Indonesia: The Circle of Life – Highlights of New Reproductive Health Regulation

In brief

On 20 February 2025, the Minister of Health ("**MOH**") issued MOH Regulation No. 2 of 2025, which regulates the implementation of reproductive health efforts ("**MOH Regulation 2**"). This regulation aims to improve access to reproductive health for women and men alike, especially in terms of reproductive health throughout their life-cycles.

MOH Regulation 2 revokes the following regulations:

(a) MOH Regulation No. 71 of 2014 on Procedures for Imposing Administrative Sanctions on Health Workers and Health Care Facility Operators that provide Abortion and Assisted Reproductive Health Services or Pregnancy Outside of Natural Ways Services

(b) MOH Regulation No. 43 of 2015 on the Implementation of Assisted Reproductive Services or Pregnancy Outside of Natural Means

(c) MOH Regulation No. 3 of 2016 on Training and Implementation of Abortion Services for Indications of Medical Emergencies and Pregnancy Due to Rape

(d) MOH Regulation No. 21 of 2021 on Health Services for the Pre-Pregnancy Period, Pregnancy, Childbirth, and Postpartum Period, Implementation of Contraceptive Services, and Sexual Health Services

Among other things, MOH Regulation 2 also regulates *in vitro* fertilization (IVF) and abortion, two contrasting (and contentious) aspects of reproductive healthcare. In this client alert, we will discuss the general highlights of reproductive healthcare rules governed under MOH Regulation 2.

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Key Highlights

Reproductive health is defined as a state of physical, mental, and social well-being related to reproductive systems, functions, and processes, not merely free from disease or disability.

Meanwhile, reproductive healthcare efforts means all forms of activities and/or a series of activities carried out in an integrated and sustainable manner to maintain and improve public health status in the form of promotive, preventive, curative, rehabilitative, and/or palliative efforts by the central government, local governments, and/or the community ("**Reproductive Health Efforts**").

Through MOH Regulation 2, the government governs the appropriate Reproductive Healthcare Efforts through promotive, preventive, curative, rehabilitative, and palliative Reproductive Healthcare Efforts for every woman and man in Indonesia according to each of their respective life-cycles.

The regulation divides reproductive healthcare Reproductive Healthcare Efforts into the following age ranges:

- Infants: 0 – 11 months
- Toddlers: 12 – 59 months
- Pre-schoolers: 60 – 71 months

- School-age children and adolescents: 7 – before 18 years
- Adults: 18 – 59 years

***Note**:*

1. *The above age ranges only apply to MOH Regulation 2, and should not serve as a standard for interpreting other regulations.*
2. *There appear to be some discrepancies in the age ranges.*

Below are the key highlights of MOH Regulation 2:

1. Prohibition of Female Circumcision

MOH Regulation 2 prohibits female circumcision practices that harm the reproductive system, namely, cutting, wounding and/or inflicting damage to the clitoris, labia minora, labia majora, hymen and/or vagina, either partially or completely. This prohibition was first introduced in Government Regulation No. 28 of 2024 on the Implementation of Law No. 17 of 2023, and is now reiterated and implemented under MOH Regulation 2.

2. Contraceptives

MOH Regulation 2 sets out provisions on contraceptives as part of Reproductive Healthcare Efforts. It hinted that the government may be planning to play a pro-active role in carrying out preventive Reproductive Healthcare Efforts for adults, school-age children and adolescents in the form of providing contraceptives to these age groups. However, the implementation of these provisions is still largely unclear. It remains to be seen how the government will realize its Reproductive Healthcare Efforts for contraceptives based on MOH Regulation 2. For example, it is not clear whether the government will run a new healthcare program in the future specifically for contraceptives, and whether people who meet certain criteria would be required to enrol into that program.

Notably, contraceptives as preventive Reproductive Healthcare Efforts may only be provided in certain conditions:

(a) For adults, contraceptives may only be provided for couples of childbearing age, in particular at-risk childbearing age groups[(i.e., those who are too young or too old to have children, those at risk of having consecutive pregnancies too close together, those who have too many children, and those who potentially have a sexually transmitted infection). Services involving provision of contraceptives must not be conducted in universities and religious institutions, houses of worship, or religious affairs offices.

(b) For children and adolescents:

(i) Contraceptives are only available for married couples where the wife is less than 20 years of age.

(ii) Services involving provision of contraceptives must not be conducted in education institutions or child social welfare institutions (e.g., schools).

(iii) Contraceptives must be provided by medical and healthcare personnel.

3. Mandatory health-screening

Prospective brides (both the groom-to-be and bride-to-be) are required to carry out early detection of disease or health screening through health checks at a public health center (*Pusat Kesehatan Masyarakat* or *Puskesmas*) or other healthcare facilities in accordance with standards. The relevant healthcare facility must issue a health examination certificate that can be used by the bride-to-be and the groom-to-be to proceed with their marriage. If a health problem is found through the early detection and screening, the relevant healthcare facility must perform a follow-up action by managing the health problem.

4. In Vitro Fertilization (IVF)

Assisted reproductive health services are health services that are carried out to achieve pregnancy outside the natural way without going through the process of intercourse or copulation if the natural way does not produce results. Assisted reproductive health services are regulated under MOH Regulation 2 as curative and rehabilitative Reproductive Healthcare Efforts, and are implemented through reproductive technology services with assistance, by way of in vitro fertilization (IVF). A husband and wife seeking assisted reproductive health services must prove their marital status by providing a marriage certificate or marriage license.

Assisted reproductive technology services can only can be carried out in certain hospitals, and main clinics that are designated by the MOH (i.e., clinics that have been granted a business license by the MOH).

If the IVF process results in excess embryos that are not implanted in the uterus, these embryos must be stored until the birth of the baby conceived through assisted reproduction (through freeze-storage).

The storage period for these excess embryos can be extended at the request of the married couple for future pregnancies using the frozen storage technique. The storage may be carried out for egg cells, spermatozoa or ovarian and testicular tissue as well.

The storage of the excess embryos can only be conducted if the following conditions are met:

(a) The doctor informs the spouses of the excess embryo, eggs, spermatozoa or ovarian and testicular tissue.

(b) Both spouses provide written consent.

The excess embryos can be stored for one year and this can be extended based on the request of the married couple.

The storage of excess embryos cannot be conducted if either of the following situations occurs:

(a) One of the spouses dies or the spouses get divorced.

(b) The spouses either do not confirm their consent to the storage or cannot be contacted after three attempts within a three-month period.

MOH Regulation 2 stipulates the following main rules relating to assisted reproductive health services:

(a) Selection of the sex of the child to be born, except for the purpose of avoiding genetic disease related to gender, is prohibited.

(b) Egg donor services, spermatozoa donor services, embryo donor services, ovarian donor services (or ovarian tissue donor services), testicular donor services (or testicular tissue donor services) and uterine borrowing services are prohibited..

(c) If storage is not extended, embryos, egg cells, spermatozoa or ovarian and testicular tissue must be destroyed. Excess embryos must not be implanted in the mother's womb if the father of the embryo is deceased or the couple has divorced, and must not be implanted in another woman's womb. ****Note**: The destruction must be carried out by the person in charge of the service and must be reported to the director/head of the hospital and the head of the main clinic, and an official report must be made and then signed by the person-in-charge and a witness*

("**Main IVF Rules**")

Healthcare facilities that do not comply with the Main IVF Rules will be at risk of administrative sanctions (please refer to the details below).

In addition to the above, MOH Regulation 2 introduces new requirements, where the MOH will assess the pregnancy rate of assisted reproductive technology services at least every five years based on the clinical pregnancy rates determined by the MOH (i.e., qualification of 'pregnancy' is determined by the MOH based on detection of pregnancy button and fetal heart rate in the womb). The success rate of clinical pregnancies must also be notified to the public, and if the success rate of clinical pregnancies is less than the minimum required clinical pregnancy rate determined by the MOH, it may lead to revocation or non-renewal of the license relating to the assisted reproductive technology services.

5. Abortion

Abortion is prohibited, except on the basis of medical emergency or for victims of criminal acts of rape or other criminal acts of sexual violence that cause pregnancy, in accordance with the provisions in the criminal code.

Indications of medical emergency as referred above include the following:

(a) Pregnancy that threatens the life and health of the mother

(b) Congenital defects of the fetus that cannot be repaired, making it impossible for the fetus to survive outside the womb.

Pregnancy resulting from the crime of rape or other sexual violence that causes pregnancy is proven by both of the following together:

(a) A doctor's certificate on the gestational age that is in accordance with the occurrence of the criminal act of rape or other criminal act of sexual violence that causes pregnancy

(b) A statement from a police investigator regarding the alleged rape and/or other sexual violence that causes pregnancy

Abortion services can only be provided with the consent of the pregnant woman and with the consent of her husband. The husband's consent is not required for abortion services provided to victims of rape or other sexual violence resulting in pregnancy. In such cases, consent may be given by the immediate family of the victim instead.

Abortion services must be provided by an advisory team (*tim pertimbangan)* and doctors who possess the necessary competence and authority (i.e., in the field of obstetrics and gynecology). The consideration team, formed by the head of an advanced health care facility established for this purpose, is responsible for making decisions regarding abortion services in cases of medical emergencies or for victims of rape or other criminal acts of sexual violence that result in pregnancy. The team must be chaired by the hospital's medical committee and includes at least one medical personnel with the required competence and authority. Based on their examination, the consideration team will issue a letter of eligibility for abortion. Doctors will then perform abortion services based on this letter, either in cases of medical emergencies or for victims of rape or other criminal acts of sexual violence that result in pregnancy.

6. Reporting Obligation

Every implementation of reproductive healthcare must be recorded and reported through a health information system that is integrated with the national health information system.

The record and report will be used for the following purposes:

(a) Monitoring and evaluation

(b) Advocacy in the implementation of reproductive healthcare services effectively and efficiently

(c) Integrated planning and budgeting

7. Sanctions

All medical personnel, health personnel, and healthcare facilities that violate Main IVF Rules are subject to administrative sanctions by the MOH, governor, or regent/mayor in accordance with their authority in the form of any or all of the following:

(a) Written warning

(b) Administrative fine

(c) Revocation of license

The administrative sanctions above may be imposed in stages.

Conclusions

The new requirements on reproductive healthcare under MOH Regulation 2 are mostly positive. Nevertheless, MOH Regulation 2 places a peculiar emphasis on sanctions for violations of specific rules related to IVF services. MOH Regulation 2 also introduces a new assessment requirement might create uncertainty for IVF businesses (given that their licenses may be revoked if they fail to meet the desired success rate).

On the other hand, MOH Regulation 2 now permits main clinics to offer IVF services, provided certain conditions are met. This is a notable change from MOH Regulation No. 43 of 2015, which restricted IVF services exclusively to hospitals. This is undoubtedly positive news for foreign investors looking to invest in main clinics in Indonesia.

Investors who are specifically interested in investing in the reproductive healthcare sector may also appreciate this new development, as main clinics generally have lower operational costs compared to hospitals, and therefore, are more accessible for foreign investors.

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