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Foreword

In the 10th Malaysia Plan, the Malaysia Productivity Corporation (MPC) had mandated to review all regulations affecting the conduct of business in Malaysia with the view to modernize business regulations. This is crucial in order for the country to move towards its national aspiration of becoming a high-income nation. Towards this, the MPC has embarked on a comprehensive review of existing business regulations with the focus on the 12 NEW Key Economic Areas (NKEA) which have been identified to have high growth potential.

In this study, the research team led by Zatul, Zuraida and Muhammed Anuar has been asked to examine the regulatory regimes of the healthcare sector specifically in medical professionals with the aim of recommending options to remove unnecessary regulatory burdens.

Through regulation governments can leverage their policy interests on businesses. Regulation can contribute to a range of social, environmental and economic goals. However, in practice, some regulations are not well designed and many regulations are not implemented efficiently or cost-effectively, and some regulations do not even adequately achieve the ends for which they are designed. Poor regulatory regimes invariably result in unnecessary regulatory burdens which will stifle business growth.

For this particular study, the focus was on the construction phase up to its completion, which is the most complex part of the value chain and the most regulated.

The study emulated the approach used by the Australian Government Productivity Commission (AGPC) and the team was guided by a regulatory expert previously from the AGPC, Ms. Sue Holmes. A comprehensive study of existing regulations governing the healthcare industry and their regulators was conducted. The regulations were correlated to the value chain. Engagements with the associations as well as with medical practitioner that practice in clinic and private hospitals were used in the study. Issues pertaining to regulations were selected and documented in the study report.

From these issues and using principles of good regulatory practice, the team then formulated feasible options for further deliberation. These issues and options are presented in this report for public consultation with relevant stakeholders in order to develop concrete recommendations to reduce unnecessary regulatory burdens imposed by construction regulations.

In the course of the study, the stakeholders including MPC have benefited greatly from discussions and interviews with various companies, government officials and industry associations. Valuable input and feedback were received from the AGPC expert, MPC's Board of Directors and other interested parties. The MPC is grateful for their assistance and contributions.

The study was conducted in the MPC Head Office by the Smart Regulation Directorate led by Mr. Zahid Ismail and overseen by me.

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Director General, MPC

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Abbreviation

AGPC	Australian Government Productivity Commission
AHSP	Allied Health Sciences Personnel
APC	Annual Practising Certificate
CCU	Coronary Care Unit
CoP	Code of Practice
CPC	Codes of Professionals Conduct
CPD	Continuous Professional Development
DHPCO	Division of Health Plan Contracting and Oversight
CSR	Corporate Social Responsibilities
DoE	Department of Environment
DTF	Distance to Frontier
ECFMG	Educational Commission for Foreign Medical Graduates
ETP	Economic Transformation Programme
EPU	Economic Planning Unit
FAIMER	Foundation for the Advancement of International Medical Education and Research
GDP	Gross Domestic Product
GLC	Government Linked Companies
GP	General Practices/ Practitioner
GST	Government and Services Tax
HMO	Health Maintenance Organization
HEI	Higher Educational Institutions
ICU	Intensive Care Unit
JCI	Joint Commission International
JPA	Jabatan Perkhidmatan Awam Department of Public Services
JTC	Joint Technical Committee
LAN	Lembaga Akreditasi Negara National Accreditation Board
MAEPS	Malaysian Pharmaceutical Society
MCO	Managed Care Organization
MDA	Malaysian Dental Association

MDC	Malaysia Dental Council
MERCY	Malaysian Medical Relief Society
MITI	Ministry of International Trade and Industry
MMA	Malaysia Medical Association
MMC	Malaysia Medical Council
MOH	Ministry of Health
MOHE	Ministry of Higher Education
MPC	Malaysia Productivity Corporation
MQA	Malaysia Qualification Agency
MQF	Malaysian Qualifications Framework
MQR	Malaysian Qualifications Register
NBM	Nursing Board Malaysia
NDPC	National Development Planning Committee
NEM	New Economic Model
NGO	Non-governmental Organisation
NKEA	National Key Economic Area
NPDIR	National Policy on the Development and Implementation of Regulations
O & G	Obstetrics & Gynecology
OECD	Organization for Economic Co-operation and Development
PDPA	Personal Data Protection Act
PEMUDAH	Pasukan Petugas Khas Pemudahcara Perniagaan Special Risk Force to Facilitate Business
PHC	Primary Health Care
PHFSA	Private Healthcare and Facilities Act
PRP	Provisionally Registered Pharmacist
QAD	Quality Assurance Division
RIA	Regulatory Impact Analysis
RIS	Regulatory Impact Statement
RMP	Registered Medical Practitioner
RURB	Reducing of Unnecessary Regulatory Burdens
SL1M	Skim Latihan 1 Malaysia
TPA	Third Party Organization
WBDB	World Bank's Doing Business

WFME World Federation for Medical Education

WHO World Health Organisation

Key Points

1. MPC which has been mandated in Tenth Malaysia Plan to carry out regulatory review with the aim of reducing unnecessary regulatory burdens on the healthcare sector.
2. The review focuses on five medical professionals in healthcare sector, which are:
 - i) Doctors
 - ii) Nurses
 - iii) Pharmacist
 - iv) Dentist
 - v) Midwives
3. For the purpose of this review, the scope will be narrowed down into two main medical professionals servicing the health industry, which are Doctors and Nurses. Nurses shall also cover specialised nursing areas including dental nurses and midwives
4. These medical professionals are bound by several federal Acts on matters such as training, registration, practices, services, and termination.
5. The value chain of the study can be broken down into three major phases: pre-qualification, general practices (GP)/Specialisation and exit/termination.
6. The Ministry of Health is the regulator that responsible for placement of houseman after medical student's graduates form the courses.
7. The three main issues are listed below:
 - i) Prequalification - quality of colleges providing medical courses and insufficient supplies of training for medical professionals)
 - ii) General practices – Lack of regulatory framework on practices of Managed Care Organisation (MCO)
 - iii) General practices – Discrepancies between Personal Data Protection Act 2010 and Private Healthcare Facilities and Services Act 1998.
8. Key recommendations for improving the existing regulatory arrangements include:
 - i) Improve the regulatory requirement for accreditation of private colleges
 - ii) Reduce regulatory burdens on termination of unqualified houseman
 - iii) Improve the regulatory framework on Managed Care Organisation (MCO)
 - iv) Expedite the establishment of Code of Practice (CoP) in healthcare industry.

Overview

The 10th Malaysia Plan indicated that Malaysia has done well in extending affordable basic healthcare services to all citizens. Malaysia healthcare system was also highlighted as one that has been relatively successful in providing equitable healthcare in terms of targeting public health subsidies towards the poor.

Malaysia inherited a health system from the British upon independence in 1957 but with services based mainly in urban areas. Malaysian healthcare system had evolved from a simple single provider system to one of multiple providers which are categorised by public and private sector providers interacting with one another, as well as, third party financiers. Each party interacts with each other in the process to maximise their benefits. The government has provided the major healthcare and healthcare related facilities where all are financed through central taxation. This situation started to change during the 1980s due to growing demand for healthcare following rising incomes, urbanisation and the expansion in the middle classes (Chee & Barraclough, 2007).

Public dental services prior to independence were run by British dentists in the large hospitals assisted by locally qualified dentists who also visited districts and towns. Further, the private dental care was provided by about 450 mainly locally trained practitioners.

Pharmacy services in Malaysia came into existence in 1951. In 1955, the numbers of pharmacist was around 30¹. To enhance its role The Government Pharmaceutical Laboratories and Stores were established in 1964 in Petaling Jaya to purchase and manufacture pharmaceuticals for MOH services. However, the absence of dispensing right has limited the community pharmacist's professional roles to deliver pharmaceutical care, optimize their clinical knowledge and utilize their skills².

Nursing practice in the pre-war period in Malaya then was carried out by nurses who received "on the job training". After Independence, health services became mainly a central government responsibility with delegation of service delivery through state and district

¹ Malaysian Pharmaceutical Society (2016) History of MPS, see <http://www.mps.org.my/index.cfm?&menuid=84>

² Mohd A.Hassali, Vivienne M. S. Li, Ooi G. See (2014), Pharmacy Practice in Malaysia, Journal of Pharmacy Practice and Research.

health administrations³. The first private nursing school in Malaysia was established at Assunta Hospital, Petaling Jaya.

Current legislative arrangement

Medical professionals being a party within the professional services industry covers the activities of various Acts governing the professional codes of conduct. Generally, there are about 150 Acts governing the practice of Medical Professionals.

The main Acts include:

- i. *Medical Act 1971 (Act 50)*
- ii. *Dental Act 1971 (Act 51)*
- iii. *Nurses Act 1950 (Act 14) & Nurses Registration Regulations 1985*
- iv. *Registration of Pharmacists Act 1951 (Act 371) & Registration of Pharmacists Regulations 2004*

The main objective of the professional Acts is to govern the practise of professionals in the interest of the public and the nation. However, there are instances where over-regulating of these professions have led to unnecessary burdens on the practitioners and result in higher costs or poorer service to the public. Unnecessarily demanding Acts, rules and regulations need to be reviewed to make accreditation, career growth and practice easier and to boost the effectiveness of medical services.

Other main Acts that involved in the study are:

- a. *Private Higher Education Act 555 (1996 amend 2006)*
- b. *Education Act 550 (1996 amend 2006)*
- c. *Malaysian Qualification Agency Act 679 (2007)*
- d. *Malaysia Employment Act 1955*
- e. *Private Healthcare Facilities and Services Act 1998 (Act 586)*
- f. *Private Healthcare Facilities and Services (Private Hospitals and Other Private Healthcare Facilities)Regulations 2006*

³ 2013, Western Pacific Region Nursing and Midwifery Databank, available at :
http://www.wpro.who.int/hrh/about/nursing_midwifery/db_malaysia2013.pdf

- g. Private Healthcare Facilities and Services (Private Medical Clinics or Private Dental Clinics) Regulations 2006*
- h. Personal Data Protection Act 2010 (Act 709)*
- i. Personal Data Protection (Class of Users) Order 2013*
- j. Personal Data Protection (Fees) Regulations 2013*
- k. Personal Data Protection (Registration of Data User) Regulation 2013*
- l. Personal Data Protection Regulations 2013*
- m. Insurance Act 1996*
- n. Companies Act 1965*
- o. Competition Act 2010*
- p. Consumer Protection Act 1999*