

**Delegation of Authority from Dentists to Dental and Oral Therapists in Performing Medical Actions From a Legal Perspective**

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**Abstract**

Legal protection for the dental and oral therapist profession in carrying out medical actions is often less of a concern because in certain circumstances dental and oral therapists take actions that are not under their authority but are the authority of the dentist. Regulation of the Minister of Health Number 20 of 2016 concerning Permits and Implementation of the Practice of Dental and Oral Therapists, among others, regulates the competence and authority of dental and oral therapists in medical procedures. So the researchers focused on the problem, namely how is the delegation of authority from dentists to dental and oral therapists in carrying out medical actions? The method used in this study is a normative research method and the problem approach used is the applicable law approach and the conceptual approach. The results of the discussion found that the delegation of authority of dentists to dental and oral therapists in medical actions viewed from a legal perspective is that dentists can delegate a medical or dental action to nurses, midwives or certain other health workers in writing in carrying out medical or medical actions. tooth. This is clearly stated in Ministerial Regulation Number 2052 of 2011 concerning Practice Licenses and Implementation of Medical Practices. In Regulation of the Minister of Health Number 20 of 2016 concerning Permits and Implementation of Dental and Oral Therapist Practices, dental and oral therapists can carry out services under the supervision of a mandated delegation of authority from dentists. The two legal umbrellas can certainly make understanding and legal protection for dentists and dental and oral therapists in carrying out medical actions.

**Keywords: delegation of authority, dentist, dental and oral therapist, medical action.**

**1. Background**

According to the Law of the Republic of Indonesia Number 36 of 2009 concerning Health Article 46 and Article 47 it is explained that to achieve optimal health status for the community, health efforts are carried out with a maintenance approach, health improvement (promotive), disease prevention (preventive), disease cure (curative). ), and health recovery (rehabilitative), which is carried out in a comprehensive, integrated and sustainable manner. Efforts to maintain and improve health are realized in a container for health services. So, health services are places or facilities used to carry out health efforts.

The implementation of health services is of course supported by health resources which can be in the form of all forms of funds, personnel, health supplies, pharmaceutical preparations, and medical devices as well as health service facilities and technology used for

the implementation of health efforts. According to Soekidjo Notoatmodjo, health resources are all elements or components used to realize public health services in the context of efforts to improve health status which include health workers, health service facilities, health supplies, and technology (technology products).

According to Law Number 36 of 2014 Article 1 general provisions state that:

"Health Personnel is every person who devotes himself to the health sector and has knowledge and/or skills through education in the health sector which for certain types requires the authority to carry out health efforts."

Health workers in carrying out their duties are based on the knowledge, skills, and attitudes acquired in education. Health workers who receive education are expected to become competent health workers in their fields. According to Indra Bastian and Suryono, competence is a skill needed by someone who is demonstrated by his ability to consistently provide an adequate or high level of performance in a specific job function. To realize competent health workers in their fields, it is necessary to provide education that is oriented to the abilities that must be mastered by students (health workers). With the provision of education, health workers will be able to carry out their professional duties in accordance with the needs of health services. In the implementation of education there is an educational curriculum that is directed to meet the needs of health workers. Thus, the education curriculum needs to contain material that contains appropriate knowledge and knowledge so that students have the ability/skills and authority to provide quality health services.

One of the health services is dental and oral health services. Dental and oral health services are regulated in Law Number 36 of 2009 concerning Health in Article 93 and Article 94. Dental and oral health services are carried out to maintain and improve health status in the form of improving dental health, preventing dental diseases, treating dental diseases, and restoration of dental health. Dental health services are carried out through individual dental health services, community dental health services and school dental health efforts.

Health workers who carry out professions in dental and oral health services are dentists and dental and oral therapists. Dentists and dental and oral therapists are two complementary professions and carry out their duties to serve patients according to their respective competencies. The relationship between dentists and dental and oral therapists does not rule out the possibility of a problem that can be detrimental to the dentist, dental and

oral therapist and the patient. One of the problems that may occur in the relationship between dentists and dental and oral therapists is that dental and oral therapists often carry out dentist's orders without regard to clear authority, namely the extent to which dental and oral therapists may carry out actions ordered by dentists. Likewise, dental and oral therapists carry out medical actions that are the authority of the dentist without a written mandate from the dentist, so that it can lead to negligence in carrying out medical actions called malpractice, which results in disability or death of the patient.

## **2. Problem Formulation**

Based on the background that has been described, the formulation of the problem in this study is how is the delegation of authority from dentists to dental and oral therapists in carrying out medical actions from a legal perspective?

## **3. Research Method**

The research method used in this study is a normative research method and the problem approach used is the applicable law approach and the conceptual approach. This conceptual approach is used to find the views and doctrines that develop in the science of law, the study of legal principles related to the explanation of the substance of the legal meaning of the delegation of authority of dentists to dental and oral therapists in performing medical actions. Sources of legal research used in this study include:

- a. Primary legal sources such as: the 1945 Constitution of the Republic of Indonesia, Law Number 36 of 2009 concerning Health, Law Number 29 of 2004 concerning Medical Practice, Law Number 36 of 2014 concerning Health Workers, Regulation of the Minister of Health Number 1796 of 2011 concerning Registration of Health Workers, Ministerial Regulation Number 2052 of 2011 concerning Licenses for Practice and Implementation of Medical Practices, Regulation of the Minister of Health Number 20 of 2016 concerning Permits and Implementation of Dental and Oral Therapist Practices, and the Civil Code.
- b. Secondary legal sources that provide explanations of primary law such as research results, laws or legal expert opinions.

## **4. Theoretical Foundation**

### **Health Personnel Authority**

According to the Big Indonesian Dictionary, what is meant by authority is the right and power to act and authority is the power to make decisions, govern and delegate responsibilities to others.

According to P. Nicolai in Ridwan HR explained that authority is the ability to take certain legal actions (ie actions that are intended to cause legal consequences and include the emergence and disappearance of legal consequences). Authority includes rights and obligations. Rights contain the freedom to do or not to do certain actions while obligations contain the obligation to do or not to do certain actions.

According to Wila Chandrawila, the authority of health workers is the legal authority (rechtsbevoegheid) that a health worker has to carry out his work. This authority gives the right to health workers to work in accordance with their fields. Authority is nothing but the ability to influence other parties authorized by those who have the right to ratify.

Bambang Poernomo said that the authority to carry out health efforts requires legal regulations as the legal basis for the legal justification of the health authority. Legal regulations on health efforts alone are not enough because health efforts are accompanied by support in the form of health resources. One of the health resources is health workers including dentists and dental and oral therapists. With the authority to carry out health efforts called dental and oral health services, dentists and dental and oral therapists require legal regulations as the legal basis for the legal justification of such authority.

## **5. Results and Discussion**

### **a. Authority of Dentists and Dental and Oral Therapists**

Dentists and dental and oral therapists carrying out dental and oral health services in health care facilities must hold a license called a Registration Certificate as a permit to carry out actions stipulated by applicable laws and regulations. Every health worker, namely dentists and dental and oral therapists who work in health care facilities, must work in accordance with professional standards, hospital service standards, applicable standard operating procedures, professional ethics, respecting patient rights, carrying out obligations as health workers and prioritizing safety. patient's soul.

Dentists and dental and oral therapists in carrying out their duties have the authority/power that is regulated in laws and regulations. Carrying out the task in this

case is dental and oral health services. The authority of dentists is regulated in Article 35 of Law Number 29 of 2004 concerning Medical Practices including:

Article 35

(1) A doctor or dentist who already has a registration certificate has the authority to practice medicine in accordance with his education and competence, which consists of:

- a) Interview the patient
- b) Examine the patient's physical and mental
- c) Determine the supporting examination
- d) Establishing a diagnosis
- e) Determine the management and treatment of patients
- f) Performing medical or dental procedures
- g) Writing prescriptions for drugs and medical devices
- h) Issuing a doctor's or dentist's certificate
- i) Storing drugs in permitted quantities and types
- j) Dispensing and dispensing drugs to patients, for those who practice in remote areas where there are no pharmacies.

Basically to improve the degree of public health, dental and oral therapists in exercising their authority when carrying out professional duties must meet professional standards in developing and improving knowledge in the dental and oral therapist profession. The authority of dental and oral therapists is explained in the Regulation of the Minister of Health Number 20 of 2016 concerning Permits and Implementation of the Practice of Dental and Oral Therapists Article 12, namely:

- a) efforts to improve dental and oral health;
- b) efforts to prevent dental disease;
- c) management of dental and oral health services;
- d) basic health services in cases of limited dental health; and
- e) dental assisting.

In addition to the authority as referred to in Article 12, Dental and Oral Therapists may provide services for:

- a) under the supervision of a mandated delegation of authority from a dentist; or
- b) based on government assignments as needed.

The delegation of authority by mandate from the dentist as referred to in Article 18 letter a includes:

- a) fillings of teeth in more than two areas;
- b) root canal treatment; and
- c) prescribing and medication.

Dental and oral health services in health care facilities are carried out by dentists and dental and oral therapists. In certain cases, dental and oral therapists carry out tasks in the form of

delegation of authority from dentists in accordance with the limits of authority called mandated delegation of authority.

Furthermore, regarding the delegated tasks given by dentists, it is regulated in Ministerial Regulation Number 2052 of 2011 concerning Practice Licenses and Implementation of Medical Practices in Article 23, namely:

Article 23

- (1) "Doctors or dentists may delegate a medical or dental action to a nurse, midwife or certain other health personnel in writing in carrying out a medical or dental action.
- (2) The medical or dental action as referred to in paragraph (1) can only be performed in a situation where there is a need for services that exceeds the availability of a doctor or dentist at the service facility.
- (3) The delegation of actions as referred to in paragraph (1) shall be carried out with the following provisions:
  - a. the delegated action is included in the abilities and skills already possessed by the delegated recipient;
  - b. the implementation of the delegated action remains under the supervision of the delegate;
  - c. the assignor remains responsible for the delegated action as long as the action is carried out in accordance with the delegation given;
  - d. the delegated action does not include making clinical decisions as the basis for implementing the action; and
  - e. the delegated action is not continuous."

**b. Delegation of Dentist's Authority to Dental and Oral Therapists**

Research related to this research has been previously reviewed by Devy Octaviana in 2019 who reviewed the "Authority of Oral Dental Therapist According to Minister of Health Regulation No. 20 of 2016 concerning Permits and Implementation of Dental and Oral Therapist Practices Linked to the Competence of Oral Dental Therapists in the Work Area of Subang District Health Center." From the results of this study, it can be explained that in carrying out the action there are some that are appropriate and some that are not in accordance with the Regulation of the Minister of Health Number 20 of 2016. Some of the inappropriate ones at the Subang district health center include a dentist but an oral therapist performs extractions of more than one root and filling in more than two fields based on an unwritten mandate from the dentist on the grounds of helping each other because of the large number of patients. If something happens, it is the person who is responsible for the delegation of authority, while the Puskesmas without a dentist performs actions outside their authority without any assignment from the government and training and some referrals are

not made. Both of these things are not in accordance with the competence of the oral therapist. Thus the oral dental therapist is in charge of the action.

Based on the results of this study, it can be said that there are still dental and oral therapists who delegate authority from dentists without a written mandate even though the legislation clearly states that the delegation of authority from dentists to dental and oral therapists is given in writing. Dental and oral therapists also carry out the delegation of authority mandated by the dentist in writing. In the legislation it is clear that the delegation of authority from dentists to dental and oral therapists is carried out in writing. It is intended that dentists and dental and oral therapists work according to competence, authority and applicable legal regulations.

The Civil Code in Article 1792 states that the granting of power (authority) to another person is an agreement called the granting of power. The delegation of authority is the granting of power of attorney from the dentist to the dental and oral therapist. Dental and oral therapists can carry out limited medical actions in the field of dentistry based on the delegation of actions in writing from the dentist.

Delegation of authority from dentists to dental and oral therapists is a grant of power or lastgeving. According to Wirjono, the granting of power or lastgeving is mentioned as an agreement, where an A gives power to a B (which power is accepted by B) to do certain things for A and on behalf of A. Something is usually defined as a legal act (*rechtshandeling*). ). In this case, the dentist authorizes the dental and oral therapist to carry out the actions/treatments delegated to the dental and oral therapist to be carried out.

Meanwhile, according to Subekti, the granting of power of attorney is an agreement whereby one person gives power (authority) to another person, who accepts it, to carry out an affair on his behalf (a legal act). The person who has been given the power of attorney (he is called the "defender" or also "the power of attorney") performs the legal action "on behalf of" the person giving the power of attorney or it is also said that he "represents" the power of attorney. What this means is that what is done is "at the expense" of the giver and all rights and obligations arising from the act he does become the rights and obligations of the person giving the power of attorney. The delegation of authority from a dentist to a dental and oral

therapist is an authorization so that all rights and obligations arising from the actions of a dental and oral therapist become the rights and obligations of the dentist as well.

Dental and oral health services as one of the services in hospitals, health centers and clinics. The role of dentists and dental and oral therapists as medical personnel who have the closest relationship with patients in the prevention and treatment of dental and oral diseases include dental fillings, extraction of primary and permanent teeth, root canal treatment, and prescription and medication.

Dentists in the delegation of authority for medical actions must be adjusted to the condition of the dental and oral therapist, of course, it must be prioritized to delegate to senior dental and oral therapists who already have a lot of experience. So that when there is a delegation of authority for medical action from a dentist, it can run well and unwanted things can be minimized. For actions, it is necessary to distinguish which ones are delegated by delegation and which are mandated. Delegative delegation can only be delegated to a dental and oral therapist who has the appropriate competence required and delegated effectively. never given to a dental and oral therapist under supervision. So, if the delegation of authority for medical actions from dentists to dental and oral therapists is carried out in accordance with applicable laws and regulations, then dentists and dental and oral therapists will be protected by law and of course the public will get maximum dental and oral health services.

## **6. Conclusion**

Health workers who carry out professions in dental and oral health services are dentists and dental and oral therapists. Dentists and dental and oral therapists are two complementary professions and carry out their duties to serve patients according to their respective competencies. The relationship between dentists and dental and oral therapists does not rule out the possibility of a problem that can be detrimental to the dentist, dental and oral therapist and the patient. Often dental and oral therapists carry out dentist's orders without paying attention to clear authority, namely the extent to which dental and oral therapists may carry out actions ordered by dentists. Likewise, dental and oral therapists perform medical procedures under the authority of the dentist without a written mandate from the dentist.

Dentists and dental and oral therapists in carrying out their duties have the authority/power that is regulated in laws and regulations. Carrying out the task in this case is dental and oral health services. In certain cases, dental and oral therapists carry out tasks in



the form of delegation of authority from dentists in accordance with the limits of authority called mandated delegation of authority. The delegation of authority from a dentist to a dental and oral therapist is an authorization so that all rights and obligations arising from the actions of a dental and oral therapist become the rights and obligations of the dentist as well.

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## **7. Recommendations**

The recommendation of this research is the need for an understanding of the authority of dentists and dental and oral therapists in performing dental and oral health services. Delegation of authority from dentists to dental and oral therapists should be given a written mandate so that later there will be no problems for both dentists, dental and oral therapists and patients. With a written mandate, medical actions carried out by dental and oral therapists upon the delegation of authority from dentists can be carried out in accordance with applicable laws and regulations.

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