

DEMOCRATIC REPUBLIC OF TIMOR-LESTE

GOVERNMENT

**DECREE-LAW No. 1/2005
Of 31 May**

STATUTES FOR HOSPITALS

The Organic Structure of the Ministry of Health, approved by Decree-Law No. 5/2003, of 31 December, has established Guido Valadares National Hospital and the referral hospitals in Baucau, Suai, Maliana, Maubisse, and Oe-cusse as customised services, and determined that the management of such hospitals be done through boards of directors composed of a director-general and four representative members.

In view of the need to approve the organic structure of those hospitals, under article 25 of Decree-Law No. 5/2003, of 31 December;

Considering the qualitative similarity between hospitals, namely in terms of management and organisation, without prejudice to any differences of a quantitative and qualitative nature between some of such hospitals, namely Guido Valadares National Hospital;

Considering the ongoing projects for extending and transforming the referral hospitals, which will accord them the characteristics and size required to justify their subordination to hospital statutes; and

Further considering that other referral hospitals might be eventually established;

The Government has opted to approve the Statutes for Hospitals applicable to all of the hospitals that form a part of the National Health System, without prejudice to the establishment of special internal regulations adequate to the specialties of each of such hospitals and the adoption, on a temporary basis, of other management and operation rules adequate to the current size of some of those institutions.

Pursuant to subarticle 115.3 and paragraph 116(d) of the Constitution, the Government enacts the following to have the force of law:

**CHAPTER I
General Provisions**

**Article 1
Scope of Application**

The present decree-law, also referred to as the Statutes for Hospitals, approves the juridical regime applicable to hospitals of the National Health Service.

Article 2 Nature and Regime

1. Hospitals are customised services, that is, public corporate bodies endowed with juridical personality, administrative and financial autonomy, and own property, whose legal capacity covers all rights and obligations required to discharge their responsibilities.
2. Hospitals are governed by this decree-law and by the laws that are directly applicable thereto, by the laws of the National Health System and, on a subsidiary basis, by the laws applicable to public administration agencies endowed with administrative and financial autonomy.

Article 3 Responsibilities

Hospitals are responsible for providing different health care services, whether in-patient or out-patient, with recourse to diagnostic and therapeutic means in order to provide people with healing and medical rehabilitation assistance in conjunction with health centres and all primary healthcare establishments, and in conjunction with health education and training institutions.

Article 4 Tutelage

1. Hospitals function under the oversight and tutelage of the Minister of Health, who is responsible for:
 - (a) defining the general rules and criteria for hospitals to discharge their activity;
 - (b) establishing directives governing plans and programmes of action, monitoring the execution thereof and assessing their results;
 - (c) approving internal regulations of hospitals;
 - (d) monitoring the operation of hospitals and assessing the results obtained and the quality of the healthcare services delivered;
 - (e) authorising the establishment, abolishment or alteration of services and their intake capacity where such an alteration is significant and permanent, on the initiative or proposal of the board of directors;
 - (f) requiring all information deemed necessary to monitor hospital activity;
 - (g) ordering audits and inspections of their functioning;
 - (h) authorising the acquisition or disposal of immovable and moveable property subject to registration where the amount involved is not provided for in approved budgets.
2. It is the responsibility of the Minister of Health and the Minister of Planning and Finance:

- (a) to approve in advance work plans and budgets, whether annual or multiannual, subject to the competencies established in the Constitution and the State Budget Law;
- (b) to approve progress and financial reports;
- (c) to approve price tariffs to be applied to cases provided in the law.

Article 5

Management Principles

Hospitals shall, while discharging their activities, act in accordance with the following management principles:

- (a) respect for patients' rights;
- (b) preparedness and quality assistance provided in accordance with the means available;
- (c) efficient and lawful use of the human and material resources available, with a view to optimising such resources;
- (d) organisation and staffing of hospital services and allocation of the indispensable means thereto, in accordance with the resources available;
- (e) realisation of expenditures in accordance with the best quality-cost ratio and the applicable legal and financial rules;
- (f) selection and management of professionals based on their qualifications, merit and performance;
- (g) compliance with technical standards for the installation and operation of hospitals to be determined by law or regulation, for equivalent establishments and services in the private sector;
- (h) compliance with and respect for deontological rules governing health professionals.

Article 6

Referral Ward

1. Each hospital has a referral ward set out in its internal regulations, and shall act in conjunction with District Health Services and with primary healthcare establishments, whether in the referral of patients or in the provision of relevant medical information.
2. Guido Valadares National Hospital, apart from its own referral ward, serves as the referral hospital for the entire national territory.

CHAPTER II
Composition, competencies and functioning of hospital organs

Article 7
Organs

Hospital organs include:

- (a) the board of directors;
- (b) the auditing organ;
- (c) the technical support organs.

SECTION I
Board of Directors

Article 8
Composition

1. The board of directors is composed of the director-general, who acts as its chairperson, and the managing director, both of whom being executive members, along with and the medical director and the nursing director, as non-executive members but with the right to vote.
2. The Minister of Health may determine, depending on the size of the hospital and the profile of the director-general, that the latter also assume the competencies of another member, in which case there is no need to appoint the incumbent for that office.
3. It is the responsibility of the Minister of Health to appoint the director-general and, on the proposal of the latter, the remaining members.

Article 9
Competencies

1. The board of directors is the organ responsible for defining the fundamental principles that shall govern the organisation and functioning of the hospital, for following up on the implementation of, and periodically assessing, such principles.
2. It is the responsibility of the board of directors to exercise managerial competencies that have not be assigned by law or regulation to another organ, and specifically:
 - (a) to approve work plans, budgets and management accounts for submission to the competent entity;
 - (b) to establish the directives necessary to improve the operation of the services;

- (c) to propose the establishment of new services or the abolishment or alteration of existing ones;
- (d) to prepare the internal regulations;
- (e) to follow up on and systematically assess the activity carried out by the hospital, holding the different sectors accountable for the use of the means allocated to them and for the results achieved;
- (f) to define the rules for assistance, ensure the harmonious functioning of the services, and guarantee healthcare quality and preparedness;
- (g) to assess compliance with medical orientations relating to the prescription of medicines and complementary diagnostic means, as well as medical summaries adequate to the most frequent diseases, and authorise the introduction of new medicines and other hospital products significantly impacting assistance and economic plans;
- (h) to become acquainted with and determine appropriate measures for complaints and claims made by patients;
- (i) to guarantee the implementation of human resources policies, namely recruitment, leave of absence, performance appraisal, working regimes and timetables, absences and training;
- (j) to appoint and hire staff, including managerial and supervisory staff;
- (k) to exercise disciplinary powers in accordance with the applicable law;
- (l) to enter into agreements with health education and training institutions on the provision of hands-on classes and internships to trainees;
- (m) to periodically monitor budget execution, correcting deviances from budget forecasts;
- (n) to ensure a regular levy on incomes and the realisation of expenditures;
- (o) to authorise expenditures of up to the amount established by law for management organs of public administration agencies endowed with administrative and financial autonomy;
- (p) to enforce applicable laws and regulations.

Article 10 Functioning

1. The board of directors meets ordinarily once a week and extraordinarily when and as convened by its chairperson or by two of the board members.
2. The board of directors may only deliberate by the majority of the members present, and decisions are taken by majority vote; the chairperson may exercise a casting vote and meetings are recorded in minutes.

Article 11 Delegation of Competencies

The board of directors may delegate to its members any of the competencies assigned thereto.

Article 12

Binding Effect

Hospitals are bound by:

- (a) the signature of the board of directors chairperson or his or her substitute;
- (b) the signature of any other board member, provided that that member has, as recorded in the minutes, obtained delegated power to do so;
- (c) the signature of a person duly mandated in accordance with the law.

Article 13

Bylaws

1. Board of directors members are subject to the bylaws governing the senior management of customised services in all that is not provided in this decree-law.
2. Board of directors members perform their functions on a full-time basis and may not exercise, outside the hospital, any other professional activity except teaching functions on a part-time basis, and shall earn such remuneration as may be jointly determined by the Minister of Finance and Planning, the Minister of Health, and the Minister of State Administration.

Article 14

Termination of Tenure

1. A board of directors member shall terminate his or her tenure:
 - (a) upon expiry of his or her term in office;
 - (b) on grounds of permanent disability or subsequent disqualification;
 - (c) upon resignation;
 - (d) upon dismissal decided upon by the appointing entity, after consultation with the proponent entity, in the case of a grave fault demonstrably committed by that member while exercising his or her functions;
 - (e) following conviction for a criminal offence.
2. In the case of resignation, the new member shall always be appointed for a 4-year period.

Article 15

Dissolution

The board of directors may be dissolved by determination of the Minister of Health in the case of grave irregularities in its operation, significant budget overspending or a decline in the outcomes of its activity or in the quality of the services provided without a proper reason.

Article 16
Director-General

1. The director-general shall have a profile, background and experience in a health-related field, and shall be appointed by the Minister of Health for a 4-year, renewable term of office.
2. It is the duty of the director-general:
 - (a) to submit to the Minister of Health any matters that fall under the oversight and tutelage of that cabinet member;
 - (b) to chair board of directors meetings;
 - (c) to enforce laws and regulations, monitoring the functioning of all of its services;
 - (d) to represent the hospital in court and elsewhere where other agents have not been appointed by the director-general or by the board of directors.
3. Where pressing circumstances so require and a board of directors meeting may not be convened, the director-general may perform any acts falling under the competency of the board of directors, which shall be ratified at the first subsequent board meeting.
4. The director-general shall be replaced in his or her absences or inability to act by the managing director.

Article 17
Managing Director

1. The managing director shall have a background and experience in management, and shall be appointed by the Minister of Health, on the proposal of the director-general, for a 4-year, renewable term of office.
2. It is the duty of the managing director to oversee the Support Services, and the Administrative and Financial Services, including the Assistance Services, exercising therein any management competencies as may be delegated thereto by the board of directors.

Article 18
Medical Director

1. The medical director shall be appointed by the Minister of Health, on the proposal of the director-general, for a 4-year, renewable term of office.
2. It is the duty of the medical director to oversee all assistance activity, ensuring the redress of healthcare and answering to the board of directors for the quality of the assistance delivered, and specifically:

- (a) to coordinate work plans of the different assistance services;
- (b) to propose measures necessary to improve organisational, functional and physical structures of the medical services;
- (c) to define standards and implement medical quality assessment and guarantee systems;
- (d) to decide conflicts of a technical nature between medical services;
- (e) to decide issues relating to medical deontology;
- (f) to participate in medical staff management processes, namely in the areas of recruitment and mobility;
- (g) to ensure that medical staff is kept abreast of advances in their respective field;
- (h) to follow up on and assess all aspects related to the practice of medicine and the training of doctors.

Article 19 **Nursing Director**

1. The nursing director is a nurse appointed by the Minister of Health, on the proposal of the director-general, for a 4-year, renewable term of office.
2. The nursing director is in charge of the technical oversight and coordination of the nursing activity, ensuring its quality and answering before the board of directors for the quality of the nursing assistance delivered, and specifically:
 - (a) to coordinate nursing plans of action of the different services;
 - (b) to propose measures required to improve the organisational, functional and physical structures of the services, from a nursing viewpoint;
 - (c) to define standards and implement nursing quality assessment and guarantee systems;
 - (d) to decide deontological issues in nursing;
 - (e) to participate in nursing staff management processes, namely in the areas of recruitment and mobility;
 - (f) to ensure that nursing staff are kept abreast of advances in the field;
 - (g) to follow up on and assess all aspects related to the practice of nursing and the training of nurses.

Section II **The Auditing Organ**

Article 20 **The Single Auditor**

1. The single auditor shall be a chartered accountant, jointly appointed by the Minister of Planning and Finance and the Minister of Health for a 4-year term of office, renewable for equal periods of time.

2. The single auditor shall not be entitled to any remuneration and shall serve his or her term of office within the framework of his or her normal functions as a civil servant, at least once a month.

Article 21 Competencies

1. It is the duty of the single auditor to monitor the financial management of the hospital, and specifically:
 - (a) to verify the legality of acts of a financial character performed by the board of directors, their compliance with this decree-law and other legislation applicable to the hospital, namely legislation applicable to public administration agencies endowed with administrative and financial autonomy;
 - (b) to follow up on the execution of work plans and budgets;
 - (c) to periodically audit the accounting records of the hospital;
 - (d) to issue opinions on asset assessment and depreciation criteria;
 - (e) to issue opinions on progress reports and accountability documents;
 - (f) to issue opinions on the performance and financial management of the hospital;
 - (g) to issue opinions on the acquisition, disposal or encumbrance of moveable or immovable property subject to registration;
 - (h) to inform the competent entity of any irregularities detected in the management of the hospital.

2. For the exercise of his or her competencies, the single auditor may:

- (a) ask the board of directors for information and clarifications regarding any activities carried out by the hospital;
- (b) propose the undertaking of external audits.

SECTION III Technical Support Organs

Article 22 Technical Support Organs

1. Technical support organs are intended to provide advice to the board of directors, the medical director and the nursing director on matters falling under their competencies, at the request of the latter or on the initiative of the former, on matters falling under their competencies.
2. Technical support organs include those described in the following articles, as well as such others as may be established and set out in the internal regulations of the hospital.

Article 23
Technical Board

1. The technical board is comprised of:
 - (a) the board of directors;
 - (b) the heads of the assistance departments;
 - (c) the head nurses.
2. The technical board meets once a quarter, under the chairmanship of the director-general, and is responsible for giving opinions on draft plans of action and progress reports of the hospital, as well as on the operation and efficiency of the hospital, proposing any measures deemed adequate to the settlement of the problems identified.

Article 24
Medical Committee

1. The medical committee is chaired by the medical director and comprises all doctors of the hospital.
2. The medical committee meets once a month, and is responsible for giving opinions on all aspects related to medical activity and the practice of medicine in the hospital.

Article 25
Nursing Committee

1. The nursing committee is chaired by the nursing director and comprises all nurses of the hospital.
2. The nursing committee meet once a month, and is responsible for giving opinions on all aspects related to the nursing activity in the hospital.

Article 26
Pharmacy and Therapeutics Committee

The pharmacy and therapeutics committee is chaired by the medical director and comprises and a doctor appointed by the board of directors, and the head of the pharmacy and medical equipment department, and is responsible for:

- (a) preparing a schedule of medicines and a pharmacy manual for the hospital;
- (b) assessing the costs of the therapeutic methods used in each department;
- (c) giving opinions on the therapeutic correctness of the prescription of medicines;
- (d) giving opinions on the acquisition of medicines that are not included in the schedule or on the introduction of new products.

Article 27
Committee on Ethics

1. The committee on ethics is composed of six to eight members appointed by the medical director from among doctors, nurses, pharmacists, lawyers, psychologists or professionals from other areas of social sciences, and is chaired by a member elected by his or her peers.
2. It is the duty of the committee on ethics:
 - (a) to ensure that human dignity is safeguarded in the hospital;
 - (b) to give opinions on ethical issues in the field of the work carried out by the hospital;
 - (c) to give opinions on and monitor all medical trials;
 - (d) to promote the dissemination of the general principles of bioethics.

CHAPTER III
Services

Article 28
Organisation

1. Hospital activity is developed through the following types of services:
 - (a) assistance services;
 - (b) support services;
 - (c) administrative and financial services.
2. A department is the basic unit of organisation and each department may comprise several functional units.
3. The internal regulations of each hospital shall set out the departments and functional units comprising the hospital, subject to articles 29, 30 and 31.
4. Functional units shall always have a person in charge of its operation, appointed by the board of directors and accountable to the relevant head of department.

Article 29
Competencies

1. It is the duty of heads of department:
 - (a) to propose the designation of the persons in charge of the respective functional units;
 - (b) to prepare the work plan and the progress report of the department;

- (c) to lead and plan all activity of the department, answering for their respective overall results;
- (d) to exercise supervisory and disciplinary powers over all their respective staff, safeguarding the technical competence assigned to each profession;
- (e) to prepare reports and review any divergence between the expected activity and the actual one and propose its correction;
- (f) to ensure productivity and efficiency in the department, planning its activities;
- (g) ensure the quality of the services provided;
- (h) to propose staff valorisation, upgrading and training measures;
- (i) to analyse and determine adequate measures to respond to claims made by users;
- (j) to ensure an adequate management and control of consumed goods and products.

Article 30 **Assistance Services**

1. Assistance services means services that provide healthcare to users, namely the following:
 - (a) surgery;
 - (b) obstetrics and gynaecology;
 - (c) anaesthesia and intensive care;
 - (d) paediatrics;
 - (e) internal medicine;
 - (f) radiology;
 - (g) medical pathology;
 - (h) pharmacy and medical equipment; and
 - (i) emergency.

2. Assistance services are organised into departments, function under the oversight of the board of directors and under the technical guidance of the medical director and head nurse, and are headed by doctors, with the exception of the Department of Medical Pathology and the Department of Pharmacy and Medical Equipment that are headed by persons holding a university degree or a technical and professional diploma, respectively, in laboratory medicine, medical pathology or pharmacy.

3. There shall be a head nurse posted to each department whose duty is:
 - (a) to technically supervise and coordinate the nursing activity;
 - (b) to prepare the work plan and the progress report on nursing and assist in incorporating such plan and report into the plan and report of the respective department;
 - (c) to plan nursing activities by defining the specific obligations of nurses and nursing aides;
 - (d) to propose the level of qualification required of nursing staff;
 - (e) to enhance work methods in order to increase the performance level of nursing staff, taking responsibility for the guarantee of nursing activities.

Article 31
Support Services

1. Support services means services that make available and organise the means necessary for the operation of the assistance services, namely the sterilisation service, the cleaning and residue treatment services, the catering service, the laundry service, the mortuary service, the accommodation service, and the maintenance services.
2. Support services are organised into departments, function under the oversight of the managing director and are headed by technicians with managerial background and experience in the relevant areas.

Article 32
Administrative and Financial Services

1. Administrative and financial services means services that put in place the administrative and financial procedures necessary for the operation of the hospital, namely in the areas of staff, paperwork and filing, accountancy, property, and cash management.
2. Administrative and financial services are organised into departments, function under the oversight of the managing director and are headed by persons with a background and experience in administrative and financial management.

CHAPTER IV
Economic, financial and human resources management

Article 33
Autonomy and management tools

1. Subject to tutelage powers and assistance from the central services of the Ministry of Health, it is the duty of hospitals to ensure their economic, financial, property and human resources management, practising such acts as deemed necessary to do so, which fall under their responsibilities and competencies.
2. The financial and property management of hospitals is regulated by forward management and accountability tools provided for in the general law governing public administration agencies endowed with administrative and financial autonomy and, in either case, by the following tools:
 - (a) annual programme, which includes the work plan, and the financial and operating budgets;
 - (b) medium-term plan;
 - (c) management report;
 - (d) financial and performance statements;
 - (e) balance sheet.

3. Bookkeeping shall respond to management requirements and allow for an ongoing budgetary control over each department and functional unit.

Article 34 Property

1. The property of each hospital is constituted of the assets and rights acquired by the latter in any capacity.
2. The property of hospitals also includes state assets assigned thereto, as long as such assets are used for carrying out their activity.
3. Hospitals may manage and dispose of any assets that constitute its property, with the limitations set forth in this decree-law, and shall always have an updated inventory of their assets.
4. Hospitals may acquire the assets necessary to carry out their activity, in accordance with the laws applicable to central administration agencies endowed with administrative and financial autonomy and under the guidance, assistance and control of the National Directorate of Administration, Finance, Logistics and Procurement, Ministry of Health.

Article 35 Financial Autonomy

1. It is the exclusive responsibility of the hospital board of directors to levy revenue, as well as realise expenditures related to the activity of the hospital, provided such expenditures are included in approved budgets.
2. Hospital revenues include:
 - (a) appropriations from the state budget;
 - (b) other appropriations, contributions and subsidies from the state or other entities;
 - (c) healthcare fees for a private room or other modality not intended for users as a whole;
 - (d) healthcare payments from liable third parties;
 - (e) payments for healthcare provided to non-beneficiaries of the National Health Service;
 - (f) payment of affordable contributions stipulated by law;
 - (g) proceeds generated from assets owned by the hospital;
 - (h) proceeds from donations;
 - (i) proceeds from the discharge of liabilities by users or third parties for breaching the rules or for the wrongful use of services or materials.

Article 36
Human Resources

1. Hospital employees are subject to the Civil Service Act, and doctors, nurses and health technicians may be subject to the individual employment contract regime.
2. Health professionals shall register with the Ministry of Health under Decree-Law No. 14/2004, of 1 September.

Chapter V
Final and Transitional Provisions

Article 37
Application of the Statutes for Hospitals

1. The present statutes applies to the Guido Valadares National Hospital and the Baucau Referral Hospital, which shall, once their respective board of directors has been appointed, submit to the Minister of Health draft Internal Regulations and all management documents necessary for their operation, within six months of the date the board members take office.
2. The application of these statutes to the remaining referral hospitals shall be dependant on an order by the Minister of Health.

Article 38
Staff

Staff currently employed by the hospitals shall retain the legal and functional status they now hold and shall be incorporated into the hospital staffing table on the basis of the individual assessment provided for in article 119 of Law No. 8/2004, of 16 June.

Article 39
Entry into Force

The present decree-law shall come into force on the date following its date of publication.

Approved by the Council of Ministers on 4 May 2005.

The Prime Minister

[Signed]
(Mari Bim Amude Alkatiri)

The Minister of Health

[Signed]

(Rui Maria de Araújo)

Promulgated on 23 May 2005.

To be published.

The President of the Republic

[Signed]

(Kay Rala Xanana Gusmão)