

# ARTIKEL HANAN SASTI

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# Legal Regulation and Health Risks: Analyzing “Tukang Gigi” in The Context of Service Accessibility

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<b>Article Info</b>  <b>Keywords:</b> Authority; Dental Treatment; Dentist; Tukang Gigi	<b>Abstract</b> <p><b>Introduction:</b> Access to dental services is a challenge for lower to middle-income individuals. <i>Tukang gigi</i>, an alternative to dentists, offers more affordable oral health care. Governed by Ministry of Health Regulation No. 39 of 2014, <i>tukang gigi</i>'s authority is limited to acrylic dentures. However, evidence shows unauthorized practices, posing health risks like misdiagnosis and complications. This not only jeopardizes patient health but also undermines the credibility of the dental health profession, eroding public trust.</p> <p><b>Purposes of the Research:</b> The aim of the research is to find out the legality of dental practices that exceed their authority with a policy approach to the community's need for cheap access to health</p> <p><b>Methods of the Research:</b> The research employs a literature study method, specifically normative legal research, focusing on legal norms in laws and regulations. Following a systematic process of collecting, reading, recording, and analyzing library data, the study adopts a doctrinal legal research approach. The emphasis is on elaborating and explaining collected data related to the main research topics.</p> <p><b>Results / Findings / Novelty of the Research:</b> Current legislation confines <i>tukang gigi</i> to crafting removable replica teeth, yet in practice, they often perform unauthorized tasks like installing braces and cleaning tartar. This lack of accountability puts consumers at risk, as they are unaware of legal safeguards in case of malpractice. <i>Tukang gigi</i>'s actions may transgress boundaries due to a lack of awareness or adherence to regulations, leaving them exposed to potential consequences.</p>	

## 1. INTRODUCTION

Optimal oral health prevention and rehabilitation services are considered within the professional domain, primarily dentists, acknowledged for their capacity to restore oral health. However, a common perception exists that access to dental services, particularly for

individuals in the lower to middle economic strata, poses a significant challenge.<sup>1</sup> In response to these access limitations, *tukang gigi* emerged as a primary alternative to meet dental care needs in the lower to middle economic strata, given their comparatively better affordability compared to dental services provided by dentists.<sup>2</sup> *Tukang gigi* services typically encompass conventional dental treatment efforts, incorporating traditional practices involving the diagnosis, treatment, and prevention of oral health issues, relying on knowledge and skills inherited from preceding generations.<sup>3</sup>

The *tukang gigi* is subject to legal regulations stipulated in the Ministry of Health Regulation No. 39 of 2014, specifically delineating their jurisdiction. This regulation was established to provide a framework for the government to oversee the performance of *tukang gigi* in executing their duties within the community (Minister of Health Regulation No. 39 of 2014). However, despite the explanations within the regulation affirming that the authority of *tukang gigi* is confined to the fabrication and installation of removable acrylic dentures, empirical evidence reveals practices by *tukang gigi* that exceed the boundaries set by the government. This phenomenon gives rise to significant issues concerning compliance with regulations and the potential risks to public health.

Out-of-authorization *tukang gigi*, including fillings, aligners, tooth extractions, scaling, and veneers, can pose serious risks to public health.<sup>4</sup> Dental treatment beyond the *tukang gigi* authority increases the likelihood of misdiagnosis and treatment, which can lead to serious consequences, including infection, severe tooth decay, and negative side effects.<sup>5</sup> Complex dental processes performed without adequate skills and knowledge, such as the installation of aligners or tooth extraction, can increase the risk of complications that are detrimental to patient health and comfort.<sup>6</sup> In addition to patient health impacts, the practice of *tukang gigi* outside of their authority can be detrimental to the credibility of the dental health profession as a whole. This can create a negative perception of the profession and reduce public trust in dental health services in general.<sup>7</sup>

Given the prevalence of dental care challenges, especially among the economically disadvantaged, this study aims to investigate the legal and health implications of *tukang gigi* operating beyond their authorized scope. The formulation delves into the potential risks to public health and the impact on the overall credibility of the dental health profession, shedding light on the need for effective regulatory measures and improved access to dental services.

## 2. METHOD

<sup>1</sup> Mary E. Northridge, Anjali Kumar, and Raghbir Kaur, "Disparities in Access to Oral Health Care," *Annual Review of Public Health* 41, no. 1 (April 2, 2020): 513–35, <https://doi.org/10.1146/annurev-publhealth-040119-094318>.

<sup>2</sup> Thirsa O. Lumunon, "Gambaran Determinan Perilaku Masyarakat Dalam Pemanfaatan Jasa Tukang Gigi Pada Pembuatan Gigi Tiruan Lepasan Di Desa Treman Kecamatan Kauditan," *e-GIGI* 2, no. 1 (2014), <https://doi.org/10.35790/eg.2.1.2014.4018>.

<sup>3</sup> Anisa Nurlaila Sari, "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, no. 1 (September 12, 2019): 21, <https://doi.org/10.25041/cepalo.v2no1.1759>.

<sup>4</sup> Siti Rusdiana Puspa Dewi et al., "Tingkat Pengetahuan Masyarakat Terhadap Praktik Gigi Ilegal" 2, no. 2 (2020).

<sup>5</sup> Dicky Nur Oktaviano Rizafaza and Yovita Arie Mangesti, "Perlindungan Hukum Pengguna Jasa Tukang Gigi Terhadap Dugaan Malpraktik," *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance* 2, no. 3 (December 7, 2022): 660–74, <https://doi.org/10.53363/bureau.v2i3.56>.

<sup>6</sup> Randy Lande, Billy J. Kepel, and Krista V. Siagian, "Gambaran Faktor Risiko Dan Komplikasi Pencabutan Gigi Di Rsgm Pspdg-Fk Unsrat," *e-GIGI* 3, no. 2 (August 5, 2015), <https://doi.org/10.35790/eg.3.2.2015.10012>.

<sup>7</sup> Ayu Angraeni, "Persepsi Masyarakat Terhadap Pembuatan Gigi Tiruan oleh Tukang Gigi di Desa Treman Kecamatan Kauditan," *e-GIGI* 1, no. 2 (November 12, 2013), <https://doi.org/10.35790/eg.1.2.2013.3201>.

This research used a literature study method (library research). The research approach applied is normative legal research by adopting a legal theory and principles approach. Normative legal research is defined as research that refers to legal norms contained in laws and regulations and court decisions. Alternatively, normative legal research is also known as doctrinal legal research. This research is carried out through a series of procedures that include specific steps. The initial stage involved collecting library data, which is then followed by reading, recording, analyzing, and collecting related concepts or texts. After that, a process of elaboration and explanation of the data or texts that have been collected is carried out, especially those related to the main topics discussed in this research.

### 3. RESULTS AND DISCUSSION

#### 3.1 The Regulation of *Tukang Gigi* in Indonesia

When regulating the existence of *tukang gigi* in Indonesia, the government for the first time issued Regulation of the Minister of Health No. 53/DPK/I/K/1969 on Registration and Issuance of Dental Work Permits (Permenkes No. 53 of 1959).<sup>8</sup> This arrangement regulates the procedure for registering and granting a license to practice *tukang gigi*. The background to the issuance of this regulation was that at that time in Indonesia many people did not have the necessary scientific knowledge and worked in the medical field outside their authority and ability to endanger or harm public health.<sup>9</sup> Therefore, the government at that time had to issue regulations. This decision was later replaced by the issuance of Decree of the Minister of Health no. 339/MENKES/PER/V/1989 (hereinafter referred to as Permenkes 339/1989) on Dental Care.

Permenkes 339/1989 does not regulate the granting of new licenses to *tukang gigi*, but *tukang gigi* who already have permits based on Permenkes 53/1969 can renew existing permits. The permit is valid for 3 years and can be renewed. One result is the absence of regulations regarding *tukang gigi* permits. So that the effect of the existence of Permenkes 339/1989 allows for the absence of a permit for a new *tukang gigi*.<sup>10</sup> If it is carried out by an incompetent party, it can cause more serious side effects for users of dental services. The effects range from a mild infection of the gums to deeper tissue causing swelling. In addition, there is a risk that the abnormally developed tissue may affect a malignant tumor.<sup>11</sup> In addition, improper handling can have an impact on other infectious diseases.

In 2011, the Ministry of Health then issued another regulation aimed at repealing Permenkes No. 339/MENKES/PER/V/1989. The Permenkes explains the abolition of the legal basis for *tukang gigi* to carry out work in the dental health sector. This regulation was made to repeal Permenkes Number 339/MENKES/PER/V/1989 on the work of *tukang gigi*. This is attempted so that in terms of dental and oral health services it is not carried out by just anyone with any alibi and only becomes the authority of health workers who have a background and learning about dental and oral health, in this case, namely *tukang gigi*. Thus, the enactment of this Minister of Health Regulation eliminates the possibility of *tukang gigi*

<sup>8</sup> Harvandy Anwir, Hanasti, and Indra Afrita, "Tanggung Jawab Hukum Denturist Dalam Pelayanan Jasa," *Jurnal Ilmu Hukum Prima* 4, no. 2 (2021): 5, <https://doi.org/10.34012/jihap.v4i2.1799>.

<sup>9</sup> Adelina Fitria Kusumawardani and Widodo Tresno Novianto, "Tindak Pidana Oleh Oknum Tukang Gigi Dan Penyedia Jasa Layanan Perawatan Gigi Di Surakarta" 8, no. 2 (2019), <https://doi.org/10.20961/recidive.v8i2.40626>.

<sup>10</sup> Della Atrasina Joesinda and Eny Sulistyowati, "Perlindungan Hukum Bagi Konsumen Pemasangan Kawat Gigi Yang Dilakukan Oleh Denturist Daring," *Novum: Jurnal Hukum* 8, no. 2 (2021): 105, <https://doi.org/10.2674/novum.v0i0.35736>.

<sup>11</sup> Sri Hernawati, "Prevalensi Denture Stomatitis Pada Pemakai Gigi Tiruan Buatan Dokter Gigi Dibanding Gigi Tiruan Buatan Tukang Gigi," *Forikes: Forum Ilmiah Kesehatan*, 21

obtaining permits to practice their activities, so that dental and oral health services as licensed health workers are expected to only be performed by dentists. This is done to ensure that services regarding Indonesian dental health are carried out correctly according to the principle of sufficient knowledge by paying attention to public safety so that dental services do not meet standards.<sup>12</sup>

From the foregoing, the Medical Practice Act was promulgated. To practice medicine or dentistry, you must complete an internship and can open only one practice after completing your studies. When a doctor or dentist has a registration certificate and/or health permit, the certificate shows that the doctor or dentist has complied with the actual procedures regarding the use of medical devices or methods.<sup>13</sup> In contrast to *tukang gigi*, they have never studied dentistry, only use knowledge inherited from their predecessors, and sometimes do not have a license to practice. Therefore, the promulgation of Minister of Health Regulation 1871/2011 considers the existence of Law Number 29 of 2004 (hereinafter referred to as the Medical Practice Law) on Medical Practice.<sup>14</sup>

*Tukang gigi* that is recognized by the state is *tukang gigi* which has a permit based on Permenkes 53/1969 and renewed based on Permenkes 339/1989. In 1969, Permenkes 53/1969 was published.<sup>15</sup> It stipulates that no new permits have been issued since 1969, but Permenkes 339/1989 only regulates the continuation of existing permits. Based on the Medical Practice Law, the Ministry of Health has issued Permenkes 1871/2011 on the cancellation of Permenkes 339/1989 on dental treatment. The revocation resulted in not being granted a professional license for the *tukang gigi* transaction being extended. Permenkes 1871/2011 does not allow all *tukang gigi* in Indonesia to continue practicing. Therefore, people who work as *tukang gigi* can no longer work and lose their livelihoods. *Tukang gigi* who feel the right to work and a decent life as citizens have been taken away from them.

In early 2012, *tukang gigi* submitted 4,444 questions to the Constitutional Court to consider medical practices that violate the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution). The applicant's name is H. Hamdani Prayogo. The applicant is an Indonesian citizen who works as a *tukang gigi* and feels that the enactment of Articles 73 (2) and 78 of the Medical Law are considered to be very detrimental to his constitutional rights. Examination was carried out on Article 73 Paragraph (2) and Article 78, Article 27 Paragraph (2) and Article 28 Paragraph (1) of the 1945 Constitution. The first summary of the Medical Practice Law in Article 73 Paragraph (2) is all individuals are prohibited from using tools, methods, or other methods that already have registration marks and/or permits, and if this is violated, they will be given criminal sanctions based on Article 78 of the Medical Practice Law.<sup>16</sup>

<sup>12</sup> Muhammad Anugrah Pratama, "Minat Kembali Customer Provider Tukang Gigi dalam Pembuatan Gigi Tiruan di Desa Rappolemba Kecamatan Tompo Bulu Kabupaten Gowa Tahun 2020," *Journal of Muslim Community Health* 1, no. 2 (2020): 67, <https://doi.org/10.52103/jmch.v1i2.245>.

<sup>13</sup> Rebecca A. Ngantung, Damajanty H. C. Pangemanan, and Paulina N. Gunawan, "Pengaruh Tingkat Sosial Ekonomi Orang Tua Terhadap Karies Anak Di Tk Hang Tuah Bitung," *e-GIGI* 3, no. 2 (August 5, 2015), <https://doi.org/10.35790/eg.3.2.2015.10319>.

<sup>14</sup> Anisa Nurlaila Sari, "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, no. 1 (2019): 21, <https://doi.org/10.25041/cepalo.v2no1.1759>.

<sup>15</sup> Lia Novita Putri and T Hafliyah, "Dental Artisans's Responsibility As A Business Actor Of Practice" 3 (2019), <https://jim.usk.ac.id/perdata/article/view/15651/7078>.

<sup>16</sup> Elang Galih Wangi, Abdul Madjid, and Yuliati, "Tanggungjawab Hukum Tukang Gigi Yang Melakukan Pekerjaan Diluar Kewenangannya.," *Kumpulan Jurnal Mahasiswa Sarjana Ilmu Hukum Brawijaya*, (2020), 33.

In fact, the plaintiffs suffered quite a large loss in the form of loss of monthly income, which is an average of IDR 2,000,000.00 – IDR 3,000,000.00 per month. As a result of the loss of the plaintiff's monthly income, the plaintiff feels he has lost support for himself and the plaintiff's family, and that the plaintiff's constitutional rights and a proper civil life have been compromised.<sup>17</sup>

However, even though the government has not disciplined or given sanctions to these *tukang gigi*, many *tukang gigi* are still working and practicing outside the legal boundaries and do not implement Permenkes 1871/2011 effectively. The legal factor in this case is that Permenkes 1871/2011 does not yet have strict sanctions, so *tukang gigi* are still willing to start treatment and serve patients.<sup>18</sup> In this case, law enforcement factors did not enforce the permit, it turns out that the government did not take steps to stop the malpractice activities carried out by the *tukang gigi*. Inadequate facilities or facilities to implement the provisions stipulated in the Permenkes are also obstacles in its implementation. For example, the Puskesmas Bureau encouraged *tukang gigi* to perform dental treatment based on Permenkes 339/1989.<sup>19</sup>

The Constitutional Court's decision above gives permission to continue the practice as long as the parties have permission for the device. This decision became a controversy for dentists and the wider community. The Constitutional Court granted the judicial review submitted by *tukang gigi* by annulling the Medical Practice Law Article 73 Paragraph (2) and Article 78, meaning that there are no restrictions and sanctions for *tukang gigi* who obtains a license to practice from the government using tools, methods or other ways of providing services to the public that give the impression that the person concerned is a doctor or dentist who already has a certificate of registration and/or a license to practice.

If the *tukang gigi* works with government permission, then the *tukang gigi* is declared not to have violated Law No. 29 of 2004. Therefore, the Constitutional Court's decision was considered in the issuance of the Constitutional Court Decision 40/PUU/X/2012 which became the basis for the issuance Permenkes Number 39 of 2014 on guidance, supervision, and approval of dental treatment.<sup>20</sup> It aims to regulate rules relating to the subject of teaching, supervision, authorization, and dental treatment. The Constitutional Court ruled that *tukang gigi* could continue their practice as long as the *tukang gigi* had government approval. Here are some things that need to be considered when the applicant's application is granted:

1. *Tukang gigi* existed before dentists.
2. *Tukang gigi* is another option for affordable dental health.
3. The limitations of *tukang gigi* can be overcome through coaching, licensing, and supervision.
4. *Tukang gigi* is included in the category of traditional medical services.

<sup>17</sup> Elang Galih Wangi, Abdul Madjid, and Yulianti, "Tanggungjawab Hukum Tukang Gigi Yang Melakukan Pekerjaan Diluar Kewenangannya.," *Kumpulan Jurnal Mahasiswa Sarjana Ilmu Hukum Brawijaya*, (2020)., 33.

<sup>18</sup> Yani Kamasturyani, "Tanggungjawab Hukum Kesehatan Ahli Gigi Terhadap Tindakan Malpraktek" 3, no. 6 (2018), <https://jurnal.syntaxliterate.co.id/index.php/syntax-literat/article/view/406>.

<sup>19</sup> Roza Rita, Iriansyah, and Triana, "Analisi Yuridis Terhadap Praktik Tukang Gigi Ilegal Di Indonesia," *NNOVATIVE: Journal Of Social Science Research* 3, no. 2 (2023): 12268–77, <https://doi.org/10.31004/innovative.v3i2.1862>.

<sup>20</sup> Irmania Ardiantari, Anggun Lestari Suryamizon, and Mahlil Adriaman, "Perlindungan Hukum Terhadap Konsumen Atas Pelayanan Dan Jasa Tukang Gigi" 1, no. 1 (2023), <https://www.jurnal.umsb.ac.id/index.php/SLJ/article/view/4054/2905>.

Regulations regarding Indonesian *tukang gigi* are recognized and legal from a legal point of view. In accordance with Article 39 Paragraph (1) of the Minister of Health of 2014 on Guidance, Supervision and Authority for Dental Treatment, all *tukang gigi* may make and fit removable dentures. In practice, *tukang gigi* does not only make and install removable dentures, but also perform other dental and oral treatments such as extractions, insertion of dental fillings, and orthodontic appliances.<sup>21</sup> *Tukang gigi* license is written evidence given to a *tukang gigi* who performs dental treatment. The *tukang gigi* must then also register with the District/City Regional Government or District/City Health Service to obtain a permit.

If we pay close attention, *tukang gigi* are strictly prohibited from acting outside of the Minister of Health's Regulation. If based on Article 9 Permenkes No. 39 of 2014, this arrangement also regulates what things are strictly prohibited from being carried out by a *tukang gigi*.<sup>22</sup> This article covers a *tukang gigi* who is prohibited from carrying out work except as regulated in Article 6, ordering another person to replace him in carrying out his work and doing sedentary work. Basically, the Regulation of the Minister of Health has arranged in a perfect way what the job authority of a *tukang gigi* is like. However, in reality the regulations were only until later winds. A *tukang gigi* who does not have an expert learning background such as a dentist is seen mushrooming to open a practice in the community. They even provide services like orthodontics too, such as the installation of dental braces and dental veneer treatment which is part of the aesthetics of the teeth, jaw, and face.

### 3.2 *Tukang Gigi* as an Alternative Measures for the Society

Health is an important thing in human life. The government, as one of the leaders who has the highest authority in a country, has carried out an effort to increase the health status as much as possible for all levels of society. Therefore, citizens have the right to get the maximum degree of health according to what has been planned by the government.

In Law Number 36 of 2009, regarding one of the health efforts in the form of traditional medicine. In the Law Article 1 Point 16 Number 36 of 2009 concerning Health states that "Traditional health services are treatment in a way that refers to experience and skills handed down from generation to generation empirically which can be accounted for and applied in accordance with the norms prevailing in society."<sup>23</sup>

Traditional healing efforts that have been attached to the community are difficult to eliminate or abolish. Through traditional medicine, people can cure all diseases and complaints they suffer. One of them relates to dental health. This is the background for the existence of dental artisans who are considered as an alternative for the community in overcoming a problem related to teeth or mouth. If this problem is not done by a professional, of course it will cause dangerous risks. However, it is very unfortunate that there are still many people who underestimate this problem.

The Ministry of Health (Kemenkes) of the Republic of Indonesia has issued a Regulation of the Minister of Health (Permenkes) Number 39 of 2014 relating to the guidance, supervision and licensing of the *tukang gigi*. This regulation was issued as an effort to prevent victims who were allegedly caused by unscrupulous dental workers who have been widely

<sup>21</sup> Fauziah M Asim, "Analisis Perbandingan Tingkat Kehilangan Gigi Pada Lanjut Usia Pasien Dokter Gigi Dan Tukang Gigi" 15, no. 2 (2019), <https://journal.moestopo.ac.id/index.php/JITEKGI/article/view/917/pdf>.

<sup>22</sup> Maharani Bilqis, "Perlindungan Hukum Terhadap Konsumen Atas Pelayanan Dan Jasa Praktik Tukang Gigi Di Kota Pekanbaru," 2019, <https://jom.unri.ac.id/index.php/JOMFHUKUM/article/view/23788>.

<sup>23</sup> Dzaka Ananda Hidayat, "Pertanggungjawaban Tukang Gigi dalam Praktik yang Merugikan Konsumen," *Jurist-Diction* 6, no. 1 (February 25, 2023): 87–102, <https://doi.org/10.20473/jd.v6i1.43615>.

reported. One of the issues that worried the community was an infection suffered by a person, due to unscrupulous *tukang gigi* through the placement of permanent teeth. The infection resulted in a neck infection due to the wrong installation of dentures by unscrupulous *tukang gigi*.

*Tukang gigi* is a profession that is very well known in society Indonesia. *Tukang gigi* is a profession that is usually explored by the community as an alternative because of the low cost. One of the weaknesses of *tukang gigi* is that they do not have safety standards in the medical field, like doctors in general. Therefore, the operational costs of *tukang gigi* are much cheaper when compared to medical doctors. Based on these operational costs, the community makes *tukang gigi* an alternative in dental treatment, even though there are many risks that must be borne.<sup>24</sup>

The existence of a *tukang gigi* actually provides its own advantages for some people in the middle and lower economic community. However, various parties doubted the existence of dental artisans. These parties include *tukang gigi*, the government (Health Office), and some Indonesian people. The community has doubts about the capabilities of *tukang gigi*, so they are worried that malpractice cases will occur. The case is feared to endanger patients who have problems with dental and oral health.<sup>25</sup>

In this case the dental artisan has absolute responsibility for the work he does to cure dental and oral diseases. *Tukang gigi* as service actors in undergoing treatment must be able to meet good standards, so that the safety requirements for consumers can be fulfilled. Basically, the profession of a *tukang gigi* is different from a Dentist. The scope of learning is for *tukang gigi*, who are making dentures without considering other things, while Dentist learn everything about teeth and mouth including the tissues that support teeth.<sup>26</sup>

Today in practice, the expertise of *tukang gigi* is not only in terms of making and installing teeth, but has grown from extracting teeth, making fillings to installing braces.<sup>27</sup> In line with that, Sanjaya & Vitasari (2020) mention *tukang gigi* as an independent practice.<sup>28</sup> In 1952 *tukang gigi* only served the installation of dentures, but this time it has deviated because it includes tooth extraction, fillings, installation of braces, and connecting teeth. These activities should be under the authority of *tukang gigi* or even specialist Dental artisans for their knowledge and capacity.<sup>29</sup>

The rise of the practice of health medicine is a common concern so it is necessary to look at a regulation that has been stipulated for permits in establishing medical practices. As with *tukang gigi* practices, *tukang gigi* practice licensing was originally regulated in the Minister of Health Regulation Number 53 of 1969 concerning Registration and Granting of Permits to Perform *tukang gigi* Work. The regulation of the Minister of Health regulates procedures for registration and granting of permits to carry out dental masonry work. This regulation was issued on the basis of consideration of phenomena that occur related to the level of oral and dental health in Indonesian society.

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<sup>24</sup> *Ibid.*

<sup>25</sup> Putri and Hafliyah, *Op. cit*

<sup>26</sup> Sandra Wijaya and Salsabila Dewi Vitasari, "Analisis Kerugian Penyebab Terjadinya Penyimpangan Wewenang Tukang Gigi" 1, no. 4 (2020), <https://doi.org/10.24252/iqtishaduna.v2i3.18019>.

<sup>27</sup> Putri and Hafliyah, *Op. cit*

<sup>28</sup> *Ibid.*

<sup>29</sup> Mohd Yusuf Dm et al., "Tindakan Tukang Gigi Yang Dilakukan Di Luar Kewenangannya Di Nilai Dari Aspek Hukum" 4, no. 6 (2022), <https://journal.universitaspahlawan.ac.id/index.php/jpdk/article/view/9472/7180>.



As sovereign Indonesian citizens, we should be literate and aware of the laws set by the government. This is to maintain public health and order. In addition, avoiding the risk of what will happen is our priority right to choose and determine. Thus, as has been stipulated for the right of all citizens to obtain the maximum possible degree of health according to what has been proclaimed by the government.

The risks faced by something we do are the responsibility of related parties. This relates to the right things and wrong things that we have taken in determining a healthy lifestyle. The principle of responsibility based on fault is a principle that is contrary to law, which means contrary to law, decency, and decency in society. This principle requires that people act, causing mistakes to compensate for losses for the aggrieved party.<sup>30</sup> The manufacture of dentures by dental artisans tends not to pay attention to the health of the hard and soft tissues around the teeth. The manufacture tends to be careless, there are often remaining roots that are not removed in the installation of dentures, causing inflamed gum tissue, swelling, very poor oral hygiene, halitosis (bad breath), denture stomatitis due to poor adaptation of dentures.<sup>31</sup>

Based on the phenomena mentioned above, as citizens we must be smart in sorting things related to health. As well as the reasons and perceptions that contributed to the choice of traditional medicine through the dental artisan route, they also became a common concern. One of the reasons that influence a person to wear dentures is the perception of dental health status. Perception is a cognitive process that allows one to interpret and understand the surrounding environment. In essence, perception is a cognitive process that is experienced by everyone in understanding information about their environment, both through sight, hearing, and appreciation of feelings.<sup>32</sup>

*Tukang gigi* is a profession that is very well known to the people of Indonesia. *Tukang gigi* is a profession that is usually explored by the public as an alternative because of the low cost. The existence of a *tukang gigi* actually provides distinct advantages for some people in the middle to lower economic circles. However, *tukang gigi* only serves the installation of dentures, but now they have deviated because they include tooth extractions, fillings, installation of braces, and dental implants. This activity must be under the authority of a specialist Dental care for his knowledge and capacity. As citizens of Indonesia who are sovereign, we must be literate and aware of the laws set by the government. This is in the framework of maintaining public health and order to obtain the rights of every citizen to the highest degree of health according to what has been proclaimed by the government.

### 3.3 The Impact of the Malpractice of *Tukang Gigi*

The practice of medicine is a highly regulated field that requires extensive education, training, and licensing to ensure the competence and safety of healthcare providers. However, the presence of unlicensed dentists who practice medical practice without the necessary qualifications poses a significant risk to patients and the healthcare system.<sup>33</sup>

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<sup>30</sup> Putri and Hafliyah, *Loc. cit.*

<sup>31</sup> Pratama, *Loc. cit.*

<sup>32</sup> Angraeni, "Persepsi Masyarakat Terhadap Pembuatan Gigi Tiruan oleh Tukang Gigi di Desa Treman Kecamatan Kauditan."

<sup>33</sup> Romesh P. Nalliah, "Could Dental School Teaching Clinics Provide Better Care than Regular Private Practices?," *Journal of Investigative and Clinical Dentistry* 10, no. 2 (May 2019): e12329, <https://doi.org/10.1111/jicd.12329>.

A fundamental and important requirement in society is health. The urge for better health is now frequently abused as a tool for business or as a source of income.<sup>34</sup> As a result, there are several medical practices that are not regulated by the government, many of which are illegal.<sup>35</sup> Both the patient and the practitioner may be responsible for these outcomes. According to previous research, there have been instances where unlicensed dental services have violated the rules, leading to dental and oral problems.<sup>36</sup>

The term *tukang gigi* is commonly used in Indonesia to refer to traditional tooth healers or traditional dental practitioners who provide dental services without formal dental education or professional training. While some dentists may possess knowledge and skills passed down through generations, others may lack proper training and expertise. The impact of malpractice by *tukang gigi* can be significant and can lead to various negative consequences. What unlicensed dentistry services do and those who have broken the law are responsible for several issues.<sup>37</sup>

When individuals without proper medical licenses engage in medical practice, they lack the necessary training, knowledge, and supervision to provide safe and effective care. As a result, the effects of malpractice by unlicensed dentists can be severe, leading to various negative outcomes for patients.

There are various risk factors or impacts associated with health risks, *tukang gigi* who do not have adequate training and knowledge may not adhere to strict infection control protocols, thereby increasing the risk of transmission of infectious diseases. Sterilization of dental instruments and maintaining a clean environment is essential to prevent the spread of infections such as hepatitis, HIV, and other bacterial and viral diseases.

*Tukang gigi* might only have a cursory understanding of dental disorders and oral health problems due to his lack of formal dental education. They could misdiagnose dental diseases or miss underlying problems, resulting in a delay in or failure of therapy. In the long run, this may lead to the growth of oral disorders, persistent pain, and possibly more involved and costly dental surgeries.

*Tukang gigi* may perform improper procedures or use outdated techniques. This may result in ineffective treatment or harm the patient. For example, improper tooth extraction may damage adjacent teeth or cause infection. The use of unsterilized instruments or unsafe materials may also pose a risk to the patient's oral health.

Typically, *tukang gigi* lacks a formal framework for long-term patient monitoring or follow-up care. This could be an issue, particularly for dental problems that are complicated, call for several appointments, or require continuous care. Without the proper follow-up, patients might not get the care they need, and potential consequences might not be caught.<sup>38</sup>

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<sup>34</sup> Dewi D. C., "Analysis of Victim Cases Dental Technician in Health Law in Indonesia," *Journal of Social Science* 2, no. 1 (2021): 137.

<sup>35</sup> Khaerunnisa R and Solihat L. W., "Effect Of Fixed Orthodontic Treatment By Unlicensed Dental Service On Dental Health," *Journal of Health and Dental Sciences* 2, no. 1 (2022): 63–74, <https://doi.org/10.54052/jhds.v2n1.p63-74>.

<sup>36</sup> I Made Ari Yudistira, I Nyoman Putu Budiarta, and I Made Minggu Widyantara, "Perlindungan Hukum bagi Konsumen atas Malpraktik Jasa Tukang Gigi," *Jurnal Konstruksi Hukum* 2, no. 2 (May 2, 2021): 265–70, <https://doi.org/10.22225/jkh.2.2.3218.265-270>.

<sup>37</sup> King-Jean Wu et al., "Court Decisions in Criminal Proceedings for Dental Malpractice in Taiwan," *Journal of the Formosan Medical Association* 121, no. 5 (May 2022): 903–11, <https://doi.org/10.1016/j.jfma.2021.09.023>.

<sup>38</sup> Vizcaino Rakosnik et al., "The Impact of Malpractice Claims on Physicians' Well-Being and Practice," *Journal of Patient Safety* 18, no. 1 (2022): 49, <https://doi.org/10.1097/PTS.0000000000000800>.

Without the right training or license, practicing dentistry is frequently against the law and unethical. Patients who go to *tukang gigi* for treatment might not be aware of the dangers involved and could not have access to the right legal procedures in the event of malpractice or unfavorable results.<sup>39</sup> The safety and rights of patients may be endangered by this absence of regulation.

The impact of malpractice laws extends to various aspects of healthcare. First, these laws serve as a deterrent to negligent behavior by healthcare professionals. By knowing that they can be held legally accountable for their actions, practitioners are motivated to adhere to established standards of care and provide high-quality services.<sup>40</sup> This, in turn, helps to protect the well-being of patients and improve the overall quality of healthcare.

In addition, unlicensed healthcare professionals frequently operate outside of the legal and ethical frameworks that govern the medical field. They may not adhere to standard protocols for maintaining patient confidentiality, obtaining informed consent, or maintaining medical records.<sup>41</sup> This can compromise patient confidentiality, impede continuity of care, and erode confidence in the healthcare system.

To mitigate these risks, it is essential to educate the public on the significance of seeking dental care from qualified and licensed professionals. The enforcement of regulations to prevent the unauthorized practice of dentistry and safeguard the public from potential harm should be the responsibility of government agencies. In addition, expanding access to affordable dental care and education in underserved areas can reduce the prevalence of malpractice and the reliance on unqualified practitioners.

### 3.4 Legal Protection for the Consument of *Tukang Gigi* in Indonesia

In Indonesia, individuals seeking dental care, commonly referred to as *tukang gigi* or dental technicians, are afforded legal protection through various regulations and laws governing dental practices. This article explores the legal aspects that safeguard users of *tukang gigi* in Indonesia, highlighting their rights and the measures in place to ensure safe and ethical dental services.<sup>42</sup> number of dental professionals who work outside of their scope of practice. However, because of social injustices, many people continue to visit dental artisans. Health service providers are not at fault for the numerous violations that result in material and immaterial losses for consumers. the Law of Protection to Consumers (UUPK), which governs consumer rights in Article 4, and the legal regulation of consumer protection against dental artisans' malpractice. Dental professionals have a duty to follow the law in this matter regarding their responsibilities and powers as business actors. In the meantime, there are three types of legal penalties for offenders: administrative, civil, and criminal. As a result, the government must regularly monitor instances like this in the field.<sup>43</sup>

The primary legislation that governs healthcare practices in Indonesia is Law No. 36 of 2009 on Health. This law encompasses dental practice and includes provisions that protect the

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<sup>39</sup> I Gede Wahyu Dananjaya, Ida Bagus Putu Utama, and I Made Dedy Priyanto, "Perlindungan Hukum Terhadap Konsumen Yang Dirugikan Atas Jasa Praktek Tukang Gigi Di Kota Denpasar," *Kertha Semaya : Journal Ilmu Hukum* 1, no. 10 (2018), <<https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/42042>>.

<sup>40</sup> Nina E Ross and William J Newman, "The Role of Apology Laws in Medical Malpractice," *The Journal of the American Academy of Psychiatry and the Law* 49, no. 3 (2021), <https://doi.org/10.29158/JAAPL.200107-20>.

<sup>41</sup> Keshta I and A, "Security and Privacy of Electronic Health Records: Concerns and Challenges," *Egyptian Informatics Journal* 22, no. 2 (2021): 177–83.

<sup>42</sup> Putri and Hafliyah. *Log. cit.*

<sup>43</sup> Ida Ayu Marlies Dwimaya, "Perlindungan Hukum Bagi Pemakai Kawat Gigi Melalui Jasa Tukang Gigi Atas Pelanggaran Perjanjian Terapeutik" 9, no. 6 (2020), <https://ojs.unud.ac.id/index.php/kerthawicara/article/view/58729>.

rights of dental patients. Under this law, patients have the right to receive safe, quality, and ethical healthcare services. This includes dental care provided by *tukang gigi*. Patients have the right to be informed about their dental health condition, proposed treatments, and potential risks associated with those treatments.<sup>44</sup> The Indonesian Dental Technicians Association (ADGI) has established a Code of Ethics that dental technicians must adhere to. The Code of Ethics outlines the professional responsibilities, conduct, and ethical practices expected from dental technicians. It includes provisions that protect patient rights, such as maintaining patient confidentiality, providing accurate information, and delivering dental services with competence and integrity. By following the Code of Ethics, dental technicians contribute to the protection and well-being of their patients.<sup>45</sup>

The Supervisory Body for Dental Practice, known as the Badan Pengawas Praktik Kedokteran Gigi (BPPKG), is an institution established to regulate and oversee dental practices in Indonesia. The BPPKG is responsible for ensuring that dental professionals, including *tukang gigi*, adhere to professional standards and regulations. The body has the authority to monitor dental practices, investigate patient complaints, and take appropriate actions, such as issuing warnings, imposing sanctions, or even revoking licenses in cases of severe violations. Through its supervisory role, the BPPKG plays a crucial role in upholding the rights and safety of dental patients. Dental patients who have concerns or complaints regarding the services provided by a *tukang gigi* have the right to seek resolution. They can file complaints with the BPPKG, which will initiate an investigation into the matter. The BPPKG will evaluate the complaint, gather evidence, and take appropriate actions to address the issue, ensuring the patient's rights are protected. In cases of severe malpractice or unlawful acts, dental patients also have the option to pursue legal actions through the judicial system. This allows them to seek compensation for damage suffered because of the negligence or misconduct of the dental technician.

The legal protection for users of *tukang gigi* in Indonesia is established through various laws, codes of ethics, and supervisory bodies. These measures ensure that dental patients receive safe and ethical dental care. Patients have the right to be informed, to receive quality services, and to file complaints in cases of dissatisfaction or malpractice.<sup>46</sup> The ADGI's Code of Ethics sets professional standards for dental technicians, and the BPPKG oversees compliance with regulations and takes appropriate actions when necessary. By upholding these legal protections, the Indonesian healthcare system strives to ensure the rights and well-being of dental patients are safeguarded when seeking dental care from *tukang gigi*.<sup>47</sup>

#### 4. CONCLUSION

Current legislation confines the responsibilities of *tukang gigi* to the fabrication of partial or complete removable replica teeth, adhering to health criteria, and the installation of such replicas. However, in practical application, *tukang gigi* frequently engage in activities beyond their authorized scope, including the installation of braces, tartar cleaning, and braces colouring. Consequently, there exists a lack of accountability for the actions of *tukang gigi*, leaving consumers or service users inadequately protected from potential malpractice. Despite benefiting from the outcomes of dental artisan work, consumers remain unaware

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<sup>44</sup> Bilqis. *Log. cit.*

<sup>45</sup> Devi Dharmawan and Ivonne Jonathan, "Pertanggungjawaban Hukum Praktik Tukang Gigi Yang Melebihi Wewenangnya," *Interest : Jurnal Ilmu Kesehatan* 8, no. 1 (May 10, 2019), <https://doi.org/10.37341/interest.v8i1.127>.

<sup>46</sup> Ardiantari, Suryamizon, and Adriaman, "Perlindungan Hukum Terhadap Konsumen Atas Pelayanan Dan Jasa Tukang Gigi."

<sup>47</sup> Yudistira, Budiarta, and Widyantara, "Perlindungan Hukum bagi Konsumen atas Malpraktik Jasa Tukang Gigi."

of legal safeguards in instances where these practitioners violate government-established regulations. This absence of comprehensive legal protection exposes *tukang gigi* to potential consequences, as their practices often transgress established boundaries due to a lack of awareness or adherence to regulations.

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