



Reformation of Indonesian Healthcare Regime through Omnibus Health Law September 2023

In light of the COVID-19 pandemic, the Indonesian government has made major improvement of Indonesian healthcare system a national priority. To serve this objective, the Indonesian government issued Law No. 17 of 2023 on Health (the “**Omnibus Health Law**”) on 8 August 2023, revoking 11 laws in healthcare sector. The Omnibus Health Law synchronises various laws in the healthcare sector and provides a stronger legal basis for a holistic reform to the Indonesian healthcare system which capture some important issues such as:

- > equality of access to health services facilities for public;
- > provision of sufficient medical workers (doctors) and health workers by improving the implementation of specialist/subspecialist education, simplifying doctor registration and licensing processes;
- > adoption of health technology including telehealth and biomedical; and
- > improvement of health information system including the integration of various health information systems into the national health information system (SIKNAS).

This publication outlines some significant points of reformation introduced by the Omnibus Health Law.

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Healthcare services through telehealth and telemedicine

Prior to the introduction of the Omnibus Health Law, the provision of healthcare services, in particular medical or clinical services, through the use of technology or electronic platform was not clearly regulated or recognised under Indonesian law - therefore creating a doubt on its legality. During the COVID-19 pandemic, the Indonesian government issued several regulations and policies which provided a legal basis for the temporary provision of online medical practices during the pandemic. However, some of these regulations were only valid during the pandemic and would be reassessed after the end of COVID-19 pandemic emergency state on 21 June 2023.

The Omnibus Health Law expressly recognises, and provides a clear legal basis for, the provision of health services by way of telehealth and telemedicine which is well received by the telehealth and telemedicine players in Indonesia.

Under the Omnibus Health Law, the term “telehealth” is defined broadly to cover any provision and facilitation of healthcare services through telecommunication and digital communication technology (including clinical and non-clinical services). The term “telemedicine” covers provision and facilitation of **clinical services** through telecommunication and digital communication technology, which must be performed by medical and healthcare workers who hold practice licence.

Healthcare service facilities (eg, hospitals or clinics) may carry out telemedicine and telehealth services on their own or by cooperating with a registered electronic system provider.

Further provisions on the implementation of telemedicine and telehealth will be provided under the implementing government regulation of the Omnibus Health Law.





Health information and data

The Omnibus Health Law recognises the concept of “health information and data”¹ which is also regulated and classified under the Data Protection Law² as specific personal data or a subset of personal data. The general provisions under the Data Protection Law would therefore be applicable to health information and data to the extent not specifically regulated under the Omnibus Health Law. Click [here](#) for our publication on the Data Protection Law.

Specific provisions relating to health information and data under the Omnibus Health Law include, among others:

1. Any person is entitled to the secrecy of his/her personal health information and data, except for the following:
 - a. fulfilment of requests from law enforcement officials in the context of law enforcement;
 - b. countermeasures of extraordinary events, epidemics, or disasters;
 - c. limited educational and research interests;
 - d. protection from danger of threat to the safety of other persons individually or collectively;
 - e. the interests of patient health maintenance, medication, healing, and treatment;
 - f. patient’s own request;
 - g. the interests of health administrative, insurance payment, or financing security; and/or
 - h. other interests as regulated under the laws.
2. Health information system operators (eg, hospitals) must conduct processing of health information and data in Indonesia unless offshore processing (eg, transfer and storage) of health information and data is permitted to be conducted in accordance with applicable laws (eg, Data Protection Law and applicable regulations on electronic transaction and information).
3. Processing of health information and data which utilises individual health data must obtain consent from the data owner and/or comply with the provisions regarding personal data processing under the Data Protection Law.

The Omnibus Health Law also regulates the concepts of “patient health secret”³ and “patient personal health secret”⁴. The Omnibus Health Law provides that any healthcare service facilities (eg, hospitals) and any medical workers⁵ and health workers⁶ are obliged to keep confidential patient personal health secrets, and disclosure of patient personal health secrets may only be made in certain circumstances as referred to in point 1 above in relation to the disclosure of personal health information and data.

Although on one reading it may be interpreted that “patient (personal) health secret” is part of the “(personal) health information and data”, the interplay among the concepts of “(personal) health information and data” and “patient (personal) health secret” does not seem to be clear under the Omnibus Health Law. Therefore, navigating the requirements applicable to these concepts (including any overlapping requirements under the Data Protection Law) may not be a simple exercise for healthcare service providers. The Omnibus Health Law however mandates that further provisions regarding patient personal health secrets will be provided under a government regulation, and it is expected that the upcoming government regulation may help to provide clarification on this matter.



- 1 “Health information and data” is defined under the Data Protection Law as individual records or information relating to physical health, mental health, and/or health services.
- 2 Law No. 27 of 2022 on Personal Data Protection (“**Data Protection Law**”).
- 3 “Patient health secret” is defined as a person’s history, condition and treatment, physical and psychic health treatment, including personal data of the patient.
- 4 “Patient personal health secret” is defined as anything related to what the medical workers and health workers discovers in the course of treatment and is recorded in the patient’s own medical records and is confidential.
- 5 “Medical worker” is defined as any person who is dedicated to healthcare sectors and possess professional attitude, knowledge, and skills through medical or dental profession education who requires authority to carry out health efforts (Article 1 number 6 of the Omnibus Health Law), for example, doctors and dentists.
- 6 “Health worker” is defined as any person who is dedicated to healthcare sectors and possess professional attitudes, knowledge, and skills through certain types of higher education who requires authority to carry out health efforts (Article 1 number 7 of the Omnibus Health Law), for example, nurses.



Integration of individual health information systems with SIKNAS

The Omnibus Health Law requires health information systems (individually operated by central and local governments, health services facility, and public) to be integrated with the national health information system (“**SIKNAS**”) managed by the Ministry of Health (“**MOH**”). This integration is expected to improve the quality of health information and data which would allow the government to make a better-informed policy to develop the healthcare sector and make it easier for the society to access public data and/or their own health data via health information system that is integrated with SIKNAS.



STR and SIP for doctors

Doctors who carry out medical practice must have: (i) STR⁷ which will be issued by the Council⁸ in the name of the MOH; and (ii) SIP⁹ which will be issued by the local government in the area where the doctors carry out their practice. While the requirements to have STR and SIP are not novel, the Omnibus Health Law introduces the following new provisions which provide more authority for the central government or the MOH, and reduce the influence of the Indonesia Doctor Association (*Ikatan Dokter Indonesia* – “**IDI**”), in relation to the issuance of STR and SIP:

1. The Council shall be responsible to the President through the MOH which would provide authority for the MOH to supervise the Council’s activities.
2. The MOH has the authority to issue SIP in certain circumstances¹⁰.
3. The Omnibus Health Law removes the requirement to obtain a recommendation letter from IDI for the issuance of SIP.

The reduction of IDI’s authorities under the Omnibus Health Law has received strong opposition from various stakeholders (including IDI themselves), however the government views that such change may be necessary to make the registration and licensing processes for doctors to practice in Indonesia simpler and more affordable, in the hope of improving the number of practitioner doctors (especially specialist/sub-specialist doctors) in Indonesia.



7 Letter of Registration (*Surat Tanda Registrasi* or “**STR**”) is a written proof given to the medical workers and health workers who are already registered with the Council.

8 “Council” is defined under the Omnibus Health Law as an institution that performs its duties independently in order to improve the quality of the practices and professional technical competence of the medical workers and health workers and provides protection and legal certainty to the society.

9 Practice Licence (*Surat Izin Praktik* or “**SIP**”) is written evidence provided to medical workers or health workers as granting of authority to carry out practices.

10 “Certain circumstances” is explained to include, among others, a circumstance which requires acceleration of the fulfilment of medical workers and health workers for health services.



Utilisation of foreign medical workers (doctors) graduated overseas

The Omnibus Health Law includes provisions regarding the utilisation of medical workers/doctors who are: (i) foreign citizens who graduated overseas or in Indonesia; and (ii) Indonesian citizens who graduated overseas. For the purpose of this section, the term ‘foreign doctors’ refer to doctors who are foreign citizens graduated overseas.

The Omnibus Health Law provides that foreign doctors may only practice in Indonesia if they are: (i) specialist and subspecialist doctors; and (ii) have passed the competency evaluation. However, the requirement to pass the competency evaluation may be exempted in respect of a foreign doctor:

1. Who graduated from overseas education providers which have been recognised and who has been practicing as specialist and subspecialist doctor for at least five years overseas - this must be evidenced by statement letter or other documents issued by the authorised agency at the relevant country; or
2. Who is an expert in certain distinguished field in healthcare services which is proved by competency certificate and has been practicing for at least five years overseas.

In addition, foreign doctors may practice at healthcare service facilities in Indonesia subject to the following requirements:

- a. there is a request from the relevant healthcare service facility in accordance with its needs (noting that the healthcare service facility is required to first prioritise the utilisation of Indonesian doctors);
- b. for transfer of technology and knowledge; and
- c. for maximum period of two years and can be extended once for another two years – this time limit does not apply to utilisation of foreign doctors in Special Economic Zone (“**SEZ**”)¹¹.

Foreign doctors must have STR and SIP before they may practice in Indonesia.

Foreign doctors carrying out medical practice in Indonesia are still very rare as the applicable requirements are difficult to satisfy in practice. The exemption from having to pass the competency evaluation for utilisation of foreign doctors as mentioned above is a new concept introduced by the Omnibus Health Law which should make easier for hospitals to employ foreign doctors to practice in Indonesia. As noted in the previous section, the Omnibus Health Law has also removed the requirement to obtain a recommendation letter from IDI for the issuance of SIP which would simplify the requirements for foreign doctors to practice in Indonesia.

Further provisions regarding the utilisation of foreign doctors will be regulated under the implementing government regulation of the Omnibus Health Law.

¹¹ Indonesian government is in the process of building an SEZ in Sanur, Bali, Indonesia, which is the first SEZ that has healthcare sectors as its main business. The Sanur SEZ is targeted to operate in 2024 and is expected to have an international hospital that is built in a cooperation with Mayo Clinic, a US-based academic medical centre.



Hospital-based education for specialist/subspecialist doctors

The Omnibus Health Law now allows hospitals which have been determined as educational hospitals (*rumah sakit pendidikan*) to act as the main education provider that administers specialist/subspecialist programs by cooperating with universities. This provision shifts the specialist/subspecialist education regime from university-based to hospital-based, which would allow the doctors to study for specialist/subspecialist program while in parallel working for the relevant hospital. Ultimately, this new education regime is aimed at increasing the growth of the specialist/subspecialist doctors. Further provisions on educational hospitals will be regulated under the implementing government regulation of the Omnibus Health Law.



Legal liability and protection for medical workers and health workers

The Omnibus Health Law provides the following criminal sanctions for negligence conducted by medical workers or health workers:

1. if the negligence causes serious injury to the patient, imprisonment of up to three years or fines of up to IDR 250 million; and
2. if the negligence in item (1) above causes death, imprisonment of up to five years or fines of up to IDR 500 million.

The Omnibus Health Law also reiterates that hospitals are legally responsible for all losses caused by negligence of their medical workers, health workers and supporting personnel.

However, the Omnibus Health Law also provides legal protection for medical workers and health workers by requiring a prior recommendation from the assembly¹² in respect of medical workers or health workers who are alleged to have done any unlawful actions in relation to health services: (i) which are subject to criminal sanctions; or (ii) which have caused losses to patients under civil law. The assembly's recommendation would provide assessment on whether or not the professional practices conducted by the medical workers or health workers are in line with profession standards, service standards, and standard operating procedures.



¹² An assembly is established by the MOH to enforce professional discipline of medical workers and health workers and can be permanent or *ad hoc* in nature. An assembly will determine whether there is a breach of professional discipline conducted by medical workers or health workers.



Support for domestic pharmaceutical products and medical devices industry

The government wishes to improve the upstream and downstream supply chain of pharmaceutical products and medical devices by generally encouraging the production of domestic pharmaceutical products and medical devices, and the use of domestic raw materials in the production process. The Omnibus Health Law introduces several initiatives to support the domestic industries to achieve such objectives, among others, by providing fiscal or non-fiscal incentives, ensuring the use of domestic raw materials for pharmaceutical materials and medical devices by domestic pharmaceutical and medical devices industries, and enforcing a requirement that generic drugs with international proprietary name marketed in Indonesia may only be produced by the domestic pharmaceutical industry. Further provisions on the above initiatives will be regulated under the implementing government regulation of the Omnibus Health Law.



Encouragement on the use of biomedical technology

The Omnibus Health Law encourages the utilisation of health technology, including biomedical technology and provides general provisions on the scope of utilisation, acquisition, storing, and management of biomedical technology. These provisions provide legal basis for the current biomedical technology practice that was not regulated in the previous laws. The government also seeks to gain access to the clinical specimens and biological materials, information, and long-term data that are gathered through biomedical technology activities by requiring such data to be stored in a biobank and/or biorepository that are integrated to SIKNAS. Further provisions on health technologies (including biomedical technology) will be regulated under the implementing government regulation of the Omnibus Health Law.



What's next?

Several new provisions and legal concepts introduced under the Omnibus Health Law reflect that the government is catching-up with the current condition of healthcare sectors and is attempting to improve Indonesian healthcare sectors in general. It is particularly important for the business players and investors to keep on the lookout for the implementing regulations of the Omnibus Health Law that are planned to be issued within one year since the issuance of the Omnibus Health Law, ie, by 8 August 2024, as they might include requirements or compliance matters that directly impact the existing industry practices.



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LIN.LAT.2687.23