



## Review

### **Fundamentals of Health Law: structural and complementary bases for the protection of the Right to Health**

Fundamentos do Direito da Saúde: bases estruturais e complementares para a proteção do Direito à Saúde

Fundamentos del Derecho de la Salud: bases Estructurales y complementarias para la protección del Derecho a la Salud

#### **Maria Ester Simões Nogueira Rodrigues<sup>1</sup>**

Fundação Oswaldo Cruz, Brasília, DF.

 <https://orcid.org/0009-0000-0716-9739>

✉ [estersnr@gmail.com](mailto:estersnr@gmail.com)

#### **Layane dos Santos Silva<sup>2</sup>**

Escola de Saúde Pública do Distrito Federal, Brasília, DF.

 <https://orcid.org/0009-0006-6989-0189>

✉ [layanedosantossilva@gmail.com](mailto:layanedosantossilva@gmail.com)

#### **Sandra Mara Campos Alves<sup>3</sup>**

Fundação Oswaldo Cruz, Brasília, DF.

 <https://orcid.org/0000-0001-6171-4558>

✉ [smcalves@gmail.com](mailto:smcalves@gmail.com)

## **Abstract**

This is a review of the work ‘Fundamentos do Direito da Saúde’, developed based on research conducted by faculty members, students, and alumni of the Graduate Program in Health Law at Santa Cecília University. The publication brings together thirteen texts that address structural and complementary foundations of Health Law, articulating theoretical, legal, and institutional bases with applied research on contemporary issues that permeate the organization and protection of health.

**Keywords:** Health Law; Fundamental Right to Health; Unified Health System.

## **Resumo**

Trata-se de resenha da obra ‘Fundamentos do Direito da Saúde’, construída a partir de pesquisas de docentes, discentes e egressos do Programa de Pós-Graduação em Direito da Saúde, da Universidade Santa Cecília. A publicação reúne treze textos que abordam fundamentos estruturais e complementares do Direito da Saúde, articulando bases teórica-jurídica-institucionais com pesquisa aplicadas sobre questões contemporâneas que atravessam a organização e a proteção da saúde.

**Palavras-chave:** Direito da Saúde; Direito Fundamental à Saúde; Sistema Único de Saúde.

<sup>1</sup> Postgraduate in Health Law, Fundação Oswaldo Cruz, Brasília, DF, Brazil. Fellow, Fundação Oswaldo Cruz, Brasília, DF, Brazil.

<sup>2</sup> Bachelor’s Degree in Collective Health, Universidade de Brasília, Brasília, DF, Brazil. Escola de Saúde Pública do Distrito Federal, Brasília, DF, Brazil.

<sup>3</sup> PhD in Public Health, Universidade de Brasília, Brasília, DF, Brazil. Professor and Researcher in Public Health, Fundação Oswaldo Cruz, Brasília, DF, Brazil.



## Resumen

Se trata de una reseña de la obra ‘Fundamentos do Direito da Saúde’, elaborada a partir de investigaciones realizadas por docentes, estudiantes y egresados del Programa de Posgrado en Derecho de la Salud de la Universidad Santa Cecília. La publicación reúne trece textos que abordan fundamentos estructurales y complementarios del Derecho de la Salud, articulando bases teórico-jurídico-institucionales con investigaciones aplicadas sobre cuestiones contemporáneas que atraviesan la organización y la protección de la salud.

**Palabras clave:** Derecho de la Salud; Derecho Fundamental a la Salud; Sistema Único de Salud.

This review presents the book ‘Fundamentos do Direito da Saúde’<sup>(1)</sup> which brings together a set of works by teachers, students and graduates of the *Stricto Sensu* Postgraduate Program in Law at the Santa Cecília University (Unisanta), with a concentration area in Health Law: individual and collective dimensions. The book was organized by the programme’s vice-coordinator, Professor Marcelo Lamy, and published at the end of 2025, on the occasion of the programme’s tenth anniversary.

The publication is divided into two sections. The first is dedicated to the structural foundations of Health Law, with the presentation of five texts that address the current concept of health and the legal bases that legitimize its protection as a fundamental right, inseparable from the dignity of the human person. Based on the conceptual evolution of health, the analysis shows that the consolidation of Health Law goes beyond the strictly normative field, reaching ethical, political and social dimensions, which requires articulated action between the State, society and health institutions.

In this context, health is reinforced as an essential public service and an integral part of Social Security, which implies non-transferable state responsibilities in guaranteeing and implementing it. This requires actively confronting social risks, as exemplified by the state's duty to protect victims of structural phenomena such as domestic violence, ensuring that they receive benefits that enable them to rebuild their autonomy and dignity. This perspective reaffirms the collective and universal nature of the right to health, distancing it from merely welfare or market-based visions.

The second block, called 'complementary foundations', articulates the application of the epistemological contributions of the right to health by students, through the research developed in the program, demonstrating the power of the teaching-research binomial. The articles, eight in total, were dedicated to: reflection on the state model of Primary Health Care (APS), with emphasis on the Family Health Strategy (ESF) as a central instrument of public health policy in Brazil; the regulatory gaps that still exist in sexual and reproductive health, especially on the subject of home insemination, which emerges as an alternative in the face of economic, bureaucratic and legal barriers to access to assisted reproduction; intersectoriality in the Unified Health System (SUS), exemplified by care for Autism Spectrum Disorder (ASD) and the challenges of implementing an expanded, inclusive network and the difficulties in regulating new therapies and; the legal discussion regarding the reorganization of care coverage in the field of supplementary health.

The impacts of the digital age on mental health were also addressed, such as parental alienation, which aggravates psychological damage to children and adolescents; the complex ethical and legal dilemmas arising from the growing use of Artificial Intelligence (AI) and biomedical innovations; and the issue of personal data protection in health, highlighting the need to adapt the law to the new technological and digital contexts.

The book is therefore a rich source for rethinking the regulatory frameworks that guide the health system, in order to ensure fairness, transparency and ethics in the face of rapid social and technological

changes. Its interdisciplinary approach, which integrates law, health and technology, reinforces the importance of academic reflection as an instrument for strengthening public policies and citizenship. In this context, it is recommended reading as an essential reference for a systemic understanding of the pillars that structure Brazilian Health Law, serving as a basis for both advanced study and practical action.

## References

1. Lamy M, organizador. Fundamentos do Direito da Saúde. 1ª ed. São Paulo: ESDC; 2025. 391 p.

## Editorial information

### History

Received: February 24, 2026

Accepted: March 2, 2026

### Preprint

The manuscript is not a preprint.

### Similarity check

This review has been subjected to textual similarity checking with the CopySpider software.

### Authors' contributions

M.E.S.N. Rodrigues: conception/design of the review, data analysis and interpretation and writing of the review.

L.S. Silva: conception/design of the review, data analysis and interpretation and writing of the review.

S.M.C. Alves: conception/design of the review, data analysis and interpretation and writing of the review.

### Conflict of interest

Two authors hold editorial positions in the journal and therefore declared a conflict of interest. These authors did not participate in any stage of the editorial process for this review, which was conducted independently by another editor. The other authors declare no conflicts of interest.

### Funding

Not applicable.

### Ethical approval of the research

Not applicable.

### Availability of research data

Not applicable.

### Declaration of use of Artificial Intelligence (AI) tools

Not applicable.

### Editorial team

Assistant editor: Amanda Nunes Lopes Espiñeira Lemos

Editorial assistants: Danilo Silva Santos Rocha, Daphne Sarah Gomes Jacob Mendes

Copy editor: Júlia Ribeiro Vitoriano

Translator: David Elias Cardoso Câmara

### Publisher

Fundação Oswaldo Cruz (Fiocruz), Health Law Program, Brasília, DF, Brazil.

## Copyright

Authors retain copyright over their works and grant Cadernos Ibero-Americanos de Direito Sanitário (CIADS) the right of first publication.

## Open Access

This review is published under Open Access, with immediate, free and permanent access to its content, without fees for reading, downloading or sharing.

## License of Use

Copyright © 2026 Maria Ester Simões Nogueira Rodrigues, Layane dos Santos Silva, Sandra Mara Campos Alves. This article is licensed under the [Commons Attribution 4.0 International \(CC BY 4.0\)](https://creativecommons.org/licenses/by/4.0/) license, which permits use, distribution and reproduction in any medium, provided the original author and source of publication are properly cited.



## How to cite (Vancouver)

Rodrigues MESN, Silva LS, Alves SMC. Fundamentals of Health Law: structural and complementary bases for the protection of the right to health. *Cad. Ibero-Am. Direito Sanit.* 2026;15:e2026012. doi: [10.17566/ciads.e2026012](https://doi.org/10.17566/ciads.e2026012)