

Juridical Review of Doctors' Authority to Discipline Cosmetics

Yopi Arisetia¹, Henry Aspan², Bambang Fitrianto³

Article Info

Page : 1-10

ISSN : 3026-5290

Vol 2 No 1 2024

Corresponding Author

Yopi Arisetia, Panca Budi Development University, Medan, Sumatera Utara, Indonesia

Email: yopiarisel46@yahoo.com

Abstract

This research aims to find out about the regulations for dispensing cosmetics in Indonesian law. This is related to the use of cosmetics which has become a part and cannot be separated from human life. Cosmetics are used as care products to maintain health and beautify oneself, the development of cosmetics is also very fast. This is proven by the emergence of various types of cosmetics, ranging from traditional cosmetics that use natural ingredients to modern cosmetics made with today's advanced technology. With this diverse choice, cosmetic consumers prefer cosmetic products formulated by doctors at beauty clinics on the basis of feeling comfortable and safe in their use. However, in its development, a doctor's authority has been questioned in dispensing cosmetics. If the cosmetics prepared by the doctor cause harm to consumers, what can consumers do? This research is normative research. The result of this research is that doctors do not have the authority to mix cosmetics. The cosmetic compounding process may only be carried out by pharmaceutical personnel consisting of Pharmacists and Pharmaceutical Technical Personnel. So, if consumers feel they have been harmed, they can file a lawsuit claiming an unlawful act, which is based on the Consumer Protection Law.

Keyword: Mixed Cosmetics; Beauty clinic; Doctor; Consumer protection

1. INTRODUCTION

In the last decade, the beauty industry has experienced exponential growth, driven by innovation and diversification of beauty products, including the emergence of custom cosmetics offered by beauty clinics. Customized cosmetics, individually tailored by doctors, are considered a personalized solution in beauty care that promises results which is more effective and safer because it is claimed to be more natural and suited to the specific needs of each patient. However, the increasing incidence of losses experienced by consumers due to the use of compounded cosmetics raises the need for in-depth juridical analysis regarding legal protection for patients as consumers. The legal framework in Indonesia that regulates cosmetics and consumer protection is quite comprehensive. Law Number 8 of 1999 concerning Consumer Protection is the foundation that guarantees consumer rights, including the right to correct and honest information and the right to receive compensation for losses caused by the consumption of goods or services. In addition, the Republic of Indonesia Food and Drug Supervisory Agency (BPOM) Regulation Number 21 of 2019 specifically regulates the registration and supervision of cosmetics circulating in Indonesia, ensuring that every cosmetic product sold meets the specified safety standards. Meanwhile, the responsibilities of medical professionals, including in the context of cosmetology, are regulated in Law Number 29 of 2004 concerning Medical Practice, which explains the standards that doctors must adhere to in carrying out their medical practice. Next, further provisions regarding Medical service standards can also be found in regulations issued by the Ministry of Health and medical professional organizations. Cosmetics have been one of the main needs of women since ancient times, this started about twelve thousand years ago when the Ancient Egyptians discovered the healing effects of perfume, from this point on the cosmetics industry rose to a higher level and became an important part of the nation's beliefs. Ancient Egypt. Cosmetics are used as care products to maintain health and beautify oneself, so the development of cosmetics is considered very fast. This is proven by the emergence of various types of cosmetics, ranging from traditional cosmetics that use natural ingredients to modern cosmetics made with today's advanced technology. The definition of cosmetics is regulated in the Regulation of the Minister of Health of the Republic of Indonesia No.

445/MenKes/Permenkes/1998 concerning Ingredients, Colorants, Substratum, Preservatives and Sunscreen in Cosmetics, namely Cosmetics are preparations or mixtures of ingredients that are ready to be used on the outside of the body (epidermis, hair, nails, lips and genital organs external parts), teeth and oral cavity to clean, increase attractiveness, change appearance, protect it so that it remains in good condition, improve body odor but is not intended to treat or cure a disease.

The definition of cosmetics is then contained in Article 1 point 1 of the Regulation of the Minister of Health of the Republic of Indonesia Number 1176/MENKES/PER/ VIII/2010 concerning Notification of Cosmetics, Cosmetics are materials or preparations intended for use on the outside of the human body (epidermis, hair, nails, lips). and external genital organs) or teeth and oral mucosa, especially for cleaning, perfuming, changing the appearance and/or repairing body odor or protecting or maintaining the body in good condition. The definition of cosmetics according to Retno Iswari T. is ingredients or a mixture of ingredients to be rubbed, attached, sprinkled, sprayed, inserted or poured on the body or parts of the body with the aim of cleaning, maintaining, increasing attractiveness or changing the appearance and is not included in the class of drugs. When referring to the definition contained in the Republic of Indonesia Minister of Health Regulation no. 445/ MenKes/Permenkes/1998 cosmetics are preparations or combinations of ingredients that are ready to be used on the outside of the body (epidermis, hair, nails, lips and external genital organs), teeth and oral cavity to clean, increase attractiveness, change appearance, protects to stay in good condition, improves body odor but is not intended to treat or cure a disease.” The term doctor-mixed cosmetics is intended for cosmetics that are specifically formulated by doctors and sold at beauty clinics, not cosmetics that are sold freely on the market. The emergence of various kinds of cosmetics available on the market means that consumers are faced with many choices of cosmetics, each with its own type and properties. Conditions like this require consumers to be more selective in choosing which cosmetics to use, whether the cosmetics are safe to use, whether the cosmetics cause side effects. Questions that arise like this, and the lack of knowledge that consumers have about cosmetics, make them very careful in choosing the cosmetics to use. To answer this uncertainty, consumers have an alternative, namely by using cosmetics specially formulated by a beauty doctor. Cosmetics formulated by doctors also vary, but facial care creams such as whitening cream have recently become the choice of women. This is of course to get a perfect appearance on the face. Apart from convenience reasons and safety, low prices are also the main factors in choosing doctor-made creams when compared to well-known brand cosmetic products. "Cream is a semi-solid preparation containing one or more cosmetic ingredients dissolved or dispersed in a suitable base material, in the form of a thick emulsion containing not less than 60% (sixty percent) water intended for external use." The existence of beauty clinics is an option for people to get the cosmetics formulated by doctors that they want. Beauty clinics provide a variety of cosmetics and facial treatments. To get cosmetics or treatments that suit facial conditions, consumers are provided with doctor services provided by beauty clinics. The role of doctors at beauty clinics is to provide consultations on beauty problems experienced by consumers by providing appropriate beauty care solutions. Without a doctor and consultation at a beauty clinic, consumers are often confused about choosing cosmetics and the type of treatment, because the treatment they choose may not suit the beauty condition they are experiencing. The cosmetics provided are often cosmetics in the form of creams that are formulated by doctors themselves and provided by beauty clinics. However, because consumer trust in doctors is very high, consumers often don't care whether a doctor has the competence to mix their own cosmetics. Consumers often assume that cosmetics formulated by doctors have a higher level of safety than other cosmetics on the market.

Even though consumers have the right to know information about the raw materials for making cosmetics formulated by doctors as regulated in Article 4 letter c of Law no. 8 of 1999 concerning Consumer Protection that consumers have the right to correct, clear and honest information regarding the condition and guarantee of goods and/or services. Protection Act Consumers also regulate consumer rights, namely those regulated in Article 4 letter a of the Consumer Protection Law which determines that consumers have the right to comfort, security and safety in consuming goods and/or services. In the Regulation of the Head of the Food and Drug Supervisory Agency of the Republic of Indonesia Number HK.00.05.4.3870 concerning Guidelines for Good Cosmetic Manufacturing Methods, it is stated that personnel who work in the cosmetics industry must have knowledge, experience, skills and abilities that are appropriate to their duties and functions, and are available in sufficient quantities. They must be in good health and able to handle the tasks assigned to them. It is also stated that all personnel directly involved in manufacturing activities must be trained in carrying out manufacturing in accordance with the principles of Good Manufacturing Practices. So

if doctors who mix cosmetics are linked to this regulation, doctors provided by beauty clinics are also required to undergo training in accordance with the guiding principles for good cosmetics manufacturing. If doctors are not given training before dispensing cosmetics, then the doctor will not only violate statutory regulations, but there are concerns that the cosmetics that are formulated will cause harm to consumers. Fulfilling the requirements for doctors to take training in dispensing cosmetics is a manifestation of fulfilling Article 7 letter d of Law Number 8 of 1999 concerning Consumer Protection, namely that business actors are obliged to guarantee the quality of goods and/or services produced and/or traded based on the provisions on quality standards for goods and/or or applicable services. One case of cosmetic doctors causing harm to cosmetic occurred in 2013, this was experienced by a woman with the initials BB. Before doing facial treatment and using BB facial cream it was fine but the next day, BB found several red spots on her face. The clinic said that this was a reaction on BB's face due to sensitive skin. Because he was afraid, BB consulted with doctor 1 who worked at the clinic. The doctor said that the spots were ordinary acne, but it turned out that the cream given by the doctor had expired and actually made BB's skin condition worse. When BB went to doctor 2, BB found out that the acne she was suffering from was not ordinary acne and the ingredients in the cream could worsen BB's skin condition.

2. RESEARCH METHODOLOGY

The normative juridical research method in the research entitled "Judicial Review of Doctors' Authority in Dispensing Cosmetics" was carried out through several systematic steps. First, this research identifies and examines laws and regulations that are relevant to doctors' authority in dispensing cosmetics, including but not limited to the Medical Practice Law, Health Law, and other related regulations. Second, an analysis of legal doctrine and theory related to medical practice and cosmetic regulation is carried out, to understand the legal basis and limits of doctors' authority in this context. Apart from that, this research also examines relevant jurisprudence or court decisions, to see how the law is applied in real cases related to the authority of doctors in dispensing cosmetics. This analysis aims to identify legal gaps or contradictions in existing regulations and their implications for medical practice and the cosmetics industry.

3. RESULT AND DISCUSSION

The Phenomenon of the Rise of Beauty Products

This beautiful phenomenon is demonstrated by the local cosmetics industry in Indonesia. After the Covid-19 pandemic, aka the endemic phase, the beauty industry has grown impressively, both in terms of the number of players and production volume, as well as its market share. Quoting information from the Association of Indonesian Cosmetics Companies and Associations (PPA Kosmetika Indonesia), growth the number of Indonesian cosmetics industries reached 21.9 percent, namely 913 companies in 2022 and in mid-2023 there were 1,010 companies. Of the total products of these local cosmetic companies, the largest market segment is the personal care segment with a market volume of USD 3.18 billion in 2022, followed by *skin care* of USD 2.05 billion, cosmetics of USD 1.61 billion, and fragrances of USD 39 million. Apart from growing, the local cosmetics industry is also developing by providing various innovative products for consumers. This is in line with increasing public awareness of the importance of taking care of one's appearance. Many local cosmetic brands continue to be motivated to produce products with the latest technology and content trends according to society's current needs. "Moreover, with the times, cosmetic products have also been used by various segments of society, there are even cosmetic products specially formulated for the needs of babies and men," said the Director General of Small, Medium and Miscellaneous Industries (IKMA) of the Ministry of Industry, Reni. Yanita in Jakarta. In the calculations of the Director General of Small and Medium Enterprises, the development of the cosmetics industry in Indonesia has great potential. The reason? Apart from Indonesia being a large market, it is also due to the availability of natural resources which are rich in herbal plants and have been used for generations for health and cosmetic products. According to the Ministry of Industry's records, the export value for the pharmaceutical industry, chemical medicinal products and traditional medicines in January-October reached USD 601.15 million. This achievement increases compared to the export value in the same period in 2022 of USD 566.72 million. "Meanwhile, the contribution of the cosmetics industry, including the chemical, pharmaceutical and traditional medicine industries, to GDP in the third quarter of 2023 reached 3.83%. In an effort to encourage the cosmetics industry, the Government, through the Directorate General of IKMA, Ministry of Industry, routinely carries out guidance and development of small and medium-sized cosmetics industries (IKM),

including through the Cosmetic Manufacturing Method certification assistance program. Good Quality (CPKB), facilitating product distribution permits, facilitating machinery and equipment, promotions, increasing human resource competency, and implementing industry 4.0. Apart from that, there is a program to strengthen cosmetic product *branding*, restructure machinery and equipment, and provide assistance with Good Traditional Medicine Manufacturing Methods (CPOTB) certification. With various efforts like this, it is hoped that a cosmetics industry ecosystem can be formed from upstream to downstream. Apart from that, since 2019, the Ministry of Industry has actively held *Cosmetic Day events* as one of its annual agendas. It is hoped that *the Cosmetic Day* event can encourage the growth and development of the national cosmetics industry, especially those that use local raw materials. In an effort to promote local cosmetic products, the Ministry of Industry is collaborating with Stylo Indonesia as digital media *for Fashion, Beauty and Lifestyle* Indonesia to hold a *Cosmetic Day 2023* event which will take place on 24-26 November 2023 in South Jakarta.

Legal Protection for Cosmetic Consumers

As a result of protecting industrial interests in developing countries, including Indonesia, legal provisions intended to provide protection to consumers or members of the public are less functional because they are not implemented strictly. However, it cannot be denied that the government's efforts to provide protection to consumers have been carried out for a long time, but sometimes it is not realized that basically certain actions taken by the government are an attempt to protect the interests of consumers. This can be proven by the issuance of various statutory provisions which, when examined, show that these statutory regulations actually contain provisions that provide protection to consumers, even though in the preamble the statutory regulations are not stated for the purpose of consumer protection. Furthermore, to guarantee and protect the interests of consumers, including cosmetic consumers, for the products purchased, before the Law. Law Number 8 of 1999 concerning Consumer Protection was born, then the statutory regulations that regulate it are *Burgerlijk Wetboek* (BW), the Commercial Law Book (KUHD), Law Number 10 of 1961 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 1961 concerning Goods, Government Regulation Number 9 of 1964 concerning Industrial Standards. This government regulation is an implementation of Law Number 10 of 1961. One of the objectives of industrial standards is to improve the quality and results of industry, Decree of the Minister of Industry Number 81/M/K/SK/2/1974 concerning Ratification of Standards for Analysis Methods and Quality Requirements for Raw Materials and Industrial Products. As well as Regulation of the Minister of Health of the Republic of Indonesia No. 220/MenKes/Per/X/1976 concerning Production and Distribution of Cosmetics and Health Devices. This regulation shows the government's concern for cosmetic products circulating in Indonesian society. In its development, on April 20 1999 the Government of the Republic of Indonesia issued a new policy regarding consumer protection with the enactment of Law Number 8 of 1999 concerning Protection Consumer. The definition of consumer protection is contained in Article 1 point (1) of Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as the Consumer Protection Law) which emphasizes that "Consumer Protection is all efforts that ensure legal certainty to provide protection to consumers." The formulation of the definition of consumer protection contained in Article 1 point (1) of the Consumer Protection Law, Ahmadi Miru and Sutarman to do states that:

The sentence which states "all efforts to ensure legal certainty" is expected to act as a bulwark to eliminate arbitrary actions that are detrimental to business actors only for the sake of consumer protection. Although this law is referred to as Law Consumer protection, however, does not mean that the interests of business actors are not involved is of concern, especially because the existence of the national economy is largely determined by business actors. This statement shows that in the Consumer Protection Law there are not only regulations to protect the interests of consumers, but also to protect the interests of business actors. The name of the Consumer Protection Law is because the role of business actors seems more dominant than consumers in the national economy. Consumer rights that must be protected are contained in Article 4 of the Consumer Protection Law. When related to cosmetic consumer protection, these rights have the following meaning:

- a) Cosmetics consumers have the right to feel comfortable, safe and not have their safety threatened when consuming cosmetics they buy from beauty clinics;
- b) Cosmetics consumers have the right to choose and obtain cosmetics that match the price, condition of the goods, and the guarantee promised;

- c) Cosmetic consumers have the right to obtain correct, clear and honest information regarding the condition and guarantee of the cosmetics they purchase;
- d) Cosmetic consumers have the right to have their opinions and complaints heard regarding the cosmetics they use, consumer opinions and complaints are input for beauty clinics to improve the quality and qualities of the cosmetics they sell;
- e) Cosmetics consumers have the right to receive advocacy, protection and appropriate efforts to resolve consumer protection disputes if there is a consumer dispute with a beauty clinic;
- f) Cosmetics consumers have the right to acquire knowledge and skills, in this case how to use cosmetics properly and correctly, how to store cosmetics, as well as other knowledge regarding cosmetics to avoid losses due to the use of cosmetics, guidance and education from beauty clinics is very important;
- g) Cosmetics consumers have the right to be needed or served correctly and honestly and not discriminate based on ethnicity, religion, culture, region, education, rich, poor and other social status;
- h) Cosmetics consumers have the right to receive compensation, compensation and/or replacement, if the cosmetics they receive do not comply with the agreement or are not as they should be.

In fulfillment of consumer rights, there are several acts that are prohibited for business actors as regulated in Articles 8 to 17 of the Consumer Protection Law. As an example of these articles, business actors provide information to consumers that the beauty cosmetics purchased have the efficacy of whitening facial skin within seven days. However, after being consumed for seven days by consumers, the cosmetics did not have any effect on their facial skin. Cosmetics which are also pharmaceutical preparations must be given complete and correct information. If something prohibited in this article occurs then according to the explanation of Article 4 of the Consumer Protection Law, the minister and technical minister have the authority to withdraw goods and/or services from circulation.

Authority to Mix Cosmetics

Mixing cosmetics literally means making a mixture. The term "racikan" is generally used everyday in Indonesia and means the same as slices, pieces, chunks, details, or mixture. According to Retno Iswari Trenggono, cosmetics are defined as ingredients or combinations of ingredients that are applied to the body or parts of the body to clean, care for, improve beauty or change appearance without being included in the drug category. Referring to the Regulation of the Minister of Health of the Republic of Indonesia No. 445/MenKes/Permenkes/1998, cosmetics are defined as preparations or combinations of materials used on the external parts of the body (including the epidermis, hair, nails, lips, and external genital organs), teeth, and mouth to clean, increase attractiveness, change appearance, protects to maintain good condition, improves body odor without aiming to treat or cure disease. Doctor-mixed cosmetics refer to products specially formulated by doctors to be sold in beauty clinics, not products that are generally available on the market. Based on Article 1 paragraph 1 of Government Regulation no. 51 of 2009 concerning Pharmaceutical Work, pharmaceutical work includes the manufacture and quality control of pharmaceutical preparations, security, procurement, storage, distribution, drug management, drug services based on doctor's prescriptions, drug information services, as well as the development of drugs, medicinal ingredients and cosmetics. PP No. 51 of 2009 also defines Pharmaceutical Personnel as individuals who carry out pharmaceutical work, including Pharmacists and Pharmaceutical Technical Personnel such as Bachelor of Pharmacy, Associate Pharmacy Experts, Pharmacy Analysts, and Intermediate Pharmacy Personnel/Pharmacist Assistants. Furthermore, in Article 34 paragraph (1) PP no. 51 of 2009 states that:

- 1) Pharmaceutical Personnel carry out Pharmaceutical Work on:
 - a. Pharmaceutical Preparation Production Facilities in the form of pharmaceutical medicine industry, medicine raw material industry, traditional medicine industry, cosmetics factories and other factories that require Pharmaceutical Personnel to carry out production and quality control duties and functions;
 - b. Distribution or Distribution Facilities for Pharmaceutical Preparations and medical devices through Pharmaceutical Wholesalers, medical equipment distributors, Pharmaceutical Preparation and health equipment installations belonging to the Government, provincial regional governments, and district/city regional governments; and/or;
 - c. Pharmaceutical Service Facilities through practice in pharmacies, hospital pharmacy installations,

community health centers, clinics, drug stores, or joint practices.

Cosmetics are one of the pharmaceutical preparations referred to in the regulations above. Meanwhile, dispensing cosmetics is one of the activities in making pharmaceutical preparations. These articles show that the work of dispensing cosmetics is the duty of pharmaceutical personnel. So those who have the competence to make cosmetics in beauty clinics are pharmaceutical personnel consisting of pharmacists and pharmaceutical technical personnel. Regulation Head of the Food and Drug Supervisory Agency of the Republic of Indonesia Number HK.00.05.4.3870 concerning Guidelines for Good Cosmetic Manufacturing Methods stated: "The head of production must receive adequate training and experience in cosmetic manufacturing. He must have authority and responsibility in production management which includes all implementation of activities, equipment, production personnel, production areas and record keeping." It is further stated that all personnel directly involved in manufacturing activities must be trained in carrying out manufacturing in accordance with the principles of Good Manufacturing Practices. Special attention should also be paid to training personnel working with hazardous materials. Adequate training and experience referred to in this case can be interpreted as pharmaceutical personnel who have expertise in the field of dispensing cosmetics. Mixing cosmetics cannot be done by everyone, it requires good knowledge and understanding in mixing the ingredients to make cosmetics. Cosmetics made must prioritize safety for consumers, namely having health and sanitation standards and not containing elements that can harm humans in the short term not long. This aims to ensure that the cosmetics made have uses that suit the needs of cosmetic consumers. Article 34 paragraph (1) letter c PP No. 51 of 2009 states that "(1) Pharmaceutical Personnel carry out Pharmaceutical Work on: c. Pharmaceutical Service Facilities through practice in pharmacies, hospital pharmacy installations, community health centers, clinics, drug stores, or joint practices." So clinics are one of the places that are required to employ pharmaceutical staff, including beauty clinics. According to Article 1 point 1 of the Regulation of the Minister of Health of the Republic of Indonesia Number 9 of 2014 concerning Clinics, it is stated that a clinic is an individual health service facility that provides basic and/or specialist medical services. Based on the type of service, clinics can be divided into 2 (two), namely Primary clinics and Main clinics. The technical person in charge of the Clinic must be a medical worker and must have a Practice License (SIP) at the Clinic, and can double as a service provider. So that every clinic must have at least 1 (one) doctor. An aesthetic beauty clinic is a health service facility (individual or group doctor's practice) that is outpatient and provides medical services such as consultations, examinations, treatment and medical procedures. To treat various conditions related to a person's beauty (aesthetic appearance) carried out by medical personnel according to their expertise and authority. Based on Minister of Health Regulation Number 9 of 2014 concerning Clinics, aesthetic beauty clinics are divided into two types as follows:

1. Pratama type beauty clinic;
2. Main type beauty clinic. Ownership of an aesthetic beauty clinic is permitted by: (1) Individual; (2) Legally valid business entity (limited liability company, foundation, or cooperative)

Legality of Doctors in Dispensing Cosmetics

Law No. 17 of 2023 concerning Health presents a new framework for the regulation of health practices in Indonesia, including medical practices. With this law, the definition and scope of medical practice, including the competence and authority of doctors in dispensing cosmetics, has undergone significant normative changes. According to article 1 paragraph (6) *Medical Personnel is every person who dedicates themselves to the field of Health and has a professional attitude, knowledge and skills through medical or dental professional education who requires authority to carry out Health Efforts*. Medical personnel are defined as individuals who are dedicated to the health sector with professional attitudes, knowledge and skills obtained through medical or dental education, with the authority to carry out health efforts. This designation does not explicitly define doctors, but emphasizes broad professional competence in the health sector. Article 182 paragraph (2) *Medical Personnel and Health Personnel as referred to in paragraph (1) include Medical Personnel who have competence in the field of family medicine and Health Personnel who have competence in the field of community health*. expands the definition of medical personnel and health workers to include those who have competence in the fields of family medicine and community health, indicating that this law recognizes and respects specialization and sub-specialization in health practice. This provides a framework for doctors to develop competence in various fields, including potential in dispensing

and offering cosmetic products, as long as this is in accordance with relevant education, training and professional standards.

Article 173

(1) Health Service Facilities are required to:

- a. provide broad access to service needs, education, research and service development in the Health sector;
- b. providing quality health services and prioritizing patient safety;
- c. maintain medical records;
- d. send reports on the results of services, education, research and development to the Central Government with a copy to

(2) Regional Government through the Health Information System;

- a. make efforts to utilize the results of services, education, research and development in the Health sector;
- b. integrating services, education, research and development in a system as an effort to overcome health problems in the region; and
- c. create standard operational procedures by referring to Health Service standards.

Article 173 regulates the obligations of health service facilities, which include providing broad access to services, education, research and development in the health sector, as well as emphasizing quality health services and patient safety. This indirectly supports the development and use of innovation in medical practice, including in the field of cosmetics, as long as it meets established operational standards and prioritizes patient safety. Law No. 17 of 2023 also stipulates that all matters that have not been regulated in this law will be further regulated in Government Regulations. This opens up opportunities for the government to develop more specific regulations regarding the practice of dispensing cosmetics by doctors, including the requirements, procedures and limits that must be complied with to ensure the safety, efficacy and quality of cosmetic products offered to the public. In the context of the legality of doctors in dispensing cosmetics, more detailed and specific regulations are needed to bridge the gap between medical competence and practical needs in providing safe cosmetic products. This regulation must consider aspects of training, certification, and inter-professional collaboration, such as between doctors and pharmacists, to ensure that the cosmetic products formulated not only meet aesthetic needs but also strict health standards. Article 1 Paragraph (27) Registration is the official recording of Medical Personnel and Health Personnel who have competency certificates and/or professional certificates. Paragraph (28) Registration Certificate, hereinafter abbreviated as STR, is written evidence given to Medical Personnel and Health Workers who have been registered. And in paragraph (29) Practice Permit Letter, hereinafter abbreviated as SIP, is written evidence given to Medical Personnel and Health Personnel. as a grant of authority to carry out practice.

Therefore, in carrying out cosmetic dispensing activities, there needs to be legality which guarantees that the activities carried out by the doctor are not unlawful. This is one way of fulfilling consumer rights, namely the right to obtain comfort when using cosmetic products formulated by doctors. Apart from fulfilling consumer rights, the legality of dispensing is needed by doctors so that doctors do not violate the provisions of Article 8 paragraph (1) letter a of the Consumer Protection Law. If cosmetics are formulated by a doctor who does not have the requirements as regulated in PP No. 51 of 2009 concerning Pharmaceuticals, then this can be said to be producing and/or trading goods that do not meet or are not in accordance with the required standards and provisions of statutory regulations. Generally, doctors who work in beauty clinics have the title Sp.KK, which stands for Skin and Venereology Specialist. There are also specialist doctors who are more concentrated in the field of beauty and cosmetics. Doctors who are more concentrated in the field of beauty and cosmetics must receive special training as referred to in Article 1 number 8 of the Indonesian Medical Council Regulation Number 6 of 2011 concerning Registration of Doctors and Dentists which states that an Additional Qualification Certificate is a letter of recognition of the additional abilities of a Doctor/ Dentists in order to strengthen certain competencies to carry out Medical Practice throughout Indonesia which are published by the relevant Collegium after completing education and/or training in the context of lifelong learning. Furthermore, Article 1 number 14 of the Indonesian Medical Council Regulation Number 6 of 2011 concerning Registration of Doctors and Dentists also states that Continuous Education and Training Programs are education and training programs organized by Professional Organizations and

other institutions that are accredited by Professional Organizations in order to absorb developments medical/dental science and technology.

One of the trainings in Indonesia is provided by the Medical Aesthetics Institute (Lemdik) founded by Anggi Y. Utami which has been accredited by the Indonesian Doctors Association (IDI) and the Jakarta Provincial Government. This institution provides Medical Beauty and Aesthetics Courses, namely training and skills that combine medical knowledge with artistic skin beauty management.¹¹ This training can be attended by doctors and general practitioners who want to learn and practice the basics of skin beauty, how to use beauty tools, as well as basic knowledge about concocting beauty creams and others. Participants who complete the course will receive a National Education Certificate '*Basics to Advance Medical Aesthetics*'. The training received by the doctor still does not provide legality for the doctor to mix cosmetics. This training serves to obtain an additional qualification certificate as a letter of recognition of a doctor's additional abilities in order to strengthen certain competencies for carrying out medical practice. So that the activity of dispensing medicines remains the competence of pharmaceutical staff in accordance with Republic of Indonesia Government Regulation Number 51 of 2009 concerning Pharmaceutical Work. General Chair of the Association of Indonesian Dermatology and Venereology Specialists (Perdoski) 2014-2017 period Syarief Hidayat stated that actually not there is the term 'aesthetic doctor'. The term 'aesthetic doctor' is used by general practitioners who take short-term courses abroad to learn some procedure, such as laser or *botox*. These courses are not obtained through formal education. This is different from the Sp.KK degree which is obtained through formal education. Skin and genital specialist doctors and general practitioners have their respective competencies which are regulated in the Indonesian Doctor Competency Standards (SKDI). Every action carried out by a doctor must refer to the SKDI, if they carry out actions outside their competence, it can be said to be malpractice. The Association of Indonesian Dermatology and Venereology Specialists (Perdoski) also does not have the authority to take action or prohibit this. What Perdoski can do is make a report if there are doctors who practice outside their competence. The authority to take action or prohibit it lies with the Health Service.

Rights and Obligations of Beauty Clinics as Business Actors

The Consumer Protection Law was formed with several considerations, including because the legal provisions to protect the interests of consumers in Indonesia at that time were still inadequate, so there was a need for legislative regulations to create a balance between protecting the interests of consumers and business actors in order to create a healthy economy. Considering that consumers are in a weaker position than business actors in all aspects, starting from the number of consumers being greater than business actors, to the use of economic principles by business actors, namely the smallest amount of capital to obtain maximum profits, it is feared that this could lead to unhealthy competition so that detrimental to consumers. Therefore, the Consumer Protection Law does not only regulate consumers, but also regulates business actors, especially in terms of the rights and obligations between consumers and business actors in order to provide balance between the two. This is in line with the fact that the product is in the form of goods or services will not be absorbed without consumers and consumers will always need goods or services that come from business actors. Regulations regarding the rights owned by business actors are regulated in Article 6 of the Consumer Protection Law. Specifically, the rights owned by clinics are regulated in Article 36 of Minister of Health Regulation Number 9 of 2014 concerning Clinics. Meanwhile, in general, the obligations of business actors are regulated in Article 7 of the Consumer Protection Law. Thus, the main obligations of business actors are: (a) have good faith; (b) giving information; (c) serve in the same way; (d) provide guarantees; (e) give it a chance to try, and (f) compensate. Clinics have obligations as regulated in Article 35 of Minister of Health Regulation no. 9 of 2014 concerning Clinics. In addition, Clinic Organizers are required to:

- a. post the name and classification of the Clinic;
- b. create and report to the health service a list of medical personnel and other health personnel working at the Clinic including:
 1. Registration Certificate (STR) number and Practice Permit (SIP) number for medical personnel;
 2. permit number as a sign of registration or Registration Certificate (STR), and Practice Permit (SIP) or Work Permit (SIK) for other health workers;
- c. carry out records for certain diseases and report them to the district/city health office in the context of implementing government programs in accordance with statutory provisions. One of the

obligations of business actors in Article 7 of the Consumer Protection Law is to have good faith in carrying out their business activities, this is one of the principles known in contract law. Provisions regarding good faith are regulated in Article 1338 paragraph (3) *Burgerlijk Wetboek* (BW) which states that agreements must be made in good faith, which means that the business actor's obligation to act in good faith starts from the time the goods are produced until the sales stage. This is of course caused by the possibility of losses for consumers starting from the moment the goods are produced by the producer or business actor.

Based on Article 7 letter b of the Consumer Protection Law regarding the obligations of both business actors, namely providing correct, clear and honest information regarding the condition and guarantee of goods and/or services as well as providing explanations of use, repair and maintenance, this is an obligation for business actors because information is a right. Consumers and the absence of inadequate information from business actors will be very detrimental to consumers. This is also the clinic's obligation as stated in Article 53 letter i of Minister of Health Regulation No. 9 of 2014 concerning Clinics. If this is related to cosmetic consumer protection, then the information contained in a cosmetic packaging must be information that provides correct and clear information. This information can contain ingredient composition, recommended use, side effects, expiration date and other important information that consumers must know about the cosmetic product. If there is no information on the product, then the business actor is obliged to provide this information to consumers verbally.

4. CONCLUSION

The absence of regulations that give authority to mix cosmetics shows that doctors exceed their authority as individuals doctor. Consumers who suffer losses can sue business actors on the basis of claims of unlawful acts based on the rules contained in the Consumer Protection Law. This is because on the basis of unlawful acts, consumers who are harmed can obtain maximum compensation, both material and immaterial. The absence of regulations that give authority to mix cosmetics shows that the doctor is exceeding his authority as a doctor. The recommendation that we can give is that doctors are expected to hand over the authority to mix cosmetics to pharmaceutical staff by writing prescriptions.

REFERENCE

- Adrian Sutedi. (2008). Product Liability in Consumer Protection Law. Bogor: Ghalia Indonesia.
- Agus Yudha Hernoko. (2007). "The Principle of Proportionality as an Embodiment of the Doctrine of Contractual Justice". *Perspective Journal*. 12(3), 221-244.
- Ahmadi Miru and Sutarman Yodo. (2007). Consumer Protection Law.
- Anggi Y. Utami. "Medical Beauty and Aesthetics Course". <http://www.wisataestetika.com/>, accessed on 10 Feb. 2024 at 01.17 WIB.
- Azwar, A. (2017). Legal Analysis of Doctors' Responsibility for Medical Malpractice. *Ius Quia Iustum Law Journal*, 24(1), 111-128.
- Bun. (2013). "My Horrific Post-Facial Experience. You Need To Read This", <https://www.bforbunbun.com/my-horrific-post-facial-experience-you-needto-read-this> accessed on 4 Nov. 2023 At 19.13 WIB.
- Celina Tri Siwi Kristiyani. (2014). Consumer Protection Law. Jakarta: Sinar Graphics.
- Civil Code/ *Burgerlijk Wetboek for Indonesia* (Staatsblad 1847 Number 23).
- Daulay, Muhammad Fauzy; Zarzani, T. Riza; Aspan, Henry. (2022). "Urgency Difa Wardatul Izza, "Legal Protection for Beauty Clinic Consumers for Using Cosmetics Prepared by Doctors," Thesis, Airlangga University, 2018. Available at: UNAIR REPOSITORY.
- Government Regulation Number 51 of 2009 concerning Pharmaceutical Work (State Gazette of 2009 Number 124, Supplement to State Gazette Number 5044).
- H. Yunanto. (2011). "Doctor's Responsibility in Therapeutic Transactions". *Law Reform Journal*. 6(1). <https://indonesia.go.id/detik/editorial/7804/fenomena-cantik-industrikosmetik?lang=1>, accessed on 09 Feb. 2023 At 00.23 WIB.
- <https://jurnal.unigal.ac.id/index.php/galuhjustisi/article/viewFile/1713/1387>, October 26 2023, 21.30 WITA.
- Indonesian Medical Council Regulation Number 6 of 2011 concerning Registration of Doctors and Dentists (State Gazette of 2012 Number 354).

Jakarta: PT. Rajawali Press.

Latitude, K. (2021). "Judicial Review of the Implementation of Informed Consent in Therapeutic Agreements." *Lex Generalis Law Journal*, 2(4), 296–308. <https://doi.org/10.56370/jhlg.v2i4.73>.

Law Number 17 of 2023 concerning Health. State Gazette Number 105 with Additional State Gazette number (TLN) 6887 dated 8 August 2023.

Law Number 29 of 2004 concerning Medical Practice (State Gazette of 2004 Number 116, Supplement to State Gazette Number 4431).

Law Number 36 of 2009 concerning Health (State Gazette of 2009 Number 144, Supplement to State Gazette Number 3781).

Law Number 8 of 1999 concerning Consumer Protection (State Gazette of 1999 Number 42, Supplement to State Gazette Number 3821).

Legal Protection for Peer To Peer (P2P) Lending Consumers in Indonesia." *Rectum Journal: Juridical Review of Handling Crime*, 4(2), 503-515. <https://doi.org/10.46930/jurnalrectum.v4i2.2053>.

Moh Anief. (2000). *The Science of Dispensing Medicine Theory and Practice*. Yogyakarta: Gajah Mada University Press.

Rahman, F. (2017). Medical Waste Management in Hospitals. *Journal of Environmental Health*, Vol. 8, no. 1.

Regulation of the Head of BPOM RI Number HK.00.05.4.3870 concerning Guidelines for Good Cosmetic Manufacturing.

Regulation of the Minister of Health of the Republic of Indonesia Number 9 of 2014 concerning Clinics (State Gazette of 2014 Number 232).

Regulation of the Minister of Health of the Republic of Indonesia Number 1176/MENKES/PER/VIII/2010 concerning Notification of Cosmetics (State Gazette of 2010 Number 397).

Regulation of the Minister of Health of the Republic of Indonesia No. 445/MenKes/Permenkes/1998 concerning Ingredients, Dyes, Substratums, Preservatives and Sunscreens in Cosmetics.

Retno Iswari T. (2007). *Handbook of Cosmetic Science*. Jakarta: Gramedia Pustaka Utama.

Sari, R. (2015). The Role of the Medical Ethics Honorary Council in Resolving Doctor Malpractice Cases. *Law Journal*, 22(1), 27-38.

Setiawan, B. (2016). Hospital Collaboration with Third Parties: Legal Review. *Journal of Health Law and Policy*, Vol. 5, no. 1.

Suharnoko, D., & Muktiyanto, A. (2019). Development of the Concept of Medical Malpractice in Indonesia. *Pulpit Law*, 31(1), 1-10.

Susanti Adi Nugroho. (2011). *Consumer Dispute Resolution Process Viewed from Procedural Law and Implementation Obstacles*. Jakarta: Kencana.

Trini Handayani, Settlement of Medical Disputes Through Mediation Linked to Supreme Court Regulation Number I of 2008 Concerning Mediation Procedures in Court, *Mimbar Justicia Law Journal*, Faculty of Law, Suryakencana University, Vol. 06, No. 02, 2014.

Ukilah Supriyatin, SH, MH, "Legal Relationship Between Patients and Medical Personnel (Doctors) in Health Services," accessed from:

Wartiani; Sinaga, Francius; Nurita, Cut. (2022). "Legal protection for cosmetics consumers in online buying and selling." *Rectum Journal: Juridical Review of Criminal Crime Handling*, 4(1), 229-242. <https://doi.org/10.46930/jurnalrectum.v4i1.1461>.

Widiyanto, A. (2015). Supply Chain Management in the Healthcare Industry. *Journal of Industrial and Logistics Management*, Vol. 2, no. 1.

Yusfi Risna, "Judicial Review of Doctors' Responsibilities in Therapeutic Transactions in Beauty Clinic Services," Master's Article, LEGAL KISI, Unika Soegijapranata. Available at: KISI LEGAL Journal.