

Legal Protection of Dental and Oral Therapists for Oral Delegation by Dentists

Sukini¹, Fuad Fatkhurrohman², Puji Lestari³, Sri Nurdiana Purwaningsih³,
OntranSumantri Riyanto⁴

¹Politeknik KesehatanKemenkes Semarang, Indonesia.

²Faculty of Dentistry, Muhammadiyah University of Semarang,Indonesia.

³Universitas 17 Agustus 1945 Semarang, Indonesia.

⁴STIKES Bethesda Yakkum Yogyakarta, Indonesia.

ABSTRACT

Delegation of authority is the transfer of duties to others who are legitimate in carrying out activities intended to achieve specific objectives. Implementing the delegation of medical action authority from the dentist to the dental and oral therapists must be carried out in writing. The mechanism of implementation must be exact. By law, medical action against dental patients is authorized. The dentist must do it, but the dental and oral therapist does the reality in the hospital or the dentist's practice. This study aims to provide legal protection for dental and oral therapists in performing medical actions on the verbal delegation of authority from dentists. This research uses, a sociological juridical approach; the research specification used is a descriptive-analytical method about legal protection for dental and oral therapists in performing medical actions on the transfer of authority orally by dentists. The results of this study that the knowledge of dentists and dental and oral therapists about the delegation of authority and legal protection is still lacking. This is because dentists and dental and oral therapists do not yet know about the legislation related to authority delegation. In conducting dental health services efforts, the authority of dental and oral therapists, namely delegation and mandate authority.

KEYWORDS

Legal Protection, Delegation of Authority, Medical Measures, Dentists, Dental and Oral Therapists.

Introduction

Health services have the primary ¹goal of improving health and preventing diseases. The main target is the community, the scope of health services for the public's benefit is a lot, the government's role in health services is enormous. Health services determine factors of public health degrees and behavior, heredity, and the environment². Hospital is one of the health facilities in providing health services to the community. People get health services directly in hospitals through doctors and nurses. Doctors and health workers who provide services must work professionally with competency-based educational ability and establishment³.

For example, nurses as one of the paramedics in charge of providing health services to the general public. Nurses' main task is to provide health services or provide nursing care with their skills and expertise. Nurses in delivering health services, there are several roles: Nurses have a role to play in addressing the problems patients face, Nurses have a responsibility to provide counseling to patients/clients, Nurses have a role in ensuring and monitoring the quality of nursing care and Nurses have a duty as researchers to develop a body of nursing knowledge⁴.

Duties and authorities in conducting nursing practices, nurses serve as nursing nurses, extension workers, counselors for clients, nursing service managers, nursing researchers, executors of duties based on delegation of authority, and executors of responsibilities in certain limited circumstances. Nurses are the only profession that is always on the side of patients who have an excellent opportunity to advocate patients. The role of nurses in the future must develop in line with the development of science and technology needs of the community so that nurses are required to be able to answer and anticipate the impact of changes. As a professional nurse, the role is "Care"⁵.

Dental and Oral Therapists are nursing personnel who have the ability in the field of promotion and prevention and able to collaborate with other health workers in overcoming dental and oral health problems.⁶ The main task of Dental and Oral Therapists in Indonesia based on the Regulation of the Minister of Health of the Republic of Indonesia Number 20 of 2016 is to carry out Dental and Oral Health Care Services in the field of promotion, preventive, and curative limited to improve the degree of optimal oral and dental health in individuals, groups, and communities. Dental and Oral Therapists' competency area consists of Professionalism and Legal Compliance, Social

Skills, Communication and Information Management, Critical Thinking and Self-Development, Scientific Foundation of Dental and Oral Health Care, Clinical Skills of Dental and Oral Health Care and lastly Management of Dental and Oral Health Care.

The process of dental and oral health care is the basis for implementing professional dental and oral health therapy practices⁷. It becomes a framework to provide high quality dental and oral health care services for all types of patients in various forms of professional health care facilities. This process requires decision making, where dental and oral therapists are responsible for identifying and solving patient problems through oral and dental health care.

Medical measures are actions taken based on medical indications⁸. The medical act is not the authority of a nurse⁹. Still, under certain circumstances, some diagnostic activities and medical measures may delegate to the nurse under the doctor's supervision. Medical actions performed by nurses should be under the supervision of a doctor¹⁰. The delegation of authority remains the doctor's primary responsibility who gives the order, while the nurse only has the responsibility as the executor. Delegation of power can only be implemented if the nurse has sufficient education and competence.

Some diagnostic activities and medical measures may be delegated to be carried out by nurses under certain circumstances. It should be noted that the primary responsibility remains on the doctor who gives the task. Simultaneously, the nurse has the burden of implementing, and the discharge can only be carried out after the nurse gets sufficient education and competence to receive the release. Long-term or continuous discharge can be given to health nurses with special skills, usually regulated by their standing order.¹¹ But in the implementation of health care places such as in hospitals or independent physician practices, the delegation of the authority of dentists to dental and oral therapists in providing medical measures to patients still found not to be carried out supervision or direct supervision by the dentist¹².

Looking at the above problems, researchers are interested in raising the issue of the delegation of medical action authority from dentists to dental and oral therapists conducted without any direct supervision in performing medical actions. To know how legal protection for dental and oral therapists who get a delegation of authority without dentists' supervision in performing medical activities.

Research Methods

The method of approach used is sociological juridical because of the problem to be examined about the issue of linkages between favorable laws or laws to factors that exist in the implementation in the field regarding the work of the law, especially the form of the delegation of medical measures carried out by dentists to dental and oral therapists with a normative and empirical approach to the problem. This type of research is descriptive qualitative. In this study, juridical factors are legal norms regarding laws and regulations governing the profession of dental and oral therapists, dentist professions, and medical practices. Simultaneously, the sociological factor in this study is the application, preparation, and implementation of the law in the performance of legal protection of the transfer of medical measures from dentists to dental and oral therapists.

Results and Discussion

As one of the main components of providing health services to the community, doctors have a significant role because it is directly related to health services provision. In hospitals, doctors cannot work without the help of nurses. On the contrary, nurses without instructions from doctors are not authorized to act independently. In hospitals, health service put doctors and nurses as the closest person to the service to patients. The relationship between patients can be an alliance of disease treatment and healing efforts or therapeutic transactions. It gives birth to rights and obligations between various parties, namely doctors, nurses, and patients themselves¹³.

Nurses, as one of the health workers in the hospital, perform three functions, namely: First independent function or independent role in the form of providing nursing care to patients. Both interdependent tasks are collaborative with other health workers in the record of delivering nursing services offered and other health workers. Three dependent functions are based on the doctor's advice or instructions in the form of nurse actions to assist the doctor in carrying out specific medical activities¹⁴.

Dental and oral therapists are an integral part of nursing. According to the results of the National Nursing workshop in 1983, nursing is a form of professional service that is an essential part of health services based on the science and tips of nursing, in the form of a comprehensive spiritual biopsychosocial, aimed at individuals, families, communities both sick and healthy and covers the entire human life cycle. Based on the definition above, we can know that nursing is a form of service based on nursing science and rules¹⁵. Dental and oral therapists are at the forefront of Indonesia dental health development and human resources for dental health, which has a central role in dental health care which is at the forefront of the promotion and preventive aspects of dental and oral services.

The relationship between dentists and dental and oral therapists providing health care to patients is a more binding partnership relationship. There must be harmonization of tasks, roles, responsibilities, and an open system in such relationships. Dentists and dental and oral therapists work together as colleagues, each with professional expertise to provide optimal dental and oral health care to the community. The relationship between dentists and dental and oral therapists also has a legal relationship due to the delegation of authority delegates and mandates given by dentists and dental and oral therapists. Juridically, the dentist's responsibility is with the dentist because what the dental and oral therapist does is the doctor's instructions¹⁶. Legal authority is the authority owned by a health worker to do his work, so based on authority, the dental and oral therapist can do the treatment by his area of expertise.

The limitations of dentists create situations that require dental nurses to take medical treatment or perform medical actions that are not authorized. Such activities are carried out with or without the delegation of authority from other health workers, including doctors, to cause legal problems related to the responsibilities charged unilaterally and can harm nurses. This means that health services by health workers are familiar with the delegation of authority, commonly known as a delegation of authority.

The authority possessed by a dental and oral therapist to carry out his ministry duties is the legal authority (*rechtsbevoegheid*). Based on this authority, a health worker has the right to perform the treatment by his competence¹⁷. If the administrative requirements to carry out the profession have been met, then the dental and oral therapist as a professional guide has gained professional authority in carrying out his work. However, if a health worker does a job without authority, it can be considered a violation of one of the health worker professional standards.

The delegation of the authority of medical action from dentists and dental and oral therapists must be carried out in writing by Article 32 Point 1 of the Law of the Republic of Indonesia Number 38 the Year 2014 on Nursing. Regulation of the Minister of Health of the Republic of Indonesia Number 2052/Menkes/Per/X/2011 concerning License of Practice and Implementation of Medical Practice regulates that dentists can provide a discharge of a dentistry action to nurses in writing in carrying out dentistry actions and can only be done in circumstances where there is a need for services that exceed the availability of dentists in such service facilities. The delegation of medical measures can be done with the provisions of:

- a. The actions bestowed are included in the abilities and skills already possessed by the recipient of the delegation;
- b. The implementation of the lavish action remains under the supervision of the grantor
- c. The grantor remains responsible for the actions bestowed throughout the implementation of the story by the grant given
- d. The actions taken do not include taking clinical decisions as the basis for implementing
- e. The actions bestowed are not continuous

The type of action that is delegated must be exact so that the charged case is not general. Delegative discharge can only be entrusted to dental and oral therapists who have the necessary competencies, and the delegation is mandated to be given to nurses under his supervision. On the other hand, dentists in bestowing medical action authority should be adjusted to the dental and oral therapists; of course, it should be prioritized delegated to senior dental and oral therapists who already have a lot of experience. When there is a delegation of medical action, authority from the dentist can run well and can be minimized undesirable things.

Professional standards dental and oral therapists bind dental nurses in providing health services to patients. It contains competency standards and dental nurse performance in performing its service duties and code of ethics, which is the basis for working professionally. A dental nurse is required to have optimal abilities and has a laudable way and attitude of life both about patients, society, colleagues, and professions.

The delegation of authority given by dentists is divided into two tasks that are delegated and assigned mandated¹⁸. Delegative delegation of authority to perform any medical action is provided by the dentist to the dental and oral therapist with the accompaniment of the discharge of responsibility. Medical measures can only be given to trained dental and oral therapists according to the required competencies. This means the tonality is on the dental and oral therapists who perform medical measures. The dentist's delegation of authority is mandated to the dental and oral therapist to perform something medical action under supervision, and the responsibility is on the mandate.

One of the factors that cause the transfer of authority orally from the dentist to the dental and oral therapists is the limitations of existing dentists where the service works and the imbalance between the number of people served and the number of dentists available. The delegation of duties from the dentist to the dental and oral therapists should be done in writing and remain under the dentist's supervision. Still, the problem here in the implementation in the field that the delegation of duties from the dentist to the dental and oral therapists given is not written or orally. This medical action indirectly cannot be accounted for legality. This negatively affects the dental and oral therapists as the recipients of the delegation of authority of dentists. Dental and oral therapists do not have the force of law and a form of protection in case of errors or omissions in the provision of service actions to patients. The dentist who gave the task should also be responsible for the mistakes or omissions committed by the dental and oral therapists because there is no written evidence. To avoid such matters, the legality in written form concerning the delegation of authority from the dentist to the dental and oral therapist must be made in writing, and not only in said form.

Legal protection for nurses¹⁹ in carrying out their duties and obligations, Law of the Republic of Indonesia number 36 the year 2009 concerning Health written in Article 27 paragraph (1) has provided arrangements that health workers are entitled to rewards and legal protection in carrying out their duties by their profession. Dental and oral therapists require legal guardians to create a sense of security in carrying out their professional responsibilities. Suppose there is a dental and oral therapist who makes a mistake. In contrast, in charge of providing health services to the public, resulting in harm to the patient, the dental and oral therapist will be penalized by the applicable law. However, the duties and responsibilities imposed on him are for the authorized official's discharge to give the task.

Dental and oral therapists in charge of hospitals, health centers, or dentist clinics should carry out their duties and obligations to pay attention to the limitations of authority set out in the existing legislation to minimize wrong possibilities that could one day occur. Because it is essential for a dental and oral therapist to know, understand, understand, and carry out the duties and responsibilities and authorities of each profession correctly.

Based on Indonesia's criminal law, whoever does it is responsible so that the delegation of authority position of responsibility and responsibility switches to the granted authority or delegates. If there is suspected malpractice in doing health services, then the responsibility for the problems carried out the transfer to the dental and oral therapists.

Partial delegation of the dentist's authority to the dental and oral therapists in case of errors in the process of discharge then the responsible and responsible is the one who gives the abundance. This mistake can occur, for example, impeachment is done in writing, not according to the ability, education, and professional standards of dental and oral therapists. The reality of the field during observations made by researchers and the data collected by the delegation of authority was never done in writing. It is also based on the field data that there is no data on the board of authority in writing from dentists to dental and oral therapists. Still, dental and oral therapists perform limited medical measures in the field of dentistry.

The delegation of authority by unattended dentists is very detrimental to dentists and dental and oral therapists in case of errors or omissions that result in harm to the patient²⁰. It is possible that the ending could have occurred and was carried out by the dentist because he did not want to be attached if there was a legal problem. The dentist is also a human being who has an attitude not to be involved in a legal issue. Self-attitude to avoid the legal issues can be done²¹. The delegation of authority carried out by dentists to dental and oral therapists as the subject of the law has undoubtedly legal consequences that apply, especially if the authority exercised negatively or the alleged error in the implementation of health services. Sanctions that can be given to dentists and dental nurses can be disciplinary, administrative, civil, and criminal sanctions.

The main goal of developing countries such as the Republic of Indonesia is to realize society's welfare evenly. In the theory of statehood, Indonesia's state is a country of the type of welfare state type. Because the tipping point is on the equality of people's welfare, the state must play an active role in creating the interest of its people. Related to

realizing an effective legal system, it needs to be done again legal, institutional arrangements supported by the quality of human resources, culture, and legal awareness of the community. The demands of community needs development must continuously update the law, and it is necessary to have harmoniously structured legal materials without conflict and overlap.

Nurses are the profession that is at the forefront of providing health services to the community²². The Nursing Act regulates and permits nurses to perform actions beyond their authority, such as completing medical acts and administering drugs. However, such competencies are not obtained by nurses on their education level. The nurse's auth is to provide nursing care instead of performing invasive medical measures. If it is required to take actions outside its authority, it must be rewarded according to the risks that will be faced by nurses. Looking at other professions that are one umbrella more independent, nurses also want other professions that have precise regulation. To be transparent black on white about the authority, rights, and obligations of nurses is not a drag on other parties' interests. However, people need health services because health is a human right by Article 28 H and Article 34 paragraph (3) of the Constitution of the Republic of Indonesia 1945, health becomes the constitutional right of every citizen, and it is the responsibility of the government to provide health services.

Conclusion

The delegation of authority carried out in writing and not accompanied by dentists' supervision occurs due to the lack of dentists in Indonesia. Dental and oral therapists can perform a medical procedure if there is a delegation of authority. Still, there is no operational standard of guidelines for delegation of authority, and supervision from the dentist can be detrimental to both parties. But the attitude of avoiding legal problems can be from the dentist, of course, to the detriment of dental and oral therapists' position. The delegation of authority carried out by dentists to dental and oral therapists as the subject of the law has specific legal consequences that apply, especially if the authority exercised negatively or the alleged error in implementing health services. Sanctions that can be given to dentists and dental nurses can be disciplinary, administrative, civil, and criminal sanctions. Recommended Operational standards of procedure delegation of authority of dentists to dental and oral therapists need to be more detailed and firm and implement the delegation of authority of dentists to dental and oral.

References

- [1] Bendor, J., Glazer, A., & Hammond, T. (2001). Theories of delegation. *Annual review of political science*, 4(1), 235-269.<https://doi.org/10.1146/annurev.polisci.4.1.235>
- [2] Muninjaya, A.A. (2004). *Health Management*: AA Gde Muninjaya.
- [3] Henky, H. (2018). Clinical Ethics Services. *Indonesian Journal of Medical Ethics*, 2(2), 59. 2018. <https://doi.org/10.26880/jeki.v2i2.17>
- [4] Budhiartie, A., & Nasser, M. (2018). The Function of the Principle of Professional Equality in the Development of Nursing Law Figures in the Health Law System. *SOEPRA*, 3(2), 246-263.<https://doi.org/10.24167/shk.v3i2.1013>
- [5] Nursalam, D. (2011). *Nursing Management*. Application in Professional Nursing Practice, Edition 3.
- [6] Anam K. Responsibilities and Authorities of Dental Nurses in Performing Dental Medical Actions. *Adjudication: Journal of Legal Studies*, 2(1).<https://doi.org/10.30656/ajudikasi.v2i1.621>
- [7] Dewi, NMW, & Sumarwanto, E. (2016). The implementation of authority for dental nurses in dental and oral health services at the Badung District Health Center, Bali Province is based on the provisions of the Laws and Regulations. *SOEPRA*, 2(2), 186-194.<https://doi.org/10.24167/shk.v2i2.821>
- [8] Fragiskos F.D. (2007). Medical history. In: *Oral Surgery*. 1-20.https://doi.org/10.1007/978-3-540-49975-6_1
- [9] Dillon, D., & Gary, F. (2017). Full practice authority for nurse practitioners. *Nursing administration quarterly*, 41(1), 86-93.<https://doi.org/10.1097/NAQ.0000000000000210>
- [10] Ward, S., & Outram, S. (2016). Medicine: in need of culture change. *Internal medicine journal*, 46(1), 112-116.<https://doi.org/10.1111/imj.12954>

- [11] Soekanto, S., Herkutanto, & Surjaman, T. (1987). *Introduction to Health Law*. Remadja Karya.
- [12] Editorial.(1967). A person entitled to practice dental hygiene may do so under the direct control and supervision of a licensed dentist. *Can Dent Hyg.*, 6.
- [13] Riyanto, O.S. (2018). *Establishment of a Special Medical Court*, Yogyakarta: Deepuplish.
- [14] Noviani, W. (2016). Perceptions of Nurse Profession Students About Indonesian Nursing Code of Ethics at the Teaching Hospital of Muhammadiyah University of Yogyakarta. *IJNP (Indonesian Journal of Nursing Practices)*, 1(1), 30-39.<https://doi.org/10.18196/ijnnp.1148>
- [15] Octaviana, D. (2019). Authority of Oral Dental Therapist According to Permenkes No. 20 of 2016 concerning Licensing and Implementation of Dental and Oral Therapist Practices Associated with the Competence of Oral Dental Therapists in the Work Area of Subang District Health Center. *Actual (Legal Journal)*.<https://doi.org/10.29313/aktualita.v2i1.4673>
- [16] Tallupadang, E.D., Indrayati, Y., & Djoko Widyarto, J.S. (2016). Legal Protection for Nurse Personnel who Conduct Medical Action in Conducting Government Duties, Especially Related to Regulation of the Minister of Health Number. 2052 / MENKES / PER / X / 2011 Concerning Medical Practices and Implementation of Medical Practices. *SOEPRA*, 2(1), 17-29.<https://doi.org/10.24167/shk.v2i1.806>
- [17] Vitrianingsih, Y., & Budiarsih, B. (2019). Delegation of Doctor's Authority to Nursing Profession in Medical Action from a Legal Perspective. *Magnum Opus Legal Journal*, 2(2), 185-195. <https://doi.org/10.30996/jhmo.v2i2.2545>
- [18] Irawan, D. (2019). Authority of Nurses to Implement Pharmaceutical Services, Dispensing Clinic of Sterile Provisions in Hospitals According to Law Number 38 of 2014 Concerning Nursing Associated with the Principles of Patient Protection and Safety. Case Study at Sekarwangi Hospital, Sukabumi District. *Akualita: Journal of Law*,<https://doi.org/10.29313/aktualita.v2i1.4675>
- [19] Willmott, L., White, B., Yates, P., Mitchell, G., Currow, D.C., Gerber, K., & Piper, D. (2020). Nurses' knowledge of law at the end of life and implications for practice: A qualitative study. *Palliative medicine*, 34(4), 524-532.<https://doi.org/10.1177/0269216319897550>
- [20] Barrow, J.M., & Sharma, S. (2018). *Nursing Five Rights of Delegation*.
- [21] Sukindar, S. (2017). Legal Protection of Nurses in Medical Action. *Legality*, 2(1), 1-15..
- [22] Mueller, C., & Vogelsmeier, A. (2013). Effective delegation: Understanding responsibility, authority, and accountability. *Journal of Nursing Regulation*, 4(3), 20-27.[https://doi.org/10.1016/S2155-8256\(15\)30126-5](https://doi.org/10.1016/S2155-8256(15)30126-5)