

LAW ENFORCEMENT OF TRADITIONAL MASSAGE REGULATIONS AS AN EFFORT TO PROTECT CONSUMERS

Anggraeni Endah Kusumaningrum

Faculty of Law

17 Agustus 1945 University

Semarang, Indonesia

anggraeniwijayanto@gmail.com

Abstract— This study aims to analyze law enforcement against traditional massage arrangements to protect consumers. Traditional massage as traditional health care use skills methods that have been passed down for generations, so they cannot be measured scientifically. Health care through traditional massage is still in high demand by people in Indonesia. Besides being low-cost, it is also very closely related to Indonesian cultural traditions and local wisdom. Traditional health services have considerable potential and need serious attention as part of national health development. This study uses a normative juridical approach using secondary data as primary data supported by primary data. The secondary data are in the form of primary, secondary and tertiary legal materials that are analyzed qualitatively. Based on the analysis, it was revealed that households that use traditional health services by 31.4% with the type of service most widely used are skills without tools by 65.3% and potions by 34.7%. The phenomenon of using traditional treatment services has implications for accountability in health and law because if the effects caused by these traditional medical products cause loss and even loss of life for consumers, consumers, in this case, the community becomes the party that feels the impact of the loss of traditional medicine.

Keywords— law enforcement; traditional massage; consumer protection, normative juridical.

I. INTRODUCTION

Health is one of the basic human needs besides clothing, food, and shelter [1]. Health [2] as a fundamental right of every human being and is one element of case society prosperity, so that should be realized following the ideals of the nation of Indonesia as stipulated in the Pancasila and the Constitution of the Republic of Indonesia Year 1945 [3]. Article 4 of Law Number 36 of 2009 concerning Health states that everyone has the right to health. The implementation of integrated and comprehensive health efforts is needed to realize optimal health status for the community. Health efforts are carried out through health maintenance, health promotion (promotive), disease prevention (preventive), healing (curative), and health recovery (rehabilitative) approaches.

One of the 17 comprehensive health efforts is the Health Care Traditional [4]. Based on the results of Riskesdas in 2018 the proportion of households that use traditional health services is 31.4% with the most used type of service being skills without tools at 65.3% and potions at 34.7% [5]

Services traditional health is known as Indonesian society one and health care massage therapy. Massage is a "hands-on" treatment, in which the therapist manipulates

the muscles and other soft tissues of the body to improve health and well-being. Various types of massage from gentle caressing to more profound manual techniques for massaging muscles and other soft tissues. This massage has been practiced as a healing therapy for centuries that is almost present in every culture throughout the world. This can help relieve muscle tension, reduce stress, and arouse a sense of calm. Although massage affects the body as a whole, it mainly affects activity, the musculoskeletal system, blood circulation, lymphatic, and nerves. Health care through traditional massage in Indonesia has been practiced for a long time by using various types of traditional health methods that are very carefully related to Indonesian indigenous cultural and ethnic traditions. Traditional massage is a traditional health treatment with a holistic approach to balancing the body, mind, and spirit (body, mind, and spirit) using the skilled method and the potion method. The development of traditional massage is also expected to be able to preserve the traditional cultural heritage of Indonesian heritage.

As known massage does taste good and make the body relax, but massage contraindicated in people with conditions such as heart failure, kidney failure, infection of superficial veins or cellulitis at the Courant foot and others, clotting of blood in the legs, problems with coagulation, and infectious skin infections. For patients who have cancer, it is necessary to get approval from their doctor because this massage can damage the fragile tissue as a result of chemotherapy or radiation treatment. Likewise, with goiter patients, eczema and other skin lesions when a is still recurring, patients with high fever, lack of white blood cells, mental problems and those who are recovering from surgery should avoid having to do massage or massage. Even in some instances, can also potentially stimulate the emergence of other diseases such as malignant bone tumors [6]. This occurs because cases of fractures caused by bone loss or osteoporosis are treated in order.

This massage practice is more common in rural areas due to lack of knowledge and access to health facilities. This proves that the understanding of society, especially rural communities, is still low on traditional medicine, especially traditional massage.

Traditional massage services involve aspects of human health. The implementation of traditional massage services needs to be arranged so that it can be accounted for in terms of technical aspects, tools, materials, personnel, treatment facilities so that the benefits and safety for the

massage service users are obtained. The analysis was conducted to find out what factors make massage services unsafe, cases that occur due to traditional massage services, and overlapping laws — barriers to law enforcement that occur and how law enforcement should be done.

II. LITERATURE REVIEW

A. *Traditional Health Services*

Health service is every effort that is carried out alone or together in an organization. Health services are used to maintain, improve health, prevent, cure diseases, and restore the health of individuals, families, groups, and or the community (Depkes RI, 2009).

Levey and Loomba (1973) describe health services as any effort carried out individually or together in an organization to maintain and improve health, prevent and cure illnesses and restore the health of individuals, families, groups, and communities (Azwar, 1996).

According to Anderson (2009), there are three essential factors in seeking health services, namely:

1. Easily use available health services.
2. The existence of factors that guarantee the existing health services
3. The need for health services

At the moment there are symptoms of various types of businesses that also offer health services with alternative treatment methods in the form of traditional medicine, namely treatment and / or treatment based on experience and skills based on hereditary empirically, which can be accounted for, and applied in accordance with applicable norms in community (Law No.36 of 2009 concerning health). The traditional health care system is part of the National Health System, and the Complementary Traditional Health Service System can synergize and integrate with current health services in health care facilities [7]. The position of the community of users of traditional health services is significantly weakened if it is not guaranteed by statutory provisions that specifically regulate traditional health services. End of 2014 as a valuable momentum in traditional health services with the adoption of Government Regulation Number 103 of 2014 concerning Traditional Health Services. Government Regulation No. 103 of 2014 requires traditional health services to legalize compliance with the provisions in the regulation.

The treatment arises because of the fear of the actions of modern medicine will hurt organs. Interests of traditional medicine are influenced by several factors, namely:

1. Social factors.

The reason people choose alternative medicine is that while experiencing alternative medicine, their families can visit and wait at any time. This is following human nature as a social creature who always wants to interact directly with his family or relatives in a state of illness. During the treatment they experience, they can communicate intimately with their families.

2. Cultural factors

One of the reasons why sick sufferers choose alternative treatment places because the treatment in this place has an expert who has supernatural powers that can accelerate the healing of the disease. There is a perception of the community that considers a non-severe disease does not need to be taken to the hospital, because it will not threaten his life, and is still able to carry out daily activities although somewhat disturbed.

3. Ease.

Patients can be treated immediately without having to wait for X-rays and other laboratory results.

4. Economic factors

People choose alternative medicine because the cost is cheaper than the hospital, so it is not too burdensome for family finances

One of the traditional health services is a massage. Massage is a "hands-on" treatment, in which the therapist manipulates the muscles and other soft tissues of the body to improve health and well-being. Various types of massage from gentle caressing to more profound manual techniques for massaging muscles and other soft tissues. Indications Massage is believed to support healing, increase energy, reduce injury recovery time, ease pain, and increase relaxation, mood, and well-being. This is useful for many musculoskeletal problems, back pain, osteoarthritis, fibromyalgia, and sprains. Massage can also reduce depression in people with chronic fatigue syndrome, natural constipation (if this technique is carried out in the stomach area), reduce swelling after mastectomy (removal of breasts), reduce sleep disturbances, and improve self-image.

B. *Types of Traditional Massage*

Massage has been practiced for thousands of years. There are 80 styles of massage therapy with a variety of pressures, movements, and techniques. These all involve pressing, rubbing, or manipulating muscles and other soft tissues with the hands and fingers, sometimes even the arms, elbows, or legs used. Some traditional massage types are:

1. Sport Massage

Developed to help with the muscular system used for certain sports, sports massage uses a variety of approaches to assist athletes in training - before, during, or after a sporting event. This massage might be used to promote flexibility and help prevent injury. Alternatively, it might help with muscle strains, help to heal after sports injuries.

2. Chair Massage / Massage Chair

When going to fairs, music festivals, or working in a company, there are equipped with 15- to 20-minute massage facilities. Massage chairs are used by sitting fully clothed in a portable, specially designed chair. They usually involve massage of the neck, shoulders, back, arms, and hands.

3. Shiatsu Massage

In Japanese, shiatsu means "finger pressure." For shiatsu massage, the therapist uses varied, rhythmic

pressures at specific body-specific points. These points are called acupressure points, and they are believed to be important for the body's vital energy flow, called chi. Supporters say shiatsu massage can help relieve blockages at acupressure points.

4. Thai Massage

In Thai massage, the therapist uses his body to move clients to various positions. This type of massage includes muscle compression, joint mobilization, and acupressure.

5. Reflexology / Reflexology

Reflexology uses the techniques of the hands, thumbs, and fingers to stimulate certain areas of the foot. This area is believed to correspond to different parts of the body. Massage, then, is expected to improve health and well-being.

6. Pregnancy Massage / Pregnancy Massage

During pregnancy, your body undergoes major changes. Pregnancy massage can help with these changes by reducing stress, decreasing swollen arms and legs, and relieving muscle and joint pain. Massage may be beneficial during times when medications and other medical options may be more limited. Using specially designed massage pillows, the massage therapist will help you in a comfortable position for this type of massage.

C. Legal Protection of Consumers

Understanding legal protection is an act that protects legal subjects. A legal relationship between legal subjects can occur disharmony so that each legal subject can not carry out obligations or obtain their rights properly. In this context the law appears or created as a means to regulate the rights and obligations of legal subjects and also serves as an instrument of protection for legal subjects, can also be interpreted as a shelter from everything that threatens [8]. One function of law is to protect human interests [9]. Legal protection is also interpreted as an umbrella for human rights (HAM), and that protection is given to the public in order to enjoy all the rights granted [10]. Legal protection generally takes the form of a written regulation so that it is more binding and will result in sanctions that must be imposed on those who break them [11]. Similarly, if it is associated with traditional massage service users who get legal protection as outlined in their rights and obligations.

Article 4 of Law Number 8 of 1999 concerning Consumer Protection (UUPK), states that the rights of a consumer are:

- a. The right to comfort, security and safety in consuming goods and/or services;
- b. The right to choose goods and services, and to obtain goods and services following the exchange rate and conditions, as well as guaranteed guarantees;
- c. The right to correct, transparent and honest information about the conditions and guarantees of goods and/or services;
- d. The right to be heard of opinions and complaints on goods and/or services used;
- e. The right to obtain advocacy, protection, and efforts to resolve dispute protection appropriately;
- f. The right to consumer guidance and education;
- g. The right to be treated or served correctly, honestly, and not discriminatory;
- h. The right to receive compensation, compensation, and replacement, if the goods and services received do not comply with the agreement or are not as intended;
- i. The rights regulated in the provisions of other laws and regulations.

Nine items of consumer rights above, it appears that the real problem of comfort, security, and safety of consumers is the most basic and the main thing in consumer protection [12]. That is because the use of goods and services that do not provide comfort, especially those that are unsafe or endanger the safety of consumers, are not suitable for distribution in society. In order to guarantee that their goods and services are safe, comfortable and not harmful, consumers are given the right to choose the goods and services they want based on the disclosure of accurate, transparent and honest information. If there are adverse deviations, the consumer has the right to be heard, get advocacy, guidance, fair treatment, compensation, and compensation. The rights in the Consumer Protection Act above are the elaboration of articles which are characterized by the welfare state as in Article 27 paragraph 2 and Article 33 of the Basic Law of the Republic of Indonesia.

Whereas in Article 28, paragraph 3 PP No. 103 of 2014 concerning Traditional Health Services regulates that clients receiving traditional Health services have the right:

- a. Get a complete explanation of the traditional empirical health services that will be carried out.
- b. Get service as needed
- c. Refuse to act empirically traditional health services
- d. Obtain contents of health status records

In addition to obtaining these rights, a consumer also has obligations as regulated in Article 5 of Law No. 8 of 1999 concerning Consumer Protection in the form of:

- a. Read or follow information instructions and procedures for the use or use of goods and services, security and safety;
- b. Having a good intention in conducting the transaction of purchasing goods and services;
- c. Pay according to the agreed exchange rate;
- d. Following efforts to appropriately resolve consumer protection disputes.

Based on the consumer's rights and obligations above, the business actor, in this case, the masseuse also has the rights and obligations as regulated in article 6 and article 7 of Law No. 8 of 1999 concerning Consumer Protection as follows:

- a. receive payments by the agreement regarding the conditions and exchange rates of the traded goods and services;

- b. get legal protection from the actions of consumers in bad faith;
- c. conduct self-defense as appropriate in settlement of consumer dispute law;
- d. right reputation rehabilitation if it is not legally proven that consumer losses are not caused by the traded goods and services;
- e. Rights are regulated in other laws and regulations.

Furthermore, as a consequence of consumer rights that have been mentioned in the preceding description, then the business actors are also subject to the following obligations:

- a. in good faith in carrying out its business activities;
- b. provide accurate, transparent and honest information about the conditions and guarantees of goods and / services, as well as explain their use, repair, and maintenance;
- c. treat or serve consumers properly, and honestly and not discriminatory;
- d. guarantee the quality of goods and services produced and/or traded based on the provisions of the applicable quality standards of goods and/or services;
- e. give consumers the opportunity to test and/or try certain goods and or services and provide guarantees and/or guarantees for goods made and or traded;
- f. Give compensation, compensation and or replacement, for losses due to the use, use and utilization of traded goods and / services;
- g. Give compensation, compensation, and or replacement, if the goods and / services received are not by the agreement.

If we pay close attention, it is clear that these obligations are manifestations of consumer rights, on the other hand, which are targeted to create a culture of responsibility for business people.

III. METHODOLOGY

A. *Research Type*

This type of research used is Normative juridical, i.e., in collecting social facts or legal problems in a structured manner, and positive legal material can be obtained from the study of related legal documents. The judicial approach used to analyze the various laws on the legal aspects relating to potential protective laws against health care traditional massage in Semarang. The normative approach is used to analyze law not merely as a set of prescriptive acts, but the law is seen as community behavior, always interacting and dealing with social aspects, such as politics, economics, social and culture, that is, looking for data that is used with holding on to the juridical points. This was done to get a clear picture of the problem under study.

B. *Research Specifications*

The research specifications used in this study are *analytical descriptive*. Be *descriptive*, because this

research is intended to provide a detailed, systematic, and comprehensive picture of everything that is examined. As for what is meant by descriptive according to Taliziduhu, Ndraha is an attempt to find knowledge about *research* objects by explaining in depth (in-depth description) [13]. While what is meant by analytical, according to M. Nazir, is to make a systematic, factual, and accurate interpretation of the facts and data that have been collected [14].

C. *Data Sources*

Normative legal research, is library research, namely research on secondary data obtained from documents, as well as writing -writing related to the problem under study and interviews with traditional massage entrepreneurs in the city of Semarang as support.

D. *Data Collection Methods*

To obtain the required data, the data collection techniques used are

1. Secondary data: Data collected from statutory regulations, namely Law Number 8 of 1999 concerning Consumer Protection, Law Number 36 of 2009 concerning health (State Gazette of the Republic of Indonesia of 2009 Number 144, Supplement to the State Gazette of the Republic of Indonesia Number 5063).
2. Primary data: data obtained using research in the field that right by conducting interviews with the management of traditional massage places Jl Setiabudi Dewit Semarang, the manager of a traditional massage Mrs. Siti Jl. Gedawang Semarang, manager of Mr. Fakri's massage place Jl Karangbendo Semarang.

E. *Data Presentation Method*

The method of presenting data is done by outlining the results of research supported by the data obtained both primary and secondary data so that the truth of the study is not in doubt. Furthermore, the data collected before being presented in the form of a thesis must first be examined and examined so that later it can be accounted for, then the primary data and secondary data are compiled and reported in the form of a thesis.

F. *Data Analysis Methods*

The analytical method used through qualitative analysis is after all the data has been collected, then the results of the analyzed data are arranged regularly and systematically to facilitate the effort to qualify for these materials. The results of research that have been collected routinely are then analyzed using theories, legal doctrines, legal principles, and legal arguments that are further described in the research report.

IV. RESULT AND DISCUSSION

A. *Law enforcement to protect consumers who use traditional massage services*

In the case of the implementation of traditional health services, because users of health services in the form of

traditional massages are also consumers, so the Consumer Protection Act is also applied. The rights of the public (consumers) to obtain legal protection through the regulation of rights regulated in Law No. 8 of 1999 concerning Consumer Protection, namely the right to comfort, security and safety in consuming goods and / or services; the right to vote, goods and / or services, and to obtain said goods and / or services in accordance with the exchange rate and conditions and guarantees promised; the right to correct, transparent and honest information about the conditions and guarantees of goods and / or services; the right to be heard opinion and complaints on goods and / or services used; the right to obtain advocacy, protection and efforts to resolve consumer protection disputes appropriately; the right to consumer guidance and education; the right to be treated or served correctly and honestly and not discriminatory; the right to receive compensation, compensation and / or compensation, if the goods and/or services received do not comply with the agreement or are not as intended; and rights regulated in other statutory provisions [15].

While the obligations that must be carried out by traditional health service providers, as regulated in Article 7 of Law No. 8 on Consumer Protection, are traditional health service providers in good faith in conducting their business; provide accurate, transparent and honest information about the conditions and guarantees of goods and / or services and provide an explanation of the use, repair and maintenance; treat or serve consumers honestly and adequately and not discriminatory, guaranteeing the quality of applicable goods and / or services; give consumers the opportunity to test, and / or try certain goods and / or services and provide guarantees and / or guarantees for goods made and / or traded; provide compensation, compensation and / or compensation for losses resulting from the use, use and utilization of traded goods and / or services; and provide compensation, compensation and / or replacement of the goods and / or services received or utilized are not in accordance with the agreement.

Based on article 30 of Law No. 8 on Consumer Protection in the supervision of the implementation of consumer protection held by the government, the community, and the Non-Governmental Consumer Protection Institute (LPKSM). Oversight by the government is carried out by the relevant minister and technical minister. Whereas supervision by the Community and LPKSM is carried out on goods and services circulating in the market using research, testing, and survey. If the results of supervision turn out to deviate from applicable regulations and endanger consumers, the minister and technical minister take action by the applicable laws and regulations. The results of community supervision and LPKSM can be disseminated to the public and can be submitted to the minister and technical minister.

Legal protection arrangements for users of traditional health services in Law No. 36/2009 are contained in: Article 58 (1) which regulates that every person has the right to claim compensation for a person, health worker, and health provider that causes losses due to errors or negligence in health services it receives. The claim for damages does not apply to health workers who carry out

life-saving measures or prevent someone's disability in an emergency. However, the claim for compensation is regulated in separate laws and regulations. This is as regulated in article 58, paragraph 3. Furthermore, in Article 60 paragraph (1) regulates that every person who performs traditional health services using tools and technology must obtain permission from the authorized health institution. The use of these tools and technologies must be justified for their benefits and safety and does not conflict with the religious and cultural norms of society. Then in Article 191 of Law No. 36 of 2009 regulates that every person without a license conducts traditional health service practices that use the tools and technology as referred to in Article 60 paragraph (1) resulting in property losses, severe injury or death in a sentence with the most imprisonment 1 (one) year old and a maximum fine of Rp 100,000,000.00 (one hundred million rupiah).

Then Related to the Rights and Obligations in traditional health services also regulated in Article 28 of Government Regulation No. 103 of 2014 concerning Traditional Health Services states that: Traditional health workers in providing Traditional Empirical Health Services have the right: a. Obtain complete and honest information from clients or their families; b. Receive compensation for services; and c. Attend health promotion training. Next about the obligations are a. provide services that are safe and beneficial to health, do not endanger lives or violate immorality, religious principles, and belief in God Almighty, do not conflict with the norms and values that live in society and do not conflict with efforts to improve the degree of public health; b. Provide clear and appropriate information to clients about Traditional Empirical Health Care treatments carried out; c. Use tools that are safe for health and by the method/science; e. keep clients' health secrets; f. make a note of the client's health status.

Meanwhile, consumers who receive traditional health services and have the right: a. Get a complete description of Empirical Traditional Health Services that will be carried out; B. Get services as needed; C. Refuse Empirical Traditional Health Services actions; and d. Get the contents of health status records while the obligations are: a. Provide complete and honest information about his health problems; and b. Provide compensation for Traditional Empirical Health Services received.

If a traditional masseuse does not carry out his obligations as stipulated in Article 28 paragraph (2), administrative sanctions will be subject to the following authorities: verbal warning; b. Written warning; and c. Cancellation of Traditional Health Certificate (STPT). A traditional health service provider is required to register as a Traditional Healthwater as regulated in Article 39 of Government Regulation No. 103 of 2014, the Traditional Health Letter (STPT) is issued by the regency/city local government free of charge by submitting an application to the district government/city by attaching: a. a statement letter regarding the method or technique of the service provided; b. Photocopy of valid KTP; c. 2 x 6 (four by six) cm recent photographs of 2 (two) pieces; d. Certificate of the location of practice from the village head or village; e. letter of introduction to the health center; f. recommendation letter from district/city health office; and g. A letter of recommendation from a similar

association or a certificate from the place of internship. (PMK No. 61 of 2016 concerning Empirical Traditional Health Services)

STPT will be given only to traditional healers who do not carry out invasive body interventions. A traditional health person can only have 1 (one) STPT and is only valid for 1 (one) place of practice and is valid for 2 (two) years and can be renewed as long as it meets the requirements. The STPT can be updated by attaching the STPT that has expired. STPT is declared invalid if a. revoked based on statutory provisions; B. The validity period expires and is not extended; C. The relevant personnel change practices; d. The person concerned died; or e. at the request of a traditional health person.

B. Inhibiting Factors Law enforcement efforts against traditional masseuses

If further specified, the factors affecting the lack of legal protection for users of traditional massage services in the city of Semarang are due to several reasons, among others: Relating to the substance and system which includes rules and norms related to the delivery of traditional health services. There are still overlapping rules and blurred regulations, for example, regulation Article 42 PP No. 103 of 2014 regulates that every traditional health worker must have competence as evidenced by a competency certificate. To obtain a competency certificate, as referred to every traditional health worker must take a competency test by statutory provisions. If the article is applied in traditional massage services, it will be difficult, because the masseurs get their skills from generation to generation which sometimes contain supernatural elements, so it will be difficult to measure their competence. There is also no regulation related to disputes between massage service users and masseuses. In terms of licensing, many masseurs who do not understand even understand the regulations regarding licensing, because they assume that their skills are hereditary so that there is no need for permission when doing their profession.

Legal awareness from traditional health service providers is still low. This is known from the ignorance factor of traditional massage owners associated with licensing massage places. Also, there are also weak legal sanctions for violations related to licensing.

Therefore it takes hard work from the government in this case the district/city government to socialize about the regulations relating to the implementation of traditional health services, especially traditional health services in the form of massage services. So that the community as users of traditional health services get legal protection if the traditional health services do actions that harm the service users.

V. CONCLUSION

Various laws have given legal guarantees against criminal activity Manufacture and distribution of illegal drugs harmful traditional public health that with the release of the Consumer Protection Act 1987 Act Number 8 about Protection of Consumers, Law Number 36 known 2009 on Health, Government Regulation Number 103 of 2014 concerning Traditional Health Services and PMK Number 61 of 2016 concerning Empirical Traditional Health Services.

Factors - factors inhibiting the efforts of legal protection for traditional massage service users in Semarang are still rules that mutually overlap and blur settings. S Elain was also still the critical issues that speckle m or unregulated. Therefore it takes hard work from the government in this case, the district/city government to socialize about the regulations relating to the delivery of traditional health services.

To the government, especially district/city governments, to be more active in socializing regulations on the implementation of traditional health services, especially those related to competence and licensing.

It is expected that traditional health service providers, especially massage attendants, are expected to understand better the regulations related to traditional health services.

The community should be more careful in choosing and using traditional health services, especially massage.

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