

**DEMOCRATIC REPUBLIC OF TIMOR-LESTE
NATIONAL PARLIAMENT**

**LAW No. 10/2004
OF 24 NOVEMBER 2004**

ON THE HEALTH SYSTEM

The functioning of a harmonic and structured health system, which will allow for the exercise of the right to health protection, as a fundamental right of all citizens, implies pooling efforts and activities by the private and public sectors in the area of health, recognising the private sector as a complementary partner, provided the latter is properly regulated and monitored, and establishing guiding principles for the national health service in order to effectively provide adequate health care.

The Constitution of the Republic confers exclusive competence on the National Parliament to approve the bases for the health system, under the terms of paragraph (m) of subsection 95.2.

Thus, there is a need to approve and develop the fundamental principles guiding the health policy, the structure, the organisation and funding of the health system and, particularly of the national health system, as well as the fundamental rights and duties of its beneficiaries, thereby establishing a normative framework that the Government is required to regulate and implement.

Pursuant to sections 92 and paragraph (m) of subsection 95.2, of the Constitution of the Republic, the National Parliament enacts the following, to have the force of law:

**CHAPTER I
General provisions**

**Article 1
Purpose**

The purpose of this law is to establish the bases for the national health system, construed as meaning the set of institutions and services, both private and public, ensuring health protection through prevention, promotion and treatment activities.

**Article 2
General Principles**

1- Health protection constitutes a right of every individual and the community, which can be materialised through the joint responsibility of citizens, society and the State.

2- The State's duty to protect health consist in formulating and executing economic, social and environmental policies aimed at promoting, preventing, maintaining, treating, and rehabilitating health through the establishment of conditions that envisage and guarantee

the reduction of risks and access to health care, within the limits of the human, technical, and financial resources available.

3- Public health is promoted and protected by the State and other public entities, and civil society organisations may be associated with this activity.

4- Health care is provided by state services or other public entities or by lucrative and non-lucrative private entities, under state licensing and monitoring.

5- The state's duty does not preclude that of persons, be they natural or legal, and society at large.

Article 3 Health Policy

1- The health policy is defined by the government, with the Ministry of Health being responsible for proposing it, promoting and following up its execution and for coordinating its action with international health organisations, notably the World Health Organisation and ministries that oversee related areas. The health policy shall adhere to the following guidelines:

- (a) Health promotion and disease prevention form part of the priorities in planning state activities;
- (b) the fundamental goal behind the creation of a national health service, universal and general, is to allow access to health care by every citizen on an equal basis, regardless of colour, race, marital status, gender, ethnic origin, language, social or economic status, political or ideological convictions, religion, education and physical or mental condition, as well as to guarantee an equitable distribution of resources and use of services;
- (c) special measures are taken in relation to vulnerable groups like children, adolescents, pregnant women, the elderly, and the disabled;
- (d) health services are structured and function in such a way as to better live up to the users' needs and are articulated with each other and with security and well-being services;
- (e) the management of the resources available shall envisage maximising their quality and social use, and avoiding waste and improper use of services;
- (f) recognition of the freedom to provide health care and establish private entities, both lucrative and non-lucrative, engaged in the provision of such services, in compliance with technical conditions and appropriate professional qualifications, and subject to state discipline and monitoring;

- (g) support for the development of the private health sector, particularly initiatives by non-lucrative institutions, in complementarity with the public sector;
- (h) the activity of producing, importing, distributing and trading chemical, biological and pharmaceutical products, as well as other means of treatment and diagnosis, is subject to state discipline and monitoring, in order to guarantee health defence and protection, the satisfaction of needs, and rationed consumption;
- (i) to promote participation by individuals and organised society in defining the health policy and plan and in controlling the functioning of services;
- (j) to boost the education of people in health-related matters by stimulating individuals and social groups to change those behaviours that are detrimental to both public and individual health;
- (k) to foster health training and research by seeking to get the services, professionals, and the community involved;
- (l) to recognise the complementarity of alternative medicine, which shall be practised with the highest responsibility and under the guidance and monitoring of the health services, in accordance with the law.

Article 4 **National Health Council**

- 1- The National Health Council represents those interested in the functioning of health care providers and is an advisory body to the Government.
- 2- The National Health Council includes representatives of users, health care providers, public and private, health professionals, the Ministry of Health, government departments responsible for related areas of activity, and other relevant entities.
- 3- Representatives of users shall be designated by user associations.
- 4- The composition, competence, and functioning of the National Health Council shall be defined by government decree.

CHAPTER II **Health System**

Article 5 **Entities of the System**

- 1- The health system includes the National Health Service, as well as all other entities, public or private, whether lucrative or non-lucrative, which are directly or indirectly engaged in health prevention and promotion and disease treatment activities.

2- The National Health Service comprises all public institutions, whether personalised or not, subordinate to or under the tutelage of the Ministry of Health, which are directly engaged in health prevention and promotion and disease treatment activities.

3- Epidemiological surveillance and sanitary surveillance, including the following activities to be carried out in conjunction with competent public entities, are instrumental and complementary activities to the National Health Service:

- (a) environmental protection;
- (b) formulation of the policy on medicines, equipment, immunobiological and other products with direct relevance to health;
- (c) further training of health professionals;
- (d) scientific and technological development;
- (e) health education.

4- The National Health Service functions through either its own services or private entities with which it may enter into agreements, whenever deemed advantageous in terms of quality and costs and provided the right of access by beneficiaries of the National Health Service is guaranteed.

Article 6 **Levels of health care provision**

1- The health system is grounded in primary health care facilities that should be situated close to the populations and meet their needs; it evolves into secondary health care facilities and ends up in the national referral hospital and other specialised institutions.

2- A close articulation between the various health care levels shall be promoted, reserving the intervention of the most differentiated services for the situations that require them, and guaranteeing a permanent mutual and confidential exchange of clinical information between their users.

Article 7 **Users' rights and duties**

1- Users have the right:

- (a) to choose from among the health system entities any one they wish, for the provision of health care services, with the limitations arising from the available resources and the organisation of such services;

- (b) to decide whether they should receive the health care services being proposed to them or not, unless otherwise specifically provided with regard to minors and those without legal capacity;
- (c) to be treated by adequate means, in a humane and prompt manner, with technical correctness, privacy, and respect;
- (d) to have their personal data kept confidential;
- (e) to be duly informed of their condition, possible treatment alternatives and likely trend of their condition;
- (f) to receive religious assistance, if they so wish and whenever possible;
- (g) to protest against and complain about the way in which they are treated;
- (h) to establish institutions to represent them and protect their interests, and to cooperate with the health system.

2- Users shall:

- (a) respect the rights of other users;
- (b) observe the rules on the organisation and functioning of services;
- (c) cooperate with health professionals in relation to their own condition;
- (d) use services in accordance with the set rules;
- (e) pay for health care charges, whenever applicable.

Article 8 **Health Professionals**

1- The law establishes the indispensable conditions for exercising the functions, rights and duties of health professionals, notably those of a deontological nature, taking into consideration the social relevance of their activity;

2- The human resources policy for the health sector envisages meeting people's needs, guaranteeing professional training, job security, and job incentives, and fostering full dedication, while avoiding conflicts of interest between the public and private activity, and facilitating mobility between the public and private sectors in order to allow for a proper coverage of the national territory.

3- The Ministry of Health shall organise a national record of all health professionals, with the exception of those whose registration with a public professional association is required, in which case the latter shall provide the Ministry of Health with any data as requested.

Article 9 **Training of Health Professionals**

1- The training of health professionals shall ensure the highest technical and scientific qualification possible, and enhance the sense of professional responsibility, the principle of cost-effectiveness in using the resources available, and the respect for life and for the rights of people and patients.

2- It is incumbent upon the Ministry of Education, Culture, Youth and Sports to promote the graduation of health professionals with a university degree, in conjunction with the Ministry of Health, which shall allow for practical teaching and the provision of in-service training in its institutions.

3- It is incumbent upon the Ministry of Health, in conjunction with the Ministry of Education, Culture, Youth and Sports, to promote the training of health technicians and professionals with other academic levels, as well as to ensure ongoing specific training and professional upgrading, irrespective of the level of the health professionals, and may take any other initiatives deemed convenient for the training of the professionals it needs.

Article 10 **Epidemiological Surveillance**

1- Epidemiological surveillance is construed as meaning a set of actions aimed at identifying, detecting or preventing any change in factors determining and conditioning individual or collective health, with the purpose of recommending and adopting disease prevention and control measures.

2- Epidemiological surveillance shall be the object of specific legislation establishing the terms under which every health professional and institution, public or private, shall assist in providing any relevant data and in implementing any subsequent recommendations.

Article 11 **Sanitary Surveillance**

1- Sanitary surveillance is construed as meaning a set of actions capable of eliminating, reducing or preventing health risks and coping with sanitary problems arising from the environment, the production and circulation of goods, and the provision of services with relevance to health. Sanitary surveillance includes:

- (a) control of consumer goods and provision of services directly or indirectly related to health, as well as of establishments where these are produced or traded;
- (b) sanitary control of public establishments and places;

(c) sanitary control of seaports, airports, and borders;

2- Sanitary surveillance authorities may, in the case of breach of relevant legislation that may undermine public health, prohibit the manufacturing, storage, distribution or trade of the goods in question, seize them and suspend or close down any establishments or places where they are produced or traded.

3- The concept of sanitary surveillance also includes the compulsory hospitalisation or treatment of individuals that pose a danger to public health.

4- Where catastrophes or serious health emergency situations occur, the Minister of Health may determine the indispensable exceptional measures, as well as requisition health services, establishments and/or professionals for the strictly necessary duration of such situations.

5- With the exception of subarticle 11.3 above, the decree-law shall regulate the forms of intervention set forth in the previous subarticles, and an administrative or contentious appeal against any decision thereon shall always be admissible.

Article 12

Pharmaceutical Activity and Complementary Activities

1- Pharmaceutical activity is construed as meaning the production, import, trading, distribution, and export of medicines and medicinal products.

2- The pharmaceutical activity is subject to specific legislation and to joint discipline and monitoring by the competent ministries, with a view to guaranteeing health defence and protection, the satisfaction of people's needs and rationed consumption, with priority being given to the promotion, dissemination, prescription and use of generic medicines.

3- Equally subject to specific legislation are those activities and products intended for collecting and distributing biological products, notably organs, tissues, blood and its by-products, as well as the following goods:

(a) equipment, reagents and products intended for laboratory and image diagnosis ;

(b) radioscopic equipment and radio-drugs, and other radioactive products used for diagnosis and therapy;

(c) other products that may pose a health risk.

4- The State may establish such institutions as required to make medicines and other goods available to the health system, particularly to the institutions of the National Health Service, as provided under subarticle 12.3 above.

Article 13
Clinical trials

Clinical trials shall be the object of a specific law and, bearing in mind that human life is the highest value to be promoted and safeguarded under any circumstances, such law shall promote the establishment of multidisciplinary approval and monitoring committees the work of which shall be conducted under medical guidance and responsibility.

CHAPTER III
National Health Service

Article 14
Characteristics

The National Health Service is characterised by:

- (a) being universal with regard to the target population;
- (b) fully providing quality health care, or guaranteeing the provision thereof;
- (c) assuring users equal access thereto, thereby alleviating the effects caused by economic, geographic or other inequalities;
- (d) being inclined to be free of charge, without prejudice to the determination of affordable contributions;
- (e) being inclined to have a deconcentrated organisation, and a decentralised and participatory management.

Article 15
Beneficiaries

The beneficiaries of the National Health Service include every Timorese citizen, as well as every foreign national who is a resident of Timor-Leste, on a reciprocal basis, and every stateless person residing in Timor-Leste.

Article 16
Organisation

1- In conformity with the Government Decree on the Organic Structure of the Ministry of Health, the National Health Service functions under the supervision of the Minister of Health and, in each district, under the guidance of the respective district health officer.

2- Each District Health Service shall have one District Health Board, as the body supporting, advising on and coordinating the provision of primary health care services.

Article 17
District Health Service

The District Health Services are responsible for the health of the people living in their respective district and coordinate the implementation of all health programmes and the provision of primary health care services at all the existing levels, and tailor the available resources to the needs, in accordance with the policy defined at a higher level, and in compliance with the norms issued by the central services of the Ministry of Health.

Article 18
Evaluation

- 1- The functioning of the National Health Service is subject to ongoing assessment on the basis of information of a statistical, epidemiological, and administrative nature.
- 2- Information regarding the quality of the services offered, their degree of acceptance by people, the level of satisfaction among professionals, and the reasonable use of resources in terms of costs and benefits, is also gathered.
- 3- This information is processed in a full and integrated system, covering all levels and all bodies and services.

Article 19
The Statutes of Health Professionals

- 1- Health professionals working in the National Health Service are generally subject to either the employment contract regime or the Civil Service Act, as may be defined by government decree-law.
- 2- The specific rules of the regime for health professionals, as set forth in collective employment regulations or in Civil Service special careers, shall be tailored to the specificity of the respective functions, and assess the merit and dedication shown while performing their functions, which shall, in either case, be governed by professional ethics and deontology.
- 3- The ongoing training of health professionals is ensured, depending on the resources available to the Ministry of Health.

Article 20
Funding

- 1- The National Health Service is funded by the State Budget.
- 2- Services and establishments of the National Health Service may charge, among others, the following fees, to be duly accounted for under the terms of specific legislation:

- (a) payment of health care provided in a private room or by any other modality that is not provided to users at large;
- (b) payment of health care by third parties, legally or contractually liable, notably health subsystems or insurance companies;
- (c) payment of health care provided to people who are not beneficiaries of the National Health Service, where there are no liable third parties;
- (d) payment of affordable contributions for health care provision;
- (e) payment of charges for other services provided, notably within the scope of sanitary surveillance, or for the use of facilities or equipment;
- (f) proceeds from own goods;
- (g) proceeds from donations;
- (h) proceeds from payments by users or third parties, with respect to infringements of the applicable rules or the fraudulent use of services or materials.

Article 21

Affordable Contributions and Prices for Health Care or Services Provided

1- Affordable contributions in relation to the provision of health care may be determined by decree, as provided for under paragraph (d) of subarticle 20.2, with the most disadvantaged and vulnerable social groups being exempt from such contributions.

2- Fees schedules shall be jointly approved by the Minister of Planning and Finance and the Minister of Health:

- (a) for the use of private rooms, as per paragraph (a) of subarticle 20.2;
- (b) for the provision of health care to liable third parties, or to people who are not beneficiaries, under the terms of paragraphs (b) and (c) of subarticle 20.2;
- (c) for the provision of other services or use of facilities or equipment, as per paragraph (d) of subarticle 20.2, notably for sanitary surveillance activities.

3- The fees schedules referred to in subarticle 21.2 above shall take into account the actual costs, both direct and indirect, and the necessary balanced operation by health care providers.

Article 22
Health Care Coverage

- 1- The law may specify the provision of services guaranteed to beneficiaries of the National Health Service or exclude those services that are not justified by one's health status.
- 2- Only under exceptional circumstances where it is not feasible to guarantee in Timor-Leste basic health care services under the required security conditions, and where this is feasible overseas at reasonable prices and there are funds available to do so, the National Health Service may share the costs of any expenses incurred in this respect.

Article 23
Management of Health Institutions

- 1- The management of the institutions of the National Health Service shall envisage the quality of the services provided and the efficient use of resources; and innovative management experiments may, under terms to be regulated by decree-law, be carried out under conditions other than those arising from the public legal regime normally applicable to such conditions.
- 2- Also under terms to be established by decree-law, contracts may be authorised and entered into with private entities, for the management of health institutions.

CHAPTER IV
Private Health Care Providers

Article 24
Private Entities

- 1- All health care establishments owned by private entities, lucrative or non-lucrative, are subject to licensing, regulation, and quality surveillance by the Ministry of Health, under the terms to be established by decree-law.
- 2- The State supports the development of the private health care sector, depending on the social benefits arising from such initiatives and in complementarity with the public sector.
- 3- Support for the private sector may be translated into the mobility of staff from the National Health Service into that sector, without prejudice to and on grounds of public interest, as well as into the promotion of incentives to the establishment of private units, in return for in-patient admission quotas.
- 4- The support referred to in the previous subarticle may only be rendered with the express consent of the Minister of Health and without prejudice to the National Health Service.

Article 25
Health Insurance

The law shall determine incentives to the establishment of health insurance policies.

CHAPTER V
Final Provisions

Article 26
Regulatory Arrangements

The Government shall develop into decree-laws the provisions of this law that are not immediately applicable.

Article 26
Entry into Force

This law shall come into force on the day subsequent to the date of its publication.

Approved on 29 September 2004.-

The Speaker of the National Parliament

[Signed]
(Francisco Guterres “Lu-Ólo”)

Promulgated on 11 November 2004
To be published.

The President of the Republic

[Signed]
(Kay Rala Xanana Gusmão)