

## CHAPTER IV

### DISCUSSION

#### A. Corporate Legal Status of Medical Clinic

##### 1. Alternative Clinic

Alternative medicine is a substitute treatment of the modern treatment. As we know today that it's the result of the development of science (scientific nature). In the 19th century since modern medicine evolved with the discoveries of bacteria and found a microscope, researchers began to conclude that the disease has no obvious reason to look for a cure.

Modern treatment of many adopted people as base treatment of disease through the process of diagnosis and assisted equipment (microscopes, x-rays, surgical tools, etc) is aimed to detect the cause of the disease before being given the medicine or cured.

A Popular traditional treatment distinguished the assumption of illness cause into two. First, the disease or illness is cause by evil spirits which is believed have possessed a person. Second, the disease is caused by the imbalance energy (yin and

yang) in the body. Hence, traditional medicine, mystic, magic and devine healing are involved here.<sup>42</sup>

In addition to relying on doctors and hospitals, today the number of the people often going to traditional medical centers is numerous in remote villages and towns. House of traditional medicine is commonly cure various diseases in a scientific way such as using herbal and traditional medicine, some others cure various diseases by in common way. To establish such business entity, it requires a permit or a license. Batara accupunture and Adem Panas clinic are categorized ino such traditional medical center. Both clinic are unique since they use unusua equipment for treatment.

Local Regulations in each area underlie the establishment of such business. Sanctions are also applied to those who do not have license or operating permit. The sanction is closing the business.<sup>43</sup>

When viewed from the side of the basic licensing laws that exist in the establishment of an alternative clinic is seen from the respective local regulations. So if an institution wants to be a public health service such as an alternative medicine clinic, the rule of health Law No. 36 of 2009, Health Ministry 28, 2011, the

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<sup>42</sup>[http://www.yabina.org/TanyaJawab/07/Nop\\_07.html](http://www.yabina.org/TanyaJawab/07/Nop_07.html) accessed on january 22, 2015 accessed on january 22, 2015 at 11.23 am

<sup>43</sup><http://www.pustakadunia.com/artikel-pustaka-umum/pembuatan-izin-pengobatan-tradisional-2/> accessed on january 22, 2015 at 12.00 pm

Health Minister Regulation No. 71 of 2013 and the regulations of the local district are applied

Examples of such Adem Panas clinic in Sleman, the permit and operate a licensing, which must meet the legal basis, such as:

**1) Corporate Form**

The Health Minister Regulation 28 of 2011 admits 2 forms of health clinic, namely "Utama" and "Pratama". In fact, alternative health clinic doesn't belong to both forms because it is not set in the provision. However, if the alternative health clinic is owned or supervised by a medical representative called doctor, this clinic will meet the regulation of Ministry of Health mentioned above. Then, if an alternative clinic doesn't have a doctor as a supervisor or is not owned by a doctor, this clinic doesn't possess clinical status.

In Fact if the case to the health department actually the provision and regulation are not obviously regulated. Therefore an the alternative clinic trying to be a legally admitted, it is still difficult. The form of alternative clinic is still on debate because the element of alternative clinic also can not meet the formulation of existing regulation. Eventhough an alternative clinic is usually assumed as a traditional clinic.

Based on the explanation above the corporate form of this corporation is "Perseorangan" (Personal Corporation). Personal companies is also called as Individual Company. It is a business entity that is owned by a single person. Individuals can make individual business entities without permission and any particular procedure. Everyone is free to make personal business without restrictions for building it. In general, individual small-cap company, limite the type and quantity of production. It has the manpower / labor a little and use simple technology of production equipment. Individual company can in form of Trading Company / Service (Supermarket, Consultants Bureau) and Industrial Company. Examples of individual companies such as grocery stores, hawkers, and so forth.

In brief, according to Indonesia positive law, there is no certain legal basis for an alternative medical clinic. The draft is still on progress but with the analogy, the writer may conclude regarding to the characteristic and the activity that exist on this corporation. Usually corporation on this characteristic using the form of trading company. Trading company is a private company carried out by a businessman. Trading companies can administred by one person or more, self-owned capital. Trading company is not specifically

regulated in a separate law, but practically it is accepted as entrepreneurs.

It is an evidence that the government also seeks to acknowledge the existence of this type of business. This can be seen with the issuance of Decree of the Minister of Industry and Trade No. 23 / MPP / Kep / 1/1998 on business institutes of Commerce. In Act 1 paragraph (3) states:<sup>44</sup>

*"Trade Organization is an agency / entity that can form individual or business entity ..."*

There is no standard procedure to be gone through in establishment. It is a general practice in the establishment of a trading company created by notarial deed.

Mostly, Alternative Medical Clinic is run by the owner and the workers are still from the family member of the owner or sometimes just recruit people that he know. The property of company and private property of the owner are not distinguished separately. Because it is a personal corporation. The Organization of the corporation is well managed but alternative medical clinic mostly is not. Moreover if it refer to the liability of corporation, as personal

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<sup>44</sup>Decree of the Minister of Industry and Trade No. 23 / MPP / Kep / 1/1998 on business institutes of Commerce

corporation it is on the hand of the owner. Therefore the corporate form of alternative medical clinic may be concluded as a Personal Corporation. Pursuant to Article 4 paragraph (1) letter C, Internal Minister Regulation No. 36 of 2007, the Personal Corporation not required to have a business license (SIUP).

## 2) Method and Facility

The Ministry of Health Regulation No. 71 of 2013 concerns about health care to national health insurance. This regulation contains health protection for participants to obtain health care benefits and protection to meet basic health needs given to each person. In addition to Article 1, it is also described also the existing health facilities. This rule can be based on an alternative clinic and -also a prerequisite if the facility is in the alternative clinics meet, such as "pratama" clinics and "utama" or general clinic obviously the institution or facility has met the prerequisites prescribed for a medical nature.

Not all Clinics is not all using the alternative medical methods as a way of handling the patient but also things like the traditional method can be used. Even non-medical method

is sometimes irrational can be used. When discussing about the traditional method of actually existing rules governing that Law No. 36 of 2009 Article 59 and 60 where it says "every traditional medical service use tools and technology must obtain permission from the health institutions".

It means that any existing traditional methods should be licensed. Therefore, so that there is oversight on the health institution. Traditional treatment method has been a form the formation of a factor beyond health legislation in which medical methods can be nurtured and monitored. Consequently, that the health law No. 36 of 2009 became one of the basis laws to protect the status of the alternative clinic.

### **3) Customer Protection**

Referring to health Law No. 36 of 2009 is in Article 56, there is no compensation or liability to the patient if there is a malpractice of a medical process, however the article does not mention that consumer protection is the protection applied also in traditional medication. Further more when seen further in Article 60 explained that government oversight and guidance traditional treatment clinic oversees and guides to responsible for all processes and traditional methods they are using.

These laws are not strong enough because until now there are no specific rules which clearly set it so as it can be seen, patients rarely get protection from the alternative medication. The impact of alternative medication clinic status is doubtful.

The legal basis that definitely can be used is Article 1365 Civil Code. In order to be subject to Article 1365 of the Civil Code on tort, law - legislation and jurisprudence requires that the perpetrator must be an element of fault (schuldelement) in carrying out such actions. Therefore, liable without fault (strict liability) excluding liability under the 1365 Civil Code article.

## **2. Fitness and Health Clinic (Aesthetic)**

Health and wellness clinic is a clinic that is more oriented to the optimization of recovery to the gym or even health care. The legal basis underlying the establishment of institutions such as the clinic's is Law No. 36 of 2009 on article 53 it contains about healing and recovery and health improvement.

Natasha is one form of skin care clinic, which orientation or purpose of the clinic are the treatment, recovery and optimization of skin health. This kind of clinic actually does not have much problem. Skin care clinic is a clinic owned or supervised by a



physician, it means when the Ministry of Health referred to the regulation No. 28 of 2011 regarding the clinic.

"Clinic is a health care facility that provides personal health services that provide basic medical care and / or specialist, held by more than one type of health personnel and led by a medical staff that general practitioners, specialists, or general dentist or dental specialist"<sup>45</sup>

the form of this clinic is clear that the clinic can be a primary or pratama clinic. The clinic status then will be depended on wether the leader of clinic is doctor or a specialist.

#### 1) Corporate Form

Refer to The Health Minister Regulation no 28 of 2011

sec 1:

"Clinic is a health care facility that provides personal health services that provide basic medical care and / or specialist, held by more than one type of health personnel and led by a medical staff that general practitioners, specialists, or general dentist or dental specialist"<sup>46</sup>

From the statement of above, it can be concluded that the fitness and health clinics can be include into one of the clinics. Fitness and health clinics such as Natasha even held or led by a dermatologist. It shows means that if the terms of the structure of the institution itself, led by a doctor then forms or clinical

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<sup>45</sup>Pasal 1 Permenkes no 028/2011

status can be attributed to the clinic. Because of It, clinical skin care is not as problematic when referenced in the rule.

Based on the theoretical analysis above Theoretically enterprises can be divided into two groups, namely:

1. A business entity that is not a legal entity (non legal entity).
2. Enterprises that are legal entities (Legal Entity)

At first glance it seems the two entities above there is no difference. However, it is viewed from the perspective of company law, there is no substantive difference, namely the issue of responsibility.

There is also classification into three groups, namely:

1. Personal company
2. Enterprise partnership is not a legal entity
3. Company alliance of legal entities.

From those point the writer tried to conclude that clinic actually may be established by personal but the access for become legal entity is open. That's because aesthetic clinic like this already gets the legal basis and certain regulation. Mostly aesthetic clinic will be lead by a doctor and the worker are hired recruit with special requirement to fulfill that's why clinic aesthetic has better management. They has various division to manage the organization. For the example, the person that incharge on the medical false and the liability is on

the owner of clinic. But the Standard Operational Procedure is formulated by Medical team and approve by Health Department.

Clinic aesthetic such as natasha has property separation between private properties and company properties. It will make the company more safety than the personal company because the arranging of budget is get well preparation. From those reason so the writer may conclude that clinic Natasha skin care as the one of aesthetic clinics belongs to Limited trading company (PT).

## 2) Method and Facility

Facilities and methods of clinical skin care are actually not much different from other health services such as hospitals. The Health Minister Regulation 71 of 2013 and Act No. 36 of 2009 on health has been set up facilities and methods used, not much different from the hospitals, fitness centers, and health. They clinics also use medical methods with facilities in accordance with the standards of public services.

Even medical supplies as provided for in Article 36 of Law No. 36 of 2009 health has been supplied by the government.<sup>47</sup> By doing so the government has a role in

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<sup>47</sup>Article 36 of Health Law no 36 of 2009

supervising and guiding in accordance with the law. The Fitness and health clinic itself has facilities in the restoration and improvement for health as stipulated by Law No. 36 of 2009 health:

**Article 63**

"(3) Control, treatment, and / or maintenance can be performed based on the science of medicine and nursing or other means that can be accounted for the benefit and security."

**3) Customers Protection**

Consumer protection is also basically governed by Law No. 36 of 2009 on Health, as follows:

**Article 56**

"(1) Everyone has the right to accept or reject any or all forms of help that would be given to him after receiving information about the actions and understand it fully.

(2) The right to accept or reject as referred to in paragraph (1) shall not apply to: ...

- a. disease patients whose disease can be quickly spread to the wider community;
- b. state of a person who is unconscious; or
- c. severe mental disorders.

(3) The provisions concerning the right to accept or reject referred to in paragraph (1) shall be in accordance with the provisions of the legislation."

Thus the protection of consumers in the fitness and health clinic there is a problem because in terms of structure, medical

personnel, and also the establishment not much different from its health services such thing Hospital.

The next regulation that may regulate about the customer protection is Act No. 8 of 1999 on Consumer Protection. In Article 1 paragraph 1 mentioned Consumer Protection Act, consumers are any people on the goods and / or services available in the community, both for the benefit of themselves, their families, other people and other living beings and not for sale. Meanwhile, business agent is any individual or entity, whether a legal entity and is not a legal entity established and domiciled or conducting activities within the jurisdiction of the Republic of Indonesia, either individually or jointly by agreement for business activities in various fields of economics (Article 1 paragraph 3).

From the above discussion, we can conclude that the perpetrators of traditional medicine, which provide traditional medicine, can be considered as businesses. While the patient, who received the traditional treatment services, can be categorized as a consumer. Thus, the Consumer Protection Act can be applied in the relationship between patient and actors of traditional medicine. So with that legislation governing the protection of consumers in the "healer" is Act No. 8 of 1999 on Consumer Protection.

### 3. "Tabib" (Healer)

Tabib or physician is kind of meician who are very popular in the most in demand in Indonesia. Now, the practice of shamanism like this would be labeled with alternative medicine by society. Actually, not all alternative medicine is synonymous with shamanism, low cost, easy, and the results are promised to be in short time. High public interest on non-medical treatment is addressed for those who are able to make blind eye people able to see or make deaf people able to listen clearly will be obtained. Similarly, with a risk or as a consequence of this type of process the risk can be physical damage or misguided beliefs.

Many ways and media are utilized in alternative medicine. Most by using the power, energy prana, meditation, move the animal to the human disease, channeling energy "positive", incantations and spells spells, tattoo, heirloom, traditional herbal medicine, and massage. Even, some of them are using dhikr-dhikr, acupuncture and many more.

In general we can be categorize this treatment into 4 types:

1. The medical and scientific Characteristically pure.
2. Form ruqyah syar'i.
3. The original occult.

#### 4. Modifications

Point number 4 which is a modification is a combination between medical and ruqyah syar'i, or between the medical and the occult, or ruqyah and occult.<sup>48</sup>

#### 1) Corporate Form

Indonesia does have a religious way of treatment and forms of health care, "Physician" is one of them, in view of the institution's own physician it can be seen from some point of view, that it is positive law in our country, the legal basis of the physician's own does not exist. The rule is in Law 36 of 2009 Article 59 which is about the traditional treatment including alternative medicine. So that when they use the name of a "physician" as a health institution it is obviously not having legal basis. In contrast, if "physician" names the institution as institute alternative clinic will have a legal basis as set out in Article 59 of Law No. 36 2009 health.

#### Article 59

"(1) By way of treatment, health care traditionally divided into:

- a. traditional health care uses skills; and
- b. traditional health care use herb.

(2) traditional health services referred in paragraph (1) guided and supervised by the Government to can be accounted for benefits and safety and not contrary to the norm

<sup>48</sup>Abdul, <http://www.thibbun.com/thibbun-nabawi/rahasia-dukun-tabib.html> accessed on january, 29 2015 at 11.00 am

religion.

(3) Further provisions on procedures and types traditional health care as intended in paragraph (1) is regulated by the Government.”

Based on the article above and also the explanation of corporate form of thabib, the writer conclude that thabib is the corporation that move in the field of traditional aspect. There is still no regulation about getting the corporate form of thabib it self. Mostly thabib has asociation that becomes an “umbrela” to protect, register, and socialize them to society. With this reason, the form of thabib may be concluded as Enterprise partnership with non-legal entity but because the association is passive and everything would be handle in the hand of owner, Thabib is catagoried into as Personal Corporation. Legal basis that regarding to this issue is Internal Minister Regulation No 36 of 2007 Act 4 (1) and (2) about the exception of Company License (SIUP) for some legal entity.

Thabib still may not become legal entity because there's no regulation that regulates particulary about traditional legal status. Therefore, the form of this corporation is still on Personal Corporation. Obviously, it because every risk and mistake are still handled by the owner, eventhough they join the association but the position of association is passive and



can not become a person incharge. It's because there is still no regulation about the association which may incharge on that.

## 2) Method and Facility

When it refers into the rules in other countries, there are two goods examples, the first example is Midle east countries. Most of the middle east countries that use the Koran and Hadith form the basis of state law or Second, China country which does possess skills in the field of health. In the Mid east countries, for example, there is hadith that the legal basis for "ALH-thabib" or physician. Alh-thabib in the country must be a man who uses the method in accordance with Islamic law, there is not all of the alternative clinics got testimony but only the use of the method in accordance with Islamic Shari'a.

Example:

Prophet sallallaahu 'alayhi wa Salam said:

"Healing is situated on three things: drinking honey, sharti knife and touch the fire cupping (kay). Indeed I forbid my ummah (Cure) with kay.

"(Bukhari) the Prophet sallallaahu 'alayhi wa Salam said:

Surely the most appropriate course of treatment for you is hijamah (bruise) and fashdu (venesection). "(Bukhari - Muslim)"<sup>49</sup>

The purpose of the hadith above is that the achievement of objectives in a certain way is not a true testament to the way that has been pursued. However, the truth is what is in accordance with the law, and apostasy is what Shari'a prohibit. So, it can be concluded that there are recognized alternative clinics which are in accordance with the legal basis but still limited to the use of Islamic law as a method of curing.

Physician Generally categorized into 4 types:

1. The medical and scientific Characteristically pure.
2. Form ruqyah syar'i.
3. The original occult.
4. Modifications

With so after categorized so then obviously it can be said that the Health Act No. 36 of 2009 and Act No. 71 of 2013 only would be no legal basis for category 1 and 2, For the treatment of a scientific nature clearly in accordance with the health sciences, it has been set in the enactment health Law No. 36 of

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<sup>49</sup> <http://herbadantumbuhan.blogspot.com/2011/06/terapi-al-hijamah-bekam-satu-sunat.html>  
accessed on April 29 at 10.32 pm

2009 Article 30-55 of the scientific standards of health facilities. number to 2 of ruqyah syar'i can be categorized in traditional medicine into article 59 of Law No. 36 of 2009. As follows:

Article 59

"(1) By way of treatment, health care traditionally divided into:

- a. traditional health care uses skills; and
- b. traditional health care use herb.

(2) traditional health services referred in paragraph (1) guided and supervised by the Government to can be accounted for benefits and safety and not contrary to the norm religion.

(3) Further provisions on procedures and types traditional health care as intended in paragraph (1) is regulated by the Government."

So when being seen in paragraph 2 on the benefits and safety, it physicians who use Islamic Shari'a compliant method are included in the Act.

As for number 3 and 4 somewhat unruly, because there is no rule for governing "physician" who is engaged in occult or modification. Thus it can be concluded that the "physician" can be a legitimate alternative clinic and there is a legal basis for it depending on the method and the facilities provided to the patient.

### 3) Customers Protection

Law no 36 of 2009 about health does not regulate in detail about the consumer protection there is no rule for institutions

that use different treatment which shall in health sciences or health skills. Either the act that can be applied in the relationship between patient and traditional healers.

In article 58 of the Health Act, mentioned,

"Everyone is entitled to claim damages against a person, health workers, and / or healthcare providers who incur losses as a result of errors or omissions in the health services received."

In other hand, because mostly thabib is only in the form of a personal corporation that the regulation about this issue is article 1365 civil code. It could be legal basis for them to protect themselves for the mistake of the therapist or the treatment that make loss for the patient. So, if the customers feel that the health services provided by traditional healers hurt them, they can file a claim for compensation to the court.<sup>50</sup>

#### **B. Establishment procedure of Alternative Medical Clinic**

Establishment of an alternative clinic in Indonesia itself can actually be said that it has been not set completely. This is because the shape of alternative clinic itself is rapidly expanding with new methods that are not regulated by law or regulation from health minister.

Alternative clinics usually stand with the basic legal and regulatory

<sup>50</sup><http://www.hukumonline.com/klinik/detail/cl1663/perlindungan-pasien-pada-praktek-pengobatan-tradisional> accessed on january,30 2015 at 07.20 pm

references from existing health minister although it is still lacking in accommodating the needs in monitoring and data collection of the alternative clinic.

Health Act No. 36 of 2009 verse 60 which describes the traditional treatment is not necessarily cover all alternatives clinical services. Traditional sense here is only interpreted as an attempt of non-medical health care with alternative means, the of media usually used are acupuncture, cupping, and the art of Chinese medicine are essentially different from medical treatment. However, what would be happen if the alternative treatment uses media that are unreasonable beyond reason or non-sense like supernatural, shaman, even prayer.

So with this empirical study, it is expected that this study can provide some pictures done by some alternative clinics in setting up a clinic. Here are the results of the study:

### **1. Alternative Clinic**

Licensing the establishment of an alternative clinic is different from hospitals and other institutions. Local regulation of Sleman No. 8 of 2008 is the regulation concerning Levy Health Care Facility Operating Licence and Certification of Health which deserves to be met by the institution before getting a status. Requirements are based on local regulation No. 8 of 2008:

1. Application letter signed on stamp Rp 6,000.

2. Copy of ID card valid undertaking.
3. Copy of Articles of Enterprises / Foundation.
4. Photocopy of TIN.
5. Copy of the IMB and HO.
6. Copy IPPT (if the land will have an impact on spatial planning).
7. Recommendations of working experience in the field of health by his superiors (if the applicant is an individual).
8. Picture situation / site plan.
9. Responsibility as a general practitioner which should be equipped with a photo copy of ID card, a copy of diploma, a copy of the Assignment, and a copy of Permit Practice.
10. Responsibility to get a license from the boss to work for civil servants and members of the TNI / police.

it can be said that if those requirements have been accomplished, the status of the establishment of an Alternative Clinic will be determined and set up.

Empirical research in observing the establishment of an alternative clinic was conducted in a clinic located in western ringroad road, Dongkelan, Bantul, Yogyakarta. That those need to be operated or under surgery such as appendicitis, prostate, tumor, cancer, and many more. This interview was conducted with the assistant of the

- a. Letter from the Association of Traditional Medicine Herb Indonesia (ASPETRI).
- b. Acupuncture Certificate.
- c. Certificate of Food and Drug Monitoring Agency (BPOM).

From the description above it can be said that the establishment of this clinic is different from the process of the establishment of procedures that it should be. Even his clinic does not appear to permit interference / HO. One of the requirements in the use of clinical status is the supervision of a physician or specialist, but in traditional medicine clinic, there is no such thing as described above. Then, workers are Labor which is taken from schools of acupuncture.

The following statement explains that the existing procedures in each region in the purpose of regulations provide prerequisite in establishing the clinic which is much different from the practice. Clinics with minimal supervision can be established, so consequently the protection of patients who use the services get minimal protection.

## **2. Clinic of healthness and Fitness Care (Aesthetic)**

The legal basis of own establishment is Ministry of Health Regulation No. 028 / Menkes / Per / I / 2011 on Clinical and District Regulation of each region. The establishment must obtain operating

permits and business place for the institutions established in accordance with the Health Act No. 36 of 2009.

#### Article 35

"(1) The local authorities can determine the number and type of health care facilities and licensing operating in their area. "

"(2) Determination of the number and types of health care facilities as referred to in paragraph 1 shall be conducted by the local government and consider:

- a. an area;
- b. health needs;
- c. the amount and distribution of the population;
- d. patterns of disease;
- e. utilization;
- f. social functions; and
- g. ability in using technology. "

*"(1) Pemerintah daerah dapat menentukan jumlah dan jenis fasilitas pelayanan kesehatan serta pemberian izin beroperasi di daerahnya."*

*"(2) Penentuan jumlah dan jenis fasilitas pelayanan kesehatan sebagaimana dimaksud pada ayat 1 dilakukan oleh pemerintah daerah dan mempertimbangkan:*

- a. luas wilayah;*
- b. kebutuhan kesehatan;*
- c. jumlah dan persebaran penduduk;*
- d. pola penyakit;*
- e. pemanfaatannya;*
- f. fungsi sosial; dan*
- g. kemampuan dalam memanfaatkan teknologi."*

There will not be many problems in the establishment and structure of health and wellness clinic because they fit and use medical methods.-The purpose of this establishment has been set up and in accordance with article 62 of Law 36 of



2009 on health promotion and disease prevention. So the establishment and structure of fitness and health clinics is still in line with the Act of health itself. As a prerequisite for establishing the clinic itself are:

1. Letter of application
2. Letter of recommendation from the Department of Health  
First
3. A statement of ability to comply with the rules and regulations applicable in the field of health
4. Fc. deed of notary
5. Fc. evidence of legal title to land / land certificate
6. Fc. disturbance permit (HO)
7. The structure of the organization
8. List of medical, paramedical and non-medical
9. paramedical data of personnel:
10. Original list of medical inventory, medical and non-medical support
11. UKL / UPL.

Prerequisites are in accordance with applicable government regulations in each county or area respectively. If there requirement

not met, then clearly the clinic can be called a legally flawed because it does not conform to the existing legal basis.<sup>51</sup>

Clinic examined in this category is Natasha skin care clinics, as an aesthetic clinic. The clinic is in line with existing requirements in *PERMENKES* No. 9 of 2014, According to Arif as legal companies, stated *"When referenced from PERMENKES No. 28 of 2011 is Her impression still looks gray because of aesthetic clinics still not clear his position, but with the latest PERMENKES No. 9 of 2014 it was more obvious aesthetic clinic status as mentioned in the PERMENKES"*. The process of establishment of alternative clinic together with the establishment of clinics in general, such as:

- a. Complete identity of the applicant;
- b. Copy / photocopy of incorporation or entity, except for individual ownership;
- c. copy / photocopy of a valid certificate of land, another proof of ownership certified by a notary, or evidence of a contract for a period of at least 5 (five) years;
- d. SPPL documents for outpatient clinic, or UKL-UPL for inpatient clinic in accordance with laws and regulations; and
- e. Clinical profile to be established covering the organization, location, building, infrastructure, energy, equipment, pharmacy, laboratory, as well as the services provided;

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<sup>51</sup>Article 62 health law no 36 of 2009

f. Other requirements in accordance with local regulations. The above process is a basic process that needs to be done by the founder of the clinic or clinic aesthetic beauty and fitness.

for own license is such permission HO, SPPL, letter from the local Health Department. Nevertheless, in his own establishment is PERMENKES still dealing with the Mayor to Jogja Regulation and legislation in each region, so that the process of each clinic is in each different area.

The Regulation above is the procedure to establish the clinic in Yogyakarta. Basically, aesthetic clinic is a clinic that has a legal basis so the establishment itself is not too problematic because it has a definite process.

### 3. Tabib

Still the same as the requirements for establishing another alternative treatment centers "physician" would typically use status as an alternative clinic to get a legal status that is stronger than the name of "physician". Establishment and the actual structure is described in more detail in the local area of regulations in the area so if the establishment at Sleman then as follows:

Requirements based on local regulation No. 8 of 2008:

1. Application letter signed on stamp Rp 6,000.
2. Copy of ID card valid undertaking.

3. Copy of Articles of Enterprises / Foundation.
4. Photocopy of TIN.
5. Copy of the IMB and HO.
6. Copy IPPT (if the land will have an impact on spatial planning)
7. Recommendations of working experience in the field of health by his superiors (if the applicant is an individual).
8. Picture situation / plan.
9. Responsibility is a general practitioner should be equipped with a photo copy of ID card, a copy of diploma, a copy of the Assignment, and a copy of Permit Practice.
10. Responsible must have a license from the boss to work for civil servants and members of the TNI / police.

The structure of "physician" is not clearly defined. If it is considered as an alternative clinic at least it is supervised by a physician or health care professional as a form of supervision and guidance. In another way, the supervision of the government, therefore Indonesia's health ministry has acknowledged fact not to permit the operation but status recognition is given to the data collection for institutions like "thabib" which is not clear or not even exist.

The physician or "Tabib" or alternative healing media, is different from alternative clinics and fitness and health clinics. Based

on the research conducted in one of the physicians in the area jl. Bantul-Jogja, named Tabib Saifullah is one of the physicians who treat all kinds of diseases. The methods used in the treatment in this saifullah physician is metaphysical and supernatural.

Workers and assistances are those have hired used is the one who has a lineage that has advantages because of the method used is metaphysics. The process of establishment Saifullah physician treatment is as follows:

- a. Make Application
- b. Permit the establishment of the country to the Prosecutor's Office
- c. Permit the establishment of the High Prosecutor's Office
- d. Letter of Recommendation from the Local Health Center
- e. ASPETRI
- f. Stewardship Disturbance Permit / HO

The procedure above is a process that is performed by a physician establishment Saifullah in the establishment of the corporation. Register and letters owned by the hall is fairly complete treatment can be shown, following the letter held:

- a. Letter of Recommendation local health center
- b. Agency for Food and Drug Administration
- c. Deed of establishment of the Notary and Attorney
- d. Letter of Recommendation ASPETRI

## e. Disturbance Permit / HO

Documents and several papers on the basis of the establishment of clinics should be prepared. Even, fixed alternative medicine as a physician is not directly observed and accepted. There is no permission directly from the Department of Health. Additionally, and there is no supervision from a doctor or a specialist for the procedures in handling the patients.

To make the differences and status of those institutions clear, the writer will provide a table to explain the contain of discussion chapter.

Table 1.1  
Differences of Legal Status

| No | Description          | Alternative Medical Clinic   | Clinic Fitness and Healthy  | Thabib   |
|----|----------------------|--|---|--|
| 1  | Legal Corporate Form | If this corporate refer to The health ministry no 28 of 2011 the requirement of clinic is not fulfill because there's no supervise by doctor, but if this refer to law of Health no 36 of 2009 it may register on health department as traditional clinic. Corporate form personal company. (Adem Panas dan Batara Clinic) | On the health Ministry no 28 of 2011 actually the position of clinic aesthetic is still blind or unclear because in this regulation only regulate two kind of clinic namely: "pratama and utama" but right now it already regulate on Health Ministry no 9 of 2014 about aesthetic clinic Corporate form of aesthetic clinic could be personal company or Limited | The character of thabib actually close with alternative medical clinic, it has same way with aternative medical clinic for getting the legal corporate form for getting recognition of regional government and health department. Corporate form is Personal Corporation/Company.. |

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|   |                      |  | Trade Company but on this issues (Natasha) is Limited Trading Company   |   |
| 2 | Facility and Methode | <p>Facility of all clinic has to be proper with what the regulation said (The health ministry 28 of 2011, 71 of 2013 and law of health no 36 of 2009) in short, facility and methode has to be fulfill some principle such as safety, comfort, and hygiene. But in fact alternative medical clinic may not meet the requirement such as site plan mostly they dont have it and moreover the tool and methode not register and recognize yet.</p> | <p>Facility and methode of clinic fitness and healthy actually not has seroius problem, in clinic aesthetic lie this the supervisor mostly are doctor and also the owner, so the facility of course inline with what medical treatment need, such as the room, tool, and the worker. The methode usually use medical treatment means that clinic aesthetic met the requirement and doesn't have serious problem in their corporate especially on facility and methode</p> | <p>Facility and Methode in treatment place as like as thabib is minimum, which means that because mostly thabib only use their own home for practice so they dont have any facility that require by health department and rules. The methode of thabib also various and out from medical treatment therefore the regulation that exist now still could not accomodate what they need.</p> |
| 3 | Licensing and Permit | <p>Licensing and Permit of alternative medical clinic are supposed to be based on Health Law no 36 of 2009, Eventhough until now there is no specific regulation regulate about alternative medical clinic, but in regulation no 36 of 2009 it regulate about traditional clinic and so far the regulation that close</p>  | <p>Aesthetic Clinic or fitness and healthy clinic already has the legal basis for get the license and permit. The clinic like aesthetic clinic in the past still confusing because the establishment and license refer to the health ministry no 28 of 2011 it doesn't regulate yet about this kind of clinic, but nowday the legal basis of</p>  | <p>Most of thabib in Indonesia they don't have license and permit and this is made a new problem in the field of health, the problem is not only on the owner of clinic but also the regulation that not provide well for regulate the clinic as like as thabib. Most of them is satisfied only join ASPETRI (<i>"Association Pengobatan Tradisional Ramuan</i></p>                       |

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|   |                     | with alternative medical clinic is only that regulation.  | clinic change into the new one the health ministry no 9 of 2014. Because It clearly explain the position of clinic and how to get license and permit.   | <i>Indonesia</i> ”).   |
| 4 | Consumer Protection | In the Alternative Medical Clinic ,Consumer protection are still weak. because there is no regulation that talk about the protection of costumer regarding on alternative medical service. This become the problem if the patient get loss because of that activity, unless if the customer want to ask the protection the regulation that may overlap is Act No. 8 of 1999 on Consumer Protection. But it rarely happen. The legal basis that could be use 1365 Civil Code | In aesthetic clinic the consumer protection already regulate on health law no 36 of 2009. There is no serious problem on this cases because all protection already put it on that regulation. Because the form of this institution is Limited Trading Company (LTD/PT) so the customer may ask the protection refer to the regulation that may overlap is Act No. 8 of 1999 on Consumer Protection. | Thabib is less of cunsomer protection the cause is almost similar with alternative medical clinic. The regulation that regulate about consumer protection of thabib is nothing, that's why the patient that come to the thabib they already prepare for all risk, because the basis is based on moral value. The legal basis that could be use 1365 Civil Code |