



**CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA**

**SUMMARY OF DECISION  
FOR CASE NUMBER 49/PUU-XXII/2024**

**Concerning**

**Constitutionality of Professional Education for Health Workers**

- Petitioners** : **Shafa Syahrani, et al.**
- Type of Case** : Judicial review of Law Number 17 of 2023 concerning Health (Law 17/2023) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution)
- Subject Matter** : Judicial review of the constitutionality of Article 212 paragraph (2) of Law 17/2023 against the 1945 Constitution
- Verdict** : 1. To grant the Petitioners' petition in part
2. To declare that Article 212 paragraph (2) of Law Number 17 of 2023 concerning Health (State Gazette of the Republic of Indonesia of 2023 Number 105, Supplement to the State Gazette of the Republic of Indonesia Number 6887) is contrary to the 1945 Constitution of the Republic of Indonesia and conditionally has no binding legal force to the extent that it is not interpreted as "applies only to undergraduate health-program students who commence their studies after the enactment of Law 17/2023, whereas students who were enrolled while Law 36/2014 was still in effect, upon their graduation and possession of a competency certificate as well as having obtained an STR and SIP, are required to undertake professional education whose materials and curriculum are specially designed with a shorter duration before the extension of the SIP is carried out"
3. To order the publication of this decision in the State Gazette of the Republic of Indonesia
4. To dismiss the remaining petition of the Petitioners
- Date of Decision** : Friday, January 3, 2025
- Overview of Decision** :

Whereas the Petitioners are individual Indonesian citizens who are graduates holding a bachelor's degree in nutrition study program, and students of the Faculty of Sports and Health Sciences, Nutrition Study Program, who consider themselves prejudiced by the enactment of the norm of a *quo* article, namely Article 212 paragraph (2) of Law 17/2023 which states, **“Students who have completed undergraduate education for Health Personnel as referred to in paragraph (1) may only engage in professional practice after completing professional education and being granted a professional certificate.”**

Regarding the Court's authority, because the Petitioners' petition is a review of Law 17/2023 against the 1945 Constitution, the Court has the authority to hear the petition *a quo*.

Regarding the Petitioners' legal standing, the Petitioners are Indonesian citizens who consider that their constitutional rights have been violated due to the enactment of Article 212 paragraph (2) of Law 17/2023, particularly in respect of the Petitioners' desire to immediately practice their profession as health workers without having first to continue their professional education. In the Petitioners' opinion, the norm of the article *a quo* has violated or has the potential to violate their constitutional rights to work and practice as health workers immediately.

Furthermore, regarding the Petitioners' legal standing, the Court, in its consideration, states as follows:

Whereas the Petitioners have explained their constitutional rights deemed to have been violated, namely the right to receive recognition, assurance, protection, and fair legal certainty, as well as equal treatment before the law, the right to obtain decent employment and living, to benefit from science and technology for the improvement of one's quality of life and for the welfare of humankind. The Petitioners experience the alleged constitutional loss due to the enactment of Article 212 paragraph (2) of Law 17/2023, which is being petitioned for review. In addition, the alleged constitutional loss outlined by the Petitioners is specific and actual, or at least potential, and has a causal relationship (*causal verband*) with the enactment of the norm or the law being petitioned for review. Therefore, if the petition *a quo* is granted, the alleged constitutional loss will not or will no longer occur. Thus, regardless of whether the Petitioners' arguments regarding the unconstitutionality of the norm of Article 212 paragraph (2) of Law 17/2023 against the 1945 Constitution are proven or not, the Court is of the opinion that the Petitioners have the legal standing to act as Petitioners in the petition *a quo*.

Meanwhile, regarding the subject matter of the Petitioners' petition, the Court, in its legal consideration, states as follows:

Whereas the different regulations regarding student qualifications, competency tests, competency certificates, and professional certificates for students who have chosen health program qualifications to become health workers in terms of the procurement of health workers, specifically between Law 17/2023 and Law 36/2014, in the Court's opinion, have in fact created a problem due to Law 36/2014 being amended to Law 17/2023. However, apart from these matters, the Petitioners challenge the addition of a professional education requirement for undergraduate health-program students, to be implemented immediately without transitional provisions to bridge the gap for parties affected by the enactment of Law 17/2023. Therefore, to limit the Court's examination in considering the Petitioners' *a quo* petition, the Court will focus on examining whether the norm of Article 212 paragraph (2) of Law 17/2023 contains constitutional issues due to, in the Petitioners' opinion, it being implemented immediately and applied also to final year undergraduate health-program students and those who have graduated and will undergo a competency test to obtain an STR (medical registration certificate). In the Petitioners' opinion, this provision has prejudiced other students, *in casu* undergraduate health-program students who, since the beginning, have an assumption that, after graduating from the

undergraduate health program, they will be able to immediately practice because, at the final level of their education, they would automatically be included to participate in a competency test and would receive a competency certificate. However, it turns out that this hope is hindered by the enactment of the norm of Article 212 paragraph (2) of Law 17/2023, which requires additional professional education first.

Whereas regarding the different treatments to health worker graduates in terms of the requirement for obtaining an STR as described above, the fundamental issue that the Court must further examine is whether, due to the enactment of Law 17/2023, the change in the provision requiring an additional professional education program for health worker graduates to obtain an STR applies to all health worker graduates who have completed their undergraduate studies but have not yet taken the competency tests, or whether it also applies to all students, upon their future graduation, who are still pursuing a health worker graduate program while Law 36/2014 was still in effect.

In this regard, the Court considers that competency tests and professional tests are indeed necessary as a person's proof of recognition and authority for a job dependent on knowledge, skills, and attitudes in accordance with established work standards. Therefore, undergraduate health worker students who have completed their undergraduate studies are required to take competency and professional tests before practicing or obtaining an STR. The provisions of the norm of Article 21 of Law 36/2014 stipulate that, to obtain an STR, one must first take competency and professional tests, without an additional period of special professional education. Meanwhile, under the norm of Article 212 paragraph (2) of Law 17/2023, undergraduate health-program students are required to take professional education before obtaining an STR. Thus, there are problems experienced by undergraduate health-program students who became students under Law 36/2014, and also by students who have completed their undergraduate studies and will afterwards take a competency test to process STR, because they were initially not required to take professional education, which became a new requirement in the middle of their study period. Regarding these legal facts, the Court holds that the implementation of new provisions must not prejudice the affected parties. This means that the parties affected by an amendment to the law have their rights to receive legal protection and certainty violated. In the context *a quo*, undergraduate health-program students who, when entering college, have considered the costs and study period without an additional education in the form of professional education and can immediately take a competency test to get an STR and practice, are certainly prejudiced by the enactment of the new provision under the norm of Article 212 paragraph (2) of Law 17/2023. Because the additional professional education not only extends the study period and increases the financial burden borne by the affected undergraduate health-program students, but also delays their entry into the workforce as professionals in their field.

Furthermore, regarding the benefits of the competency test, which also includes professional test material, the Court can understand the importance of conducting the test. However, under the provisions of the norm of Article 21 of Law 36/2014, the implementation of competency tests for undergraduate health-program students who have completed their undergraduate studies and will obtain an STR may be carried out by universities together with professional institutions to issue competency and professional certificates. Therefore, to balance the changes in the requirement as stipulated in the norm of Article 212 paragraph (2) of Law 17/2023, on the one hand, competency and professional tests are essential and necessary to guarantee the health workers' competency, but on the other hand, changes in provisions regarding the professional education requirement must not prejudice the affected parties and result in violation of citizens' rights, *in casu* undergraduate health-program students, to legal protection and certainty [*vide* Appendix II point 127 to Law Number 12 of 2011 concerning the Formation of Laws and Regulations (Law 12/2011)]. Therefore, to provide protection and legal

certainty regarding this matter, the Court is of the opinion that the provisions of the norm of Article 212 paragraph (2) of Law 17/2023 must be applied to undergraduate health-program students who commence their studies after the enactment of Law 17/2023. However, students who were enrolled while Law 36/2014 was still in effect, upon their graduation and possession of a competency certificate through a competency test as well as having obtained an STR and Practice License (SIP), are still required to undertake professional education whose materials and curriculum are specially designed with a shorter duration before the extension of SIP is carried out, the technical implementation of which is left to the government.

In addition to the legal considerations mentioned above, the Court also carefully examines Chapter XX Closing Provisions in Article 453 of Law 17/2023 which states that, when Law 17/2023 comes into force, all laws and regulations which constitute implementing regulations of various laws which have been declared invalid after the enactment of Law 17/2023, one of which is Law 36/2014, are declared to remain valid to the extent that they do not conflict with the provisions of this Law. Without the Court intending to examine the legality of the implementing regulations of the law in question, in the Court's opinion, if it is true that there are still implementing regulations related to Law 36/2014, then these must also be interpreted in accordance with the Court's position in the decision *a quo* as a basis for adjusting implementing provisions. Likewise, in the light of the Court's *a quo* position, the validity of other provisions of the norms of Law 17/2023 regulating competency tests for undergraduate health-program students should be in line with the decision *a quo*. Moreover, after the Court examines the norm of Article 212 paragraph (2) of Law 17/2023, it does not regulate any time limit within which undergraduate health-program students may continue to practice based solely on competency test qualifications, as evidenced by a competency certificate, without first being required to complete a professional education and obtain a professional certificate, as regulated in Law 17/2023. In the Court's opinion, the absence of regulations regarding the time limit for students who can still take the competency test without first completing a professional education, to carry out professional practice, particularly with respect to undergraduate health-program students, as regulated in Article 212 paragraph (2) of Law 17/2023, not only has ultimately created a legal vacuum but also created legal uncertainty and does not provide legal protection for students who have chosen an undergraduate health-program who, since the beginning when registering as students, have an assumption that they will be able to practice as health workers immediately. In addition, in the Court's opinion, the absence of transitional provisions on this matter [*vide* Appendix II point 127 to Law 12/2011], which, if formulated, could actually prevent the Petitioners' constitutional loss due to the enactment of the article *a quo*, has further convinced the Court that the Petitioners' constitutional loss is real. Therefore, to provide protection and legal certainty regarding this matter, the Court is of the opinion that the provision of Article 212 paragraph (2) of Law 17/2023 is contrary to the 1945 Constitution and conditionally has no binding legal force to the extent that it is not interpreted as "applies only to undergraduate health-program students who commence their studies after the enactment of Law 17/2023, whereas students who were enrolled while Law 36/2014 was still in effect, upon their graduation and possession of a competency certificate as well as having obtained an STR and SIP, are required to undertake professional education whose materials and curriculum are specially designed with a shorter duration before the extension of the SIP is carried out", as fully stated in the verdicts of the *a quo* Decision. However, due to the Petitioners' petition that the norm of Article 212 paragraph (2) of Law 17/2023 be declared conditionally unconstitutional as interpreted by the Court, the Petitioners' petition is legally justifiable in part.

Pursuant to the entirety of the foregoing legal considerations, the Court is of the opinion that the norm of Article 212 paragraph (2) of Law 17/2023 has been proven to fail to guarantee the right to recognition, assurance, protection, and fair legal certainty, the right to obtain decent employment, as well as the right to benefit from science and technology for the improvement of

one's quality of life and for the welfare of humankind, as regulated in Article 28D paragraph (1), Article 27 paragraph (2), and Article 28C paragraph (1) of the 1945 Constitution as argued by the Petitioners. However, because the Court's interpretation differs from the petition's *petitums*, the Petitioners' arguments are legally justifiable in part.

Accordingly, the Court subsequently passes down a decision in which the verdicts were as follows:

1. To grant the Petitioners' petition in part.
2. To declare that Article 212 paragraph (2) of Law Number 17 of 2023 concerning Health (State Gazette of the Republic of Indonesia of 2023 Number 105, Supplement to the State Gazette of the Republic of Indonesia Number 6887) is contrary to the 1945 Constitution of the Republic of Indonesia and conditionally has no binding legal force to the extent that it is not interpreted as "applies only to undergraduate health-program students who commence their studies after the enactment of Law 17/2023, whereas students who were enrolled while Law 36/2014 was still in effect, upon their graduation and possession of a competency certificate as well as having obtained an STR and SIP, are required to undertake professional education whose materials and curriculum are specially designed with a shorter duration before the extension of the SIP is carried out."
3. To order the publication of this decision in the State Gazette of the Republic of Indonesia.
4. To dismiss the remaining petition of the Petitioners.