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Legal Protection of Specialist Dentists in Independent Practice: Forms and Implementation Challenges

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Abstract

Legal protection for specialist dentists in independent practice is an important aspect of ensuring legal certainty, professional accountability, and the quality and safety of healthcare services. The increasing legal awareness of the public, combined with the complexity of dental procedures, has heightened the potential for medical disputes between patients and specialist dentists. This study aims to analyze the forms of legal protection afforded to specialist dentists in independent practice and identify the obstacles to its effective implementation. This study uses a normative juridical method and a statutory and conceptual approach, examining relevant legislation, legal principles, and scholarly perspectives on healthcare and professional protection. The findings indicate that legal protection is provided through various regulatory instruments governing professional rights, informed consent, professional standards, dispute resolution, and legal accountability. However, implementation remains suboptimal because of regulatory fragmentation, limited understanding of legal rights and obligations, and weaknesses in preventive mechanisms and dispute resolution. The study suggests that stronger preventive and repressive legal protections are needed to balance protection for patients and specialist dentists while promoting professional accountability and legal certainty in independent dental practice.

Keywords

Healthcare Law, Independent Practice, Legal Protection, Medical Disputes, Professional Accountability, Specialist Dentists.

1. Introduction

Health is one of the most fundamental human needs and a basic right that must be fulfilled through safe, quality, and affordable healthcare services (Fitriono et al., 2016). As part of the fulfillment of human rights, healthcare services require medical personnel not only to provide quality services but also to be professionally and legally accountable for every medical action. Specialist dentists have an important role in providing dental and oral healthcare services to the community, particularly as the complexity of dental treatment continues to develop. In carrying out their profession, many specialist dentists choose to establish independent practices or work in private clinics, where they have considerable professional autonomy and responsibility (Soeryadi et al., 2024).

The provision of healthcare services, including preventive, promotive, curative, and rehabilitative measures, requires adequate legal instruments to ensure legal certainty and protection for both healthcare providers and patients (Praptianingsih, 2006). This is particularly important because dentists may face various legal disputes, including allegations of malpractice, medical negligence, and disagreements with patients (Siswati, 2013). The geographical characteristics of Indonesia also create challenges in the distribution of healthcare professionals. Specialist doctors and specialist dentists remain concentrated in major cities, while availability in smaller and remote areas remains limited. The World Health Organization (WHO) has stated an ideal dentist-to-population ratio of 1:7,500, whereas Indonesia has been reported to have a ratio of approximately 1:9,000, with around 70% of dentists concentrated on Java (Ginanjar, 2020).

Independent practice presents particular legal challenges because clinical and administrative responsibilities are largely borne by individual specialist dentists. This condition increases their exposure to civil lawsuits, criminal proceedings, and administrative sanctions. At the same time, growing public legal awareness and wider access to health information have increased the potential for claims of alleged medical malpractice (Mello et al., 2014). Medical practice carries legal consequences when professionals do not follow standards and established procedures. Medical actions that cause losses may potentially result in civil or criminal liability, depending on the nature of the violation (Astuti, 2009). Therefore, clear legal protection is essential to prevent uncertainty and disproportionate legal exposure for specialist dentists practicing independently (Ramadhanti & Lany, 2025).

Legal protection for medical personnel can be examined through legal protection theory and professional liability theory. Legal protection requires the law to provide certainty, justice, and usefulness for every legal subject, including medical professionals (Tamon et al., 2025). Meanwhile, professional liability emphasizes that medical actions must follow professional standards and the duty of care, with violations potentially resulting in legal consequences (Gostin & Wiley, 2020). Although Indonesia has established a relatively comprehensive legal framework through regulations governing medical practice and health services, implementation remains problematic. One key issue is the tendency to bring medical disputes directly into the criminal justice system without first addressing them through ethical and professional disciplinary mechanisms. These conditions may undermine medical personnel's sense of legal security and potentially affect the quality of healthcare services (Kachalia & Mello, 2011). Strengthening preventive and repressive legal protection is necessary to establish a balanced framework that protects the rights of both specialist dentists and patients.

Previous studies have generally examined the legal protection of medical personnel without specifically addressing specialist dentists in independent practice (Nugroho & Thalib, 2024; Desyandra et al., 2024). In fact, independent practice has distinct characteristics from healthcare facilities, particularly regarding the burden

of liability, supervision, and legal risk management (Rochmawati, 2026). Previous research has also tended to emphasize normative aspects, particularly regulatory frameworks and dispute resolution mechanisms, without sufficiently considering the practical dynamics of medical disputes (Sutedja et al., 2023).

The novelty of this study lies in its specific examination of legal protection for specialist dentists in independent practice by integrating normative legal analysis with a legal risk perspective in clinical practice. The study also emphasizes the importance of balancing the protection of patients and medical personnel to support a fair and sustainable healthcare legal system. The analysis indicates that although the existing legal framework provides a basis for protecting specialist dentists, its implementation remains suboptimal due to weaknesses in preventive mechanisms, particularly medical record documentation, informed consent, doctor-patient communication, and non-litigation dispute resolution. Based on this description, the purpose of this study is to analyze in depth the form of legal protection for dentists specializing in independent practice, identify obstacles in its implementation, and formulate strategies to strengthen legal protection to create legal certainty and a balance of protection between medical personnel and patients.

2. Methods

This study employs a normative juridical research design with a qualitative approach to examine the legal protection of specialist dentists in independent practice. This design was selected because the study focuses on analyzing applicable legal norms, their interpretation, and their implementation in the context of independent dental practice. The analysis applies three approaches: the statutory approach, the conceptual approach, and the case approach. These approaches examine the regulatory framework, relevant legal concepts, and medical dispute cases concerning the professional liability and legal protection of specialist dentists.

The primary legal materials consist of Law Number 17 of 2023 concerning Health, Law Number 29 of 2004 concerning Medical Practice, insofar as relevant provisions remain applicable, and regulations governing independent medical practice, professional standards, informed consent, medical records, and medical dispute resolution. The study also examines relevant Minister of Health regulations and professional regulations to identify the operational framework applicable to specialist dentists. The case approach considers selected medical dispute cases involving healthcare professionals that are relevant to professional liability, negligence, and legal protection in independent practice. Cases were selected based on their relevance to the legal issues examined and their ability to illustrate the application of legal norms in medical disputes.

Secondary legal materials include Indonesian and international journal articles, legal textbooks, scholarly opinions, and previous studies concerning healthcare law, medical liability, professional protection, and medical disputes. The literature was selected based on its relevance to the research topic, academic credibility, and substantive contribution to the analysis, with an emphasis on publications from 2016–2026 to capture recent developments in healthcare regulation and medical dispute resolution. Tertiary materials, including legal dictionaries and legal encyclopedias, were used to clarify relevant legal terminology and concepts.

Legal materials were collected through library research and systematically identified, classified, and analyzed according to the research questions. The procedure consisted of five stages: (1) identifying the legal issues concerning the protection of specialist dentists in independent practice; (2) inventorying and selecting relevant primary, secondary, and tertiary legal materials; (3) classifying and systematizing the materials according to legal protection, professional liability, and medical dispute resolution; (4) interpreting the relevant legal norms and

comparing *das Sollen* with the available legal practice and case developments; and (5) formulating conclusions and prescriptive recommendations.

The collected materials were analyzed using qualitative descriptive-analytical and prescriptive methods. The descriptive-analytical analysis examines the substance and interrelationship of applicable legal provisions, while the case analysis assesses how these norms operate in medical dispute contexts (Putri, 2024). The prescriptive analysis then identifies weaknesses in the existing legal protection framework and recommends strengthening preventive and repressive legal protection for specialist dentists while balancing the rights of patients and medical professionals (Utama et al., 2024).

3. Results and Discussion

3.1. Legal Protection for Specialist Dentists in Independent Practice

Legal protection for dentists specializing in independent practice is part of the health legal system that aims to provide a guarantee of certainty, justice, and benefits for medical personnel in carrying out their profession. This legal protection has been regulated in Law Number 29 of 2004 concerning Medical Practice and Law Number 17 of 2023 concerning Health. Under the concept of legal protection, the law must protect the interests of each legal subject from adverse actions. Shidarta (2004) stated that legal protection is an effort to guarantee the rights of legal subjects so that other parties do not violate them. In this context, specialist dentists as medical personnel have the right to obtain legal protection while carrying out their practice according to professional standards and standard operating procedures.

In independent practice, specialist dentists have a high degree of professional autonomy, so that all responsibility for medical services, both clinical and administrative, lies with individual doctors. This leads to an increase in the potential for legal risks that can arise, both in the form of civil, criminal, and administrative lawsuits. Legal protection for dentists specializing in medical services in independent practice is an issue that has high complexity, because it involves normative, professional, and social aspects. Based on the results of research conducted through a normative juridical approach, it was found that formally the legal framework in Indonesia has provided a fairly comprehensive basis for protection. However, in practice there are still various obstacles that affect the effectiveness of this protection. In analyzing the results of this study, legal protection theory and professional responsibility theory are used, which have three main functions, namely describing, explaining, and predicting legal phenomena that occur in the practice of medical services (Tahir & Mulyono, 2025).

Legal protection theory describes the prevailing normative conditions. The results of the study show that legal protection for dentists practicing independently in regulated in various regulations, including Law Number 29 of 2004 concerning Medical Practice and Law Number 17 of 2023 concerning Health. The regulation emphasizes that medical personnel have the right to obtain legal protection as long as they carry out their duties in accordance with professional standards and standard operating procedures (Praptianingsih, 2006). The forms of legal protection for specialist dentists can be divided into three, namely preventive, repressive, and administrative protection.

In practice, this protection is manifested in the form of preventive measures such as informed consent, recording of medical records, and the implementation of actions according to professional standards. This concept is in line with the theory of legal protection, which places law as a means of conflict prevention (Soekanto, 2014). Other forms of protection are also realized through repressive efforts such as medical dispute resolution mechanisms, through the Indonesian Medical Discipline Honorary Council (*Majelis Kehormatan Disiplin Kedokteran Indonesia*/MKDKI),

professional organizations, and litigation channels (civil and criminal). Administrative protection relates to practice licensing and supervision by the authorized institution. The results of the study show that, normatively, this mechanism exists, but it has not worked optimally in practice.

At the implementation level, the study found that legal protection was not fully effective. The theory of professional responsibility helps explain why this happens. The relationship between the doctor and the patient is a therapeutic relationship that is based on trust (Nasution, 2013). In this relationship, doctors are obliged to provide services according to professional standards, while patients have the right to obtain safe and quality services. Discrepancies between service standards and practice in the field are often a trigger for medical disputes. This relationship creates rights and obligations for both parties, so that if a violation occurs, it can give rise to legal liability. According to Soekanto (2014), the legal responsibilities of medical personnel can be divided into civil, criminal, and administrative liabilities. Civil liability arises from default or unlawful acts, while criminal liability arises when there is an element of fault in the form of intent or negligence. Administrative responsibility is related to violations of licensing provisions and professional discipline.

In the practice of dentistry, the authority of specialist dentists is essentially limited by the professional competencies acquired through specialized education and training. This authority is known as the scope of practice, which is the limitation of medical actions that can be carried out based on professional standards, service standards, and scientific competence. According to Guwandi (2019), every medical action must be based on the competence possessed by the doctor, so that actions outside the competence can be categorized as violations of the law and professional ethics. Therefore, specialist dentists may not perform actions outside their field of specialty.

The provisions regarding the authority of doctors' practice are regulated in Law Number 29 of 2004 concerning Medical Practice, which emphasizes that every doctor is obliged to provide services in accordance with professional standards and standard operating procedures. This provision is reinforced in Law Number 17 of 2023 concerning Health, which states that medical personnel must work within their competence and authority. Furthermore, the Indonesian Medical Council (*Konsil Kedokteran Indonesia*/KKI), through Indonesian Medical Council Regulation Number 47 of 2010 concerning the Registration of Doctors and Dentists, states that doctors' clinical authority is based on competencies proven through competency certificates and registration. Thus, every medical action must be within the scope of competencies that have been formally recognized (Guwandi, 2019).

In the context of the dentist profession, the Indonesian Dentists Association (*Persatuan Dokter Gigi Indonesia*/PDGI), as a professional organization, also stipulates that dental practice must be carried out in accordance with the competency standards of dentists and specialist dentists (Soeryadi et al., 2024). Violations of these standards can be subject to ethical sanctions through professional organization mechanisms. In addition, the Regulation of the Minister of Health Number 2052/MENKES/PER/X/2011 concerning Practice Licenses and Implementation of Medical Practices emphasizes that every doctor, in carrying out mandatory practice, is in accordance with his authority and competence. This shows that cross-field practice is not allowed freely without a clear basis of competence.

In medical practice, the concept of professional judgment refers to doctors' authority to make medical decisions based on the patient's condition. In certain conditions, such as emergencies, cross-field action can be justified as long as it aims to save the patient and is still within the limits of the doctor's basic capabilities. Hanafiah and Amir (2017) stated that professional standards are a benchmark in

determining whether or not there is a medical error. Therefore, cross-disciplinary actions that do not conform to professional standards may qualify as malpractice.

From the perspective of professional liability theory, every medical action must meet the principle of duty of care. If a doctor performs an act outside their competence and causes losses, it may be considered a breach of professional duty (breach of duty). According to Nasution (2013), the legal responsibility of doctors arises if medical procedures are not carried out in accordance with professional standards and cause losses to patients. Therefore, cross-field practice has a high legal risk if it is not supported by adequate competence.

From the point of view of medical ethics, medical action must be based on the principles of non-maleficence and beneficence. Beauchamp and Childress (1989) assert that medical action is justified if it provides greater benefits than risks. In this case, cross-field action can be ethically justified in emergencies or when medical personnel are limited. Cross-field practice by specialist dentists is justified only if they meet certain requirements: it is carried out under specific conditions (emergencies), remains within the limits of basic competence, and is scientifically and legally accountable

3.2. Obstacles to the Implementation of Legal Protection

In independent practice, specialist dentists have multidimensional legal responsibilities, including civil liability. This is based on the concept of default and unlawful acts, doctors can be held liable if they do not meet the agreed service standards (Fuady, 2013). Criminal liability arises if there is an element of gross negligence (*culpa lata*) that causes loss or injury to the patient, as well as administrative responsibilities related to licensing, practice, and regulatory compliance. The legal risks faced by specialist dentists tend to be greater due to the absence of an internal supervision system such as in hospitals. In addition, rising public legal awareness also increases the potential for medical disputes. Hanafiah and Amir (2017) stated that one of the main causes of medical disputes is the lack of effective communication between doctors and patients, especially in terms of explanations of diagnosis, procedures, and risks of medical measures. Therefore, good communication is an important part of legal dispute prevention efforts.

Although normative legal protection is available, in practice there are still various obstacles that hinder its implementation. The results of the study show some important findings. First, there is still a weak implementation of informed consent, where consent to medical actions is often only administrative and does not reflect comprehensive communication between doctors and patients (Pratama & Ngadino, 2022). Second, incomplete documentation of medical records is one of the main factors that weakens the legal position of doctors in proving their case in the event of a dispute. Medical records are important evidence in the legal defense of medical personnel.

However, in practice, many medical personnel still have not made complete and accurate records. This is contrary to the provisions of the Regulation of the Minister of Health Number 269/MENKES/PER/III/2008 concerning Medical Records. Third, there is a growing tendency to criminalize medical personnel, where medical disputes are often brought directly into the criminal realm without first going through ethical mechanisms and professional discipline. Medical disputes are often brought directly into the criminal realm without first going through ethical mechanisms and professional discipline. According to Nasution (2013), criminal law should be placed as the ultimate remedium, which is the last resort in resolving medical disputes. The lack of legal literacy of medical personnel has an impact on many doctors who do not understand the legal aspects of their practice comprehensively. Fourth, non-litigation dispute resolution mechanisms have not been optimal. In fact, penal mediation can be an alternative to a more effective and fair settlement.

Fitriono et al. (2016) stated that penal mediation can provide solutions that accommodate the interests of both parties: Fifth, the inequality in the distribution of medical personnel in Indonesia. Most dentists are still concentrated on the island of Java, resulting in a high workload in certain areas. This condition may increase the risk of medical error. The findings are in line with Kachalia and Mello's (2011) opinion that a disproportionate system of medical liability can increase the risk of litigation and lower the quality of health care. In addition, Gostin (2016) emphasized that legal protection in the health sector must balance the interests of patients and medical personnel.

3.3. Strengthening Legal Protection and Rights Balance

In a predictive perspective, the theory used allows researchers to forecast future developments. Based on the analysis carried out, it can be predicted that without the strengthening of the legal protection system, medical disputes will continue to increase along with increasing legal awareness among the public. In addition, the independent practice of specialist dentists will be increasingly vulnerable to legal risks if it is not supported by a good documentation system and effective communication (Sutanto, 2024).

This research produced a new idea in the form of a model for strengthening legal protection based on integration between preventive and repressive aspects. This model emphasizes the importance of strengthening three main aspects: improving the quality of therapeutic communication, optimizing medical records as legal evidence, and strengthening dispute resolution mechanisms through mediation before pursuing litigation. Handling preventive aspects is carried out through increasing legal awareness of medical personnel, optimizing medical records, and implementing informed consent as a whole (Erawati & Iswandari, 2022).

Strengthening the non-litigation mechanism by encouraging dispute resolution through mediation or professional disciplinary institutions. Strengthening the role of professional organizations and affirming the role of MKDKI as an initial filter for disputes is also needed to balance patient protection and medical personnel. Harmonization of regulations to avoid overlap between criminal, civil, and administrative laws in handling medical cases. Provision of institutional protection, such as professional liability insurance and support for professional organizations. Thus, legal protection is not only reactive but also proactive in preventing disputes (Triana & Sulistyorini, 2021).

In terms of normative empirical findings, this study also shows that independent practice has higher risk characteristics compared to practices in institutionalized health facilities. This is due to the absence of a strong internal control system, so the entire responsibility lies with the individual doctor. Therefore, it is necessary to strengthen regulations that specifically regulate the independent practice of specialist dentists. The results of this study confirm that legal protection for specialist dentists is not enough to be regulated in legal norms, but must also be implemented effectively through increased legal awareness, professionalism, and adequate support systems. Thus, the main goal of legal protection, which is to create justice, certainty, and benefits, can be optimally achieved (Novianti et al., 2023).

4. Conclusion

Based on the findings and discussion, legal protection for specialist dentists in independent practice has a strong normative basis within the Indonesian legal system, particularly through regulations governing medical practice and health. However, its implementation remains suboptimal, as reflected in the gap between *das Sollen* and *das Sein*. The main obstacles include weak implementation of informed consent, inadequate medical record management, limited legal literacy among medical personnel, and the tendency to resolve medical disputes through criminal

channels without first utilizing ethical and professional disciplinary mechanisms. Independent practice also carries greater legal vulnerability than institutionalized healthcare facilities because individual dentists largely bear professional and legal responsibilities. Therefore, this study proposes a legal protection model based on three pillars: preventive strengthening, systemic strengthening, and repressive strengthening, aimed at balancing the protection of specialist dentists and patients' rights.

The findings imply the need for regulatory harmonization, stronger informed consent and medical record standards, improved legal education, and greater use of ethical, disciplinary, and non-litigation mechanisms in resolving medical disputes. Professional organizations should also strengthen advocacy, legal assistance, professional standards, and ethical supervision. This study is limited by its normative juridical design and reliance on secondary legal materials, which limits its ability to capture the empirical experiences of specialist dentists and patients. Future research should use empirical or socio-legal approaches to examine the implementation of legal protection in independent practice, evaluate the effectiveness of mediation and disciplinary mechanisms, and develop evidence-based legal protection models that integrate legal, healthcare, and technological perspectives.

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Data Disclosure Statement
The data that support the findings of this study are available from the corresponding author upon reasonable request.