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The Deficit of Legal Effectiveness: A Juridical Review of Illegal Dental Practice by Non-Dentist Practitioners in Indonesia

Sella Romika Juliantary¹, Ahmad Jamaludin¹

¹ Universitas Islam Nusantara, Bandung, Indonesia

* Corresponding author: Sella Romika Juliantary (sellaromika@gmail.com)

Abstract

The rise of dental procedures performed by non-dentists, especially high-risk aesthetic services such as illegal braces and veneer installations, has created significant legal and public health concerns in Indonesia. This study provides a juridical assessment of unauthorized dental practice and evaluates the effectiveness of law enforcement through the illegal veneer case in Karanganyar based on Decision Number 51/Pid.Sus/2019/PN.Krg). Using a normative juridical method with statutory and case approaches, it analyzes the hierarchy and consistency of relevant regulations, including the health law, medical practice law, and the Ministry of Health regulation on dental technicians. Guided by Soerjono Soekanto's theory of law enforcement effectiveness, the findings show that such practices remain widespread due to inconsistent application of administrative and criminal sanctions, weak coordination among law-enforcement and health authorities, and low public legal awareness. The Karanganyar decision illustrates how lenient penalties and the absence of automatic administrative measures, such as closing the illegal practice undermine deterrence. The study concludes that effective enforcement of health law requires stronger institutional integration and improved legal culture. It proposes developing an integrated sanction system that links criminal rulings with mandatory administrative penalties to enhance deterrence and curb illegal dental practice nationwide.

Keywords

Health Law, Illegal Dental Practice, Law Enforcement Effectiveness, Non-Dentist, Veneer.

1. Introduction

The provision of oral and dental healthcare is an essential component of Indonesia's national health system, mandated to elevate the public health status. From a juridical standpoint, Indonesian positive law, particularly Law Number 29 of 2004 on Medical Practice (Medical Practice Law), Law Number 36 of 2009 on Health (Health Law), and Law Number 36 of 2014 on Health Personnel (Health Personnel Law), strictly confines dental practice to authorized medical personnel possessing the requisite competence, certification, and practice permits. This legal principle is further delineated by technical regulations, such as Minister of Health Regulation Number 1871 of 2011 on the Work of Dental Technicians which severely limits the authority of traditional dental technicians solely to the production and fitting of removable dentures without performing any medical procedures.

Despite this rigorous legislative framework, the reality on the ground reveals a disturbing proliferation of dental services performed by non-dentists, including dental technicians, and individuals with no formal medical training, often operating out of beauty salons or private residences. This phenomenon is particularly rampant in aesthetic procedures, such as the illegal installation of braces and veneers (Rani et al., 2020; Siek et al., 2024). Hans et al. (2014) state that unlicensed dental practitioners in India commonly perform procedures such as tooth extractions, restorative treatments, and various forms of prosthodontic work. These unauthorized practices constitute flagrant violations of the law and expose patients to grave medical risks, including severe gingival trauma, tooth enamel damage, infection, and irreversible maxillofacial deformities (Subhi et al., 2023).

Documented judicial cases underscore the seriousness of this regulatory deficit. The Decision Number 51/Pid.Sus/2019/PN.Krg concerning an illegal veneer practice in Karanganyar serves as a crucial legal benchmark. In this case, a non-dentist performed a veneer procedure in a salon, resulting in severe injury to the victim's gums and damage to tooth enamel (Saputri, 2023). While the court imposed a sanction, the case highlights the systemic weaknesses in law enforcement, particularly the disjointed application of criminal and administrative sanctions.

Prior academic discourse has explored various facets of illegal dental practice. Alfiyanti (2023) analyzed the Karanganyar case from the perspective of penal objectives, arguing that the relatively light three-month sentence failed to meet the deterrence goals of the criminal justice. Andani (2023) focused on the judicial analysis of criminal liability, confirming that the offender violated Article 83 of Law Number 36 of 2014 on Health Personnel for performing medical acts without competence. Furthermore, scholars like Rita et al. (2023), Al Hayy et al. (2023), and Rochma et al. (2025) have similarly identified the core violation as exceeding professional authority, recommending increased government oversight.

However, the existing literature is constrained by a lack of comprehensive juridical analysis that examines the synchronization and hierarchical coherence between the primary statutes (Medical Practice Law and the Health Personnel Law, which carry criminal sanctions) and the implementing technical regulations (Minister of Health Regulation 1871 of 2011, which defines the boundaries of dental technician authority). The novelty of this research lies in its effort to bridge this gap by employing Soerjono Soekanto's theory of law enforcement effectiveness as the core analytical framework. This socio-legal theory posits that effective law enforcement depends on five interconnected factors: the law itself, the law enforcement apparatus, facilities, the public, and the legal culture (Malaka, 2025).

By adopting this framework, the study hypothesizes that the unauthorized installation of braces and veneers constitutes a violation of both the Medical Practice Law (Article 75) and the Health Personnel Law (Article 83), but that the effectiveness of enforcement is severely hampered by the fragmented application of

sanctions across the administrative and criminal domains. This fragmentation prevents the achievement of maximal deterrent effects and undermines legal protection (Lestari, 2021).

The primary objectives of this research are to delineate the legal boundaries and restrictions on non-dentist practitioners in Indonesian dental practice, to critically analyze the practical application and efficacy of sanctions in illegal dental aesthetic cases through the Karanganyar judicial precedent, and to formulate integrated policy recommendations to enhance coordination between criminal and administrative law enforcement agencies in the health sector. The findings aim to contribute not only theoretically to the field of health law but also practically by providing actionable strategies for state authorities responsible for safeguarding public health and ensuring legal certainty.

2. Methods

This research employed a normative juridical method, characterized by a descriptive-analytical specification. The core focus was the normative structure of health law and its effectiveness in the context of illegal dental practice. This study employs two primary research approaches. The statute approach examines the hierarchical structure and coherence of the core legal frameworks, namely the Medical Practice Law and the Health Personnel Law, together with their implementing regulation, Minister of Health Regulation Number 1871 of 2011. Through this analysis, the research identifies normative inconsistencies and regulatory gaps that contribute to weak law enforcement in practice.

The case approach is applied to conduct an in-depth examination of Decision Number 51/Pid.Sus/2019/PN.Krg concerning the illegal veneer installation case in Karanganyar. This approach enables an assessment of how the court applied criminal and administrative norms, as well as the adequacy and proportionality of the sanctions imposed. Combined, these approaches provide a comprehensive understanding of the legal issues and the effectiveness of enforcement in cases of illegal dental practice.

The study draws exclusively on secondary legal materials, encompassing a comprehensive range of sources. Primary sources consist of statutory provisions and relevant judicial decisions, while secondary sources include scholarly journals, academic dissertations, and authoritative textbooks in the fields of health law and criminology. These are complemented by tertiary sources such as legal dictionaries, which provide conceptual clarity and definitional precision throughout the analysis.

The collected legal materials were examined through a qualitative normative analysis, allowing the study to interpret statutory provisions, judicial decisions, and scholarly perspectives in order to identify patterns, assess legal coherence, and evaluate the effectiveness of the regulatory framework. This involved systematic interpretation of legal norms, principles (e.g., *Rechtszekerheid*), and the application of Soerjono Soekanto's law enforcement effectiveness theory. The analysis assessed the extent to which the five factors (law, apparatus, facilities, public, and culture) contributed to the documented failures in protecting patients from illegal dental procedures. The findings are presented descriptively to formulate systemic policy recommendations.

3. Results and Discussion

3.1. The Juridical Framework of Exclusion and the Case of Illegal Veneers

The regulation of dental practice by non-dentists in Indonesia is governed by a strict hierarchy of norms. At the highest level, the the Medical Practice Act (2004) and the Health Workforce Act (2014) serve as *lex generalis* and *lex specialis* respectively, reserving the right to perform medical procedures exclusively for

licensed health professionals (Fadhillah et al., 2019). The core criminal provision, Article 83 of Law Number 36 of 2014, directly prohibits non-health workers from engaging in medical activities.

The boundary for traditional practitioners, specifically dental technician, is narrowly defined by Minister of Health Regulation Number 1871 of 2011. This ministerial regulation explicitly limits their scope to making and installing removable acrylic dentures, strictly forbidding irreversible or invasive procedures such as tooth extraction, filling, orthodontic treatment (braces), or dental modification for aesthetics (*veneers*) (Dharmawan & Jonathan, 2019; Sagay et al., 2025). The performance of braces or veneers by a non-dentist therefore constitutes a dual violation, an administrative breach of the ministerial regulation's scope and a criminal breach of the parliamentary statute (law of health workforce).

The analysis of Indonesian positive law confirms the robust juridical framework that explicitly excludes non-dentist practitioners from performing medical and aesthetic dental procedures. This exclusion is cemented across a hierarchy of regulations, establishing clear boundaries of competence and practice authority. At the apex Law Number 29 of 2004 on Medical Practice (Article 75) and Law Number 36 of 2014 on Health Workers (Article 83) create the criminal offense for any individual who is not a licensed health worker to conduct medical acts. This criminalization is necessary for the state to uphold its fundamental obligation of legal protection (legal protection theory) for public health, safeguarding citizens from hazardous incompetence (Cahyadi & Gorda, 2019).

The technical and definitive boundary for traditional dental workers is delineated by the lower, administrative regulation, Regulation of the Minister of Health Regulation Number 1871 of 2011. This regulation strictly limits dental technician to the preparation and fitting of removable acrylic dentures and expressly prohibits complex, invasive, or irreversible procedures such as orthodontics (braces), veneers, or dental surgery (Dharmawan & Jonathan, 2019). Consequently, the installation of veneers or braces by a non-dentist practitioner constitutes a dual violation, an administrative breach of authority and a direct criminal offense against public health statutes.

3.2. Evaluation of Enforcement Effectiveness: A Systemic Analysis

The judicial handling of Decision Number 51/Pid.Sus/2019/PN.Krg serves as a critical case study illustrating the formal recognition of this violation but exposing the substantive weaknesses in enforcement. The court correctly convicted the non-dentist offender based on Article 83 of Law Number 36 of 2014 on Health Workers for performing an act reserved for a competent health worker. However, the conviction itself sparked academic criticism regarding the consistency and proportionality of the legal application. Alfiyanti (2023) and Saputri (2023) critiqued the relatively light three-month prison sentence, arguing it failed to achieve the necessary deterrent effect required by the penal goals outlined in the the new Criminal Code (Law Number 1 of 2023). Furthermore, legal scholars argued the prosecution potentially misapplied the most appropriate criminal provision, suggesting that the resulting physical injury (damage to gums and enamel) warranted prosecution under the more severe Article 351 of the Criminal Code on Assault (Andani, 2023). This debate highlights a central flaw in the Law Enforcement Apparatus Factor of Soerjono Soekanto's theory. The lack of specialized legal expertise within law enforcement agencies (police and prosecutors' office) to accurately classify health law crimes, leading to suboptimal judicial outcomes that do not satisfy the principle of legal certainty (*Rechtsszekerheid*) (Julyano & Sulistyawan, 2019). The failure to synchronize the criminal accusation with the most severe resulting harm diminishes the court's ability to impose sentences that are commensurate with the danger posed to public safety.

The sociological context of law enforcement is best understood through Soerjono Soekanto's law enforcement effectiveness theory. According to this theory, the persistence of illegal dental practices, despite clear legislation, is attributed to a failure in the interconnected "five factors" (Malaka, 2025). Alfiyanti (2023) confirms that the law enforcement apparatus is weak, as evidenced by courts that tend to impose relatively light sentences that fail to create a deterrent effect. Furthermore, the public factor and legal culture factor are critical, as the demand for cheap aesthetic procedures, coupled with a lack of legal literacy regarding the risk and regulatory requirements, creates a conducive social environment for these illegal services to thrive (Al Hayy et al., 2023; Putri, 2024). The literature consensus points to the urgent need for a cohesive governmental response that integrates both punitive legal action and educational measures to close the gap between legal norm and social practice.

The persistence and widespread nature of illegal dental practices across Indonesia, beyond the Karanganyar case, are symptomatic of failures across several factors of Soerjono Soekanto's theory of law enforcement effectiveness (Al Hayy et al., 2023; Rita et al., 2023). The theory posits that the breakdown in one factor critically compromises the entire system (Malaka, 2025). The first major systemic failure is the fragmentation of the law enforcement apparatus factor. While the police and courts successfully enforce the criminal penalty (punishing the individual), the system critically fails to enforce the administrative penalty (closing the illegal practice). The criminal justice process (the police-prosecutor's office-court chain) operates in isolation from the administrative oversight bodies. The judicial finding of a crime (violating Article 83 of the Health Workforce Act) does not automatically trigger the administrative consequence of permanently shutting down the source of harm (the salon or private practice). This lack of synergy is the root of the moral hazard, offenders receive a light, temporary sentence while their illegal business remains structurally viable or can easily reappear under a new name, rendering the entire enforcement effort futile (Hermawan et al., 2023). This institutional weakness undermines the goal of preventive protection (Lethy et al., 2023).

The second crucial failure resides in the combination of the public factor and the legal culture factor. Illegal aesthetic procedures, particularly braces and veneers, thrive due to high public demand driven by social media trends and the allure of low cost (Putri, 2024). A widespread lack of health and legal literacy leads the public to perceive procedures like veneer installation as mere cosmetic services, similar to haircuts or nail art, rather than high-risk, irreversible medical procedures (Al Hayy et al., 2023). This flawed public perception represents a deficit in the legal culture, the societal values and norms that support the legal norm. The demand for cheap, quick service outweighs the value placed on certified medical competence and patient safety, providing fertile ground for non-dentists to operate with minimal social resistance. Consequently, law enforcement is almost always reactive (only responding after severe harm has occurred), rather than proactive (preventing the illegal practice through social compliance).

The third dimension of failure involves the law factor and facilities factor. Although the statutes are clear, the lack of technical guidance and adequate facilities for proactive surveillance hinders the apparatus. The Ministry of Health lacks the budget, resources, and human capital at the regional level to conduct comprehensive, unannounced inspections of non-medical facilities such as salons, which serve as the primary operational base for illegal practitioners. Furthermore, the lack of an integrated legal mechanism to compel immediate administrative closure (without waiting for a final court judgment) means that the state's facilities are structurally weak for rapid response, exacerbating the law's ineffectiveness (Fadhillah et al., 2019). This systemic inadequacy confirms that the mere existence of law (*ius*

constitutum) is not enough, its effectiveness is severely constrained by failures in the sociological and institutional factors of the system.

3.3. Policy Recommendations for Law Enforcement and Systemic Reform

To address the profound deficit in law enforcement effectiveness, the necessary reforms must be systemic, focusing on synchronizing sanctions and strengthening institutional collaboration to rectify failures across Soerjono Soekanto's five factors (Fuah, 2024). A central step toward this goal is the creation of an institutional synergy and automated sanction protocol, directed at strengthening the apparatus factor. This would be operationalized through the formal establishment of a National Integrated Health Law Enforcement System, ensuring that criminal, administrative, and regulatory responses operate cohesively rather than in isolation. This requires a binding Memorandum of Understanding (MoU) and Standard Operating Procedure (SOP) among the core agencies, such as the police/prosecutor's office, the Ministry of Health/Health Office, and the Indonesian Health Workforce Council (*Konsil Tenaga Kesehatan Indonesia/KTKI*). This SOP must require an automated sanction protocol in which any criminal finding, such as a formal investigation, indictment, or conviction under the Health Workforce Act, automatically triggers administrative action by the health office. This administrative action must be the permanent closure of the illegal practice and the imposition of a significant administrative fine on the facility owner, regardless of the final criminal judgment. This protocol ensures the sanction is comprehensive, hitting both the individual (criminal penalty) and the source of public harm (administrative closure), thereby achieving maximum deterrence and preventing the quick re-emergence of the illegal business (Sutriani et al., 2022; Tamon et al., 2025).

Legal reform and facility strengthening are also essential for improving the law-and-facilities factors. The existing regulations need to be refined to support proactive enforcement, including amendments to the minister of health regulation or a higher-level government regulation that expressly authorize the health office to issue an immediate provisional closure order for any facility suspected of conducting illegal dental practices, such as salons or private residences used as clinics, based on preliminary evidence, without the need to wait for a final criminal verdict. This shifts enforcement from reactive to preventive (Dewi, 2024). Concurrently, the facilities factor must be addressed through a dedicated budgetary increase for the health office's surveillance department, enabling it to conduct proactive, non-reactive inspections of all non-medical premises suspected of offering aesthetic dental services. Effective law relies on the state's capability to enforce it physically (Mustafa & Darmawan, 2025).

Targeted health and legal literacy programs are crucial for strengthening the public and legal culture factors (Qomariyah et al., 2018). To disrupt the social norms that enable illegal dental practices to persist, a broad, nationwide effort to improve public understanding of health risks and regulatory requirements is indispensable. This program must be collaboratively managed by the Indonesian Dental Association (*Persatuan Dokter Gigi Indonesia/PDGI*), the Ministry of Health, and educational institutions, utilizing widely accessible digital platforms. The core message must clearly differentiate between certified medical acts and cosmetic services, educating the public on the severe medical risks and the legal consequences of patronizing unauthorized practitioners. This sustained educational campaign is crucial to reshape public perception, ensuring that the value of certified competence supersedes the economic lure of cheap, illegal services. By empowering the public with knowledge, the Public Factor can transform from a facilitator of illegal practice into an effective, informed surveillance agent for law enforcement. These integrated steps, which address the systemic breakdowns in legal coordination and cultural perception, are necessary for the Indonesian legal framework to finally achieve

genuine effectiveness in protecting patients from the widespread and dangerous phenomenon of illegal dental practice.

The analysis highlights persistent systemic gaps across Soerjono Soekanto's five factors, particularly weak apparatus coordination, low public legal literacy, and inadequate administrative enforcement, which allow illegal dental practices to continue despite clear statutory prohibitions. These deficiencies show that law enforcement remains largely reactive and fragmented, enabling offenders to re-establish operations and undermining deterrence. Strengthening inter-agency synergy, implementing automatic administrative closures, enhancing regulatory capacity, and improving public awareness are therefore essential to align legal norms with actual practice. A brief comparison with jurisdictions that integrate criminal and administrative sanctions more effectively (such as Singapore's unified health inspection system) also underscores the need for Indonesia to adopt a more coordinated, preventive model.

4. Conclusion

The persistent phenomenon of illegal dental practice by non-dentists in Indonesia reflects a deficit in the effectiveness of health law enforcement rather than a lack of regulation. Although the juridical framework comprising the Medical Practice Act, the Health Workforce Act, and the Ministerial Regulation on Traditional Dental Workers clearly criminalizes and restricts such practices, its implementation is weakened by systemic fragmentation. In line with Soerjono Soekanto's Theory, the core weakness lies in the law enforcement apparatus, particularly the failure of criminal and administrative authorities to operate in a coordinated and automated manner. As a result, offenders often receive lenient criminal sanctions while their illegal operations continue, undermining deterrence and weakening legal protection for the public. The solution therefore lies not in additional regulation, but in the establishment of an integrated health law enforcement system that mandates automatic administrative closure following criminal findings, supported by sustained public legal literacy efforts.

The findings further indicate that despite Indonesia's comprehensive legal framework, weaknesses in institutional coordination, law enforcement practices, and public legal culture significantly reduce its effectiveness. These results suggest that policy reform must move beyond statutory clarity toward strengthening inter-agency collaboration, implementing automated sanction mechanisms, and promoting preventive enforcement through public education. However, this study is limited by its reliance on normative legal analysis and a single judicial decision, which may not fully represent enforcement variations across regions. Moreover, the absence of empirical data from enforcement agencies and affected community's limits insight into practical dynamics. Future research should therefore employ empirical or socio-legal approaches, including field studies and comparative analyses, to better inform evidence-based reform of Indonesia's health law enforcement system.

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Ethical approval was obtained for this study. The manuscript represents original work and has not been previously published, nor is it under consideration by another journal.

Data Disclosure Statement

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



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