

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

GOVERNMENT

**DECREE-LAW No. 14/2004
01 September 2004**

Practice of Health Professions

The right to work and to freely choose a profession does not preclude health professions from being regulated in order to guarantee the quality of health professionals and of the services they provide, taking into consideration the paramount importance and impact of the activity of such professionals on public and individual health, in both the public and private sector.

Thus, as defined in the Draft Law on the Health System, the indispensable requirements for practicing the major health professions, which can be verified in the act of compulsory registration with the Ministry of Health, are hereby established.

Pursuant to the paragraphs (e) and (o) of section 115, and paragraph (d) of section 116, of the Constitution of the DRTL, the Government enacts the following that shall have the force of law:

**Chapter I
General provisions**

**Article 1
Purpose**

The purpose of the present decree-law is to regulate the practice of health professions in the national territory.

**Article 2
Scope**

The present decree-law covers all health professionals irrespective of their nationality and of the country where they obtained their academic or professional qualifications, whether they are practicing or intend to practice their profession in the public or private sector, with a subordinate or self-employment status.

**Article 3
Health professions**

Health professionals are subsumed into the following professional groups:

(a) doctors: includes all professionals holding a bachelor's degree in medicine, who have undergone an appropriate internship as a general practitioner or in specialised areas such as lab testing, anaesthesia, cardiology, surgery, gynaecology, internal medicine, obstetrics, eye medicine, orthopaedics, paediatrics, psychiatry, radiology, and public health;

(b) dentists: includes all professionals holding a bachelor's degree in dental medicine, who have undergone an appropriate internship;

(c) nurses: includes all professionals holding a bachelor's or undergraduate degree or with a technical-professional diploma issued by a nursing school, who have undergone an appropriate internship as a general nurse or in a specialised area such as anaesthesia, dentistry or midwifery;

(d) pharmacy staff: includes all professionals holding a bachelor's degree (pharmacists), an undergraduate degree (para-pharmacists) or a technical-professional diploma issued by a pharmacy school (pharmacy assistants), who have undergone an appropriate internship in a specialised area such as pharmaceutical testing, pharmacy or pharmaceutical industry;

(e) Public health staff: includes all professionals holding a bachelor's or undergraduate degree or a technical-professional diploma, who have undergone an appropriate internship in a specialised area such as environmental health;

(f) Technical staff: includes health professionals holding an undergraduate degree or a technical-professional diploma, who have undergone an appropriate internship in a specialised area such as lab testing, audiometry, cardiography, physiotherapy, nutrition, optometry, radiology, radiotherapy or speech therapy.

Chapter II **Prior registration**

Article 4 **Practice requirements**

1. Prior registration with the Ministry of Health is required for the practice of any health profession.
2. Exception is made to the mere provision of services, where the period of stay in the national territory does not exceed thirty days, in which case a notification shall be served to the Ministry of Health prior to the provision of any services or, in case of emergency, subsequent to the provision of such services.

Article 5
Purpose of registration

The registration of health professionals is intended to ensure that they have the academic and professional qualifications appropriate for the practice of the profession, and they shall be acknowledged to have or shall be given the functional title of the respective profession whenever they are deemed to possess the required scientific, technical and human competence.

Article 6
Applications

1. Registration applications shall be in writing in either of the official languages of Timor-Leste and addressed to the Minister of Health through the National Directorate of Health Policies and Planning, stating the applicant's full name, residence in Timor-Leste, and, in the case of a foreign national, the country of origin, and indicating the health profession he or she wishes to practice.

2. The following documents shall be attached to the application:

- (a) a photocopy of an identification document;
- (b) documents attesting both to the academic and professional qualifications required by law for one to practice such profession in the country of origin or provenance;
- (c) a document attesting that the applicant holds the respective functional title in the country of origin or provenance, where applicable;
- (d) a statement that he or she is neither prohibited from practicing the profession in the country of origin, nor has he or she been suspended or expelled from such profession;
- (e) a detailed CV.

3. The documents referred to in paragraphs b) to (e) of subarticle 2 above shall be accompanied by a translation certified by a diplomatic or consular official, if deemed necessary.

Article 7
Enquiries

Should any doubts arise as to the veracity of the filed statement or documents, or as to the understanding of their contents and their compatibility with the system in place in the issuing country, the Ministry of Health shall ask for relevant clarification and confirmation from the competent authorities of the country concerned.

Article 8
Decision on registration

1. Registration applications shall be decided upon not later than one month after they have been lodged along with all the required accompanying documents, except in the cases

provided for in article 7, where the deadline shall be suspended until a clarification is received or within two months at the latest.

2. The Minister of Health shall approve the applications made by professionals whose academic and professional qualifications are deemed appropriate for the practice of such profession in Timor-Leste and in which respect it is proved that:

- (a) the applicants are enrolled or registered in the country of origin or provenance, as professionals qualified to practice the profession they are now applying for;
- (b) the applicants are neither enrolled nor registered, but meet all the requirements established by law with respect to academic and professional qualifications, in Timor-Leste or in the country of origin or provenance;
- (c) the applicants have all the academic qualifications required in the country of origin or provenance, and the Minister of Health deems it feasible and of public interest that the professional qualifications be obtained in Timor-Leste under the guidance of the Ministry of Health.

3. The Minister of Health shall dismiss any applications whenever he or she deems to have substantiated doubts as to the adequacy of the academic or professional qualifications for the practice of a given profession in Timor-Leste.

4. No appeal may be lodged against the dismissal referred to in subarticle 3 above.

5. A certificate shall be issued upon registration provided that the fee, as may be established in a joint ministerial order by the Minister of Planning and Finance and by the Minister of Health, has been paid.

Article 9 Validity

Registration as a health professional shall not lapse and shall remain valid as long as the holder of such registration is not prohibited from practicing his or her profession, through a final decision, or punished with a disciplinary penalty of suspension or expulsion.

Article 10 Registration of foreign nationals

1. The documents referred to in subarticle 6.2 shall be attached to the application for a work permit or for a visa to establish permanent residence, under the terms of subarticle 40.2 of Law No. 9/2003, of 15 October, and the granting thereof shall require consultation with the Ministry of Health, in addition to the consultation provided for in article 38 of the said law.

2. To foreign nationals who have obtained a work permit or a visa to establish permanent residence for the purposes of practicing any health profession shall apply the provisions of

article 4 of this decree-law, and the registration application shall be lodged with the Ministry of Health within one month of their entry into the national territory.

Chapter III Monitoring

Article 11 Monitoring

The Office of Health Inspection shall, in conjunction with the National Directorate of Health Policies and Planning, monitor the enforcement of this decree-law and may, to that effect:

- (a) have free access to public institutions, public or private, in which health professionals carry out activities in any capacity;
- (b) have free access to any information relating to the hiring of health professionals;
- (c) temporarily suspend the activities of any health professionals who are not registered with the Ministry of Health under the terms of this decree-law, or who are suspected of not meeting the requirements for the practice of their profession, as established by law, and such act is deemed harmful to public health or to patients' safety.

Article 12 Offences and penalties

1. Offences against the provisions of Chapter II of the present decree-law are similar to the ones punishable under the terms of the general law, with the adaptations contained in the following articles, except where an offence constitutes a crime, in which case it shall be punishable under the terms of the penal law.

2. Negligence or attempt shall always be punishable.

3. Fines shall be determined between a maximum and a minimum limit, and the application thereof shall be graduated according to the gravity of the offence and the danger it poses to public health, the degree of culpability, and the economic status of the offender.

4. The maximum and minimum limits of the fines shall be reduced to half where applicable to individuals.

Article 13 Procedures

1. A report shall be prepared in connection with each and every detected offence, which shall attest to the witnessed acts until proof to the contrary is produced; and such report shall serve as the basis for initiating a proceeding in relation to the offence.

2. The report of the offence shall be submitted to the Office of Health Inspection, as the competent entity, which shall, in conjunction with the National Directorate of Health Policies and Planning, investigate the case.

3. The offender shall be notified of the acts that constitute the offence, of the breached legislation, of the applicable penalties and of the deadline and venue for presenting his or her defence, as well as of the possibility of voluntary payment of the fine, in its minimum limit, and of the consequences of failure to pay such fine.

4. The offender may, within twenty (20) days, present his or her defence in writing or voluntarily pay the fine, and may also present his or her defence only in relation to the gravity of the offence and the accumulated accessory penalties, once the voluntary payment has been made.

5. The competence to apply fines rests with the Minister of Health, against whose final decision a contentious appeal may be lodged within thirty (30) days.

Article 14 **Disposal of fines**

Of the proceeds from fines 75% shall accrue to the benefit of the state coffers and 25% to the benefit of a health fund to be regulated by specific decree.

Article 15 **Offences and fines**

1. The following offences shall carry a fine:

- (a) practice of a health profession without being registered with the Ministry of Health- a fine of not less than US\$ 500 nor more than US\$ 1,000;
- (b) hiring of health professionals without registration, by any health care provider- a fine of not less than US\$ 1,000 nor more than US\$ 3,000;
- (c) failure to notify as provided for in subarticle 4.2 above- a fine of not less than US\$ 100 nor more than US\$ 300.

Chapter IV **Norms of conduct and discipline**

1. Health professionals shall conduct themselves in accordance with the law, regulations and technical norms regulating their respective professions, as well as the respective codes of ethics and deontology.

2. The Minister of Health shall, following a proposal by the respective professional associations, approve the codes of good practices and the codes of ethics and deontology.

Article 17
Professional associations

1. Health professionals may, under the terms of the Constitution of the DRTL, freely form or join any professional association representing and defending their professional interests.
2. Professional associations may not carry out trade-union activities, which shall be the responsibility of trade unions and trade union associations, to be constituted under the terms of the law.
3. Professional associations shall be constituted and registered under the terms of the Decree-Law regulating the Legal Regime for Non-Profit Associations and Foundations.

Article 18
Disciplinary offences

For the purposes of applying this decree-law, disciplinary offence refers to any act or omission by a health professional in contravention of the respective code of ethics and deontology, or the technical or legal norms applicable to his or her respective profession.

Article 19
Disciplinary action

1. The Health Professions Disciplinary Board shall, regardless of the legal and institutional mode of professional practice, penalise any professional in respect of any disciplinary offence committed.
2. Disciplinary liability to the Health Professions Disciplinary Board shall coexist with any other sort of liability provided for in the law, notably civil, criminal or disciplinary liability before the employer, and the suspension of the disciplinary proceeding may also be determined until a decision is rendered in another jurisdiction.

Article 20
Health Professions Disciplinary Board

1. The Health Professions Disciplinary Board shall be comprised of:
 - (a) the Minister of Health or his or her representative, as its chairperson;
 - (b) the National Director for Health Policies and Planning;
 - (c) the Health Inspector;
 - (d) a representative of each of the professional associations in the area of health, constituted under the terms of the law;
 - (e) a representative from the user associations.
2. Only the representative(s) of the professional association(s) concerned with the offence in question shall intervene in the disciplinary proceeding.

Chapter V
Final and transitional provisions

Article 21
Regulatory arrangements

1. The Code of Discipline for Health Professions, as well as the rules of procedure of the Health Professions Disciplinary Board, shall be approved by Government Decree.
2. The Minister of Health shall, by ministerial order, establish the regulatory arrangements for the present decree-law.

Article 22
Practicing professionals

1. Every health professional who, at the time of the entry into force of this decree-law, is working as a health practitioner in the national territory, shall lodge a registration application with the Ministry of Health within four (4) months of the entry into force of this decree-law.
2. Health professionals shall attach to their application the documents referred to in subarticle 6.2, exception being made for health professionals hired by the Ministry of Health, or those practicing their profession under the framework of bilateral or multilateral agreements.

Article 23
Entry into force

This decree-law shall come into force within one month of the date of its publication.

Approved by the Council of Ministers on 23 July 2004.

The Prime Minister

[Signed]
(Mari Bim Amude Alkatiri)

The Minister of Health

[Signed]
(Rui Maria de Araújo)

Promulgated on 3 August 2004.

To be published.

The President of the Republic

[Signed]
(Kay Rala Xanana Gusmão)