



LIFE SCIENCES & HEALTHCARE

PORTUGUESE LEGISLATION

Highlight of the Publication of New Health Foundation Law

[Law no. 95/2019 - Diário da República no. 169/2019, Series I of 2019-09-04](#)

National Assembly

Approves the Health Foundation Law and repeals [Law no. 48/90](#) of 24 August and [Decree Law no. 185/2002](#) of 20 August

The New Health Foundation Law was published in the Diário da República yesterday, having repealed the previous Law that was in force for almost thirty years.

The legal regime on health partnerships with management and private funding that lasted about seventeen years has also been repealed. The relevant changes focus on two topics that have been hotly debated over the past few months, **the status of informal caregivers** and **State responsibility and the relationship between public and private services**.

(i) **Regarding informal caregivers**, their status is now recognized under Base 3 of the New Health Foundation Law, which contains the following guidelines that should be followed in regulating informal caregiver status:

- The role of an informal caregiver should be recognized, the informal caregiver should be held accountable and trained for the care to be provided with regard to the quality and safety of the regular and unskilled basic care that he/she performs;
- The status of the informal caregiver of persons with chronic illness, disabilities, transient or permanent partial or total dependence, or with other frail care needs, shall be established and regulated by law;
- The Ministry of Health should ensure the connection between the person needing care, the informal caregiver and the health services and the implementation of the integrated health care plan that the person

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- needs, as well as the articulation with the health services.
- (ii) **Regarding the State's responsibility and the role of private entities in the provision of health care**, the new Law, under Base 6, maintains the State's responsibility for the realization of the right to health care for all Portuguese citizens, citizens with permanent residency in Portugal, as well as citizens that fall under an equivalent regime.
- The responsibility for health care remains with the State and is primarily carried out through the National Health Service and other public services. In this regard there are no updates. Regarding the relationship with private health entities, the law states that agreements can be

concluded between the private and the public sector “*on a supplementary and temporary basis*” and “*when justified*”.

The development of these concepts will depend on their regulation, as the guidelines put forward by the law provide for a supplementary role for private entities that is dependent on the reasoned need for their services, which in our opinion gives rise to the possibility for the paradigm that has been in force up until now to continue.

Base 6 also establishes that the responsibility for planning, regulation, evaluation, audit, supervision and inspection of the entities that make up the NHS as well as the private and social sector, remains with the State, and this Base can be interpreted to justify a more restrictive regulation on the activity of private entities.

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