

## Harmonization of Health Law Number 17 of 2023 with the Legal Status of Hospitals as Legal Entities

Zaini Abdillah<sup>1</sup>, Elli Ruslina<sup>2</sup>, Miliiani Azalia<sup>3</sup>, Ni Kadek Ayu Pramulita<sup>4</sup>, Andri Wiguna<sup>5</sup>

Master of Laws, Pasundan University<sup>1,2,3,4,5</sup>

Email: zainiabdillah86@yahoo.com<sup>1</sup>, elli.ruslina@unpas.ac.id<sup>2</sup>, milyaniazaliaa@gmail.com<sup>3</sup>,  
ayupramulita@gmail.com<sup>4</sup>, ketuaan13@gmail.com<sup>5</sup>

Correspondence Authors: zainiabdillah86@yahoo.com

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### Abstract

Based on Law Number 17 of 2023 concerning Health, it is stated that a hospital is a health service facility that provides comprehensive individual health services through promotive, preventive, curative, rehabilitative, and/or palliative health services by providing inpatient, outpatient, and emergency services. Referring to the provisions contained in Law Number 17 of 2023 concerning Health, hospitals can be organized by the central government, regional governments, or the community. Hospitals organized by the central government or regional governments in providing health services can apply the financial management pattern of public service agencies in accordance with the provisions of laws and regulations. In contrast, hospitals established by the community must be in the form of a legal entity whose business activities are only engaged in health services, except for hospitals organized by non-profit legal entities.

**Keywords:** Hospital, Legal, Entity.

### INTRODUCTION

The objectives of the Indonesian state as stated in the Opening of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) especially in the Fourth Paragraph, include that the state protects all the people and all of Indonesia's territory, advances general welfare, educates the nation's life and participates in implementing world order based on independence, eternal peace and social justice. Then in Article 28 H paragraph (1) of the 1945 UUD NRI it also states that everyone has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy living environment and has the right to obtain service health.

The achievement of the constitutional mandate must be supported by the development of all areas of life based on Pancasila as the foundation of the state. One of the areas that influences national development is the health sector. Health development is essentially an effort carried out by all components of the Indonesian nation that aims to increase awareness, willingness, and ability to live healthily for everyone in order to realize the highest level of public health, as an investment for the development of human resources that are socially and economically productive.

Furthermore, health as a human right must be realized in the form of providing various health services to the entire community through the implementation of comprehensive health development by the Central Government, regional governments, and the community in a targeted, integrated and sustainable, fair and equitable manner, as well as safe, quality, and affordable for the community. As a human right, *the World Health Organization* (WHO) defines health as a state of complete physical, mental, spiritual and social well-being and not merely the absence of disease or infirmity, enabling everyone to live a socially and economically productive life. The health of all nations is essential to achieving peace and security and depends on the full cooperation of individuals and the State.

According to the Universal Declaration of Human Rights (UDHR) Article 25 which states that everyone has the right to a standard of living adequate for the health and well-being of himself and his family. The importance of health as a human right and as a necessary condition for the fulfillment of other

rights. The right to health includes the right to a healthy life and work, the right to health services, and special attention to maternal and child health.

As an effort to improve the health status of the community, in addition to promotive and preventive efforts, curative and rehabilitative efforts are also needed. Curative and rehabilitative health efforts can be obtained through hospitals that also function as referral health service providers. Referral health services are a health care delivery system that implements reciprocal transfer of responsibility for health problems or diseases vertically, which implies that it originates from less capable units to more capable ones or horizontally, meaning units with the same level of capability.

Referral health services regulate the flow of health checks in stages according to medical needs, in other words, referral services are provided if the primary health service that provides health services is unable to provide services according to needs due to limited facilities, services, and/or manpower. Hospitals in Indonesia from 2016-2020 increased by 12.86%. In 2016, the number of hospitals was 2,601, increasing to 2,985 in 2020. The number of hospitals in Indonesia until 2019 consisted of 2,344 General Hospitals (RSU) and 533 Special Hospitals (RSK).

Before the enactment of Law Number 17 of 2023 concerning Health, regulations related to hospitals were regulated in Law Number 44 of 2009 concerning Hospitals. Based on Law Number 44 of 2009, Article 1 number 1 states that *"A Hospital is a health service institution that provides comprehensive individual health services that provide inpatient, outpatient, and emergency services"*. Then in Article 2 it states that *"Hospitals are organized based on Pancasila and are based on humanitarian values, ethics and professionalism, benefits, justice, equal rights and anti-discrimination, equity, protection and patient safety, and have a social function"*.

The types and classifications of hospitals are also regulated in Law Number 44 of 2009 concerning Hospitals. Based on Article 18 *in conjunction with* Article 19 paragraph (1) of Law Number 44 of 2009, hospitals based on the services they provide are divided into general hospitals and specialist hospitals. General hospitals provide health services in all areas and types of diseases, while specialist hospitals provide primary services in one area or one specific type of disease based on scientific discipline, age group, organ, type of disease, or other specializations.

Meanwhile, when viewed from its management, based on Article 20 of Law Number 44 of 2009 concerning Hospitals, hospitals are divided into public hospitals and private hospitals. Public hospitals can be managed by the Government, Regional Government, and non-profit legal entities. Where public hospitals managed by the Government and Regional Government are organized based on the management of the Public Service Agency or Regional Public Service Agency in accordance with the provisions of laws and regulations. While private hospitals are managed by legal entities with a profit objective in the form of Limited Liability Companies or Persero.

Government hospitals are more appropriately classified as non-business, but not all private hospitals are classified as non-business. Some hospitals still have very concerning service quality. This is partly due to limited resources, both financial and non-financial resources. The demand for improving the quality of service requires a lot of investment funds. The increase in demands for the quality of hospital services must be accompanied by professionalism in its management. The development of hospital management, both from the management and operational aspects, is greatly influenced by various demands from the environment, namely the external and internal environments. External demands include those from stakeholders *that* hospitals are required to provide quality health services, and health service costs are controlled so that they will lead to patient satisfaction. Demands from internal parties include cost control.

The very fundamental difference between public hospitals and private hospitals based on Article 20 of Law Number 44 of 2009 above is financial management. Public hospitals are not allowed to seek profit, whereas private hospitals seek profit. However, both public and private hospitals must also pay attention to the provisions of Article 2 of Law Number 44 of 2009 concerning Hospitals regarding the principles and objectives of organizing hospitals, namely that they must have a social function.

If we look back at the provisions of Article 20 of Law Number 44 of 2009 concerning Hospitals, public hospitals managed by regional governments are organized based on the management of Regional Public Service Agencies. Based on the Regulation of the Minister of Home Affairs Number 79 of 2018 concerning Regional Public Service Agencies, the Regional Public Service Agencies, hereinafter abbreviated as BLUD, are systems implemented by technical implementing units of regional agencies/agencies in providing services to the community that have flexibility in financial management patterns as an exception to the provisions of regional management in general. Flexibility here is the freedom in financial management patterns by implementing healthy business practices to improve services to the community without seeking

profit in order to advance public welfare and improve the life of the nation. So it is clear that public hospitals managed by regional governments are not organized in order to seek profit.

In line with the progress and development of medical science and technology, hospitals have developed from a purely humanitarian, religious and social institution, into an institution that is more directed and more oriented towards "business", especially after investors were allowed to establish hospitals under legal entities that aim to seek profit because of Law Number 44 of 2009, especially the provisions of Article 21 which provide space for legal entities in the form of limited liability companies or limited liability companies to manage private hospitals with the aim of profit.

Based on data released by the Ministry of Health in 2023, there were 3,155 hospital units in Indonesia. This number consists of 2,636 general hospitals and 519 specialty hospitals. When viewed based on ownership, the largest number of hospitals in Indonesia is owned by the private sector, around 1,545 units. Following the issuance of Law Number 17 of 2023 concerning Health which came into effect on August 8, 2023, Law Number 44 of 2009 concerning Hospitals was revoked and declared null and void. The consequence of this is that regulations related to the organization of hospitals from now on are based on Law Number 17 of 2023 concerning Health.

Based on Law Number 17 of 2023 concerning Health, Article 1 number 10 states that *"A Hospital is a Health Service Facility that provides comprehensive individual Health Services through promotive, preventive, curative, rehabilitative, and/or palliative Health Services by providing inpatient, outpatient, and Emergency services."*

If we look at the definition of a hospital based on Law Number 44 of 2009 concerning Hospitals and the definition of a hospital based on Law Number 17 of 2023 concerning Health, there is no difference in principle and significance. However, when viewed from an institutional aspect, a hospital based on Law Number 44 of 2009 is an institution. Indeed, there is no further explanation in the law regarding the meaning or definition of an institution, even in the explanation section it is stated that the provisions of Article 1 which explain the definition of a hospital are "quite clear". But if we look at the Big Indonesian Dictionary (KBBI), an institution means: 1) . institution; institution; 2). something that is institutionalized by law, custom or habit; and 3). a building where activities of an association or organization are held.

In contrast to the definition of a hospital based on Law Number 17 of 2023, the institution of a hospital is a Health Service Facility. Where related to this health service facility, it is explained in Law Number 17 of 2023 that a health service facility is a place and/or tool used to provide health services to individuals or the community with a promotive, preventive, curative, rehabilitative, and/or palliative approach carried out by the Central Government, Regional Government, and/or the community.

Regarding the service aspects provided by hospitals, both according to the definition of a hospital based on Law Number 44 of 2009 concerning Hospitals and the definition of a hospital based on Law Number 17 of 2023 concerning Health, there is no difference in that hospitals provide inpatient, outpatient, and emergency services.

However, in the definition of a hospital based on Law Number 17 of 2023 concerning Health, it is emphasized in *expressive verbis* regarding the form of health efforts that are not mentioned in the definition of a hospital based on Law Number 44 of 2009 concerning Hospitals. In Law Number 17 of 2023 concerning Health, hospitals carry out health efforts in the form of promotive, preventive, curative, rehabilitative, and/or palliative, which in fact existing hospitals have in *concreto* carried out these health efforts in their implementation. It is explained in Law Number 17 of 2023 concerning Health, what is meant by health efforts is all forms of activities and/or a series of activities carried out in an integrated and sustainable manner to maintain and improve the health of the community in the form of promotive, preventive, curative, rehabilitative, and/or palliative by the Central Government, Regional Government, and/or the community.

The party entitled to organize a hospital based on Law Number 17 of 2023 concerning Health is no different from the party determined by Law Number 44 of 2009 concerning Hospitals, namely the Central Government, Regional Government, or the community. However, regarding the organization of hospitals by the Central Government or Regional Government, there are different provisions, namely that based on Law Number 44 of 2009 concerning Hospitals, it is mandatory for public hospitals managed by the Government and Regional Governments to be organized based on the management of the Public Service Agency or Regional Public Service Agency. Meanwhile, if we look at Law Number 17 of 2023 concerning Health, regarding the implementation of the financial management pattern of the Public Service Agency, it is only an option. We can see this in Article 185 paragraph (2) of Law Number 17 of 2023 concerning Health which states *"Hospitals organized by the Central Government or Regional Government in providing Health services can implement the financial management pattern of the public service agency in accordance with*

*the provisions of laws and regulations*". The word "can" in the formulation of the article indicates that it is "not" an absolute requirement or "not" an obligation regarding the implementation of Public Service Agencies (BLU/BLUD) by hospitals owned by the government or local government.

The next question is how is it related to the organization of hospitals by the community. Based on the provisions of Article 185 paragraph (3) it is stated that *"Hospitals established by the community must be in the form of a legal entity whose business activities are only engaged in the field of Health Services"*. Regarding the provisions of this article, there is clearly a significant difference with the provisions on the organization of hospitals by the community as regulated in Law Number 44 of 2009 concerning Hospitals. In Law Number 44 of 2009 concerning Hospitals, the type of legal entity that can manage hospitals organized by the community is only in the form of a limited liability company or limited liability company. Meanwhile, in Law Number 17 of 2023 concerning Health, the type of legal entity that can manage hospitals established by the community is not limited to limited liability companies or limited liability companies, but all legal entities, be it limited liability companies, limited liability companies, cooperatives, foundations or other associations that are legal entities.

However, Law Number 17 of 2023 concerning Health provides conditions or limitations related to legal entities that will manage hospitals, namely in their articles of association and bylaws or in their business licensing documents, they must only engage in health services. So the legal entity that establishes or manages the hospital may not engage in other business activities such as but not limited to trade, construction, industry, or other service provision business activities outside the health services sector.

In the Regulation of the Minister of Health Number 14 of 2021 concerning Standards for Business Activities and Products in the Implementation of Risk-Based Business Licensing in the Health Sector as amended several times, most recently by Regulation of the Minister of Health Number 17 of 2024 concerning the Second Amendment to Regulation of the Minister of Health Number 14 of 2021 concerning Standards for Business Activities and Products in the Implementation of Risk-Based Business Licensing in the Health Sector, it is stated that the business activities of government hospitals and private hospitals have the Indonesian Standard Classification of Business Fields (KBLI) code 86101 for Government Hospital Activities and KBLI code 86103 for Private Hospital Activities. The business standards for government and private hospitals regarding general business requirements state that they must be legal entities with the provisions of public legal entities for government hospitals and non-profit and profit legal entities in the form of associations, foundations, and limited liability companies for private hospitals. It is also stated in the Regulation of the Minister of Health Number 14 of 2021 that for-profit legal entities, the type of business activities are only engaged in the hospital sector.

Based on the explanation above, it is clear that based on Law Number 17 of 2023 concerning Health, legal entities established by the community that manage hospitals in their Articles of Association and Bylaws or in the Deed of Establishment and/or Amendments or in their business licensing documents must only have the KBLI code 86103, except for hospitals that are managed by non-profit legal entities as stated in Article 185 paragraph (4) of Law Number 17 of 2023 concerning Health that *"Hospitals as referred to in paragraph (3) are exempted for Hospitals managed by non-profit legal entities"*.

There is indeed a slight difference between the provisions in the Regulation of the Minister of Health Number 14 of 2021 and Law Number 17 of 2023 regarding legal entities established by the community that will manage hospitals, this is understandable because the Regulation of the Minister of Health Number 14 of 2021 was issued and came into effect before Law Number 17 of 2023 was issued and came into effect.

In fact, Law Number 17 of 2023 concerning Health does not explicitly and *expressively state* that based on their management, hospitals are divided into public hospitals and private hospitals, in contrast to Law Number 44 of 2009 which explicitly divides hospitals based on their management into public hospitals and private hospitals.

A very striking difference regarding the organization of hospitals by the community is related to the purpose of their establishment. Article 21 of Law Number 44 of 2009 explicitly states that the purpose of establishing a private hospital managed by a legal entity is profit. While in Law Number 17 of 2023 it is not explicitly stated and *expressive verbis* that hospitals established by the community are for profit.

## METHOD

The research approach uses normative juridical. The nature of this research is descriptive analytical in the form of a study of legislation governing hospitals, especially related to the legal entity aspect of the hospital. The data collected is in the form of a set of norms that apply in the regulation of hospitals. The data collection method is carried out by documentary studies to produce secondary data which is carried out

by searching for relevant library sources. Data analysis is carried out in a way qualitative

## RESULTS AND DISCUSSION

Based on Law Number 17 of 2023 concerning Health, it is stated that a hospital is a health service facility that provides comprehensive individual health services through promotive, preventive, curative, rehabilitative, and/or palliative health services by providing inpatient, outpatient, and emergency services. Health Service Facilities are places and/or tools used to provide health services to individuals or the community with a promotive, preventive, curative, rehabilitative, and/or palliative approach carried out by the Central Government, Regional Government, and/or the community.

Health efforts are all forms of activities and/or a series of activities carried out in an integrated and continuous manner to maintain and improve the health of the community in the form of promotive, preventive, curative, rehabilitative, and/or palliative services by the Central Government, Regional Governments, and/or the community. Hospitals provide individual health service functions in the form of specialist and/or subspecialist. In addition to individual health services in the form of specialist or subspecialist, hospitals can provide basic health services. In addition to providing individual health services, hospitals can provide educational and research functions in the health sector. No less important is that every hospital must implement good hospital governance and clinical governance.

Referring to the provisions contained in Law Number 17 of 2023 concerning Health, hospitals can be organized by the central government, regional governments or the community. Hospitals organized by the central government or regional governments in providing health services can apply the financial management pattern of public service agencies in accordance with the provisions of laws and regulations.

In the Regulation of the Minister of Home Affairs Number 79 of 2018 concerning Regional Public Service Agencies, it is stated that Regional Public Service Agencies, hereinafter abbreviated as BLUD, are a system implemented by technical implementing units of regional agencies/agencies in providing services to the public who have

Flexibility in financial management patterns as an exception to the provisions of regional management in general. Flexibility here is in the form of freedom in financial management patterns by implementing healthy business practices to improve services to the community **without seeking profit** in order to advance public welfare and improve the intelligence of the nation. In implementing healthy business practices, hospitals in carrying out organizational functions must be based on good management principles in order to provide quality, sustainable and competitive services.

Meanwhile, regarding Public Service Agencies (BLU), based on the Regulation of the Minister of Finance Number 202/PMK.05/2022 concerning Amendments to the Regulation of the Minister of Finance Number 129/PMK.05/2020 concerning Guidelines for the Management of Public Service Agencies, it is stated that Public Service Agencies, hereinafter abbreviated as BLU, are agencies within the Government that are formed to provide services to the public in the form of providing goods and/or services that are sold without prioritizing profit seeking and in carrying out their activities are based on the principles of efficiency and productivity.

Based on the explanation above, it is clear that government-owned hospitals, both central and regional governments, that implement the Public Service Agency (BLU) or Regional Public Service Agency (BLUD) system in organizing the provision of public services **do not prioritize seeking profit**.

In contrast, hospitals established by the community must be in the form of a legal entity whose business activities are only in the field of health services, except for hospitals run by non-profit legal entities.

Based on the Regulation of the Minister of Health Number 14 of 2021 concerning Standards for Business Activities and Products in the Implementation of Risk-Based Business Licensing in the Health Sector as amended several times, most recently by Regulation of the Minister of Health Number 17 of 2024 concerning the Second Amendment to Regulation of the Minister of Health Number 14 of 2021 concerning Standards for Business Activities and Products in the Implementation of Risk-Based Business Licensing in the Health Sector, business standards, both in the form of government hospital activities (KBLI Code 86101) and private hospital activities (KBLI Code 86103), state that one of the general requirements for establishing a hospital is that it must be a legal entity.

The legal entity for a government hospital is a public legal entity, while the legal entity for a private hospital is a non-profit and profit legal entity in the form of an association, foundation, and limited liability company, with the provision that for a profit legal entity, the type of business activity is only in the hospital sector.

In Article 196 of Law Number 17 of 2023 concerning Health, it is stated that "*Further provisions regarding the organization of Hospitals are regulated by Government Regulation*". In Government Regulation Number 28 of 2024 concerning the Implementing Regulations of Law Number 17 of 2023 concerning Health, provisions explaining the classification of hospitals based on their management are not found. The formulation of the article related to the parties who can organize hospitals is almost the same as the provisions or formulation of the articles contained in Law Number 17 of 2023 concerning Health. Based on Article 823 of Government Regulation Number 28 of 2024 concerning the Implementing Regulations of Law Number 17 of 2023 concerning Health, it is stated that "*Further provisions regarding guidelines for organizing Hospitals are regulated by Ministerial Regulations*". So far, the Regulation of the Minister of Health concerning guidelines for organizing hospitals as a mandate of Government Regulation Number 28 of 2024 has not been issued.

Hospitals run by the government must be in the form of a public legal entity, while hospitals run by the private sector must be in the form of a legal entity in the form of an association, foundation or limited liability company. According to *E. Utrecht*, a legal entity ( *rechtspersoon* ) is an entity that according to the law has the power (authority) to be a supporter of rights, which is not soulless, or more precisely non-human. A legal entity as a social phenomenon is a real phenomenon, a fact that is truly in legal relations even though it is not in the form of a human being or an object made of iron, wood and so on. According to Molengraaff, a legal entity is essentially the rights and obligations of its members together, and in it there are joint assets that cannot be divided. Each member is not only an individual owner for each part in a unity that cannot be divided, but also a joint owner for the entire assets, so that each individual member is also the owner of the assets organized in the legal entity.

Legal subjects have a very important position and role in the field of law, especially civil law because the legal subjects can have legal authority. The term legal subject comes from the Dutch translation, namely *rechtsubject* or *law of subject* (English). In general, *rechtsubject* is interpreted as a supporter of rights and obligations, namely humans and legal entities. Legal subjects are everything that basically has rights and obligations in legal traffic. Included in the definition of legal subjects are: humans (*natuurlijke persoon* ) and legal entities ( *rechtspersoon* ), for example PT. (Limited Liability Company), PN (State-Owned Enterprise), Foundations, Government Agencies and so on.

According to Riduan Syahrani, there are several requirements that must be met by an agency/association/business entity in order to be considered a legal entity ( *rechtspersoon* ). According to the doctrine, these requirements are as follows below:

1. existence separate wealth;
2. have a specific purpose;
3. have their own interests; and
4. there is a regular organization

In the end what matters is a body/association/association as a legal entity or not is positive law, namely the law that applies in a certain region/country, at a certain time and in a certain society. For example, in France and Belgium, positive law recognizes the Company and Firm as legal entities. While in Indonesia positive law does not recognize it as a legal entity.

Thus, in today's modern legal world, a body, association, or legal agreement to be called a legal entity must fulfill five elements of requirements at once. The five elements of requirements are:

1. Treasure wealth separate from the wealth of the subject other laws;
2. Certain ideal objective elements that do not conflict with statutory regulations;
3. Self-interest in legal traffic;
4. The management organization is organized according to applicable laws and regulations and its own internal regulations; and
5. Registered as a legal entity in accordance with applicable laws and regulations

In the Indonesian Civil Code or the Civil Code, there is no complete and perfect regulation regarding legal entities ( *rechtspersoon* ), in the Civil Code, the provisions regarding legal entities are only contained in Book III, Title IX, Articles 1653 to 1665 with the term "*van zedelijkelichamen* " which is seen as an agreement, therefore it is then regulated in Book III regarding Contracts. The word *rechtspersoon* is not found in Chapter IX of Book III of the Civil Code, although its purpose is to regulate *rechtspersoonlijkheid* (legal personality), namely that the legal entity has a position as a legal subject. This raises objections from experts because a legal entity is a person, so it should be included in Book I regarding Persons.

Legal entities can be distinguished according to their form, the regulations governing them, and their nature as follows:

- a. Legal entity according to its form (Article 1 paragraph (1) and Article 3 of the NBW (New Civil Code) of the Netherlands.  
Legal entities according to their form are the division of legal entities based on their establishment. There are two types of legal entities based on their form, namely: (1) public legal entities and private legal entities. Public legal entities include countries, provinces, municipalities, assemblies, institutions, and state banks. Meanwhile, private legal entities include associations, Limited Liability Companies (PT), Closed Companies with responsibility limited, and foundation.
- b. A legal entity according to the regulations governing it is a division of a legal entity based on the provisions governing the legal entity. There are two types of legal entities based on the regulations governing them:
  1. Legal entities located in the civil law field of BW. This will give rise to European civil legal entities. Included in European legal entities are (1) *zedelijke lichaam* : Associations regulated in Book III of the Civil Code (Articles 1653 to 1665) and Stb. 1870 No. 64, (2) PT. Firma, and others established according to the Commercial Code, and (3) CV established according to the provisions of Stb. 1933 No. 108;
  2. Legal entity located in the field of customary civil law. This will give rise to Bumiputra legal entities. Included in the Bumiputra legal entities are: (1) Indonesian Share Companies (MAI) which was established according to Stb. 1939 No. 569; (2) Indonesian associations which were established according to Stb. 1939 No. 570; and (3) Indonesian cooperatives which were established according to Stb. 1927 No. 1.
- c. Legal entity according to nature (Utrecht and Djindang, 1983). Legal entities according to their nature are divided into two types, namely: (1) corporations ( *corporatie* ) and foundations ( *stichting* ).  
According to article 1653 of the Civil Code, legal entities can be divided into 3 types, namely:
  1. Legal entities established by the government/general authority, for example Level I Regions, Level II Regions/Municipalities, Banks established by the state and so on.
  2. Legal entities recognized by the government/public authority, for example associations, churches and religious organizations and so on.
  3. A legal entity established for a specific purpose that does not conflict with the law and morality, such as a PT, insurance association, shipping company and so on.

Furthermore Riduan Syahrani to put forward that legal entities can be distinguished based on their form and type, as following:

- a. Based on its form, legal entities can be distinguished into two types:
  1. A corporation ( *corporatie* ) is a combination (collection) of people who in legal relations act together as a separate legal subject. Therefore, this corporation is a legal entity with members, but has its own rights and obligations that are separate from the rights and obligations of its members. For example: PT (NV), insurance association, its members. For example: PT (NV), insurance association, shipping, cooperative, and so on.
  2. A foundation ( *stichting* ) is a private property for a specific purpose. So in a foundation there are no members, there are only administrators.
- b. Based on the types of legal entities can be divided into two types, namely:
  1. Legal entity public; and
  2. Private legal entity.

Hospitals run by the private sector must be legal entities in the form of associations, foundations and limited liability companies. Based on Law Number 40 of 2007 concerning Limited Liability Companies as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, Article 109 number 1 of Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law states that " *A Limited Liability Company, hereinafter referred to as a Company, is a legal entity which is a capital association, established based on an agreement, carrying out business activities with authorized capital which is entirely divided into shares or an individual legal entity that meets the criteria for micro and small businesses as regulated in laws and regulations concerning business micro and small* " .

Limited Liability Company or called a Company is established by 2 (two) or more persons with a notarial deed made in Indonesian. Each founder of the Company is required to take part in shares when the company is established except in the context of a merger. A Company can be established by one person if it meets the following provisions:

1. entire limited liability company its shares owned by the state;
2. Business entity owned by area;
3. Business entity owned by village;
4. Companies that manage stock exchanges, clearing and guarantee institutions, depository and settlement institutions, and other institutions in accordance with the provisions of laws and regulations in the capital market sector; or
5. Companies that comply criteria for micro and small businesses.

The company must have the purpose and objectives and business activities which do not conflict with the provisions of laws and regulations, public order general, and/ or morality.

Company organs is General Meeting of Shareholders (GMS), board of directors, and board of commissioners. The General Meeting of Shareholders (GMS) is a company organ that has authority that is not given to the board of directors or board of commissioners within the limits specified in the law and/or articles of association. The board of directors is a company organ that has the authority and is fully responsible for managing the company for the benefit of the company, in accordance with the intent and purpose of the company and represents the company, both inside and outside the court in accordance with the provisions of the articles of association. Meanwhile, the board of commissioners is a company organ that is tasked with carrying out general and/or specific supervision in accordance with the articles of association and providing advice to directors.

The Company obtains legal entity status after being registered with the Minister and obtaining proof of registration. If after the company obtains legal entity status and the shareholders become less than 2 (two) people, then within a maximum period of 6 (six) months from the time of such condition, the shareholders concerned are required to transfer some of their shares to another person or the company issues new shares to another person. If in the event that the specified period has been exceeded and the shareholders remain less than 2 (two) people, then the consequence is that the shareholders are personally liable for all obligations and losses of the company and upon the request of the interested party, the district court may dissolve the company.

In addition, the company's deed of establishment must contain the articles of association and other information relating to the establishment of the company. The company must have the intent and purpose and business activities stated in the company's articles of association in accordance with the provisions of laws and regulations.

A foundation is a legal entity consisting of separated assets and intended to achieve certain goals in the social, religious and humanitarian fields, which does not have members. The foundation obtains legal entity status after the foundation's deed of establishment is approved by the Minister of Justice and Human Rights. To obtain this validation, the founder or his proxy submits an application to the Minister of Justice and Human Rights through a notary who makes the deed of establishment of the foundation.

The foundation has organs consisting of patrons, administrators, and supervisors. The foundation can conduct business activities to support the achievement of its aims and objectives by establishing a business entity and/or participating in a business entity.

Foundations may invest in various forms of prospective businesses with the provision that all such investments are a maximum of 25% (twenty five percent) of the total value of the foundation's assets. Members of the foundation's advisors, administrators, and supervisors are prohibited from concurrently serving as members of the board of directors or administrators and members of the board of commissioners or supervisors of the business entity.

In addition, foundations may not distribute the results of business activities to the patrons, management and supervisors. Based on Law Number 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations, Article 5 paragraph (1) states that *"The assets of the Foundation, whether in the form of money, goods or other assets obtained by the Foundation based on this Law, are prohibited from being transferred or distributed directly or indirectly, either in the form of salary, wages or honorarium, or other forms that can be valued in money to the Patrons, Management and Supervisors"*. Except for this provision, managers may receive salaries, wages or honorariums as long as they are determined in the foundation's articles of association on the condition that the manager is not the founder of the foundation



and is not affiliated with the founder, patron and supervisor and carries out the management of the foundation directly and in full.

Legal acts carried out by the management on behalf of the foundation before the foundation obtains legal entity status become the responsibility of the management jointly and severally. The composition of the foundation's management consists of at least a chairman, a secretary, and a treasurer.

## CONCLUSION

Based on introduction, results and discussion above, the following conclusions can be drawn: With the enactment of Law Number 17 of 2023 concerning Health, the provision of hospitals can still be carried out by both the central government and the regional government. area and also public. Based on the provisions of Law Number 17 of 2023 concerning Health, the implementation of the Public Service Agency (BLU) or Regional Public Service Agency (BLUD) system is not mandatory for hospitals organized by the central government or regional government. Based on Law Number 17 of 2023 concerning Health, communities that organize private hospitals must have legal entities that are not only limited to limited liability companies but also foundations and legal entities.

## REFERENCE

- Ministry of Home Affairs of the Republic of Indonesia. (2018). *Regulation of the Minister of Home Affairs Number 79 of 2018 concerning Regional Public Service Agencies* .
- Ministry of Health of the Republic of Indonesia. (2018). *Main results of basic health research 2018* (p. 37). Health Research and Development Agency.
- Ministry of Health of the Republic of Indonesia. (2021). *Regulation of the Minister of Health Number 14 of 2021 concerning Standards for Business Activities and Products in the Implementation of Risk-Based Business Licensing in the Health Sector* .
- Ministry of Health of the Republic of Indonesia. (2024). *Regulation of the Minister of Health Number 17 of 2024 concerning the Second Amendment to Regulation of the Minister of Health Number 14 of 2021 concerning Standards for Business Activities and Products in the Implementation of Risk-Based Business Licensing in the Health Sector* .
- Ministry of Finance of the Republic of Indonesia. (2022). *Regulation of the Minister of Finance Number 202/PMK.05/2022 concerning Amendments to Regulation of the Minister of Finance Number 129/PMK.05/2020 concerning Guidelines for Management of Public Service Agencies* .
- Mertokusumo , S. (2005). *Understanding the law: An introduction* . Liberty.
- Republic of Indonesia. (1945). *The 1945 Constitution* .
- Republic of Indonesia. (2004). *Law Number 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations* .
- Republic of Indonesia. (2007). *Law Number 40 of 2007 concerning Limited Liability Companies* .
- Republic of Indonesia. (2009). *Law Number 44 of 2009 concerning Hospitals* .
- Republic of Indonesia. (2023). *Law Number 17 of 2023 concerning Health* .
- Republic of Indonesia. (2023). *Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law* .
- Republic of Indonesia. (2024). *Government Regulation Number 28 of 2024 concerning Implementing Regulations of Law Number 17 of 2023 concerning Health* .
- Santosa, AAGDH (2019). Differences between public legal entities and private legal entities. *Journal of Legal Communication (JKH) Ganesha University of Education*, 5 (2).
- Soimin , S. (2018). *Civil Code* . Sinar Grafika.
- Syahrani, R. (2018). *The ins and outs and principles of civil law* . PT Alumni.
- Wahyudi. (2018). The legal status of private hospitals is related to socio-economic functions. *Istinbath* , 15 (2).