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Legal Law on Optical Consumer in Maintaining Visual Health

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Keywords: Legal protection, Permit, Refractions Optical, Dispute Resolution, Law Enforcement.

Abstract: To protect the public against service optical harmful or harmful to health, the government issued laws and regulations regarding the rights and powers refractions optical dispensers and uses optical with the aim of achieving the opportunity to live a healthy life for each inhabitant with a view to an optimal state of health as realizing capital of national development. Retail company or store glasses or sunglasses wholesale goods that do not have an operating license only the status of the optician's store and forbidden health efforts. Each optical requires at least one (1) optical refractory material. Refractions optical dispensers or optometrists are the health of workers who have adopted education on the basis of the legislation in force, and in doing the work required to have a work permit Refractions optical dispensers (SIKRO). Although there are still many rules for unlicensed optics in particular in the city of Surabaya and knowledge level of consumers who are not on the optical and medical staff who have participated, making the consumer optically passive. Based on community research carried out up to 141 people, the result is: a total of 95 people do not know the difference between optics and optician's store, or about 61.5%, 4 people who learn their refractions optical dispensers as health workers know. Guidance and monitoring by the Ministry of Health of Surabaya City, province, and the combined ministries of product licensing and licensing have been performed, but not maximum optical recorded only in Surabaya Health Office.

1 INTRODUCTION

Health is a human right and one of the elements of welfare that must be realized in accordance with the ideals of the Indonesian as intended by the ideals defined in Pancasila and the 1945 Constitution of the State of the Republic of Indonesia Article 28 H paragraph (1). It reads "Everyone has the right to live prosperous, born and mental, to live and get a good and healthy living environment and the right to health care". And in Article 34 Paragraph (3) which reads 'The State is responsible for the provision of health service facilities and adequate public facilities'. On the basis of such arrangements, the right of the citizens to obtain health care is a form of social rights in fundamental rights. In accordance with the opinion of Philipus M. Hadjon, the rights of nature and human rights that are converted into legal rights are called fundamental rights. The core of social rights is rights to receive.

Visual health is critical for improving the human resources quality for smarter, more productive, advanced, independent, and inner and outer

prosperity Indonesians. Eye is the window of the world where the information center is derived from what is seen, therefore, it needs special attention. In order to protect the public from optical services that can harm or disrupt health, it is necessary to reorganize the optical organization throughout Indonesia.

Knowledge of eye health is important regarding the correction of refractive disorders. If the refractive anomaly is not corrected, it can lead to complications even blindness. In this case, corrective sunglasses and contact lenses are tools as primary aid that can correct the refractive disorder. Visual impairment is a major cause of blindness in both parents and children. An estimated 1.5 million children worldwide experience blindness; 1 million of whom are in Asia while 50% of them can be prevented. Blindness in children occurs longer and risks disrupting physical development and social life until adulthood. Thus, it needs to be treated early and correctly. Maintaining the health of the eyes and prevention of blindness are health services in order to optimize the visual function by involving health workers who are able to provide services in

accordance with the responsibilities of profession. Optometry refraction service is an integral part of health services where health service facilities are increasingly standardized services so as to have uniformity, quality, and accountability. The task of an optical refraction (RO) has the minimal competence to perform refraction services, optical services, and contact lens services. This study used normative juridical approach. First, observe and describe the cases that have been happening in the community about optical consumers and its consequences. Second, review and relate the existing regulations. Third, draw a general conclusion and solution of the problem. In this case, the object under study and the tradition of scientific law itself. Accordingly, this study is a normative juridical study. Techniques that can be used to extract data test, questionnaire, interview, observation, and documents. The data collection techniques were observations, questionnaires, interviews and review policies undertaken by the government for the protection of optical consumers. In addition, this study also used a socio-legal study.

2 LEGAL PROTECTION AGAINST OPTICAL CONSUMER IN ACHIEVING VISUAL HEALTH

2.1 Consumer Protection Law

Sidharta questioned the terms "Consumer Law" and "Consumer Protection Law", whether they are identical and what is included in both materials. In his case, Celina Tri Siwi Kristiyanti replied "because consumer position is weak, then it must be protected by law. One of nature, as well as the purpose of law is to provide protection to the community. So actually, consumer law and consumer protection are two areas of law that are difficult to separate and drawn boundaries".

Legal protection is protection based on statutory regulations or court decisions on disputes that occur. According to Article 1 paragraph (2) UUPK, consumer is any user of goods and or services available in society, whether for self-interest, family, other people, or other living things and not for trading. Therefore, the protection of the law against consumers or commonly used the term UUPK according to Article 1 paragraph (1). Consumer protection is an effort that ensures legality to provide protection to consumers. Thus, such protection

should ensure legality in this case through the application of legislation and judgment decisions that have permanent legal force. "Optik" is a health facility that performs basic eye examination service, refractive examination, and corrective eyewear service and/or contact lens. The consumer is any user of goods and/or services available in society, whether for self-interest, family, other person or other living beings and not to be traded. While optical consumers are everyone who comes to get basic eye examination service, refractive examination and service of corrective eyeglasses or contact lenses with certain intentions either for correction or cosmetics.

2.1.1 Rights and Obligations of Optical Consumers

Law Number 8 the Year 1999 concerning Consumer Protection, hereinafter referred to as Consumer Protection Law (UUPK). UUPK not only includes the rights and obligations of consumers, but also the rights and obligations of business actors.

For lay people commonly found in the villages, they are just passive and accept the fact that what happened to them has only become fate. This passive attitude is detrimental to the consumer itself.

Traced the main cause of the passive attitude of consumers, it is actually due to their ignorance of rights that are already attached to them as consumers, as for consumer rights that have been recognized by the state:

- a. Right to comfort, safety and safety in consuming goods and/or services.
- b. The right to choose goods and/or services and obtain the goods and/or services in accordance with the exchange rate and the conditions and promised warranties.
- c. Right to right, clear and honest information about the condition and guarantee of goods and/or services.
- d. The right to be heard of his opinions and complaints on goods and/or services used;
- e. The right to appropriate advocacy, protection, and dispute resolution efforts;
- f. Right to education and consumer education;
- g. Right to be treated or served properly and honestly and non-discriminatively;
- h. Right to compensation, indemnification and/or reimbursement, if the goods and/or services received are not in accordance with the agreement or not as they should;
- i. The rights set forth in the provisions of other laws and regulations.

These rights need to be known by all consumers, not only known by some consumer groups, especially in the city. But keep in mind by existing consumers in the city or the village.

In addition, consumers also have an obligation to the optical, the consumer's own obligations are:

- a. Read or follow instructions on information and procedures on use or use and/or services, for security and safety;
- b. Good in conducting purchases of goods and/or services;
- c. Paying in accordance with the agreed exchange rate;
- d. Following the law protection dispute settlement efforts appropriately.

2.2 Optical Organizing Guidelines

Article 2 Regulation of the Minister of The Health of the Republic of Indonesia Year 2016 concerning Optical Implementation. As mentioned in Chapter II on the Implementation of this rule:

1. Each optical organization shall obtain permission from the local government of the district/municipality.
2. The operation permits as referred to in paragraph (1) may only be granted after fulfilling the requirements covering facilities and infrastructure, equipment, and manpower.
3. Provisions on requirements of facilities and infrastructure as meant in paragraph (2) are contained in the Annex which is an integral part of this Ministerial Regulation.
4. Exempted from the provisions of the fulfillment of equipment requirements for contact lens services as referred to in paragraph (3) for opticalians who do not provide contact lens services.

2.3 Law Enforcement Efforts against Optical Violations of Optical Organizing Guidelines

2.3.1 The Responsibility of Business Actor for Optical Consumer Losses

Article 19 of the Consumer Protection Law Number 8 the Year 1999 concerning Consumer Protection which specifies the responsibilities of business actors, including:

1. The business actor is responsible to provide compensation for damage, pollution, and/or consumer loss due to consumer goods and/or services produced or traded.

2. Indemnification, as referred to in paragraph (1), maybe a refund or replacement of goods and/or services of a similar or equivalent value, or health care and/or compensation in accordance with the provisions of applicable laws and regulations.
3. The compensation shall be conducted within 7 (seven) days after the date of the transaction.
4. The provision of compensation as referred to in paragraph (1) and paragraph (2) shall not eliminate the possibility of criminal prosecution on the basis of further evidence of the existence of an element of error.
5. The provisions referred to in paragraph (1) and paragraph (2) shall not apply if the business actor can prove that the error is a consumer error.

2.3.2 Liability Scope of Business Actor (Optical) to Optical Consumers

Indemnification as a result of the use of consumer goods is one of the basic rights of consumers in consumer protection law. The right to compensation is universal in addition to other fundamental rights. Compensation for losses suffered by consumers essentially serves as:

- a. Recovery of rights that have been violated;
- b. Recovery of material and immaterial losses that have suffered;
- c. Recovery in the original state.

The prejudices that optical consumers may suffer as a result of the use of optical consumables for both contact lenses and eyeglasses can be classified into:

- a. Material loss, i.e. loss of goods purchased;
- b. Immaterial losses, i.e. losses that endanger the health and / or the soul of the consumer; such as dizziness, nausea, blurred strabismus, amblyopia (on eyeglass users), red eyes, keratitis, ulcers, giant papillary conjunctivitis, etc. (on contact lens users).

The results of research conducted by the authors from February to May 2018 to the Health Department of Surabaya, IROPIN, GAPOPIN (Association of Indonesian Optical Entrepreneurs) and questionnaires to the community as many as 141 people. From the data provided by Surabaya City Health Office, there are 57 licensed optics, while data from GAPOPIN there are 176 optics including suppliers.

Based on the study only 10 people complained in total where 3 people to hospital, 6 to the optics where they purchased the glasses, and 1 received no response. As is by re-examining, resizing, passes the glasses, and advise to adapt. Only 56 people know

the difference between optics and eyewear stores. Even 2 people can hardly tell the difference, and as many as 95 people do not know the difference between optics and eyewear stores. It constitutes 61.5% of people do not know. And of the

141 people only 4 people who know of the optic refraction as an eye health.

3 CONCLUSIONS

That in order to protect the public from optical services that could harm or disrupt health, the government stipulates Decree of the Minister of Health No. 1424 / MENKES / SK / XI / 2002, Regulation of the Minister of Health concerning the implementation of Optic Services No. 1 of 2016, 2003 on Health Licensing and Regional Regulations of East Java Province No. 7 of 2014 on Health Personnel.

Efforts that can be made to obtain such legal protection is with the existence of legal efforts as well. There are legal efforts that can be done by the consumer should there is a dispute with business actors, in this case is optic, that is civil remedies and legal remedies administratively.

REFERENCES

- Konsumen Melalui Pengadilan Khusus Dalam Rangka Perlindungan Konsumen Di Indonesia, Tesis, Program Studi Magister Ilmu Hukum Universitas Airlangga, Surabaya, 2013
- Anonim, Indonesia, Undang-undang Tentang Perlindungan Konsumen, UU Nomor 8 Tahun 1999, Citra Umbara, Bandung, 2007
- Hernoko, Agus Yudha, Hukum Perjanjian Asas Proposionalitas dalam Kontrak Komersial, \ Kencana Prenada Media Group, Jakarta, 2010
- Miru, Ahmadi dan Yodo, Sutarman, Hukum Perlindungan Konsumen, Raja Grafindo Persada, Jakarta
- Nasution, AZ, Hukum Perlindungan Konsumen Suatu Pengantar, Diadit Media, 2006
- Pudjiastuti, Lilik, Prinsip Hukum Pengaturan Perizinan Kefarmasian, Disertasi, Program Doktor Ilmu Hukum Universitas Airlangga, Surabaya, 2013
- Subekti, Hukum Perjanjian, Cet XII, Intermasa, Jakarta, 1990
- Sutedi, Adrian, Tanggung Jawab Produk Dalam Hukum Perlindungan Konsumen, Cetakan Pertama, Ghalia Indonesia, Jakarta, Maret 2008
- Wijaya, Gunawan, dan Yani, Ahmad, Hukum Tentang Perlindungan Konsumen, Percetakan PT.SUN, Jakarta