of goods or services of equal value and/or compensation can be given simultaneously to consumers. This means that the formulation between the words "equivalent in value" and "health care" in Article 19 paragraph (2) that currently exists no longer uses the word "or" but rather "and/or". Through changes like this, if the loss causes the consumer to get sick, then in addition to getting compensation for the price of the goods, they will also receive health care.

The sanctions that can be imposed by the UUPK against violations committed by business actors in running their businesses consist of: 1. Administrative sanctions Administrative sanctions are a special right granted by the UUPK to the BPSK for the task/or authority to resolve consumer disputes outside the courts. According to the provisions of Article 60 paragraph (2) in conjunction with Article 60 paragraph (1) of the UUPK, the administrative sanctions that can be imposed by the BPSK are in the form of determining compensation of a maximum of IDR 200,000,000.00 (two hundred million rupiah).

Based on Article 60 paragraph (2) it means, if the producer is negligent in fulfilling his/her responsibility, then the business actor can be subject to a maximum sanction of Rp. 200,000,000.00 (two hundred million rupiah). The compensation is a form of limited liability so that overall it can be said that the compensation adopted in the UUPK adopts limited

subjective compensation.² Criminal sanctions Consumers who feel disadvantaged because they consume goods and/or services distributed and traded by business actors, in addition to being able to file a civil lawsuit, can also file a criminal lawsuit. This is because Article 62 of the UUPK explains that criminal prosecution can be carried out against business actors and/or their managers. Related to criminal penalties in the form of imprisonment or fines. Business actors can be subject to sanctions in the form of imprisonment for 5 (five) years and/or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah), when they violate Article 8, Article 9, Article 10, Article 13 paragraph (2), Article 15, Article 17 paragraph (1) letter a, letter b, letter c, letter e, paragraph (2), and Article 18 of the UUPK.⁷³ 3. Civil sanctions Legal sanctions applied in this civil law are in the form of compensation given by business actors to consumers who have suffered losses, namely in the form of a refund, or replacement of goods and/or services, health care or the provision of benefits. Sanctions in the form of compensation must be given by business actors to consumers within a period of 7 days after the transaction date. Based on Article 58 of the Health Law, it states that everyone has the right to claim compensation from a person, health worker, and/or health provider who causes losses due to errors or negligence in the health services they receive. When viewed from the elements of the article, everyone has the right to claim compensation that can be submitted to the health service provider who has caused losses due to violations, errors or negligence in health services provided by the health service provider.

4. CONCLUSION

The legal relationship between the dentist and his consumer is a legal relationship of a service agreement. The parties in this legal relationship are business actors and consumers. In the legal relationship between the dentist and his consumer in this case there has been an unlawful act committed by the dentist and it can be said to have committed an unlawful act because the dentist's actions in carrying out his practice have fulfilled the elements of an unlawful act, such as losses due to the dentist's practice experienced by the consumer, errors made by the dentist and the dentist's actions that violate the law

Legal protection for consumers in Indonesia has been provided by the government with the birth of the UUPK. The problem in this case is that the dentist not only violated the UUPK but also the Medical Practice Law, the Health Law and the Regulation of the Minister of Health Number 39 of 2014 concerning the Work of Dentists. In addition, the dental practice in Temanggung Regency does not have a permit from the Temanggung Health Office because the Temanggung Health Office has not issued new permits for dental workers in accordance with

the Regulation of the Minister of Health Number 39 of 2014, which can be interpreted as there being no supervision or guidance for the work of dental workers in Temanggung Regency by the local government. Regarding this case, consumers who feel aggrieved can sue the dental worker for compensation based on Article 1365 of the Civil Code concerning unlawful acts.

5. BIBLIOGRAPHY

- Hendrojono Soewono, *Limits of Legal Liability for Medical Malpractice in Therapeutic Transactions*, First ed., Srikandi, Surabaya, 2007.
- Janus Sidabalok, *Indonesian Consumer Protection Law*, First ed., PT Citra Aditya Bakti, Bandung, 2006.
- J. Satrio, *Contract Law*, First ed., Citra Aditya Bakti, Bandung, 1992.
- Kartini Muljadi and Gunawan Widjaja, *Contracts Born from Contracts*, First ed., PT Raja Grafindo, Jakarta, 2003.
- Kurniawan, *Consumer Protection Law; Problems of the Position and Power of Decisions of Consumer Dispute Resolution Agencies*, First ed., UB Press, Malang, 2011.
- M. Ali Mansyur, *Law Enforcement on Producer Liability in the Realization of Consumer Protection*, First ed., Genta Press, Yogyakarta, 2007.
- M. Yahya Harahap, *Legal Aspects of Contracts*, ed. First, Alumni, Bandung, 1986. Muhammad and Alimin, *Ethics and Consumer Protection in Islamic Economics*, BPFE, Yogyakarta, 2004.
- Neng Yani Nurhayani, *Civil Law*, First ed., Pustaka Setia, Bandung, 2015.
- Nugroho J. Setiadi, *Consumer Behavior: Contemporary Perspectives on Consumer Motives, Goals, and Desires*, Fourth ed., Kencana Prenada Media Group, 2010.