

INTERNATIONAL MEETING RIGHT TO HEALTH, UNIVERSAL COVERAGE AND POSSIBLE COMPREHENSIVENESS

Date: Nov. 17-19, 2016

Venue: Legislative Assembly of the State of Minas Gerais

Theme Contextualization – Article from the event organizers

The World Health Organization (WHO) defines health as "a state of physical, mental and social well-being and not merely the absence of disease or infirmity". Health is considered as a collective value, an inherent citizenship social right, which should be guaranteed without distinction of race, religion and political or social-economic status. In a document published in the year 2000, the UN reinforces this concept setting four minimum conditions for the State to guarantee the right to health: financial availability, accessibility, acceptability and quality of healthcare services.

In the Brazilian context, the Constitution of 1988 establishes health as the right of all citizens and duty of the State. To guarantee this right, the Unified Health System (hereafter "SUS") was created based on three pillars: universality, equality of access and comprehensiveness ("integrality") of healthcare. The creation of the SUS was, undoubtedly, a great democratic achievement. Before the SUS, only those with a formal employment or enrolled in social security had access to public health services. Today, 28 years later, and although the system still needs financial, political and administrative improvements, the SUS is providing healthcare coverage for all and many public policies have emerged based on this principle.

The provision of comprehensive health care services, one of the principles of SUS, reflects a broader understanding of the person. The Brazilian Constitution establishes that the healthcare system should be ready to listen to users, understand them in their social context and, on this basis, meet their demands and needs, paying attention to the prevention of diseases or health disorders. According to the Constitution, the State has the duty to provide comprehensive health care, prioritizing preventive activities but without prejudice to other services. To meet the needs of the population, the State should draw up a set of measures ranging from prevention to curative care at different levels of complexity.

The lack of a definition of "integrality" has allowed for the interpretation that the SUS must guarantee "everything for all." The almost uncritical confrontation of this view of "integrality" with the budgetary reality has been contributing to the growing litigation in the health sector, known as the phenomenon of judicialization of health. In Brazil, health lawsuits are more frequently brought against public entities, but the private sector, particularly prepaid plans, are also being sued. In the context of the SUS, the judicial mandate, legal tool available to protect the rights of citizens, is used to allow access to (generally high-cost) surgical procedures or medications which are necessary for survival. This kind of legal decision is more controversial when it comes to experimental therapies that are not proven and/or not approved by national authorities or that are not included in the set of procedures present in the SUS clinical protocols. Another factor that complicates judicial proceedings in the SUS is the unclear definition of responsibilities between the federal, state and municipal bodies. The majority of the Supreme Court's jurisprudence construes health as a joint responsibility of federal, state and municipal governments.

It is indisputable that the constitutional principle of comprehensiveness has significantly contributed to the creation and evolution of the SUS, which has been the main policy of social inclusion in the country's

history. The system has had many notable achievements, and the free provision of medicines for various chronic diseases and the National Program for Sexually Transmissible Diseases and AIDS are examples of initiatives stemming from the conception of health as a universal right.

Nevertheless, we cannot ignore the reality of economic scarcity and of an underfunded health sector, a situation that could be further exacerbated with the implementation of the Decoupling of Union Revenues, extended and expanded by Constitutional Amendment No. 93 of 8 September 2016. The amendment authorizes the federal government to discretionally reallocate 30% of tax revenues and revenues from social contributions and intervention on the economic domain, which, until now, have been assigned to specific funds, bodies and expenditures by constitutional or legal determination. In addition to economic scarcity and underfunding, other factors such as the aging of population and the continuous incorporation of new technologies in the health system also force us to face dilemma between what is a right and what is possible.

To solve this dilemma and establish a new social covenant on healthcare, the mobilization and politicization of society is essential. The example of the "Health +10 Movement" organized by the Legislative Assembly of Minas Gerais has demonstrated that the mobilization of citizens for such a purpose is not impossible. It has succeeded in getting support of more than two million voters for the bill that requires the federal government to allocate at least 10% of current revenue to the health sector.

We hope that the organization of this event will be an additional stimulus for collective mobilization and will generate support for reviewing the concepts underlying the operating logic of the SUS. During the event, we seek to facilitate and promote the exchange of information for a comparative analysis of different strategies used to guarantee the right to health; discuss how to reconcile the provision of services with hard budgetary constraints; and address the ethical and humanistic implications of the phenomenon of judicialization of health. In that way, we hope to contribute to clarify the concepts of comprehensiveness ("integrality") and universality, which are the pillars of the SUS.

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