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Law Making Process in Health Law: Political Interests and the Influence of Advocacy of Each Organization

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Abstract: This research aims to analyze the law making process of the Health Law. The research method used is of the normative juridical type. The type of approach in research uses a statutory approach and an analytical approach. The sources of legal materials used are primary legal materials in the form of statutory regulations, and secondary legal materials in the form of relevant books and journals. The technique for collecting legal materials is carried out using document study techniques. After the legal materials are collected, the legal material analysis technique is carried out using descriptive techniques. The research results show that the law making process for the Health Law in Indonesia is influenced or cannot be separated from the interests of the political actors behind it. This is influenced by claims from actors who approve or are pro for the Health Law, and counter claims from actors who do not agree with the formation of this Health Law.

Keyword: Health Law, Law Making Process, Political Actors.

INTRODUCTION

Pandemic Corona Virus Disease-19 (Covid-19) faced by all countries in the world has shown that almost all countries have limited ability to handle it. The Covid-19 case also shows the weakest side of health services for world citizens in many countries, including Indonesia (DPR, 2019). This is due to the control of capitalist forces which are very dominant in handling the Covid-19 pandemic. As a consequence, people in Indonesia are faced with uncertainty in health protection, while at the same time, the government is also faced with the threat of an economic crisis (Widjaja, 2024). In order to provide legal certainty and protection, both for providers of health services and for recipients of health services, to

improve, direct and provide a basis for development in the health sector, a dynamic transformation of health law is needed, which in this case is structured in the form of a Health Law with the concept law to all (Azwar, 2001). Health policy in Indonesia is specifically regulated in Law Number 36 of 2009 concerning Health. However, seeing the dynamics of current health issues, the DPR presented a discourse to revise the Health Law which has been in effect for 13 years (Jason, 2022). Efforts to revise Law Number 36 of 2009 are planned to be carried out using the omnibus law method, namely by combining various statutory regulations in the health sector into one statutory regulation known as the Draft Bill. To all Health (Nadhir, 2022). Regarding the plan to prepare a health omnibus law which will be regulated in the Health Draft Law (RUU), this aims to strengthen health regulations which are currently still divided into several different laws (Susetiyo, 2021). The basic principle in Health is the harmonization of regulations in the Health sector, simplifying regulations is very important to do. Government efforts to adopt law to all health as a national legal policy with the hope of achieving the goal of improving the public health hierarchy in Indonesia is the best challenge and opportunity in the future (Christiawan, 2021).

However, the Health Law has a concept law to all This raises pros and cons among some medical and health workers. They consider that the Health Law All Law has the potential to create legal uncertainty regarding professional organizations such as medicine, dentistry, nursing, midwifery and pharmacy. Because in this law, 9 laws related to professions and health are eliminated (CNN, 2024). The nine laws are Law Number 4 of 1984 concerning Infectious Disease Outbreaks, Law Number 29 of 2004 concerning Medical Practices, Law Number 36 of 2009 concerning Health, Law Number 44 of 2009 concerning Hospitals, Law Number 18 of 2014 concerning Mental Health, Law Number 36 of 2014 concerning Health Workers, Law Number 38 2014 concerning Nursing, Law Number 6 of 2018 concerning Health Quarantine, Law Number 4 of 2019 concerning Midwifery. During the discussion of the Health Bill, an RDPU was held which invited various related organizations to convey their issues or interests. In the RDPU meeting notes, several suggestions were found that rejected the passing of the Health Bill, especially in terms of form to all. Rejection was expressed by IBI, IDI, MKKI, IAI, PPNI and PDIB. IBI and PPNI, considering the existing Midwifery Law and Nursing Law, have accommodated the management of midwifery and nursing well, so that the Health Law is no longer needed. IAI believes it is better to use the Pharmacy Bill rather than the Health Bill law to all that will be made. MKKI provides a basic argument that there is no urgency to form a Health Law to all at the time. IDI and PDIB reject the existence of the Health Law to all as a whole (Tirto ID, 2023). However, according to Deputy Chair II of the IDI Executive Board Mahesa Paranadipa Maikel (2023), the DPR has not provided an explanation or answer to the opinions of organizations that rejected the Health Bill at the joint approval stage between the DPR and the President. Based on the archived track record of the formation of the Health Law, it was found that only 2 (two) of the 12 (twelve) meetings drafting the Health Bill were open, the remaining 10 (ten) were held closed and the main part of the discussion in the meeting notes was written "closed" (Intania, 2023).

Based on a very short legislative process, lack of openness in the discussion process and minimal public participation, the Health Law in August 2023 was still passed in omnibus form as already promulgated. This shows that the objections from the organizations above have been recorded as being taken into consideration by the regulators in drafting the Health Law, but have not been accommodated. Based on the description above, this research examines and analyzes the political interests and advocacy strategies of each organization involved in law making process The Health Law and how the advocacy of each political organization involved in implementing the substance of the Health Omnibus Law is influenced.

METHOD

This research uses normative juridical research methods. The type of approach in research uses a statutory approach and an analytical approach. A statutory approach was taken to see how law making process in drafting the Health Law. Meanwhile, an analytical approach is used to study and analyze how political actors influence law making process Health Act. The sources of legal materials used are primary legal materials in the form of statutory regulations, and secondary legal materials in the form of relevant books and journals. The technique for collecting legal materials is carried out using document study techniques. After the legal materials are collected, legal material analysis techniques are carried out using descriptive techniques (Amiruddin, 2016).

RESULTS AND DISCUSSION

Political Interests and Advocacy Strategies of Organizations Involved Law Making Process Health Law

Political interests are something that cannot be ignored. Van Dyke defines politics as a struggle between actors who pursue conflicting desires on public issues, public issues are defined as something related to a group in some way (Clarke, 1973). Lasswell summarizes this political understanding deeply Postscript to the 1958 edition of his classic book on Politics: "We think of politics in terms of participants (with identifications, demands, hopes; with control over basic values) interacting in arenas (situations in which decision outcomes are expected) using strategies to maximizing the indulgence of values over deficiencies by influencing the outcome of decisions and hence their effects." For Buchanan, the political process in a democracy is best seen "as a means of reconciling diverse interests." This Health Law drafting process is no exception, there are political interests of the parties involved.

1. Parties Who Disagree with the Health Law and Their Interests

a) House of Representatives (DPR)

Regarding the dynamics in the People's Representative Council, there are two factions that do not agree with this health law, namely the PKS faction and the Democrat faction. The PKS faction explained the points of disagreement with the Health Bill, which in essence contains the Health Bill, which deletes several provisions in the previous law, causing a legal vacuum, such as the loss of definitions regarding health quarantine, competency, competency tests, professional standards, professional service standards, and the role of assistant workers. health (H. Ansory, 2023). Regarding compensation for property losses due to the response to the epidemic, the PKS faction criticized that the phrase "compensation" implies abdication of the state's responsibility towards the people and can cause delays and inadequate fulfillment of needs during the outbreak. The government's duties to BPJS, which are independent, are also considered to have to be accompanied by government funding.

PKS considers it inappropriate to juxtapose commercial health insurance with the national social security system in this bill; PKS also opposes policies regarding foreign health workers; PKS emphasizes that in various countries, health professions are regulated in separate laws, so this Health Law should not eliminate existing regulations related to medical professions and health workers; PKS also discussed matters mandatory spending. Finally, this law is considered to have the potential to direct health management to market mechanisms that are more profitable for capital owners, and The Health Law has the potential to direct the management of Indonesian people's health towards market mechanisms that tend to benefit capital owners. The Democratic faction refused on the grounds that they felt that the discussion of the Health Bill did not provide enough space and seemed rushed. However, sufficient time is needed to produce a good quality bill. In the context of substance, there are

two main points of objection raised by the Democratic Party, namely related mandatory spending budget allocation for the health sector and liberalization of doctors and medical personnel. Based on the opinions of the two political party factions in the DPR RI which rejected the Health Bill, it can be concluded that there are points in common, namely that the discussion of the Health Bill should not be carried out in a hurry and should provide sufficient space for public participation, that these two factions should highlight the health budget. allocated adequately in advance mandatory spending for the health sector, it has been stipulated in Article 171 paragraph (1) and (2) of Law Number 36 of 2009 concerning Health which reads: (1) The Government's health budget is allocated at a minimum of 5% (five percent) of the state revenue and expenditure budget excluding salaries. (2) The health budget of provincial, district/city governments is allocated a minimum of 10% (ten percent) of the regional income and expenditure budget excluding salaries.

Removal of provisions mandatory spending it is feared that it will hamper the provision and improvement of the quality of services for the people, and regarding the liberalization of doctors and medical personnel (foreign national doctors) has the potential to be dangerous and should not be carried out.

b) Professional Organizations in the Health Sector

A professional organization is a body consisting of individuals who have certain qualifications and competencies in a field. Professional organizations play a role in coordinating medical practice, developing professional ethics, ensuring that their members continue to improve their qualifications and competencies, and contributing to the design of health policies (Windi, 2023). In Indonesia, there are several professional organizations that convey input and views on this Bill on Health, namely: The Indonesian Doctors Association, hereinafter abbreviated to IDI, at a joint hearing with the DPR RI conveyed input and views on this Bill on Health, namely (RDPU, 2023): Costs High education means that not all students have the potential to be able to continue their education at medical faculties, high tax collection on medical devices means that their distribution and control requires high costs, fair remuneration for health workers is urgently needed, especially in 3T areas (outermost, behind, at the forefront) so that more people serve. Furthermore, IDI is of the view that the Medical Practice Law which is currently in force is functioning well according to its objectives. IDI is also ready to support improvements to the National Health System through the National Health System Law; not with ALL LAW which was done by repealing the Medical Law. IDI assesses that the implementation of the Medical Practice Act on All Law The lack of urgency is due to other problems that the government should pay attention to, such as a comprehensive health system and optimizing education and services (Amelia, 2023). Because IDI rejects the bill on health (All Law Health) and urges this bill to be removed from Prolegnas.

The Indonesian Association of Public Health Scholars and Professionals (PERSAKMI) expressed its views at the RDPU regarding the study of public health education (RDPU, 2022). Then the Indonesian Dentists Association (PDGI) conveyed the lack of career clarity for dentists who joined the government and hoped that the government would be able to resolve the problems between supply and demand in the distribution of medical personnel. As well as PDGI together with legal experts have reviewed the legal aspects of the articles of the Health Bill. It was concluded that several articles had the potential to cause doctor-patient conflicts, making them prone to criminalization and threatening the safety of medical personnel. This can happen because the preparation process was rushed and did not take public participation seriously (PDGI, 2022).

Then, another professional organization, namely the Indonesian National Nurses Association (PPNI), proposed that the Law on Nursing No. 38 of 2014 not be

included/included in the Bill on Health. The Indonesian National Nurses Association remains consistent with the input and views of the previous RDPU and firmly rejects the amalgamation of the nursing law into one Health Law (RDPU, 2022). The Indonesian Pharmacists Association (IAI) has expressed its view of approving the Health Law as long as the law is provided as long as it maintains the existing law and improves it. Then emphasized that the special law on pharmaceuticals should be included in the pharmaceutical bill which has been included in the 2022-2023 National Legislation Program. However, after the RDPU with the DPR it turned out that the views/input given by IAI were not accommodated in the Health Law. Chairman of the IAI Pharmacist Central Management in the "PP IAI National Coordination Meeting and Socialization of PD DKI Peace Action" called on the government and DPR RI to postpone the discussion of the Omnibus Law Health Bill. IAI also strongly rejects article 320 paragraph 6 in the Health Draft Law (RUU). All Law which is contrary to the spirit of health services which prioritize patient safety. This controversial article allows non-prescription medicines to be sold outside pharmaceutical service facilities, such as hypermarkets, supermarkets and minimarkets.

Meanwhile, the Indonesian Midwives Association (IBI) provided the following input; The Health Bill does not revoke Law no. 4 Concerning Midwifery 2019 which has been implemented well in organizing the midwife profession and has been supported by several derivative regulations; The preparation process was carried out openly by involving related parties, including health professional organizations, in this case the IBI Central Management; The welfare of health workers, in this case midwives, should be given more attention; The midwife profession in Indonesia is part of the midwifery profession at the global level and has been active globally and the Chair of the IBI as BOARD member ICM. Meanwhile, at the General Hearing Meeting on November 15 2022, the Indonesian Midwives Association rejected the bill All laws concerning Health and the revision of the Health Bill does not revoke Law No. 4 concerning Midwifery of 2019 which has been implemented well, in organizing the midwife profession it has been supported by several derivative regulations. After the RDPU meeting held by IBI and the DPR, it turned out that the views and input provided by IBI were not accommodated in the Health Law, so the Central Management of the Indonesian Midwives Association refused the Health Bill to be included and discussed in the plenary session to become law because it was not transparent. Apart from that, in the view of the organization which was founded in 1951, the bill does not contain a single article that supports and monitors the competence of midwives in Indonesia.

The Indonesian Medical College Council (MKKI) at the RDPU together with the DPR on 14 November 2022 stated: that laws or the substance of laws that are still new and relevant to the current situation are not revoked and remain maintained; The Registration Certificate must be studied more deeply because it will eliminate the CPD values (Continuing Professional Development) and has the potential that health workers will no longer want to take part in scientific meetings, research or community service that are currently ongoing even though the dynamics of change and knowledge about public health are developing very rapidly (RDPU, 2022).

The United Indonesian Doctors Association (PDIB) wants this Health Bill not to eliminate the essence of medical professional ethics and needs to include standards for medical education. Therefore, PDIB wants every health worker to form a Professional Organization. This form of rejection of the Health Bill is a rejection because in terms of the relationship between medical education and the formation of medical professional organizations, according to the PDIB, it can only be regulated by medical education regulations that are more detailed and include every doctor's interests and medical education more comprehensively, because in this bill, according to PDIB's view has eliminated the role of professional organizations. In the Health Bill, basically several regulations have been

revoked, one of which is Law no. 20 of 2013 concerning Medical Education, so that the Health Bill has eliminated the role of the various organizations involved, namely in this case medical education which is guidance important for how to become a doctor.

To fight for the interests of these professional organizations, some of them carry out advocacy by: Participating in the RDPU to convey input/views which essentially reject the Health Bill. PPNI also held a demonstration by nurses who are members of the Indonesian National Nurses Association (PPNI) who rejected the substance of the Health Bill All Law. PPNI held a demonstration together with administrators of other professional organizations, namely the Indonesian Pharmacists Association, Indonesian Doctors Association, Indonesian Dentists Association, Indonesian Midwives Association (Infokom, 2023). The health OP (Professional Organization) agreed to ask the DPR RI to postpone discussion of the Health Bill All Law. Another Health OP assessed that the process of drafting and discussing the Draft Health Law All Law This was a flawed procedure and was very rushed and was carried out in a non-transparent manner. PPNI together with the Indonesian Doctors Association (IDI), the Indonesian Dentists Association (PDGI), the Indonesian Midwives Association (IBI) and the Indonesian Pharmacists Association (IAI) proposed Judicial Review to the Constitutional Court to request a formal test of the newly passed Health Law. Based on the assessment of the five OPs, since the establishment of Health Law no. 17 of 2023, there is no substantial public involvement and participation.

On the other hand, Observers of Medical Education and Health Services (PPKPK) in a public hearing (RDPU) expressed the view that there are still many things that need to be reviewed regarding the existence of the term collegium for general practitioners, because internationally the term is only intended for specialist doctors. . However, if this term continues to be used, the Collegium must be independent, separate from professional organizations and specialist doctor associations.. PPKPK also conveyed, as in medical practice globally, that regarding practice permits it should be entirely the authority of the government and there is no need for recommendations from the profession to obtain a practice permit (RDPU, 2022). PPKPK believes that every organization should have an equal role and no one should be higher than another. This is because IDI is considered to have super power that exceeds other organizations (Stephanus, 2024).

c) Health and Non-Health Institutions

The Indonesian Clinic Association (Perklin) expressed their objections regarding the absence of a capitation mechanism for clinics regarding the negative impact of the absence of a capitation mechanism (RDPU, 2022). Without a capitation mechanism, clinics may face difficulties in obtaining stable funding for their operations, this could result in a reduction in the quality of health services provided to the community. Without clear regulations regarding payment and management mechanisms, clinics may face legal uncertainty that can disrupt their operations and affect the quality of health services.

The National Social Security Council (DJSN) said that the inclusion of DJSN in the Health Bill raises concerns that there is a risk that DJSN's autonomy in managing social security programs could be reduced. More centralized arrangements could limit DJSN's ability to make decisions that suit community needs and local conditions and if DJSN is integrated with more pro-business policies, there are concerns that worker protection will be weakened (RDPU, 2022). This can happen if policies prioritize the interests of investors compared to workers' rights. This point is more or less the same as what the Social Security Administering Body (BPJS) objects to. However, DJSN and the Ministry of Health have the same perception regarding the urgency of reforming the health sector as an effort to create an Indonesian nation that is healthy, productive, independent and just.

The Association of Indonesian Medical Education Institutions (AIPKI) rejects the idea of hospitals as providers of specialist medical education in an effort to accelerate the rate of production of specialist doctors. Because it is feared that it will affect the quality of graduates who are not standardized as they should be. It also suggests that university-based medical education can still be improved instead of creating two medical education pathways, university-based and hospital-based (Aipki, 2023).

The BPJS Watch Advocacy Coordinator believes that the provisions in this health bill will reduce the authority of BPJS, such as the BPJS directors and supervisory board. Like the JKN program, which is a mandate from the constitution, BPJS Health can no longer be implemented alone, but must be supported by ministries or other institutions. This threatens the smooth running of the JKN program itself which will have a direct impact on society (Fajar, 2024). Making BPJS responsibility through the Ministry of Health creates a loophole for misuse of JKN contributions (Anam, 2024). The authority of BPJS itself should be increased so that solutions can be immediately found for the problems faced in the field as quickly as possible. BPJS should remain directly responsible to the President, not through the Minister. The independence of this body must be maintained so that there is no diverging or mixed authority regarding funds between BPJS programs and the Ministry of Health. Apart from that, this health law is considered to still be discriminatory towards medical personnel and health workers (Nurhidayat, 2024). This is related to the protection program that students receive at health facilities. Medical personnel and health workers have the right to receive health insurance and employment security in accordance with statutory provisions, but students can only get health insurance. Students who provide health services in the educational process also face work risks, both when serving patients and when traveling to health facilities. Therefore, they need to be guaranteed in the JKK and JKm programs managed by BPJS Employment. They work together with other medical personnel who have similar risks. As a comparison, apprenticeship participants in companies are required to take part in the JKK and JKm Programs in accordance with Minister of Manpower Regulation No. 6 of 2020. Both students in health facilities and apprenticeship participants are legal subjects who undergo education and training with the same risks, but students are seen as lower in the protection of the JKK and JKm Programs.

2. Parties Supporting the Health Law and Their Interests

Apart from the various parties who reject the Health Bill, there are also parties who support the presence of this health bill and are optimistic that the existence of this bill will encourage the presence of comprehensive health services for all Indonesian people. Those who support are:

a) House of Representatives (DPR)

There are six factions in the DPR that approved the Health Bill and continued to the plenary meeting stage, namely PDIP, Golkar, PKB, PAN, PPP and Nasdem, but agreed with notes. The faction that agrees with this generally appreciates the existence of this Health Bill and appreciates the substantive content that has not previously been regulated, for example PDIP and Gerindra appreciate the inclusion of regulations related to traditional health in the Health Bill articles 159 to 163 concerning traditional health services, Articles 193 to article 195 concerning personnel. traditional health, the establishment of a council of traditional health workers separate from the Indonesian Medical Council in Article 253, and regarding traditional medicine in Article 338. The factions that approved this bill agreed and had the same perspective on the many laws that apply in the health sector which results in overlap between policies. So, the preparation is comprehensive with methods law to all is something that must be done.

Several things highlighted by the Golkar faction are important for the progress of services in the health sector, namely the provision of health services using telemedicine, and the independence of pharmaceutical preparations and medical devices, and this effort is an effort to establish regulations to strengthen and develop biomedical technology. The Golkar faction also supports the education of specialist doctors carried out by teaching hospitals, which is a point that is in contrast to AIPKI.

b) Companies Operating in the Health Sector

The Association of Pharmaceutical Entrepreneurs (GP) at the RDPU 15 November 2022 provided input/views which essentially appreciated the preparation of the academic text of the Bill on Health which was prepared comprehensively to provide theoretical and empirical explanations regarding the aims and objectives of drafting the Draft Law on Health so that it could be used as a basis and reference in providing views and input on the bill on health by GPM; appreciate the issue raised; dependence on imports for pharmaceuticals and medical devices; curative and preventive efforts; as well as limited use of digital technology in the health sector; and supporting and encouraging the transformation of the health sector (RDPU, 2022).

c) Organization

The Difficult Practicing Doctors Forum (FDSP) expressed an opinion at the RDPU together with the DPR that the Indonesian Doctors Association (IDI) is understood as a single professional organization (OP) which also doubles as a member of the Indonesian Medical Council (KKI). Because every doctor who wants to practice is required to become a member of this single OP. The existence of a single OP who is also a member of the KKI, causes the supervisory function of the KKI to not run well. To get a SIP you have to get an IDI recommendation, this could be a limitation on the number of doctors in an area, especially specialist doctors. The monopolistic power of professional organizations in the medical services sector can influence the Collegium (Supari, 2008). Meanwhile, every doctor who wants to practice must first become an IDI member. Then, KKI did not set standards to monitor program quality Continuous Professional Development (CPD) organized by IDI. IDI, as a party that should be supervised, has become difficult for the KKI to supervise. The interests of the FDSP organization can be concluded because due to the rules of professional organization doctors, many expert doctors cannot practice, and the cost of medical education is expensive. Because of this, the FDSP believes that all permits to become a doctor should be taken over by the government, not the professional organization that grants the permits (Budiarto, 2020).

The Indonesian Telemedicine Association (ATENSI) stated that ATENSI's interest in this case is that Telemedicine services can be considered as "health facilities", because health facilities nowadays are not only obtained from places where people can seek treatment directly but are also "tools" such as platform Telemedicine is the use of telecommunications technology so that patients can access health care services as needed without being limited by distance and time. So, ATENSI's interest here is to obtain legal protection for telemedicine platforms because according to them, currently the role of telemedicine is increasingly important in expanding access to health services to regional areas. The practice of telemedicine has major challenges in the legal aspect. Article 35 of the Medical Practice Law states, among other things, that doctors have clinical authority to provide physical examinations to confirm a diagnosis. In online services, diagnosis enforcement clearly has limitations. If the history is considered insufficient, the doctor should recommend further physical examination. The function of online services is as a platform, so carelessness,

negligence and negligence should not be the responsibility of the service provider. The responsibility lies with the doctor conducting the consultation.

Viewed from the perspective of interest group theory, interest groups are an important force for political configuration at a certain stage which can dynamize the political system due to the form of the birth of political groups which emphasizes the existence of pluralism and competition in society (Maiwan, 2016). So, it can be concluded that the Government and the DPR created regulations that accommodate their interests in achieving quality health services according to the standards set using the measurement methods they use and the reason professional organizations and bodies are involved in the process of making this Health Law is to fight for their respective interests. Furthermore, if it is related to the reason why the issue of the Health Law has not received much public attention (for example, unlike the issue of the Pilkada Law), what has created mass mobilization in large numbers is because the public does not really understand the importance of preventing the revision of the Health Law and the inability of the parties who have this interest in making the issue of the Health Law into an issue that is able to mobilize the masses in large numbers because ordinary people think that changes to the Health Law will not affect their interests, so that in the end the parties involved in fighting for the annulment of this Law are only a small group who have direct interests.

CONCLUSION

The process of forming the Health Law in Indonesia was influenced by various political interests, actor dynamics, and advocacy of the organizations involved. Although there is a desire to strengthen the health system through approaches law to all, this legislative process sparked controversy and resistance from many parties. The process of issuing this Health Law started with the issue of unifying various previous regulations into one rule which was combined, a claim made by government actors, but this issue received counter claim from a number of health workers, especially health professional organizations such as the Indonesian Doctors Association (IDI), the Indonesian National Nurses Association (PPNI), and the Indonesian Pharmacists Association (IAI), as well as DPR factions such as the PKS and Democrats who are worried that the law could reduce protection the rights of health workers and harm the health sector as a whole.

Several main points of advocacy carried out by various organizations touch on the issue of legal protection for health workers, the independence of professional organizations, as well as concerns about the possibility of reducing the role of organizations in supervising health workers. Apart from that, there are differences in views between those who support and those who reject it law to all this, with much of the criticism relating to a lack of transparency in the legislative process as well as a lack of openness to adequate public participation. In the end, the Health Law was passed in omnibus form, although many inputs from health professional organizations were not fully accommodated. Implementation of this law is still a challenge due to demands that health policies be able to serve the interests of society as a whole and inclusively.

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