

**THE DEVELOPMENT OF SHARI'AH COMPLIANT  
HOSPITAL BASED ON THE PRINCIPLES OF *MAQASID*  
*AL-SHARI'AH***

**BY**

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## ABSTRACT

The Shari'ah Compliant Hospital (SCH) or a Muslim Friendly Hospital is one of the examples of a new concept in the healthcare segment derived from the application of Shari'ah's principle into the administration and the delivery services in the hospital. Since the concept is newly introduced, it requires holistic and continuous researches so that it can be improved. The inadequacy of studies regarding the fundamental requirement in establishing SCH especially in its organizational structure. Besides, there is a misunderstanding among people toward the precedence of elements in *Maqasid al-Shari'ah* especially, in a healthcare operation. Moreover, the Muslims' consumption of medicines and treatment in the hospital require standard guidelines to implement the treatment according to the level of *Maṣlahah*. Therefore, this research attempts to focus on the fundamental requirement in the establishment of a Shari'ah Compliant Hospital. Besides, the implementation of *Maqasid al-Shari'ah* and *Maṣlahah* in the administration and treatment is being discussed in this research. Hence, the misunderstanding among the community due to the hospital's treatment can be clarified by identifying the methodology in the treatment's status according to the level of a *Maṣlahah*. This qualitative research methodology implements a library study and interviews with the experts to collect the data. The information gained is analyzed using the content analysis, focusing on inductive and deductive approaches. The study discovers that the essential requirement for a Shari'ah Compliant Hospital consists of the Shari'ah Advisory Council, Shari'ah Compliant Officer and Shari'ah Critical Point. Besides, the study also reveals the priority of *Hifz al-Nafs* in the healthcare spectrum among other elements in *Maqasid al-Shari'ah*. As a conclusion, this study contributes to the development of methodology in identifying the level of *Maṣlahah* in the treatment within the hospital by describing the reasons ('*Illah*) of each case.

## ملخص البحث

المستشفى المتوافق مع الشريعة أي المستشفى المراعي لحاجات المسلمين هو نموذج لفكرة جديدة في الرعاية الصحية وهذه الفكرة أُسْتُخْرِجَتْ من تطبيق الضوابط الشرعية في الإدارة والخدمات في المستشفى. ولحداثة الفكرة فإنها تحتاج إلى الدراسات المستمرة والشاملة لكي تتطور وتتقدّم. قصور الدراسات المتعلقة بالشرط الأساسي في إنشاء المستشفى المتوافق مع الشريعة خاصة في هيكله التنظيمي. إلى جانب ذلك، هناك ارتباك وسوء فهم بين الناس نحو الأولوية للعناصر في مقاصد الشريعة وخاصة في عملية الرعاية الصحية. زيادةً على ذلك، فإن استهلاك المسلمين للأدوية والعلاج في المستشفى يتطلب منهجية الرتبة في وضع العلاج وفقاً لمصلحة الإنسان. لذلك، يحاول هذا البحث التركيز على المتطلبات الأساسية في إنشاء المستشفى المتوافق مع الشريعة. وبجانب ذلك، فإن المبادئ الإسلامية كمقاصد الشريعة والمصلحة والتطبيق في الإدارة والمعالجة والمداواة قد نُوقِشَتْ في هذا البحث. وفي نفس الوقت، يمكن تصحيح مفاهيم الناس الخاطئة وتفهمهم في شأن التداوي والعلاج في المستشفى وذلك بوجود المنهج المُنسَقِّ في توصيف العلاج المناسب بناءً على مراتب المصالح. من أجل الوصول إلى هذا الغرض، فقد أُجْرِيتِ الدراسات المكتبية والمقابلات مع المتخصصين، وحُلِّلَتِ البيانات المكتسبة بأدوات التحليل وكذلك بالطريقة الاستقرائية والاستنتاجية. وأكْتُشِفَ من خلال البحث أن من الأفكار الأساسية في بناء المستشفى المتوافق مع الشريعة هي تأسيس مجلس استشاري شرعي، والذي من مهامه التدقيق في المنتجات المتوافقة مع الشريعة، والنقطة الشرحية الشرعية. وإضافة إلى ذلك، كشفت الدراسة عن أهمية حفظ النفس في طيف الرعاية الصحية كعنصر من العناصر الأخرى في مقاصد الشريعة. وأخيراً يساهم هذا البحث في منح تعيين مراتب المصالح في العلاج والتداوي في المستشفى، وذلك بذكر العلة لكل قضية ومسألة.

## APPROVAL PAGE

I certify that I have supervised and read this study and that in my opinion, it conforms to acceptable standards of scholarly presentation and is fully adequate, in scope and quality, as a thesis for the degree of Master of Halal Industry Management

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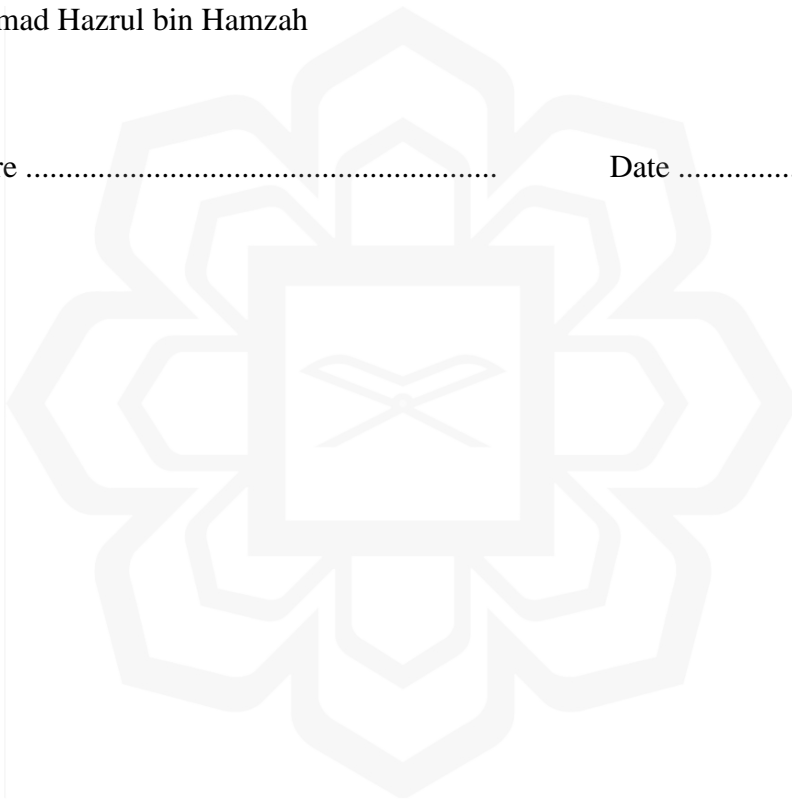
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## DECLARATION

I hereby declare that this dissertation is the result of my own investigations, except where otherwise stated. I also declare that it has not been previously or concurrently submitted as a whole for any other degrees at IIUM or other institutions.

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## LIST OF ABBREVIATIONS

A.S.	<i>'Alaihi al-Salam</i>
BOD	Board of Director
DHA	<i>Docosahexaenoic Acid</i>
DSM	Department of Standard Malaysia
<i>et al.</i>	(et alia): and others
etc.	Et cetera (and other similar things)
GLC	Government Linked Corporation
IMT	Islamic Medical Tourism
JAKIM	<i>Jabatan Kemajuan Islam Malaysia</i>
KPJ	<i>Kumpulan Perubatan Johor</i>
MFT	Muslim Friendly Tourism
MOH	Ministry of Health
MOSTI	Ministry of Science, Technology and Innovation
MS	Malaysian Standard
R.A.	<i>Radiya Allahu 'anhu</i> (Allah Bless Him)
S.A.W.	<i>Shallallahu 'Alaihi wa Sallam</i> (Peace be Upon Him)
S.W.T.	<i>Subhānahu wa Ta'ālā</i> (Praise be to Allah and the Most High)
SAC	Shari'ah Advisory Council
SCH	Shari'ah Compliant Hospital
SCP	Shari'ah Critical Points
SIRIM	Standard and Industrial Research Institute of Malaysia
SOP	Standard Operating Procedure
SSC	Shari'ah Supervisory Council
WHO	World Health Organization

## THE TRANSLITERATION OF ARABIC TERMS

The transliteration and spelling of the Arabic script for Arabic terms used in the thesis are summarized below.

Table A  
Transliteration of Arabic Terms

Terms	Transliteration	Arabic Words	Meaning
<i>al-Aql</i>	<i>al-‘Aql</i>	العقل	Intellect
<i>al-Din</i>	<i>ad-Dīn</i>	الدِّين	Religion
<i>al-Irdi</i>	<i>al-‘Irdi</i>	العرض	Honor
<i>Allah</i>	<i>Allah</i>	الله	God
<i>al-Mal</i>	<i>al-Māl</i>	المال	Property
<i>al-Nafs</i>	<i>al-Nafs</i>	النفس	Body
<i>al-Nasb</i>	<i>al-Nasb</i>	النسب	Progeny
<i>al-Shariah</i>	<i>al-Sharī‘ah</i>	الشريعة	Islamic Law
<i>Awrat</i>	<i>‘Awrah</i>	عوره	Intimate parts in Islam
<i>Daruriyyat</i>	<i>Ḍarūriyyāt</i>	ضروريات	Necessities
<i>Gharar</i>	<i>Gharār</i>	غرار	Uncertainty
<i>Hadas</i>	<i>Ḥadath</i>	حدث	Impurity
<i>Hajiyyat</i>	<i>Hājiyyāt</i>	حاجيات	Needs
<i>Halal</i>	<i>Ḥalāl</i>	حلال	Permissible
<i>Haram</i>	<i>Ḥarām</i>	حرام	Forbidden
<i>Hifz</i>	<i>Ḥifẓ</i>	حفظ	Preservation
<i>Ibadah</i>	<i>‘Ibādah</i>	عباده	Worship
<i>Ijma</i>	<i>Ijma’</i>	إجماع	Consensus
<i>Ikhtilat</i>	<i>Ikhtilāṭ</i>	اختلاط	Intermingling of sexes

<i>Illah</i>	<i>'Illah</i>	علّه	Reason
<i>Istihsan</i>	<i>Istiḥsān</i>	استحسان	Equity In Islamic Law
<i>Istishab</i>	<i>Istiṣḥāb</i>	استصحاب	Presumption of Continuity
<i>Maliyyah</i>	<i>Māliyyah</i>	مالية	Property
<i>Maqasid</i>	<i>Maqāṣid</i>	مقاصد	Objective
<i>Marid</i>	<i>Marīḍ</i>	مريض	Unhealthy
<i>Masalih Mursalah</i>	<i>Maṣāliḥ Mursalah</i>	مصالح مرسله	Public Interest
<i>Maslahah</i>	<i>Maṣlaḥah</i>	مصلحه	Public Interest
<i>Muamalat</i>	<i>Mu'āmalat</i>	معامله	Transaction
<i>Mubah</i>	<i>Mubāh</i>	مباح	Allowance
<i>Najs</i>	<i>Najs</i>	نجس	Ritually Unclean
<i>Nawazil al-Fiqhi</i>	<i>Nawāzil al-Fiqhi</i>	نوازل الفقهي	Newly Emerging Issues
<i>Qawaid Fiqhiyyah</i>	<i>Qawā'id Fiqhiyyah</i>	قواعد فقهيه	Islamic Legal Maxim
<i>Qiyas</i>	<i>Qiyās</i>	قياس	Analogy
<i>Rukhsah</i>	<i>Rukḥṣah</i>	رخصه	Concession
<i>Sad al-Dharai</i>	<i>Sad al-Dharā'i'</i>	سد الذرائع	Block the Mean
<i>Sahih</i>	<i>Ṣaḥīḥ</i>	صحيح	Authentic
<i>Shubhah</i>	<i>Shubḥah</i>	شبهه	Doubtful
<i>Tahsiniyyat</i>	<i>Taḥsiniyyāt</i>	تحسينات	Embellishment
<i>Takyif Fiqhi</i>	<i>Takyīf Fiqhī</i>	تكيف فقهي	Full Comprehension
<i>Uruf</i>	<i>'Uruf</i>	عرف	Custom
<i>Wudu</i>	<i>Wuḍū'</i>	وضوء	Ablution

**Table B**  
Transliteration of Arabic terms according to the spelling

ء	‘	خ	kh	ش	sh	غ	gh	ن	n
ب	b	د	d	ص	ṣ	ف	f	و	w
ت	t	ذ	dh	ض	ḍ	ق	q	ه	h
ث	th	ر	r	ط	ṭ	ك	k	ي	y
ج	j	ز	z	ظ	ẓ	ل	l		
ح	ḥ	س	s	ع	‘a	م	m		

**Table C**  
Use of vowel spelling in Arabic

Short vowel		Extended vowel	
اَ	a	ا + اَ	ā
اِ	i	اِ + اِ	ī
اُ	u	اُ + اُ	ū

# CHAPTER ONE

## INTRODUCTION

### 1.1 BACKGROUND OF THE STUDY

Health is a fundamental need and is an important gift in human life (Couto & Eken, 2002). Health has a significant positive impact on sustainable social development and economic growth (Ahmed *et al.*, 2015). The disruption of health will result in human lives suffering and collapsing. Moreover, it causes daily activities to be disrupted.

A statistic established by the World Health Organization (WHO) demonstrated that there were 56,874 deaths recorded as a result of health disruption in 2016 (WHO, 2018). Among the diseases that cause human health to be disrupted are heart disease, hypertension, stroke, cancer, chronic respiratory diseases, diabetes, arthritis and asthma (Reynold *et al.*, 2018). Various factors contribute to the occurrence of diseases. Among the tangible factors that cause these diseases are unhealthy diet and excessive energy intake, physical inactivity as well as tobacco use (WHO, 2018).

Humans need specialized treatments to maintain their health. A hospital is the place where people diagnose, monitor and treat diseases (Murtola *et al.*, 2013). The hospital provides specialist doctors, diagnostic equipment and medicines to treat patients (Ball *et al.*, 2015). The diseases will be cured if the patients refer their health problems to the hospital earlier. The efficiency and quality of the management in the hospital depend on the individuals administering the organization (Husain & Husain, 2012).

In Malaysia, there are 148 government hospitals and 290 private hospitals nationwide (Arumugam, 2016). Patients tend to seek treatment at hospitals that are dependent on several factors. A recent study conducted by Mohsen (2018) revealed that the factors influencing the choice of patients in a hospital are the administration management such as the appointment system, administration procedure, visiting hour, quality of services, doctor harassment and healthy environment. It indicates that the administration and delivering services to the patients are important in providing healthcare services.

Since Malaysia aims to become a top global player for the halal sector, many efforts have been made to achieve that goal. The word 'halal' is commonly utilized in various fields (Ali *et al.*, 2016). It illustrates the expansion of halal segments into various sectors such as tourism, logistics, food and beverages, banking and finance, cosmetics, pharmaceutical, hospitality, airlines and even sports. In the field of health, the introduction of the Muslim-Friendly Hospital concept, the Shari'ah compliant hospital and the Islamic Hospital is an impact on the halal industry's domination in this country (Khadijah *et al.*, 2018). The efforts to integrate the halal practices and services into the medical treatment and medicine encourage the demand from patients (Ali *et al.*, 2016). Although it is a new idea, it could have the potential to be developed in Malaysia (M. K. Rahman & Zailani, 2016).

A Shari'ah compliant hospital is where the healthcare services rendered in the hospital are in accordance with the Shari'ah principles or Islamic teaching (Shariff & Rahman, 2016). The main idea of the Shari'ah compliant hospital is to give high-quality medical treatment, halal food, religious and spiritual practices, ethics and cultural aspects of medication. This concept has the potential to be developed as it receives a high demand among Muslim communities as well as non-Muslims

(Rahman & Zailani, 2017). It is capable of being one of the superlative ways to create a good understanding of Islam amongst human beings (Rahman & Zailani, 2016).

The effort needs to be put more into studying the comprehensive guidelines for the establishment of a Shari'ah compliant hospital. The *maqasid al-Shari'ah* principle is an essential element required to be adopted in hospital activities (Ahmed *et al.*, 2015). Besides, the methodology utilized in delivering treatments to the patients must be according to the *maqasid al-Shari'ah* (Kasule, 2016a). This methodology will provide a better service for Muslims while they are receiving the treatments.

The balance and integration between Islamic and medical approaches are seen as an important element in the establishment of Shari'ah compliant hospitals (Shariff & Rahman, 2016). The integration of ideas between these two principles will remove the inverse ideologies such as secularism and communism in Muslim thinking (Abd Rahim *et al.*, 2011). Since the idea is applied in hospital practices, it could encourage the development of medical tourism as well as the halal industry in Malaysia. Furthermore, it could attract people from outside to get medical treatment and services in Malaysia (COMCEC, 2016).

## **1.2 STATEMENT OF THE PROBLEM**

There are several problems that require identifying in this study. First is, the deficiency of research in discussing the fundamental requirement in establishing Shari'ah compliant hospitals in Malaysia. Besides, the lack of explanation about the precedence of the elements in *maqasid al-Shari'ah* in the medical field is an issue that requires scrutinizing. Lastly, is the absence of a comprehensive methodology in discussing the issues pertaining to the level of *maşlahah* in the treatment at hospitals.

There are several pieces of research conducted explaining the features and characteristics of Shari'ah compliant hospitals or Muslim friendly hospitals (Kamaruzzaman, 2013; Zulkifly, 2014; Samsudin, 2015; Mohezar, 2015; Shariff & Rahman, 2016). They include having good facilities for *'ibādah*, halal medicines, good equipment and financial management that comply with Shari'ah. Moreover, the hospital needs to follow certain standard operating procedure (SOP) by SIRIM to ensure their hospital obtains the certification (Zulkifly, 2014). The SOP developed by the government agency bodies help the organization to drive good management. MS 1900: 2004 - Shari'ah Based Quality Management and MS 2300: 2009 - Value Based Management System - Requirement from the Islamic perspective are purposely to give the proper guideline and safety to the users in managing and organizing the company (MS1900, 2014). It is necessary for MS 1900 to pass through the gap analysis process with the existing management system before embarking on implementing it (Ali *et al.*, 2016). The healthcare providers are required to modify all existing work activities and construct them parallel to MS 1900. It must be modified according to the situation and nature of the organization. To meet these entire requirements, the key condition or key factor in making the hospital pass the Shari'ah compliant conditions should be ascertained.

Besides, the Shari'ah compliant hospital is managed and organized with the integration of the medical approach and *maqasid al-Shari'ah* principle (Shariff & Rahman, 2016). The applications of the *maqasid al-Shari'ah* principle must be seen in the nature of the environment. The elements in the *maqasid al-Shari'ah* require a clear definition and explanation in the nature of the hospital which provides the healthcare assessment. The doubt in understanding the precedence of elements in *maqasid al-*

*Shari'ah* causes misunderstanding and confusion among the employees and staff in the hospital.

The development of science and technology today has widely affected the field of medicine and healthcare services. Islam as a comprehensive religion must draw closer to the situation and developments in terms of discussing the related rules (*hukm*) and fatwa (Rahman *et al.*, 2018). It leads to Muslims doubting the practice of certain treatments and services due to their status according to Islamic law. The emerging issues known as *nawāzil al-fiqhiyyāh* (نَوَازِلُ الْفِقْهِيَّةِ) in the medical area require being resolved with proper *taqyīf al-fiqhī* of the law. *Taqyīf al-fiqhī* is exploring the issues raised among the community and trying to solve using the main sources that are concerned with the issues (al-Qahtanī, 2009).

The banning of immunization injection by anti-vaccine groups causes doubt among Malaysians (Hamid, 2018). It happens because of the misunderstanding among people regarding the status of the treatment in accordance with the Islamic law (Ros, 2019). According to 22 and 24 Discourse of the Fatwa Committee of the National Council of Islamic Religious Affairs (1989), it is clearly stated that the consumption of this immunization injection among children is permissible (*mubāh*). The revulsion of the immunization injection among children instilled by parents is not reflecting the teachings of Islam because this religion emphasizes the safety of mankind as summarized in the *maqasid al-Shari'ah* element which is the preservation of religion, life, intellect, progeny and wealth (al-Bakri, 2015).

The society's confusion and misunderstanding are not limited to immunization injection only, but also on other issues pertaining to hospital treatment. On this basis, a comprehensive study should be conducted to scrutinize a practical method that

describes the status of the treatment in the hospital for the people. It should have a standard methodology to put the particular treatment and services in the correct place especially for Muslim consumption. Besides, the *maqasid al-Shari'ah* principle is a suitable measurement since this principle is more relative and flexible to be adopted in the medical field (Kasule, 2016a).

As Malaysia aspires to become a world halal industry provider, more research should be conducted to enhance the efficiency and management level, particularly in the healthcare segment. It will become a model for other regional countries in providing good services in line with the needs of a Muslim.

### **1.3 RESEARCH OBJECTIVES**

The research aims to achieve the following objectives:

1. To study the establishment of fundamental Shari'ah compliant hospital in Malaysia.
2. To study the precedence of *maqasid al-Shari'ah* elements in the medical practices.
3. To propose the methodology to identify the *maqasid al-Shari'ah* and the types of treatments and services in the medical practices.

### **1.4 RESEARCH QUESTIONS**

The research questions are as follows:

1. What are the fundamental requirements for the establishment of a Shari'ah compliant hospital?

2. What is the precedence of *maqasid al-Shari'ah* elements in the medical practices?
3. What is the methodology used to identify the *maqasid al-Shari'ah* and the types of treatments and services in medical practice?

### **1.5 RESEARCH HYPOTHESES**

Three research hypotheses are therefore developed to test the research framework:

H1: There is an essential requirement in establishing a Shari'ah compliant hospital.

H2: There is a significant precedence in determining the priority of the *maqasid al-Shari'ah* in the medical field.

H3: There is a comprehensive methodology in identifying the *maqasid al-Shari'ah* and the types of treatment at the hospital.

### **1.6 SIGNIFICANCE OF THE STUDY**

This study provides a clear picture of the fundamental requirement for healthcare providers in the establishment of a Shari'ah compliant hospital in Malaysia. On the other hand, this study explains the precedence of elements in *maqasid al-Shari'ah* in medical practice. Furthermore, this study benefits the healthcare providers in identifying the purpose of Islamic law since it proposes a comprehensive methodology of treatments at the hospital.

By understanding the fundamental requirement in establishing a Shari'ah compliant hospital, the healthcare providers will obtain the basic knowledge in managing the organization that complies with Shari'ah. Moreover, it helps the patients to make the best choice to obtain the treatment that complies with Shari'ah.

Besides, the explanation of the precedence element in *maqasid al-Shari'ah* provides a comprehensive understanding for the people in understanding Islamic law in terms of medical practices and then practising the teaching of Islam correctly. Furthermore, this study helps the medical practitioners as well as the patients in prioritizing the appropriate elements in the *maqasid al-Shari'ah* while seeking treatments.

Through this study, new methods such as methodology to identify the *maqasid al-Shari'ah* are introduced. This comprehensive method helps the medical practitioners identify the status of the treatment according to the level of *maṣlaḥah* besides being able to make decisions that coincide with Islamic law. The method could be a guide and reference to other researchers in the future in order to expand the framework of the method that is still at the initial level.

### **1.7 LIMITATIONS OF THE STUDY**

This study will focus on the principle of *maqasid al-Shari'ah* towards medical treatment and services in government and private hospitals in Malaysia. The researcher will discuss the medical treatment and services according to the Islamic legislation, specifically from the *maqasid al-Shari'ah* principles and *maṣlaḥah*, not on the medical and scientific approach. The researcher will focus his study on the construction of organizational structures in Shari'ah compliant hospitals and develop methods for determining the legal status of each treatment based on the principles of *maqasid al-Shari'ah*.

## 1.8 CHAPTERISATION

This study is divided into five chapters. *Chapter 1* describes the general introduction to the whole study. This chapter discusses the background of the research, statement of the problem, research objectives, research questions, research hypotheses, significance of the study as well as limitation of the study. In *Chapter 2* the researcher is trying to find and analyze the literature regarding the hospital and its relation with Muslim medical tourism, features and characteristics as well as the basic sources of Shari'ah compliant hospitals. Besides that, the chapter reveals the principle of *maqasid al-Shari'ah* and the emergence of *maqasid al-Shari'ah* from academic writing. *Chapter 3* describes the essential elements in research methodology. It discusses data collection and data analysis. This chapter exposes the library research and interview, which is utilized in collecting the data while content analysis, inductive and deductive strategies are utilized in analyzing the data in this study. *Chapter 4* discusses the result of the study. The data collected from data collection are processed to become information. The hypotheses that were already developed at the beginning of the research would be tested. To summarize, the chapter describes the process of the translation of data from the library study and interview then, explains the finding based on the data collected. Moreover, the researcher tends to discuss the process of establishing the Shari'ah compliant hospital. *Chapter 5* discusses the conclusion of the whole study conducted. The researcher is discussing the challenges faced while conducting the study and explaining the result based on the three objectives of the study, which are reflected in the hypotheses that were set at the beginning of the research. Moreover, the researcher recommends six issues to be discussed in future studies.