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## **Consumer Protection in Dental Health Services: An Analysis of Dentists' Practices in Indonesia**

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> Abstract. This study aims to explore the legal protection for consumers who use the services of dentists for braces in Indonesia. People need good dental health services, but many turns to dentists who offer more affordable prices without understanding the risks involved. Dentists are legally only allowed to make and install removable dentures, while medical procedures such as braces and veneers are outside their authority. This results in many consumers experiencing serious health problems, such as swollen gums and infections, but most patients do not file complaints or lawsuits due to a lack of understanding of their rights. This study includes a normative review of applicable legal regulations, including Law Number 8 of 1999 concerning Consumer Protection, which regulates the rights and obligations of consumers and business actors. The results show that dentists have a responsibility to provide services that meet standards, as well as an obligation to provide compensation if losses occur due to negligence. The public's readiness to file criminal charges against dentists who violate the law is also identified as a problem. Therefore, educational efforts are needed for the public to understand the risks of using the services of untrained dentists and the importance of choosing services from certified professionals. This research is expected to provide insight into legal protection for consumers and increase awareness of safe dental health practices.

Keywords: Consumer; Health; Installation; Protection; Services.

### 1. Introduction

Currently, the community still really needs dental and oral health services, which has caused the profession of dentists to grow rapidly (Halomoan, 2020). In Law Number 8 of 1999 concerning Consumer Protection, Article 4 regulates consumer rights related to protection in obtaining health products, including the right to comfort, security, and safety in using these products. Consumers also have the right to obtain clear, correct, and transparent information regarding the conditions and guarantees of the health products used. In addition, they have the right to express their opin-ions regarding the use of these products (Pesulima et al., 2021). Dental health products that are often used by the public include dentures, veneers, and braces (Dharmawan & Jonathan, 2019; Kumar et al., 2013). Initially, braces were used as medical devices to correct the position of teeth, but have now become part of a lifestyle trend, especially among young people.

The use of braces is often associated with middle to upper economic status because of its relatively expensive cost. However, currently installing braces has become more affordable because of the many dental services that offer cheaper prices than dentists. The existence of dentists is increasingly mushrooming in various regions, with the Indonesian Dental Union (STGI) estimating that there are around 15,000 dentists practicing in Indonesia, although only around 4,000-5,000 of them have official certificates from STGI. Some dentists even list their signs as "dental experts," although legally, the government only recognizes the profession of dentists with limited authority to make and install removable dentures. This profession is not always based on formal education, because many dentists rely on self-taught skills to run their practices (DM1 et al., 2022).

Several reports have revealed that using the services of a dentist for braces installation does not always provide the expected results. A former patient admitted that after using the services of a dentist, his smile became asymmetrical. Another case occurred when a patient underwent a veneer installation procedure by a dentist, but instead of improving the appearance of the teeth, it actually caused serious problems such as swollen gums, bleeding, pus, and an unpleasant odor (Kesavan et al., 2016). Similar incidents are rarely brought to the legal realm, because many patients do not know their rights and obligations as consumers who suffer losses (Putri & Haflisyah, 2019a).

Based on the Regulation of the Minister of Health (Permenkes) Number 39 of 2014 concerning the Guidance, Supervision, Licensing, and Supervision of Dentists, it is stated that dentists are only allowed to make and install removable dentures. They do not have the authority to perform medical procedures such as installing veneers or braces. In addition, according to Permenkes Number 37 of 2014, a dentist can only obtain a practice permit from the local Health Office if they receive a recommendation from an authorized professional organization. In this case, the Indonesian Dentists Union (STGI) is the only official organization recognized by the Ministry of Law and Human Rights. Dentists who perform medical procedures such as installing veneers, braces, and similar actions have exceeded their authority. Many consumers or patients have become victims of the actions of dentists who exceed their competence. However, most of them have no desire to file a protest or take the case to court (Bhatia et al., 2023). Instead, they blame themselves for choosing to use the services of a dentist. The work that should be done by a dentist cannot be equated with that of a dentist. However, many people still think that dentists have the same skills as dentists, so they prefer to visit dentists to handle the complaints they experience (Wijaya & Vitasari, 2020).

Based on these problems, consumers need to get legal protection to avoid potential losses due to business practices that are not in accordance with applicable provisions. Therefore, this study aims to analyze legal protection for consumers who are victims of dental practices. To guide the analysis, there are two main questions asked: First, how is the legal protection for users of dental services in installing braces according to Law Number 8 of 1999 concerning Consumer Protection? Second, how is the legal responsibility for cases that befall consumers due to the installation of braces by dentists based on the law?

#### 2. Research Methods

The approach method used in this study is normative juridical, which is an approach that examines legal norms in laws and regulations and relevant legal literature (Marzuki,

2017). The type of data used is secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The data obtained were analyzed using a qualitative juridical analysis method, which aims to interpret legal norms with a descriptive and systematic approach (Soekamto & Mamudji, 2015). This research is a normative legal research conducted through a study of written legal regulations or available legal materials. The study of secondary data includes official legal documents, previous research results, and various other relevant literature sources (Ibrahim, 2008). In relation to official legal documents, this study analyzes primary legal materials that are binding and relevant to the issues being studied. This research is descriptive analytical in nature, namely by comprehensively and systematically describing the legal conditions that apply at the place, time, and context of a particular legal event, with the aim of obtaining a complete understanding of the legal problems being studied (Marzuki, 2017).

#### 3. Results and Discussion

#### 3.1. Legal Protection for Users of Dental Services When Installing Braces

Braces are used to straighten uneven teeth or overcome the problem of overcrowded jaws. In addition to aiming to improve oral function, braces are also better known as a way to improve a person's aesthetics or appearance. The cost of installing braces varies, starting from IDR 6 million to IDR 20 million, depending on the doctor, the materials used, and the clinic where the procedure is performed. The high cost of installing braces creates an opportunity for dentists to offer similar services at more affordable prices. The existence of dentists, known by various names such as dental experts or dental salons, is growing along with the increasing trend of beautifying teeth (Rizafaza & Mangesti, 2022). The prices offered by dentists are much cheaper than those of dentists because the capital required is also lower. On various e-commerce platforms, veneers and braces are sold at prices ranging from IDR 10 thousand to IDR 700 thousand complete with equipment, while veneer business packages are offered for IDR 350 thousand to IDR 500 thousand. Although dentists are legally only allowed to make removable dentures, in reality many violate the rules by providing services for installing braces, veneers, scaling, fillings, tooth extractions, and making dentures using selfcuring acrylic materials when they should use heat-curing acrylic (Prabowo et al., 2019).

Self-curing acrylic is a material used in the manufacture of dentures or false teeth that has not fully hardened when attached directly to the gums. This hardening process causes the dentures to become permanent and cannot be removed. As a result, food debris can accumulate around the dentures, potentially causing bad breath. In addition, the hardened paste puts pressure on the gums during the polymerization process, which can worsen the wound caused by tooth extraction (Dwimaya, 2020). Wounds on the gums that are constantly under pressure are at risk of not healing properly and can even cause new wounds. Several cases have even recorded deaths due to complications caused by the use of self-curing acrylic dentures.

In the practice of installing braces, many dentists consider it merely a fashion trend without understanding its functional aspects. In fact, during installation, the dental pads are often pulled according to the dentist's wishes without considering the impact. As a result, teeth can become loose, which increases the risk of damage to the tooth bone due to pressure from the braces rubber. Inaccuracy in installation can trigger teeth to come loose from the jaw. The braces rubber itself has a specific function and requires an understanding of theory that only dentists have mastered (Jayanti et al., 2020). Therefore, medical procedures such as installing braces, dentures, or veneers should be carried out by dentists who have adequate competence and education. On the other hand, dentists who perform these procedures only rely on estimates and imitate dentists' practices without in-depth medical understanding. Dentists who take actions outside their authority have violated the legal provisions as stipulated in the Regulation of the Minister of Health (Permenkes) Number 39 of 2014 concerning the Guidance, Supervision, Licensing, and Supervision of Dentists. The regulation emphasizes that the duties of dentists are limited to making and installing removable dentures, not performing medical procedures such as installing braces or veneers. Thus, practices that exceed the limits of this authority risk endangering public health (Yudistira et al., 2021).

Several dentists then investigated social media accounts that offered dental services. From the search results, many promotions were found showing the work of braces and veneers by dentists or dental beauty salons that did not comply with medical standards (Ongkiwijaya et al., 2023). Through uploads on social media, dentists documented incorrect procedures, which actually caused tooth damage. In response to this phenomenon, several dentists created a social media account called Dentist Victim since 2017. The account received tens of thousands of reports regarding illegal dental practices, ranging from tooth damage due to the installation of braces and veneers to cases of death due to unsafe procedures (Göransson et al., 2022). These cases indicate violations committed by dentists who carry out medical procedures beyond their authority. This has the potential to harm consumers who use their services. As regulated in Article 6 Paragraph (1) of the Minister of Health Regulation Number 39 of 2014, the work of dental technicians is only permitted if it does not endanger health, does not cause pain or death, is safe, supports improving public health, and does not conflict with applicable social norms and values. However, many dentists do not comply with this rule, so their practices actually pose a great risk to public health.

The Consumer Protection Law sets out several main objectives in an effort to protect consumer rights. First, this law aims to increase consumer awareness, ability, and independence in maintaining and protecting themselves. Second, consumer protection is also intended to maintain their dignity by preventing negative impacts from the use of unsafe goods or services (Jayanti, 2020). In addition, this law encourages consumer empowerment to be wiser in choosing, determining, and demanding their rights. In order to realize optimal protection, the system that is built must be based on legal certainty, transparency, and easy access to information. Not only focusing on consumers, this regulation also instills awareness among business actors about the importance of consumer protection, so that they are expected to run their businesses honestly and responsibly. Finally, this law aims to improve the quality of goods and services that not only guarantee business continuity, but also pay attention to aspects of health, comfort, security, and consumer safety (Sukini et al., 2021).

In the context of legal protection for consumers who use the services of dentists in practices that are not in accordance with their competence, Article 4 of the Consumer Protection Law provides a number of rights to consumers. First, consumers have the right to get comfort, security, and safety in using goods or services. Second, they have the right to choose and obtain goods or services according to the exchange rate, conditions, and guarantees that have been promised. In addition, consumers also have the right to receive accurate, clear, and honest information regarding the conditions and guarantees of the goods or services used. If they experience problems, they have the

right to express opinions and complaints related to the goods or services received. Legal protection also includes the consumer's right to receive advocacy and dispute resolution fairly (Jayanti, 2020). In addition, consumers have the right to receive guidance and education related to consumer protection. They must also be treated properly, honestly, and non-discriminatory in every transaction. If the goods or services received do not comply with the agreement or are defective, consumers have the right to compensation, damages, or replacement. These rights are also reinforced by other provisions stipulated in applicable laws and regulations.

According to Anwir et al. (2021), if a dentist violates the provisions stipulated in the Minister of Health Regulation (Permenkes) Number 39 of 2014, they can be subject to administrative sanctions by the district or city government. These sanctions include written warnings, temporary revocation of permits, to permanent revocation of permits. Apandy et al. (2021) explained that the application of administrative sanctions is considered more effective than other forms of sanctions. One of the reasons is that this sanction can suppress the growth of illegal dental practices that carry out procedures outside their authority. This type of practice is carried out by individuals who are not registered with the Medical Council but act as if they are dentists who have official permits (Putri & Haflisyah, 2019b). Another advantage of administrative sanctions is that they can be imposed directly and unilaterally by the government as the licensing authority, without requiring approval from other parties or through a court process. Therefore, if a violation occurs, the government can immediately revoke the business license and stop the activities of dentists who violate the rules, so that it can provide better protection for consumers (Ongkiwijaya et al., 2023).

If a dentist practices beyond his competence and results in injury or even death due to his negligence, he can be subject to legal sanctions based on the Criminal Code (KUHP). In accordance with Article 359 of the Criminal Code, a person who due to his negligence causes the death of another person can be sentenced to imprisonment for up to five years or a maximum of one year. Meanwhile, Article 360 of the Criminal Code states that if the negligence results in serious injury to a person, the perpetrator can be subject to imprisonment for a maximum of five years or a maximum of one year. In addition, paragraph (2) of the same article explains that if due to the negligence a person experiences an injury that results in illness or obstacles in carrying out work for a certain period of time, the perpetrator can be subject to imprisonment for up to nine months, a maximum of six months, or a fine of four thousand five hundred rupiah.

# **3.2. Legal Responsibility for Cases Affecting Consumers Due to the Installation of Braces by Dentists**

In general, dentists as business actors have responsibility for the results of the work they provide, so that consumers can be protected from harmful practices. In running their business, dentists must ensure that the services provided meet good standards in order to ensure consumer safety (Syawalina et al., 2023). The principle of liability based on fault emphasizes that any action that is contrary to the law, norms of propriety, and morality in society can give rise to an obligation to compensate the injured party. Meanwhile, the principle of absolute liability does not make fault the main factor in determining liability, but there are exceptions that allow business actors to be free from liability under certain conditions. This principle protects consumers from business actors who fail to fulfill guarantees for the products or services offered, either because the benefits are not in accordance with those promised or due to negligence in meeting the

standards that have been set. In addition, there is the principle of liability with limitations, where business actors themselves determine the standard provisions that must be adhered to. In the case of dentists, the applicable liability is absolute, especially when they perform procedures related to the healing of dental and oral problems (Cukovic-Bagic et al., 2014).

Based on Article 7 of Law Number 8 concerning Consumer Protection, dentists as business actors have a number of obligations that must be fulfilled in running their business. First, they are required to act in good faith in every business activity carried out. In addition, they must also provide accurate, clear, and honest information regarding the condition and guarantee of the goods or services offered, including providing an explanation of how to use, repair, and maintain them (Simon et al., 2017). In addition, dentists must treat consumers well, honestly, and not be discriminatory in providing services. They are also responsible for ensuring that the goods or services they produce and trade meet applicable quality standards. Consumers also have the right to try or test certain goods and services before purchasing, and to obtain a guarantee or warranty for the goods used. If a loss occurs due to the use of the goods or services they offer, dentists as business actors are required to provide compensation, damages, or replacement. This also applies if the goods or services provided do not comply with the agreement that has been agreed with the consumer (Mogodi et al., 2022).

If the installation of braces by a dentist causes harm to the patient or consumer, then the dentist is responsible for providing compensation and restitution. This is in accordance with the provisions of Article 19 paragraph (1) of the Consumer Protection Law, which states that business actors are required to replace damage, pollution, or losses experienced by consumers due to the use of goods or services they provide. The forms of compensation that can be provided include refunds, replacement of goods or services with comparable value, or health care and benefits in accordance with applicable legal provisions (Article 19 paragraph (2). This compensation must be provided within a maximum period of seven days from the date of the transaction (Article 19 paragraph (3)). Although the business actor has provided compensation, this does not eliminate the possibility of criminal charges if further evidence is found regarding elements of error in the practice carried out (Article 19 paragraph (4)). However, the provisions regarding this compensation do not apply if the business actor can prove that the loss occurred due to the consumer's own error.

If a dentist practices beyond his competence and results in injury or even death due to his negligence, he can be subject to criminal sanctions in accordance with the Criminal Code (KUHP). Based on Article 359, a person who due to his negligence causes another person to die can be sentenced to up to five years in prison or a maximum of one year in prison. Meanwhile, Article 360 stipulates that if a person's negligence causes serious injury to another person, the perpetrator can be subject to a maximum of five years in prison or one year in prison. Furthermore, Article 360 paragraph (2) states that if the negligence causes an injury that results in illness or hinders a person's work for a certain period of time, the perpetrator can be punished with a maximum of nine months in prison, a maximum of six months in prison, or a fine of up to four thousand five hundred rupiah. In addition, Article 361 states that if this violation is committed in carrying out a certain profession or business, the sentence can be increased by one third of the existing provisions. In addition, the perpetrator can also be revoked from his right to carry out work related to the violation, and the judge can order the announcement of the verdict to the public.

As a form of protection for patients, they have the right to claim compensation for the impacts caused by errors or negligence of health workers, including dentists (Gambhir et al., 2015; Radhika et al., 2017). This protection is important because negligence in practice can cause pain, injury, or even permanent damage to the patient's body. In determining the amount of compensation, the principle used is to restore the victim's condition as close as possible to the condition before the loss. In other words, compensation must be given based on the actual losses suffered without considering other factors such as the economic condition or wealth of the responsible party. The legal responsibility of dentists who practice outside their authority can be reviewed from various legal aspects, namely criminal, civil, administrative, and health law. In criminal law, dentists can be subject to sanctions under Articles 359, 360, and 361 of the Criminal Code if their negligence causes someone to suffer injury, serious disability, or even death. The lack of public awareness of the importance of dental and oral health often makes this aspect not a priority in overall health (Akbar, Triana & Afrita, 2024). From a consumer protection perspective, Article 4 of Law Number 8 of 1999 concerning Consumer Protection provides the public with the right to obtain comfort, security and safety in the use of goods and services.

In civil law, violations committed by dentists can be categorized as unlawful acts as regulated in Articles 1365, 1366, and 1367 of the Civil Code, where any action that causes harm to another person can result in a claim for compensation. In addition, from an administrative aspect, dentists who violate the provisions can be subject to sanctions in the form of written warnings, temporary revocation of permits, or permanent revocation of permits. From a health law perspective, Article 58 of Law Number 36 of 2009 concerning Health stipulates that individual who experience losses due to errors or negligence in health services have the right to claim compensation from the service provider.

#### 4. Conclusion

In this study, it can be concluded that ideally, legal protection for consumers who use the services of dentists is very important to prevent potential losses. Dentists play a significant role in providing dental and oral health services, but many of them do not have official certification, which has the potential to pose a risk to consumer health. Law Number 8 of 1999 concerning Consumer Protection provides a clear legal framework to protect consumer rights, including the right to clear information and product safety guarantees. Although there are regulations governing the practice of dentists, many of them violate the limits of their authority and do not comply with safety standards. This has serious implications, both in terms of health for consumers and from a legal perspective for the dentists themselves who can be subject to criminal sanctions if negligence occurs. Further efforts are needed to raise public awareness of the importance of choosing dental health services from skilled and certified professionals. In addition, the government and related institutions need to carry out stricter supervision of dental practitioners' practices to ensure that they comply with existing regulations. Continuous education about the risks of using unauthorized dental practitioners should be carried out to protect consumers. In this way, it is hoped that consumers can make more informed and safe choices in choosing dental health services. Finally, business actors, in this case dental practitioners, must improve their skills and knowledge so that they can provide services that meet standards, for the safety and health of the community.

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