

Client Alert

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For More Information:

Cahyani Endahayu
Partner
+62 21 2960 8515
cahyani.endahayu
@bakermckenzie.com

Reagen Mokodompit
Senior Associate
+62 21 2960 8530
reagen.mokodompit
@bakermckenzie.com

The New Minister of Health Finally Revokes the Controversial Regulation No. 30 of 2019 on the Classification and Licensing of Hospitals

Background

The Minister of Health ("**MOH**") has issued a new regulation on the classification and licensing of hospitals. The new regulation relaxes some provisions that were deemed not favorable for business actors.

Contents and Implications

MOH Regulation No. 30 of 2019 on the Classification and Licensing of Hospitals ("**MOH Regulation 30**") attracted controversy as it changed some of the long-established compliance standards in the previous regulations, and the timeline for the transition was too tight. For business actors who were affected, the changes under MOH Regulation 30 were considered too challenging.

MOH Regulation 30 imposed higher requirements on staff and equipment for hospitals. It also prohibited Class C and D hospitals from engaging in certain types of healthcare services. The regulation was suspended by the MOH as announced through its Circular Letter No. HK.02.01/MENKES/606/2019 dated 4 November 2019.

In general, MOH Regulation No. 3 of 2020 on the Classification and Licensing of Hospitals ("**MOH Regulation 3**") has addressed the concerns raised by business actors, as seen by the removal of the "problematic" provisions under MOH Regulation 30.

Comparison of the Two Regulations

We set out below a brief comparison of certain provisions between MOH Regulation 3 and MOH Regulation 30, as well as key provisions from MOH Regulation 3.

Matter	MOH Regulation 30	MOH Regulation 3	Notes
Pharmaceutical Services	<ul style="list-style-type: none">• medical services• nursery and midwifery services• supporting medical services (i.e., pharmaceutical services)	<ul style="list-style-type: none">• medical services and supporting medical services• nursery and midwifery services non-medical services (i.e.,	MOH Regulation 30 classified pharmaceutical services as supporting medical services, while MOH Regulation 3 classified pharmaceutical services as non-medical services.



Matter	MOH Regulation 30	MOH Regulation 3	Notes
	<ul style="list-style-type: none"> non-medical supporting services 	pharmaceutical services)	
Foreign Investment	<ul style="list-style-type: none"> Foreign investment is reserved for (i) general hospitals Class A and Class B, or (ii) specialist hospitals Class A and Class B Foreign investment hospitals must have at least 200 beds or the investment must be governed by an agreement or international cooperation 	<ul style="list-style-type: none"> There is no foreign investment limitation for Class C and D hospitals in the new regulation Foreign investment hospitals must have at least 200 beds or the investment must be governed by an agreement or international cooperation 	<p>MOH Regulation 30 limited foreign investment through the classification of hospitals (i.e., foreign investment in hospitals was limited to Class A and Class B hospitals). MOH Regulation 3 only limits foreign investment according to the provided beds (i.e., 200 beds or another required number of beds in accordance with the relevant international agreements or cooperation).</p> <p>For context, below are foreign investment restrictions on hospital business (KBLI No. 86103), based on Presidential Regulation No. 44 of 2016 on List of Business Activities Closed and Business Fields that are Conditionally Open in the Field of Investment (“Negative List”):</p> <ul style="list-style-type: none"> (a) maximum of 67% foreign investment (b) maximum of 70% for ASEAN investment (c) may be open in all capital cities in East Indonesia provinces, except Makassar and Manado



Matter	MOH Regulation 30	MOH Regulation 3	Notes
Hospital Accreditation	<ul style="list-style-type: none"> requires hospitals to be accredited by no longer than <i>two years</i> after the initial issuance of their Operational License 	<ul style="list-style-type: none"> requires hospitals to be accredited without a time limit 	-
Sub-Specialist Services	<ul style="list-style-type: none"> Class C and D cannot provide sub-specialist health services as they are reserved for Class A and B 	<ul style="list-style-type: none"> the restriction is not included in the new regulation 	-

Transitional Provisions

We set out below the transitional provisions under MOH Regulation 3:

- (a) Hospitals that already have a building permit and operational license based on MOH Regulation No. 56 of 2014 on Hospital Classification and Licensing ("**MOH Regulation 56**"), MOH Regulation No. 26 of 2018 on Electronically Integrated Licensing Services in the Healthcare Sector ("**MOH Regulation 26**") and MOH Regulation 30 may continue using the licenses until they are expired.
- (b) Hospitals that are in the process of applying for the aforementioned building permit and/or operational license based on MOH Regulation 26 or MOH Regulation 30 may still receive those licenses.
- (c) Hospitals that have obtained a building permit and operational license based on MOH Regulation 56, MOH Regulation 26 or MOH Regulation 30 must adjust those licenses to be in line with the new MOH Regulation 3 at the latest one year after the regulation is enacted (i.e., by 16 January 2021). This provision is not applicable for hospitals that already have operational licenses but where their buildings are not integrated and not connected with each other in accordance with Article 23.2 of MOH Regulation 3. Based on Article 23.2 of MOH Regulation 3, block plan buildings for hospitals must be within one integrated and interconnected area).
- (d) Within one year after the enactment of MOH Regulation 3 (i.e., by 16 January 2021), reviews will be done on hospitals that have obtained operational licenses based on MOH Regulation 56 and/or MOH Regulation 26. The reviews will be done using the hospital classification governed under MOH Regulation 56 or MOH Regulation 340/Menkes/Per/III/2010 on Hospital Classification.



Within one year after the enactment of MOH Regulation 3 (i.e., by 16 January 2021), reviews will be done on hospitals that have obtained operational licenses based on MOH Regulation 30, using the classification governed under MOH Regulation 30.

www.hhp.co.id

HHP Law Firm
Pacific Century Place, Level 35
Sudirman Central Business
District Lot. 10
Jl. Jenderal Sudirman Kav. 52-53
Jakarta 12190
Indonesia

Tel : +62 21 2960 8888
Fax: +62 21 2960 8999

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