

# The Development of Health Tourism Industries in Malaysia

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## Abstract

Health tourism industry in Malaysia was introduced in 1998. The industry is growing rapidly so it has generated a profit of RM730 million in 2014 and the number of tourists as many as 790,000 people. Currently, Malaysia has become one of the best countries in the Asia Pacific region in the health tourism industry so it can compete with developed countries such as US, UK, Costa Rica, Japan, Brazil and Singapore. There are several factors that affect the progress of health tourism industries in Malaysia for examples, all doctors including health professionals have competent international level, high-tech medical equipment, medical costs are very affordable, all health workers in Malaysia can communicate in English effectively and hospitals in Malaysia has achieved the best quality of the MS ISO 9002, Malaysian Society for Quality of Health (MSQH) and the Joint Commission International (JCI). However, the progress of the health tourism industry in Malaysia is not only caused by the availability of hospital facilities, advanced health technologies and expertise of the doctor. Other aspects also have an important role, although not directly related to health care, for example, the role of the health law to establish standards of quality health services so that doctors can work professionally, carefully, cautiously and not negligent in performing his duties. Malaysia's one of the countries where the number of medical negligence slightly compared with other countries such as UK and US. This could increase the confident of international patients who will be treated to various hospitals in Malaysia and automatically Malaysia's reputation in the health tourism industries will getting better. When a case of medical negligence in Malaysia cannot be controlled, then this condition will damage the country's reputation, doctors, hospitals and will affect the confidence of foreign tourists who will perform the treatment in Malaysia.

*Keywords:* Health Law, Health tourism industry, Malaysia

Received: 16 April 2017; Accepted: 15 August 2017

## 1. Introduction

The tourism industry in Malaysia has grown rapidly and has become a source of foreign exchange earnings. The tourism industry in Malaysia has good potential given Malaysia has a lot of potential natural beauty, unique history and cultural diversity. In the process, tourists visit each year continues to increase. For example, in 2006 the number of tourists as 17:55 million visitors and in 2007, the number of foreign tourists to Malaysia increased to 20.97 million people [1]. Later, in 2011-2012, the number of foreign tourists to Malaysia continued to increase to 50 million people and increase state revenues amounting to RM100 million [2]. In 2015, Malaysia registered 25.7 million tourist arrivals and RM69.1 billion in receipts [3].

The role of the tourism industry is very important to improve the national economy that the Malaysian government is looking for more featured tourism potential and become an attraction for foreign tourists to visit

Malaysia, such as health tourism sector. Globally, in the past, patients from developing countries went to developed countries, but now it has changed where patients from developed countries seeking methods of treatment in developing countries such as India, Brazil, Thailand and Malaysia [4]. This change will positively impact the health tourism industry in Malaysia and helped develop supporting industries such as hospitality, transportation, culinary and others [5].

Health tourism concept was first introduced in Malaysia in 1998 [6]. To develop this industry, the government established the National Committee for the Promotion of Health Tourism in Malaysia which served to introduce the advantages of health facilities and infrastructures of hospitals in Malaysia [7]. In addition, the government will also help promote the industry abroad via a three ministries, namely the Ministry of Health, Ministry of Culture, Arts and Tourism, and the Ministry of Trade Between Nations and Industry (MITI) [8].

Since its introduction in 1998, the health tourism industry (medical tourism) continues to grow with a rate of

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DOI: 10.27512/sjppi-ukm/ses/a18082017

10 percent per year [9]. In 2014, the Malaysian tourism industry has generated a profit of RM730 million with the number of tourists visit as many as 790,000 people [10] and in 2015 this number continues to increase to RM900 [11] and The nation's 2020 medical tourism target is to hit RM 9.6 billion (approximately USD 3.2 billion) in revenue from 1.9 million foreign patients [12]. There are several factors that affect so many foreign tourists went to Malaysia. These factors are very long queues treatment in his home country, the cost of treatment is affordable, reliable competence of physicians, the modernization of hospitals and certain diseases that are not covered by health insurance financing in their home country [13]. In addition, the progress of the health tourism industry in Malaysia was also influenced by internal factors, namely the number of specialist doctors and other health personnel increased, modern infrastructure, improved service quality, lower health care costs, the promotion of good and high safety standards [14].

However, not only the above-mentioned indicators which can only affect the progress of the health tourism industry in Malaysia. However, there are other aspects that also have an important role to develop the health tourism industry in Malaysia, for example, the role of the health law in the supervision of a doctor [15]. Although the legal position of health are not directly related to health care, but health laws can be the basis to establish standards of quality health services so that doctors can work professionally with high safety standards in conducting medical care to patients. Safety standards in health care is very important, because the success or failure of doctors in carrying out medical action will impact the reputation of doctors, hospitals and countries as well.

Each patient will undergo treatment at the hospital will seek information regarding the facilities and infrastructure of the hospital, the competence of doctors and nurses, medical expenses and the success rate in performing a variety of medical action of the hospital. If only, a lot of evidence of failure to perform medical action or there are many cases of medical negligence in the hospital, the patient may not be willing to go to the hospital. Globally, almost all countries both developed and developing countries have occurred cases of medical negligence, such as Japan [16], Canada [17], Indonesia [18] and Singapore [19], even in the 1970s and 1980s the United States and the United Kingdom have experienced medical malpractice crisis [20]. Likewise in Malaysia, cases of medical negligence had occurred, but fewer than the above countries. According Puteri Nemie, medical negligence cases also occurred in Malaysia but not as much as other countries. Although the number of medical negligence cases is increasing every year, but the numbers are not significant and can be resolved through the courts [22].

Legislation should contribute to oversee the medical profession in order to work professionally, carefully, cautiously and not negligent in performing their duties. When a case of medical negligence in Malaysia can not be controlled or crisis medical negligence occurs as in the United States in the 1970s, then this condition will damage

the country's reputation, doctors, hospitals and will affect the confidence of foreign tourists who will perform the treatment in Malaysia. However, the question is whether there is a direct implication of the effectiveness of law enforcement of health on the development of health tourism industry in Malaysia? This article will discuss the role of health legislation in enhancing the development of health tourism industry in Malaysia.

## 2. Research Methodology

This study is qualitative. Maanen said, qualitative research approaches as array of techniques which gives interpretation through decode, describe, translate, and give the meaning that is naturally occurring and not the frequency phenomena [23]. Data collection through qualitative approaches establishes rapport between the interviewee and interviewer. Pointed out that the author of qualitative research must identify and construct the context in which the behaviour takes place and must see that behaviour from the position of the originator before the author can interpret what a given piece of observed behaviour means. This intimate knowledge by the author of the context is critical to the analysis that follows.

This type of research is also known as pure theoretical research and all material in where all material derives from library, archive, and other database. Data processing techniques used in this research is the analysis of the substance (content analysis) of the statute relating to the status of a doctor as an expert witness in a medical malpractice case in Indonesia.

This study is qualitative in nature, using normative juridical approach. Parise said, doctrinal research is research which provides a systematic exposition of the rules governing a particular legal category, analyses the relationship between rules, explains areas of difficulty and, perhaps, predicts future developments [24]. According to McCrudden, doctrinal research involves analysis of case law, arranging, ordering and systematizing legal propositions and study of legal institutions through legal reasoning or rational deduction. This type of research is also known as pure theoretical research [25]. It mainly focuses on the nature of law and legal authority; the theories behind particular substantive areas of law, such as torts or contracts; and the nature of rights, justice and political authority. Thus, it involves: (a) Systematic analysis of statutory provisions and of legal principles involves there in, or derived there from, and (b) Logical and rational ordering of the legal propositions and principles.

## 3. Health Tourism Industry Concepts

Health tourism industry has been known since the 17th century and started in developed countries such as Britain, France and the United States of America. The development of this industry very rapidly because health has become a

staple for everyone, both physically and mentally. Historical overview indicates that many people are ill due to climate change, so they used to visit many places that provide health services (health centers) for treatment, rest or just check their health (medical check-up).

Moreover, at that time, many communities to travel by sea which takes a very long time and thus require a healthy physical stamina. In each of the areas visited, then they will seek treatment or check their health [26]. Hall believes that health tourism is 'The provision of health facilities utilizing the natural resources of the country, in particular mineral water and climate'. Hall said, medical tourism is staying away from home, health [as the] most important motive, and done in a leisure setting.

Medical tourism is the practice of travelling to another country with the purpose of obtaining health care, including elective surgery, dental treatment, reproductive treatment, organ transplant and medical check-ups. It is not the same as "wellness tourism", which involves visiting spas and undertaking homeopathic treatment and traditional therapies [27]. Carrera and Bridges said health tourism as the organized travel outside one's local environment for the maintenance, enhancement or restoration of an individual's well-being in mind and body [28].

The reasons for medical tourism include: lack of availability of a particular facility in the home country; health care in the home country too expensive, health need or procedure not covered by health insurance in the home country, desire to avoid long waiting lists controlled by the government, privacy and confidentiality in a faroff setting (for e.g. plastic or cosmetic surgery, fertility treatment, gender assignment procedures and drug rehabilitation), lack of availability of a specific diagnostic, annual or routine medical check-up for healthy people<sup>13</sup> and screening for specific diseases [29].

Health tourism marketing segment can be categorized into five, include [30]:

- a. Entertainment activities under the light of the sun.
- b. Activity involving health but it is not the main purpose of the trip (adventuring tourism, sports tourism, cycling, hiking and playing golf).
- c. Health motivated by boarding a cruise to different climatic regions.
- d. A trip to the sauna, massage and other health activities (spa resort).
- e. Treatment.

According to Pollock, there are two types of care offered in the tourism industry is curative treatment and promotional products by the health tourism industry [31]. Murray argued that the concept of health tourism include tourism medical tourism, curative tourism and wellness tourism. In addition, the concept of health tourism also includes traditional health care methods and modern health care [32].

In practice, health tourism industry in Malaysia is developed in two concepts, namely health care in a modern

involving hospitals and doctors, and sophisticated and integrated healthcare technology using the approach of the latest state-of-the-art technology such as MRI, Computer Tomography, Technology Lizarov and etc. Another concept of health tourism industry is the concept of health care that emphasizes on the type of alternative care such as spa treatments and other traditional industries [33]. In Malaysia, there are some hospitals that attract many foreign tourists as a hospital in Kuala Lumpur, Melaka, Penang and Johor. In addition, tourists also seek traditional health services such as spas, health farm, health center, anti-stress clinic, underwater medicine center and a wellness center. Malaysia is fast becoming a strong competitor in the global health and medical tourism sector. Given the potential of health tourism as a foreign exchange earner, the government has taken a series of proactive measures to enhance Malaysia as a preferred health tourism destination.

#### 4. Advantages of Health Tourism Industry in Malaysia

##### 4.1 The price of health services more competitive

There is a reverse phenomenon in which patients seek treatment from developed countries to developing countries like India, Brazil, Thailand and Malaysia [34]. They seek health care and treatment regimens, both traditional and modern medicine quality but at an affordable price. This phenomenon is an opportunity for developing countries to organize and fix all the infrastructure related to health care. Almost all countries began to build, particularly the countries in Southeast Asia such as Indonesia, Thailand, Singapore to develop and promote the health tourism industry to various countries.

Asian countries like Malaysia, Singapore and Thailand are the dominant players, and have sought to enter the market as an economic development strategy, not only due to high-tech medical expertise and attractiveness of these countries, but mainly because of the low cost, no waiting period and international accreditation [35]. The hospital in Malaysia are providing first world quality, internationally accredited healthcare facilities and medical professionals through the Joint Commission International (JCI), at third world prices [36].

In comparison, the cost of health care in Malaysia is much cheaper compared to other countries. For example a normal cardiac bypass surgery (CABG) in Malaysia for up to RM21000 and RM18000. Meanwhile, the cost of heart surgery in the United States is much more expensive amounting to RM60,000 and a heart transplant in America can go up to more than RM400,000 while a similar procedure in Malaysia may cost less than RM30,000 [37]. Table 1 lists the cost comparison of health care in Malaysia with other countries [38].

Table 1: Cost Comparison of Health Care in Malaysia with Other Countries [39]

Medical Procedure	Malaysia	USA	Costa Rica	India	South Korea	Thailand	Singapore
Heart Bypass	12,100	123,000	27,000	7,900	26,000	15,000	17,200
Angioplasty	8,000	28,200	13,800	5,700	17,700	4,200	13,400
Heart Valve Replacement	13,500	170,000	30,000	9,500	39,900	17,200	16,900
Hip Replacement	8,000	40,364	13,600	7,200	21,000	17,000	13,900
Hip Resurfacing	12,500	28,000	13,200	9,700	19,500	13,500	16,350
Knee Replacement	7,700	35,000	12,500	6,600	17,500	14,000	16,000
Spinal Fusion	6,000	110,000	15,700	10,300	16,900	9,500	12,800
Dental Implant	1,500	2,500	\$800	900	1,350	1,720	2,700
Lap Band	8,150	14,000	9,450	7,300	10,200	11,500	9,200
Gastric Sleeve	8,400	16,500	11,500	6,000	9,950	9,900	11,500
Gastric Bypass	9,900	25,000	12,900	7,000	10,900	16,800	13,700
Hysterectomy	4,200	15,400	6,900	3,200	10,400	3,650	10,400
Breast Implants	3,800	6,400	3,500	3,000	3,800	3,500	8,400
Rhinoplasty	2,200	6,500	3,800	2,400	3,980	3,300	2,200
Face Lift	3,550	11,000	4,500	3,500	6,000	3,950	440
Liposuction	2,500	5,500	2,800	2,800	2,900	2,500	2,900
Tummy Tuck	3,900	8,000	5,000	3,500	5,000	5,300	4,650
Lasik (both eyes)	3,450	4,000	2,400	1,000	1,700	2,310	3,800
IVF Treatment	6,900	12,400	N/A	2,500	7,900	4,100	14,900

Note: Prices are approximate and not actual prices and do not include airfare travel or lodging costs for patient and companion. Prices will vary based upon many factors including hospital, doctor's experience, accreditation, currency exchange rates and more.

#### 4.2 Quality health services

In this rapidly growing consumer oriented health industry, quality has become the integral part. Without providing quality services, no business can survive. Bookman and Bookman stated that people from rich countries are traveling to less developed countries because of less expensive but high quality medical care [40]. In the majority of management fields, service assessment and acquisition of customer satisfaction are the most important reasons leading to success of company. Different terms such as "excellent" and/or "average" are used to refer to service quality [41].

There are a variety of views on its meaning and some debate as to whether quality has to be measurable. Quality is a very important concern for patients while planning to get treatment. According to Johnson, rather than selecting hospital based on price, patients should select it basing on quality and services [42]. However, hospital's overall reputation, and available facilities should be taken into consideration. Taylor further suggests that a good hospital should have adequate certified and qualified physicians and friendly staffs who are competent in providing nearly all superior treatments offered these days [43].

The World Health Organisation (WHO) suggests that quality is a process of meeting the needs and expectations of patients and health service Staff [44]. The American Medical Association said, quality is the degree to which care services influence the probability of optimal patient outcome [45]. Gronroos identified two major components of the service quality in the healthcare sector: one is

technical or mechanical quality, and the other is serviceable or functional quality. In the healthcare industry, technical equipment and other related medical diagnoses systems is core for the patients' check-up and treatment, and functional quality is measured by the services offered by the healthcare centres, such as services of staffs, nurses, administrations, and most importantly the doctors towards the patients and their assistants [46].

Generally, hospital service quality perception is based on patient judgment of the services provided by the hospital, for example, the relationship between the patients and nurse, doctor and staff [47]. Chahal and Kumari suggest that patients base their perception of health care service quality on three dimensions: physical environment (comprising ambient condition, social factor and tangibles), interaction quality (comprising attitude and behaviour, expertise and process quality), and outcome quality (comprising waiting time, patient satisfaction and loyalty) [48]. According to Arasli, any six service quality dimensions in public and private hospitals: empathy; giving priority to the inpatient needs; relationship between staff and patients; professionalism; food and the physical environment [49]. Additionally, Brady and Cronin defined interaction quality, physical environment quality, and outcome quality as dimensions to measure service quality in the health care sector [50]. Furthermore, Brady and Cronin explained that those three dimensions lead to service quality perceptions.

Although patient perception of the service quality level significantly influences the choice of hospital, it is not easy for a patient to understand the level of service quality provided due to a hospital being a complex area that is unique in all its characteristics and which involves many

dimensions to evaluate service quality [51]. For example, Eleuch highlighted that patients lack the knowledge and skill to properly judge medical service quality for the technical aspects of services, such as surgeon's skills or practitioner's diagnostics. Patients are more adequately qualified to measure functional quality dimensions, such as lab cleanliness, than technical quality aspects [52]. In this sense, patients' evaluation of the quality of hospital services refers to the interaction between patients and doctors, and this interaction will develop the confidence of the patients in the quality of the medical services provided by a hospital [53].

To enhance the quality and patient safety, some hospitals have multiple international accreditations in order to attract people from many regions. Many countries are applying for international accreditations in order to boost their medical tourism industry. For example, in 2007, at least 15 hospitals in India and 5 in Thailand had Joint Commission International accreditation, whereas there are now 20 hospitals in India and 18 in Thailand, to meet the growing demand [54].

In addition, hospitals in Malaysia have gained the quality certificate of health and best of MS ISO9002, Malaysian Society for Quality in Health (MSQH) and

several hospitals in Malaysia have been using international quality standards such as Joint Commission International based in the USA, QHA Trent Accreditation in the United Kingdom, the Australian Council for Healthcare Standards and the Society for International Healthcare Accreditation [55]. According to the World Health Organisation (WHO), Malaysia has the best health care systems in the countries of ASEAN (Association of South East Asian Nations) [56], so that by 2015, Malaysia's medical tourism industry gets Medical Travel Awards as Medical Travel Destination Year at the Royal Garden Hotel, London [57].

Several hospitals in Malaysia such as the International Specialist Eye Centre, Penang Adventist Hospital, and Prince Court Medical Centre has been accredited by the Joint Commission International (JCI) of the United States [58]. Besides, Association of Private Hospitals of Malaysia and the Malaysian Medical Association, was recently awarded international accreditation by the International Society for Quality in Health on part with JCI. Table 2 lists the Countries and numbers of hospitals with Joint Commission International accreditation in August 2013 [59].

Table 2: Countries and numbers of hospitals with Joint Commission International accreditation in August 2013

Country	Number of accredited Hospitals
Bahrain	1
Bangladesh	1
China	16
Egypt	3
Germany	3
Indonesia	5
Israel	7
Jordan	9
Kuwait	2
Lebanon	2
Malaysia	6
Qatar	5
Pakistan	1
Republic of Korea	13
Kingdom of Saudi Arabia	42
Singapore	14
Taiwan	12
Thailand	18
Turkey	39
United Arab Emirates	39

As another example, hospitals that have been accredited are KPJ Seremban Specialist Hospital. This hospital is a private hospital in Malaysia belong to KPJ Healthcare Berhad, the biggest private healthcare providers in Malaysia. In year 2006, it has been certified with ISO 9001:2000 certification and recertified during the transition audit of ISO 9001:2008 in year 2009 by Moody International. To further enhance the quality and patient

safety, in July 2009, it has been awarded with 3 years Hospital Accreditation by Malaysian Society for Quality in Health (MSQH), a certification body for hospital accreditation in Malaysia [60].

The service quality in healthcare industry is a vital part for attracting customer. Therefore, healthcare policy must be regularly redesigned to fulfil the customers' needs in order to maintain their overall satisfaction. However, the

hospital has gained accreditation from leading institutions such as Joint Commission International (JCI) and Malaysian Society for Quality in Health (MSQH) and International Society for Quality in Health (ISQUA) then it can increase the trust of hospitals in Malaysia and important signal to attract medical tourists to Malaysia.

#### 4.3 Other supporting factors

There are several factors that are not directly related to the case of health but it is affecting the development of health tourism industries in country. For examples processing of visa, promotions and marketing tactics, political stability and national security, interpreters, recreational activities, hotel and accommodation services.

To facilitate all international patients treatment to Malaysia, the Malaysian government provides flexible ease of entry for foreign patients entering Malaysia for treatment where visa for medical tourists are extended if needed, from 30 days to 90 days [60]. The facility also allows four accompanying persons to travel with the patient under the same visa conditions. Permits issued by the Commercial Vehicle Licensing Board allow the ministry recognised hospitals to ferry patients to and from the airport and hospital or hotel, further enhancing the logistics experience of the medical tourists in Malaysia [61]. Among the popular advanced treatments offered in Malaysia for foreign patients are cardiac procedures, orthopaedic, cancer treatment, fertility treatment, cosmetic surgery and general health screenings. In addition, Malaysia also offers traditional and complementary medicine (TCM) as alternative medical treatments [62].

Besides that, the effective promotion of medical tourism is one of the factors that lead to the growth of practising medical tourism. According to the Malaysian Tourism and Culture Ministry Malaysia and Ministry of Health, the promotions of medical tourism that has been conducted and implemented by them has attracted 770,000 and 790,000 medical tourists to choose Malaysia as destination country for having services and treatments in 2013 and 2014, respectively which in turn bring profit for about 191.80 million US dollar to the country. The growth rate of income in the medical tourism industry had exceeded the Malaysian national plan (2010-2015) target by 10% every year, and for the Malaysian national plan period (2016-2020), the income was expected to grow by 15% annually, generating revenue of about RM2 billions by 2020 [63].

Medical tourism facilitators or agents that are responsible in disseminating information about medical tourism to prospective patients, advertising its availability and overseeing follow-up care has contributed to the promotion of medical tourism by using the internet and popular social media to advertise possible and promising medical procedures and destinations [64]. For example, private hospitals in Malaysia engage foreign agents in several key markets overseas who help patients selecting Malaysia as destination of medical tourism. These agents then work closely with the health tourism team of the

hospital to arrange every aspect of our foreign visitors stay at treatment in the hospital. Meanwhile, a study about promoting medical tourism in India found that the hospitals, clinics and medical service centers in India play a big role in attracting international patient for medical tourism in India through advertisement with a variety of messages and images that promoting a broad range of specialized medical services offered to international patients, which emphasize on best quality, advanced technology of medical equipment and facilities, competent and professional healthcare providers and best quality of medical care. Nevertheless, overall cost of this practice is rarely mentioned in those advertisements as they are often carried out by tour operators or agents [65].

A country or hospital will receive more clients; this also depends on tourism authorities, who use their own tactics to attract patients. To expedite medical tourism development, the Malaysia Healthcare Travel Council (MHTC) was officially launched on 21 December 2009 with the purpose of re-structuring the healthcare sector to attract more foreign patients. In addition, various promotional activities were held in different countries to boost the country image for Malaysia by various authorities (e.g. Ministry of Health, Ministry of Tourism, Association of Private Hospitals of Malaysia, Malaysian Association of Tours and Travel Agencies, Malaysia Airlines, and Malaysian External Trade Development Corporation). Good cooperation between the Malaysian governments together with other private organizations have also influenced a number of medical tourists to visit Malaysia.

According to a study made by the Firm Industry Frost & Sullivan in the International Medical Travel Journal, medical travellers must consider three things before making the health tourism, namely doctors and nurses in a hospital must have a certificate of accreditation, easy access to hospitals and their lodging facilities that are affordable and comfortable. Malaysia has the advantage against all three of these factors. In addition, the benefits of health tourism, doctors, health personnel and parties related to health care can speak English as a language of instruction for international patients. Besides that, Malaysia is political stability and national security, making it easy for international patients to visit and without fear of security problems that could threaten the safety of visitors [66].

Sometimes, the popularity of a region may influence the selection of destination. For example, although China has few accredited hospitals, it attracts many patients from neighbouring countries such as Pakistan and Viet Nam, where people consider that China is more advanced than their own country. Regional or global impact is important and can sometimes surpass accreditation. For example, Germany has few accredited hospitals but attracts many Gulf nationals to its health centres and specialist hospitals [67]. Onwards, many patients from Indonesia assumed that hospitals in Malaysia have high reputation in Southeast Asia, so that whilst currently attracting the highest number of foreign patients from Indonesia [68]. The main reason is that it has an established reputation for high standards of care and advanced medical treatment.

All the advantages mentioned above will provide a memorable experience for every international patients seeking treatment in Malaysia. This will have a positive impact for international patients and would definitely return trips to hospitals in Malaysia, although just a medical check-up. According to Baker, the good and memorable experiences will affect tourists to make repeat visits [69].

Petrick said that to draw back tourists who've travelled to the country can be measured from the level of tourist satisfaction and positive experiences acquired, thus stimulating returned to travel to that country [70]. According to Crompton, factors other than perceptions and experiences of travellers, nature and background factors also affects revisits to specific sites [71]. For example, in 2010, there were about 60 percent of the 280,000 patients from Indonesia seek treatment at several hospitals in Malacca. This suggests that the similarity of cultural background, language and taste of the food will affect the number of tourists who take medication to Malaysia [72].

### **5. Constraints and Challenges in Health Tourism Industry in Malaysia**

Nowadays, science and health technologies is growing rapidly, even this development goes beyond human rationality. For example, the first to get your baby or offspring should be through sexual intercourse between a husband and wife in a marriage bond. In the development of science and medical technology today can use technology of In-Vitro Fertilisation (IVF) and Pre-implantation Genetic Diagnosis (PGD). In fact, through this technology, parents can "reserve" offspring in accordance with their wishes and if the child is disabled, then the parents can terminate her pregnancy. Although IVF and PGD technology has a high economic value in health tourism industry, but the medical technology considered contrary to the values of culture, ethics and religion.

In 2004, a hospital in Damansara has successfully given birth to the tube for the first time. Dr Natasha Nor, of KL Fertility Centre in Damansara, says that there have been requests for the PGD procedure from her patients, ranging from as young as 23 to as old as 47 [73]. The majority are for sex selection for non-medical basis. Currently our clinic does not offer the procedure as the main demand in this country is for sex selection for social reasons and this is against the MMC guidelines and given rise to legal and ethical concerns. His issue is being debated in the legislation because the technology is considered contrary to Islamic culture and law that upholds the institution of marriage. Malaysian Medical Council (MMC) guidelines released in 2006 specifically prohibit PGD "to create 'designer babies'. Those with specific physical, social or specific gender characteristics and not for the reason of avoiding serious medical illnesses [74].

The Medical Act (1971), The Human Tissues Act (1974) and the Private Healthcare Facilities & Services Act (2006), do not specifically address the potential misuse of PGD. Dr Natasha believes that the possible evolution of

PGD may make it necessary for more defined rules regarding such issues. With the advancement in technology, PGD may actually be a routine part of IVF treatment in the future. However, there are important and potentially technical, ethical and medico-legal issues with serious implications that need to be addressed prior to implementing PGD in Malaysia.

According Anisah, the government should make a clear rule that every development of science and health technologies can be accepted and implemented in Malaysia, but the technology must be adapted to the culture and should not be contrary to the laws of Islam as a religion of the greatest number of adherents in Malaysia. Developments in science and medical technology very rapidly and these developments are always associated with the customs, culture and religion of the country [75].

By expertise, doctors and hospitals in Malaysia are ready to carry out IVF technology even there have been several health centers and public hospitals offer a variety of services with regard to the use of IVF technology. However, to run this technology there is no direct legislation that oversees the activities of doctors and hospitals that provide such technology. In the health tourism industry, IVF and PGD technology has a very high economic value. According to a Reuters report, Hundreds of women from mainland China, Hong Kong and Australia flock to Bangkok, Thailand, each year for IVF with the option of choosing the child's gender by discarding fertilized eggs, or embryos, of the unwanted sex [76].

If Malaysia can perform IVF technology, the doctors and hospitals in Malaysia will gain a huge advantage. In Malaysia, the cost for an IVF at a private hospital or clinic range from RM10,000 to RM18,000 and the cost for an PGD range RM30,000, Depending on the type of procedure undertaken and Also the amount and type of medication [77]. However, in order to avoid misinterpretation, there must be a clear legal basis for supervising physician in performing IVF and PGD so that this technology can be used by the people of Malaysia and also can be one of the products in Malaysia's medical tourism industry.

### **6. Role of Health Law in Development of Medical Tourism Industry in Malaysia**

Legislation needs to play an active role in science and medical technology is increasingly growing in the world of medicine. All the instruments law as a tool to oversee the medical profession so that in their profession, doctors must work with the highest quality standards to ensure the safety of patients.

Healthcare professionals have been regulated since before the country's independence. The earliest of the healthcare professions acts was the Nurses Act 1950 (Act 14) which was amended in 1985. The Registration of Pharmacists Act 1951 (Act 371) was the next to be enacted to be followed by the rest as shown in Table 3. There are other healthcare professionals who are not yet subjective to occupational licensing.

These are the Allied Health Professionals (AHP). The Ministry of Health have identified 23 types of AHP and are working on the regulations to regulate them.

With occupational licensing of the healthcare professionals, the regulators assume the role of principal who ensures that the safety and rights of the patient are protected. The requirements ensure that only competent

professionals with adequate and recognized qualifications get into the system. The regulatory control legitimizes the professionals by ensuring that incompetent, unqualified and fraudulent individuals do not get into the system. In a sense this provides these licensed professionals exclusive rights to practice.

Table 3: Act & Regulations in Malaysia

No	Professions	Act & Regulations	Regulators	Licensing
1	Medical Practitioner (Doctors) & Specialists	Medical Act 1971	Malaysian Medical Council	Registration & Annual Practicing Certificate
2	Dentists	Dental Act 1971	Malaysian Dental Council	Registration & Annual Practicing Certificate
3	Nurses	Nurses Act 1950 & Nurses Registration Regulations 1985	Malaysia Nursing Board	Registration & Annual Practicing Certificate
4	Midwives	Midwifery Act 1966	Malaysia Midwife Board	Registration & Annual Practicing Certificate
5	Pharmacists	Registration of Pharmacists Act 1951 & Registration of Pharmacists Regulations 2004	Malaysia Pharmacy Board	Certification of Registration & Annual Retention of Registration
6	Medical Assistants	Medical Assistants (Registration) Act 1977	Medical Assistants (Registration) Board	Annual Certificate of Registration
7	Opticians & Optometrists	Optical Act 1991	Malaysian Optical Council	Registration and Annual Practicing Certificate
8	Allied Health Professionals	Bill has been drafted		Registration Required by 2011

All of the laws mentioned above are the function of regulating and supervising doctors of their profession in order to work professionally based of standards profession medical and code of ethics that exist in medical environment. If the quality of the law and law enforcement can function, as it should, it can reduce the number of carelessness cases every year in Malaysia, so it will be a positive impact on the confidence of the international patients who will be treated to various hospitals in Malaysia. Law enforcement against the negligence of doctors in their profession has existed since 1967. The first case of medical negligence occurred is the case *Keow Chin v. royal Malaysian* [78] and after that, a lot of medical negligence cases involving public doctoral, specialist doctors and nurses found. According to statistics from the Ministry of Health of Malaysia states that in 1986-1990, the number of medical negligence cases are a total of 61 cases and in 1991-1992 as many as 20 cases. Later in the year 1995-1999 there were 117 reported cases of medical negligence and only 13 cases are cancelled as well as 95 cases have been resolved [79].

Anissah noted that to date, the number of medical malpractice cases in Malaysia amounted to only 50 cases involving general practitioners, specialist doctors and nurses [80]. Although medical negligence cases have

occurred in Malaysia, but the amount is not much if compared with other countries such as England and the United States where once there was a crisis of medical negligence cases in the 1970s [81]. In the case of *Tan Ah Kow v. The Government of Malaysia*, Judge Low Hop Bing states that "...civil litigation founded upon medical negligence are few and apart in Malaysia..." [82].

The low number of medical carelessness cases in Malaysia caused dispute resolution mechanism used not only through the courts, but medical carelessness cases can be resolved through mediation mechanism. In the year of 2010, Malaysia has set up Mediation Centre according Practice Direction No. 5 of 2010 (Practice Direction on Mediation). Based on this designation, the judge has the power to give direction so that the parties can resolve their cases through mediation method. Mediation is used as an alternative to the process of settlement of litigation because mediation is considered delinquent cases may resolve the issue in court. [83]. As formulated by Phillips J., Chief Justice of the Supreme Court of Victoria at that time, "delays in the Supreme Court could only be resolved by a massive and mighty effort using mediation as a vehicle for getting cases resolved" [84].

Many articles mention that patients who went to Malaysia due consideration the expertise of doctors,



modern hospitals, health facilities and high-tech health infrastructure. However, according to the authors, health law and medical ethics codes also have an important role so that the standard of quality health care can be realized. All the legal instruments relating to health will be the cornerstone to watch every performance of doctors and hospitals in carrying out its functions. According Anisah, the role of legislation is very important to supervise all the actions of doctors and doctors in their profession because of all the actions of doctors involving humans [85].

The substance of the laws of good health must be accompanied by effective enforcement of health laws. The court should play a major role for action against the doctors who make mistakes so as to provide a deterrent effect to other doctors to be more careful and cautious in performing a medical procedure to the patient. If only, the doctor of negligence in performing medical acts, the judge gave the punishment to physicians who perform medical errors such as paying compensation to the patient or patient's family.

There is a causal relationship cannot be separated between the development of health legislation and health tourism industry in Malaysia. For example, advanced health technologies will provide precise accuracy of the diagnosis to the patient and physician can avoid making mistakes or omissions in establishing the diagnosis. However, it should be understood that the expert doctors who work in a modern hospital with facilities and sophisticated health infrastructure cannot guarantee that doctors work professionally only by awareness of the doctor. Doctors as a professional group can also make a mistake or negligent. Therefore, the necessary legislation to make medical service standards and operational standards of medical accordance with the development of medical science. If there are no standards, then there is no definitive measure and any doctor will run the medical profession with different standards.

Good standard of medical service will provide assurance of safety to patients and will provide comfort for the patient to carry medical action. Malaysia is one country that has a good standard of health care and is scalable with the least number of medical negligence cases that occurred in Malaysia. If medical negligence cases occur in Malaysia, Malaysia's reputation in the health tourism industry will be damaged and unable to compete with neighbouring countries such as Thailand and Singapore have made the health tourism industry as one of the leading industries in the country.

## 7. Conclusion

Health tourism industry in Malaysia is growing rapidly. There are several advantages contained in Malaysia's medical tourism industry such as the competence of doctors have international standard, high-tech medical equipment, maintenance costs are very affordable, and all health professionals can communicate effectively in English. Standard quality hospitals in Malaysia have gained the quality certificate of health and best of MS ISO9002,

Malaysian Society for Quality in Health (MSQH) and several hospitals in Malaysia such as the International Specialist Eye Centre, Penang Adventist Hospital, and Prince Court Medical Centre has been accredited by the Joint Commission International (JCI) of the United States. According to the World Health Organisation (WHO), Malaysia is one of the countries that have the best health care system in the ASEAN countries (Association of South East Asian Nations), so that with these advantages, in 2015, Malaysia's medical tourism industry get Medical Travel Awards as Medical Travel Destination Year at Hotel Royal Garden, London.

However, it should be understood that the expert doctors who work in a modern hospital with facilities and sophisticated health infrastructure does not guarantee a doctor working in a professional manner based solely on physician awareness course. Doctors as a professional group can also make a mistake or negligent in their duties. Therefore, the necessary legislation to make medical service standards and operational standards of medical accordance with the development of medical science. If none of this standard, there is no definitive measure to assess the actions of doctors and every doctor will do a medical action with different standards.

Legislation has a role to oversee the medical profession in order to work professionally, carefully, cautiously and not negligent in performing their duties. The substance of the laws of good health must be accompanied by law enforcement more effective health. The court must also play a major role for action against the doctors who make mistakes so as to provide a deterrent effect to other doctors to be more careful and cautious in performing a medical procedure to the patient. If only, the doctor of negligence in performing medical acts, the judge must impose penalties against doctors such as paying compensation to the patient or the patient's family.

Medical negligence cases also occurred in Malaysia, but not as much as other countries. Although the number of medical negligence cases show an increase every year, but the numbers are not significant and can be resolved through the courts. In the case of Tan Ah Kow v. The Government of Malaysia, Justice Low Hop Bing mentioned that "... civil litigation founded upon medical Negligence are few and apart in Malaysia ..." Success physicians in their duty will be very important because the success of a doctor perform surgery or other medical action will affect confidence and improve the reputation of the doctor or the hospital concerned. Likewise, if the doctor is always fail in their duties or derive it will damage the reputation of the doctor and the hospital.

Malaysia is one country that has a good standard of health care and is scalable with the least number of cases of medical negligence what happened in Malaysia. If only the number of cases of negligence of medical cannot be controlled or a crisis occurs negligence cases medical as in the United States in the 1970s, it will damage the reputation of Malaysia in the health tourism industry and will be unable to compete with neighbouring countries such as

Thailand and Singapore have made industry health tourism as one of the leading industries in the country.

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