

DECREE-LAW NO. 9/2010
of 21 July

HEALTH CARE ABROAD

In its article 22.1, Law No. 10/2004 of 24 November on Health System provides that, under exceptional circumstances, health care may be sought abroad in order to guarantee health care to beneficiaries of the national health system.

Notwithstanding the financial effort undertaken by the Government in order to modernise hospital units and improve the technical and scientific quality of health professionals, it should be recognised that the country still lacks technical as well as human resources enabling it to, in certain areas, provide health care of a quality similar to that provided abroad.

The problem of ensuring health care to beneficiaries of the national health system abroad is therefore of special and exceptional relevance. In this connection, it is important to regulate such assistance by clearly defining the criteria for its provision, including the responsibility of the several entities intervening in the process, notably the attending physician, the patient, and the National Board of Health which is hereby established.

Thus,

Pursuant to subparagraphs o) and p) of article 115.1, and subparagraph d) of article 116 of the Constitution, the Government enacts the following to have the force of law:

Article 1
Scope

1. This statute regulates the health care which, for lack of technical and human resources in the country, can only be provided abroad.
2. Pursuant to article 22.2 of Law No. 10/2004 of 24 November, health care abroad shall be provided only under exceptional circumstances where it is impossible for Timor-Leste to ensure essential health care in the required conditions of security and where it is possible to obtain such care abroad at reasonable costs provided the necessary financial resources are available.

3. This statute shall cover the beneficiaries of the National Health Service.
4. The following shall be excluded from the scope of this statute:
 - a) Proposals for medical evacuation abroad originating from private institutions;
 - b) Proposals for medical evacuation abroad motivated by reasons of social or political order or by any reason other than of a strictly medical nature, pursuant to paragraphs 1 and 2;
5. With the objective of facilitating the assessment of medical situations, a descriptive guide on treatments, medical interventions, or essential diagnosis examinations which, for lack of material or human resources, cannot be undertaken in a national health institution, shall be approved by order of the Minister of Health.
6. The guide referred to in the preceding paragraph is merely indicative and shall mention, with respect to each treatment, medical intervention, or diagnosis examination, the material or human resources unavailable in the country as well as the foreign institutions where such health care may be provided with quality and at reasonable costs.

Article 2

Requirements

The following are essential conditions for the granting of the benefits provided for in article 10:

- a) Existence of a medical report with a request for provision of health care abroad, duly detailed and substantiated, to be prepared by the attending physician and, save in cases of emergency, the statement of consent of the patient or of a person legally representing him or her;
- b) The confirmation of the report referred to in the preceding subparagraph by the National Board of Health, pursuant to paragraph 3 and subsequent paragraphs of article 4;

- c) A favourable decision of the General Director of Guido Valadares National Hospital, taking into account the reports referred to in the preceding subparagraphs.

Article 3

Contents and procedure of the request for health care

1. It shall be incumbent upon the National Health Service that has monitored the health care provided to the patient to make and substantiate the request for health care abroad;
2. The report, together with the request for health care abroad, shall contain notably the following:
 - a) A detailed and up-dated description of the status of the patient;
 - b) The treatments, medical interventions, or diagnosis examinations already conducted;
 - c) The treatments, medical interventions, or diagnosis examinations deemed necessary;
 - d) The reasons that justify the impossibility, whether material or human, of the treatments, medical interventions, or diagnosis examinations to be conducted in a national health institution;
 - e) The clinical objective of the evacuation; and
 - f) The maximum period of time within which treatment, medical interventions, or diagnosis examinations are to take place to enable obtain the useful and normal effects thereof.
3. The request shall be addressed to the General Director of Guido Valadares National Hospital and forwarded by the latter to the chairperson of the National Board of Health.
4. The request shall be forwarded together with the patient's clinical history.

Article 4

National Board of Health

1. A National Board of Health is hereby established, to operate within Guido Valadares National Hospital, to analyse requests for health care abroad.
2. The composition, in an odd number of members, and the functioning of the National Board of Health, shall be defined by order of the Minister of Health.
3. For the purposes of this statute, and without prejudice to the functions that may be specifically assigned to it, it shall be incumbent upon the National Board of Health:
 - a) To prepare a draft descriptive guide referred to in article 5.1 as well as proposals for revisions thereof, whenever deemed adequate;
 - b) To prepare proposals for the signing of health care protocols with foreign hospital services and health units capable of helping solve every specific situation.
 - c) To prepare medical reports in the face of the requests submitted to it, and offer its opinion on the clinical situations that require to be treated abroad, pursuant to the provisions of this statute.
4. In order to prepare the medical report, the National Board of Health may determine the conduct of complementary examinations or the repetition of medical examinations, whenever necessary, for the correct assessment of the situation of the patient.
5. The report of the National Board of Health shall contain a clear recommendation regarding the decision of the request of health care abroad, offering its specific opinion on every item of the report.
6. Where the treatment, medical intervention, or diagnosis examinations to be conducted are not contained in the descriptive guide referred to in article 1.5 above, the report of the National Board of Health shall justify the essentiality thereof as well as the impossibility to conduct them within the national territory.

7. In case of a favourable opinion, the report of the National Board of Health shall contain:

- a) An indication of the foreign institutions where the patient may be diagnosed, treated or submitted to surgical intervention, taking into account the contents of the descriptive guide referred to in article 1.5 above;
- b) A duly substantiated indication as to whether there is a need or not to use any special means of transport in the trip;
- c) A duly substantiated indication as to whether there is a need for the patient to be escorted by somebody adequately trained.

8. The indication of the institutions referred to in subparagraph a) of the preceding paragraph shall be duly substantiated and made by order of decreasing preference.

Article 5

Decision-making power and appropriate procedure

1. It shall be incumbent upon the General Director of Guido Valadares National Hospital to decide on the processes of request for health care abroad submitted to him or her, taking into account the requirements provided for in article 2 above.

2. Both the decision and the measures taken shall be communicated in the most expedited manner to the interested parties, pursuant to article 25 of Decree-Law No. 32/2008 of 20 June.

3. The decision referred to in the preceding paragraphs shall be clearly expressed and communicated to the interested parties within 15 days from the date of registration of the request for health care with the Guido Valadares National Hospital.

4. Appeals against unfavourable decisions may be filed with the Minister of Health, who shall decide within 30 days of the date on which the appeal has been filed.

Article 6
Exceptionally urgent cases

In case of exceptional urgency as certified by a medical report, and having observed the requirements referred to in article 2, the timeframes provided for in paragraphs 3 and 4 of the preceding article shall be reduced to five days.

Article 7
Signing of protocols or preferential agreements with foreign institutions

On proposal of the National Board of Health, and following authorisation from the Minister of Health, the General Director of Guido Valadares National Hospital may, with the objective of obtaining a preferential attention, enter into health care protocols with foreign hospital services and health units where health care services provided for in the descriptive guide referred to in article 1.5 may be provided with quality at reasonable costs.

Article 8
Referral of the process

1. In case of a favourable decision, it shall be incumbent upon the General Director of Guido Valadares National Hospital:
 - a) To appoint, where necessary, an adequately trained person to escort the patient;
 - b) To make the request for financing, pursuant to article 9, and refer the process to the National Directorate of Hospital Services of the Ministry of Health;
2. It shall be incumbent upon the National Directorate of Hospital and Referral Services of the Ministry of Health:
 - a) To verify the process in order to confirm whether the requirements provided for in article 2 have been met and whether the process contains all the documents provided for in article 9;
 - b) To indicate the health institution in which the diagnosis or medical intervention are to take place, taking into account the report of the

- National Board of Health and the availability of the medical institution to take the patient;
- c) Taking into account the contents of subparagraph f) of article 3.2, take in due time the measures deemed necessary for confirming that the foreign medical institution is available to take the patient, request the foreign medical institution to book the necessary treatments, examinations, diagnoses or surgical interventions.
 - d) To prepare the budget with the estimate of costs for the undertaking of the necessary treatments, diagnoses of surgical interventions in the foreign medical institution indicated in the report of the National Board of Health, ;
 - e) To take all the necessary measures with a view to preparing the trip and stay of the patient abroad, including the respective escort;
 - f) To pay the expenses pursuant to article 10;
 - g) To provide permanent transport, accommodation and support services abroad, whenever deemed convenient following the amount of health care provided pursuant to this statute.
3. Processes which do not meet all the requirements provided for in article 2 or which do not contain all the necessary documents as provided for in article 9 shall be returned to the General Director of Guido Valadares National Hospital for review.

Article 9 **Request for financing**

The request for financing referred to in subparagraph b) of article 1 above shall be accompanied by the following documents:

- a) A photocopy of the favourable report of the National Board of Health referred to in article 4 duly approved pursuant to article 5 or 6;
- b) A photocopy of the identification card of the patient and that of his or her guardian where the patient is under 17 years of age;

- c) A photocopy of the identification card of the person adequately trained appointed to escort the patient, where applicable.

Article 10

Payment of expenses

1. Expenses resulting from the provision of health care and medicines as well as those resulting from accommodation, food and travel, by the most economic class, obtainment of visa and issuance of passports shall be borne by the competent services of the Ministry of Health.
2. The competent services of the Ministry of Health shall make the necessary advance payments as may be requested by the foreign institutions.
3. For the purposes of the preceding paragraphs, a specific rubric is established in the budget for the competent services of the Ministry of Health to cover the foreseeable expenses.
4. Where, in whatever context, the Timorese State provides accommodation, food, and/or transport abroad, responsibility for the payment of such expenses shall only subsist where there is a medical indication to the contrary.
5. The competent services of the Ministry of Health shall be responsible for the repatriation of cadavers of patients who happen to die abroad while receiving health care in the framework of this statute.
6. Pursuant to article 21 of Law No. 10/2004 of 24 November, affordable contributions for the provision of health care may be determined in the framework of this statute.

Article 11

Cooperation

1. Governmental entities shall cooperate with the Ministry of Health in the implementation of this statute.
2. The Ministry for Foreign Affairs shall support the Ministry of Health and the Guido Valadares National Hospital, notably as regards contacts for the establishment of protocols or preferential agreements with foreign

institutions are concerned, the necessary measures for preparing the trip and stay of the patient abroad, as well as support to patients during their stay abroad.

Article 12
Regulation

The Ministry of Health shall prepare the regulations necessary to the implementation of this statute.

Article 13
Transitional provisions

Up until the end of this year, the competences provided for in subparagraphs e), f) and g) of article 8.2 and in paragraphs 1 to 5 of article 9 shall be exercised and borne by the Ministry of Social Solidarity which, to that end, shall collaborate with the Ministry of Health.

Article 14
Entry into force

This statute shall enter into force after thirty days from the date of its publication.

Approved by the Council of Ministers on 11 May 2010.

The Prime Minister,

Kay Rala Xanana Gusmão

The Minister of Health,

Nelson Martins

The Minister for Social Solidarity

Maria Domingas Fernandes Alves

Enacted on 9 / 7 / 10

For publication.

The President of the Republic

José Ramos-Horta