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Decentralization and Humanization of Public Health Services

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***Abstract*—** *The public disservice in health has become part of the daily lives of citizens, even with public policies of humanization and decentralization of services, representing an exceptional milestone for Brazilian public health. Thus, this research will investigate the proposal for decentralization and humanization of services to users, in line with article 6 of the Federal Constitution of Brazil (1988), and the Universal Declaration of Human Rights. It consists of a bibliographic survey, in which it was investigated through the Virtual Library in Saúyde, in the SciELO, LILACS databases and in the national legislation portal, in which the laws, decrees and ordinances referring to the subject of the study were researched, since which aims to present a proposal for the decentralization and humanization of health services to users in Brazil. 17 publications were analyzed in full, which were suitable for the purpose of this review. The decentralization of health services in Brazil is an important advance, bringing autonomy to health regions and a more directed management towards the adequate allocation of public resources to health in the country. Despite the legal support, what is perceived in practice is still far from what was expected and there is a long way to go to reach the desired quality standard when it comes to humanization of care. It is concluded, then, that even if the current legislation, there is still an important path to be followed for the health services provided in our country, present the desired level of excellence.*

I. INTRODUCTION

Health constitutes a fundamental right in concomitance with the point of view defended by the Portuguese scholar Andrade [1]; That said, there is a need to develop an intervention plan, whose main objective is to provide the user with better care that will guarantee him better human dignity.

According to Article 1, Universal Declaration of Human Rights (UDHR), “All human beings are born free and equal in dignity and rights”; that is, they are equal in rights and duties; In order to guarantee the human dignity of all, in this sense, item 1 of Article 25 of the UDHR, also considers health as one of the main human rights: “Everyone has the right to a standard of living sufficient to ensure and your family health and well-being” [2].

In this sense, Marques [3] argues that “the fundamental right to health, for example, does not depend on the occurrence of any fact to be claimed and does not find a necessary correlation in state duties”; that is, regardless of legal action, health constitutes a fundamental right, the one guaranteed by the Federal Constitution.

According to this line of reasoning, Law 8.080/1990 establishes the principles of health: integrality, universality and equity; as the basic principles of health. However, it is important to point out that these principles are not always guaranteed in basic health services, such as the Family Health Strategy (ESF), provided for in the National Policy and Primary Care [4, 5, 6].

Thus, this research has as main objective to prove the constitutionality of one of the main rights that the human being has in order to ensure human dignity, one of the principles of the UDHR; despite the explicit evidence of violation of the Federal Constitution and the UDHR [2, 7].

In this way, this work has as main objective, to present a proposal for decentralization and humanization of health services to users, in line with article 6 of the Federal Constitution of Brazil and the Universal Declaration of Human Rights; therefore, this work has the following specific objectives: to evaluate the positive and negative aspects of the decentralization of Health Services; to determine the effects of the regulation of the Constitutional Amendment 29 on the financing of Brazilian Public Health.

II. METHODOLOGY

This is a bibliographic research considering that this is a research alternative that proposes to search and analyze the published knowledge regarding a certain theme. A search was carried out in two databases, namely: SciELO (Scientific Electronic Library Online), LILACS (Latin American and Caribbean Literature on Health Sciences) and in the Virtual Health Library Network (BVS), with national and international publications. portal of national legislation, in which laws, decrees and ordinances referring to the subject of the study were researched, since it aims to present a proposal for decentralization and humanization of health services to users in Brazil.

As a criterion for inclusion in the sample, a search was carried out on the bases mentioned above with the Descriptors in Health Sciences (DeCS): public policy, humanization of care and women's health. The inclusion criteria defined for the selection of articles were: articles published in Portuguese, complete articles and articles published and indexed in the aforementioned databases. There was no temporal cut, since we sought to know the general panorama of public policies in the area of decentralization and humanization in health. A pre-analysis of all the articles found was performed, through the initial reading of the titles and abstracts and articles that were not related to the theme were excluded. Articles published in journals, Ministry of Health programs published in the VHL and published laws, decrees and ordinances related to the subject of the present study were considered as analysis documents.

The review in the databases resulted in 39 publications. Considering the inclusion and exclusion criteria, 22 were excluded from the study, as they did not specifically address the subject studied. Therefore, 17 publications were analyzed in full, which were suitable for the purpose of this review.

The presentation of the results and discussion of the data obtained was designed in a descriptive way, allowing the reader to assess the applicability of the review developed, in order to achieve the objective of this method, providing subsidies to nurses in their daily decision-making.

III. RESULTS AND DISCUSSION

Health as a Fundamental Right

Fundamental Rights are the basic individual, social, political and legal rights that are provided for in the Federal Constitution of a nation. As a rule, fundamental rights are based on the principles of human rights, guaranteeing freedom, life, equality, education and security. They are essentially linked to the rights to freedom and dignity of the human person. Its emergence dates back to the French Revolution and the Declaration of the Rights of Man of 1789, consisting of the internalization by the Constitutional Charters of Sovereign States, of the precepts of the Declaration that preached freedom, equality and fraternity. They will deal with obligations to do (positive charge) applicable to state action. They will be configured as a result of the principle of material equality, in the case of social, cultural, economic and collective rights, born from the formatting of the Social State, which took place in the 20th century. It has immediate applicability, which rejects the thesis that considered second-generation fundamental rights as programmatic constitutional norms, which would depend on the regulation of the infraconstitutional norm for their effectiveness. These rights are the result of the social struggles that marked the 19th century; struggles motivated by the perception that the freedom and equality presented by the liberal capitalist state did not translate into material equality, having a merely formal character [8].

In this way, it ends up requiring a provision by the State for the realization of social justice, with the participation of all in social well-being. The dignity of the human person ends up becoming the value that will guide all development of human rights and fundamental rights. Its defense will be the principle and objective of the action of the State or the international community. Dignity becomes the principle that will centralize and lend unity to the entire national legal system, and thus all constitutional and infraconstitutional interpretation must be carried out with the fundamental precepts that make up this dignity as a guide. The right to health, as previously mentioned, is directly related to the principle of human dignity [9].

However, according to Article 6 of the Civil Code of Brazil; health also constitutes a Constitutional Law; “Education, health, work, housing, leisure, security, social security, maternity and childhood protection, assistance to the helpless are social rights” [7].

In this way, health is a fundamental social right, endowed with immediate applicability, although in certain cases with limited effectiveness. This immediate applicability brought in the text of the constitution serves to reinforce the normativity of these fundamental rights, in a clause that seeks to “ensure determinability to fundamental legal norms to the greatest extent possible, providing them with reinforced normativity [10].

Following this line, the Federal Constitution of 1988, in its article 196, also defends the following: “Health is a right of all and a duty of the State, guaranteed through

social and economic policies aimed at reducing the risk of disease and other health problems". and universal and equal access to actions and services for their promotion, protection and recovery"; that is, health is a constitutional right that needs to be guaranteed by the State [7].

However, it is important to emphasize that this right has been violated, since the current health policies, despite having indispensable measures, the reality experienced by health users in Brazil is quite different, since the country has a population of 209 .3 million inhabitants; however, there are Brazilian areas that are geographically quite distant, which is one of the main reasons for the lack of assistance [11].

It is important to emphasize that the fundamental right in a subjective dimension is related to an idea of justiciability. Thus, the individual holder of a subjective right can appeal to the Judiciary to guarantee it, having a right of action to ensure that right. The question that arises is when a fundamental right assumes a subjective character [12].

Following this line, according to the approach of Machado, Lima and Baptista [13]; "The analysis of health policy in the last 26 years reveals numerous contradictions, which can be exemplified in three strategic challenges: the inclusion of health in the development model and in Social Security, financing and public-private relations"; that is, contemporary public policies are insufficient to meet the current demand in this century [13].

Thus, it is important to highlight that Article 2 of Law 8080/1990 argues that: "Health is a fundamental human right, and the State must provide the conditions necessary for its full exercise"; that is, the State must provide conditions for this fundamental right to be continuous for the population, however it is exposed in the media: television, connected and printed; the non-compliance with the duty of the executive branch related to the provisions of this article [14].

Thus, according to Machado, Lima and Baptista [13], they argue that "problems related to the disarticulation between spheres of government and sectors of social policy were frequently manifested and the efforts of integration remained restricted to certain strategies"; that is, the authors state that the lack of articulation of the governments can be constituted as one of the main causes of these violations mentioned.

Thus, Law 8142/1990 defends the right of health users to participate in the management of resources destined for this service from the Health Councils, in which some representatives of health users are chosen; in this sense, each municipality has the duty to create its respective councils so that the right provided for in public policies is fully complied with [4].

Following this line, Item I of Article 3 of Law 8080/1990 [4]; has three pillars of public health:

Integrality – constitutes the set of everything used to form or complete a whole; completeness, that is, the total coverage of public health services for the population is foreseen [15].

Universality – quality or character of universality, generality, that is, health coverage needs to be full, for the entire population and not just part of it [15].

Equity – characteristic of something or someone that reveals a sense of justice, impartiality, exemption and neutrality, that is, the government should contribute to fairer access to health, including for people who live in places where access to health services is available. health are scarce [15].

Following this line, it is important to emphasize that it is up to the government to promote and effectively implement public policies that meet the pillars of health services. However, the government's ineffectiveness in complying with these principles is not new, since the contemporary population of this second decade of the 21st century lives in an epidemic of diseases that had already been eradicated from the lives of Brazilians such as measles and chickenpox. Thus, despite the public policies in force in the Brazilian territory providing for the integrality in guaranteeing this Constitutional Health Law, there is still much to be done for the effectiveness of national health guidelines, since before the implementation of the 1988 Constitution, the situation was much worse. [7].

Decentralization in Health

As highlighted by Fundação Oswaldo Cruz [16], the decentralization of both management and health policies in Brazil was based on the Federal Constitution of 1988 and regulated by Laws 8080/90 (Organic Health Law) and 8142/90.

Made in an integrated way between the Union, states and municipalities – it is one of the organizational principles of the Unified Health System (SUS). According to this principle, power and responsibility over the sector are distributed among the three levels of government, with the aim of providing services with more efficiency and quality, as well as inspection and control by society [16].

Since the legislative regulation, "each sphere of government is autonomous and sovereign in its decisions and activities, respecting the general principles and the participation of society" [16].

Decree 7,508 of 2011, which regulates Law 8,080/90, institutes a new arrangement for decentralization, in which the provision of SUS actions and services is based on the constitution of health regions. Each health region must guarantee integrality in the provision of services through the partnership between the member municipalities, and regulated by the Organizational Contract of Public Action (COAP) [16].

Analyzing these constitutional determinations, it is clear that a better management of public services through local autonomy is desired, which is extremely positive, since each place has its specificities and needs, thus being able to define in a personalized way the proper direction of public resources.

Principles of humanization in health

Aside from all the management of health services, it is also up to Organs competent bodies to legislate on the humanization of the care provided, as this goes beyond just considering the illness itself. Approaching humanization in health goes beyond treating the patient's physical body, but understanding their pain. In this sense, Hilab [17] notes that there are three principles proposed by the Ministry of Health:

Inseparability between care and management of health production processes: it is understood that practices are interdependent and complementary.

Transversality: these are concepts and practices that cross the different actions and instances, thus expanding the level of openness of intra- and inter-group communication, directly reflecting changes in health practices.

Autonomy and protagonism of the subjects: they are related to the co-responsibility between managers, users and the collective participation in the processes and management, that is, the service user has a voice and turn through the Health Councils and other instances.

Considering these principles, humanized health care "consists of treating the patient as an individual who needs excellence in care and reception during consultations, exams and other procedures. It is important to remember that humanization must be present in hospitals, clinics, offices, laboratories and other public and private health spaces" [17]. When there was the pain of the other, it is reasonable to offer the best possible care, even if the resources available are not the most advanced and complete.

IV. CONCLUSION

This work addressed the humanization and decentralization of health services to users, in line with article 6 of the Federal Constitution of Brazil (1988) and the Universal Declaration of Human Rights.

The decentralization of health services in Brazil is an important advance, bringing autonomy to health regions and a more careful management in the sense of adequate allocation of public resources to health in the country.

Despite the legal support, what is perceived in practice is still far from what was expected and there is a long way to go to reach the desired quality standard when it comes to humanization of care. The intertwining of senior management with those on the front line of service provision is necessary so that the real needs of users are understood and they can be assisted in a personalized way, conferring humanization on the service.

These are subjects of inexhaustible discussion. They can and should be addressed in new studies, as well as proposed improvements to the gaps that still exist in our public health services.

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