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JUDICIALIZATION OF HEALTH: AN ANALYSIS OF THE PHENOMENON AND ITS CONSEQUENCES TO THE BRAZILIAN SOCIETY

Judicialização da saúde: uma análise do fenômeno e suas consequências para a sociedade brasileira

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ABSTRACT

Although the Brazilian National Health System advanced since its creation; there are still failures in supplying medicines and services. For this reason, citizens have been using the judicial system to acquire health assets, what is known as judicialization of health and in the last years, this practice had an abrupt increase. Based on that, this work has the purpose of analyzing the lawsuits that request provision of health assets through SUS to provide greater understanding of the effects of the naturalization of judicialization of health. To do this, a bibliographic review was conducted, besides the analysis of 100 lawsuits on the *Tribunal de Justiça do Estado de São Paulo's* website. The results of the bibliographic review indicated that in 2010, the government spending on judicialization of health was R\$ 120 million, whereas in 2016 it was around R\$ 1.6 billion, reaching 1,346,931.00 actions moved in Brazil. The descriptive analysis conducted demonstrated that, in the same year, nearly 22.1% of the selected lawsuits requested medicines, which are standardized by SUS. In relation to the other requests, 82.8% disposed of therapeutic alternative available in public system. The numbers presented demonstrate the destabilization of budget planning to the health sector caused by judicialization of health. It is necessary to seek strategies to ensure the right to health and to enlarge the knowledge of standardized lists provided in public system to doctors and judges. The judicialization of health will therefore remain available to guarantee rights in cases not covered by the health system, without the excess of lawsuits damaging the budget planning and universal access to the system.

Keywords

Judicialization; Public Health; Brazilian National Health System.

RESUMO

Embora o Sistema Único de Saúde tenha avançado desde sua criação, ainda há falhas no fornecimento de medicamentos e serviços. Com isso, cidadãos têm utilizado o sistema judiciário para aquisição de bens de saúde, prática conhecida como judicialização da saúde, que teve um crescimento abrupto nos últimos anos. Diante disso, o trabalho tem como objetivo analisar as ações judiciais que requerem bens de saúde ao SUS para proporcionar melhor compreensão dos efeitos da naturalização da judicialização da saúde. Para tal, foram realizadas uma revisão bibliográfica e a análise de 100 processos judiciais do portal eletrônico do Tribunal de Justiça do Estado de São Paulo. Os resultados da revisão bibliográfica indicaram que, em 2010, o gasto do governo federal com a judicialização da saúde foi de R\$ 120 milhões. Já em 2016, esse gasto foi de cerca de R\$ 1,6 bilhão, com 1.346.931 processos movidos no Brasil. A análise descritiva realizada demonstrou que, no mesmo ano, 22,1% das ações judiciais selecionadas solicitaram medicamentos padronizados pelo SUS e, em relação às demais solicitações, 82,8% possuíam alternativa terapêutica disponível na rede pública. Os valores apresentados demonstram a desestabilização do planejamento orçamentário para a área da saúde gerada pela judicialização. É necessário buscar estratégias de garantia do direito à saúde e ampliar o conhecimento das listas disponibilizadas pela rede pública para médicos e juizes. Dessa forma, a judicialização da saúde permanecerá viável para a garantia dos direitos em casos não contemplados pelo sistema de saúde, sem prejuízo ao planejamento orçamentário e acesso universal ao Sistema Único de Saúde.

Palavras-Chave

Judicialização; Saúde Pública; Sistema Único de Saúde.

Introduction

According to the Pan American Health Organization (PAHO), about 75% of the Brazilian population depends exclusively on the Unified Health System (SUS) to guarantee their physical, psychological and social well-being. SUS benefits approximately 180 million Brazilians and performs approximately 2.8 billion consultations per year¹.

Even with the various advances presented by SUS since its creation, there are government failures in the supply of medicines and services and in meeting the high demand of the Brazilian population for health resources. Increasingly, the tension between the fundamental right to health and the limitations of the State is present².

As a result, it becomes increasingly common for citizens to use the judicial system to gain access to medicines, supplies and health services, a practice known as the judicialization of health. This term represents the possibility of the Judiciary intervening in the conflict between the individual right of citizens to health and the financial and logistically limited action of the State, forcing the granting of resources not provided for in the planning of public administration³.

One of the aspects of the public health system that is often the target of lawsuits is pharmaceutical care. These actions aim to obtain drugs not available in public services, having as main justifications for such requests: the lack of standardized drugs by SUS; non-compliance with established clinical protocols; and the request for products not standardized by SUS and even those without registration in the Brazilian Health Regulatory Agency (ANVISA) and/or without evidence of efficacy⁴.

A quick analysis of data regarding the number of requests received by the State in recent years allows us to recognize a rapid and abrupt growth of the judicialization of health: in 2010, the federal government spent approximately R\$ 120 million on the acquisition of medicines requested by the judicial route; in 2014, the disbursement was approximately R\$ 840 million; already in 2016, the expenditure increased to R\$ 1.6 billion⁵.

¹FUNDAÇÃO OSWALDO CRUZ - FIOCRUZ. SUS. *Pense SUS*. Available at: <https://pensesus.fiocruz.br/sus>. Accessed on: 09 Nov. 2020.

²TEIXEIRA, Luís Alberto; SILVA, Juvêncio Borges. A Judicialização da Saúde Pública: uma análise do acesso a medicamentos sem registro na Agência Nacional de Saúde como direito fundamental. In: CONGRESSO BRASILEIRO DE PROCESSO COLETIVO E CIDADANIA, 3. Ribeirão Preto-SP. *Anais...* 2015, n. 3, p. 410-419, out. 2015. Available at: <http://www9.unaerp.br/revistas/index.php/cbpc/article/view/557/618>. Accessed on: 11 May. 2017.

³*Ibid.*

⁴CHIEFFI, Ana Luiza; BARATA, Rita Barradas. Judicialização da política pública de assistência farmacêutica e equidade. *Cad. Saúde Pública*, Rio de Janeiro, v. 25, n. 8, p. 1839-1849, ago. 2009. Available at: http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0102-311X2009000800020&lng=en&nrm=iso. Accessed on: 05 Feb. 2018. <https://doi.org/10.1590/S0102-311X2009000800020>.

⁵ENTENDA a judicialização da saúde e debate do STF sobre acesso a remédios. *Folha de S. Paulo*, São Paulo, 28 set. 2016. Available at: <http://www1.folha.uol.com.br/cotidiano/2016/09/1817519-entenda-a-judicializacao-da-saude-e-debate-do-stf-sobre-acesso-a-remedios.shtml>. Accessed on: 25 Jul. 2017.

The same is true in other spheres of public power. São Paulo government, for example, spent R\$ 1.2 billion in lawsuits aimed at 57,000 patients in 2015. According to Renata Santos, of the State Department of Health of São Paulo (2017), this is almost the same amount spent in one year with the *Hospital das Clínicas* of the *Faculdade de Medicina da Universidade de São Paulo* (HCFMUSP), which treats approximately 35,000 patients per day⁶.

The exacerbated growth of the judicialization of health can harm the implementation of health policies in SUS, as compliance with judicial determinations entails high and unscheduled expenses by the government spheres. In addition to the budgetary issue, most lawsuits violate the principles of SUS, since they distort the principle of equity and consist of treatments that could be encompassed within protocols and programs already established by SUS⁷.

According to a study conducted in the state of São Paulo by Vieira and Zucchi⁸, about 62% of the drugs requested through legal action are present in standardized lists of SUS. This leads us to believe that much of the search for legal resources to obtain health products is due to failures in the supply and management of medicines in SUS or to the lack of knowledge of standardized lists by health professionals. Among the drugs requested that are not standardized in SUS lists, the study indicated that 73% have a therapeutic alternative available in SUS. This data may indicate that part of the lawsuits could be avoided if the prescribing physicians used the standardized lists of SUS as a basis for the treatment of their patients.

As for the origin of lawsuits, a study conducted by Machado *et al.*⁹ in the state of Minas Gerais revealed that only 25.8% of medical prescriptions were generated in SUS network, while the rest originated in the private system. The acquisition of drugs prescribed by private service professionals confronts the principle of integrality of SUS. In addition, these results led the researchers to conclude that the high rate of lawsuits generated by private services may indicate that SUS services have been used to transcribe prescriptions initially made by the private service, which would further increase the damage to the principle of integrality.

⁶PIERRO, Bruno de. Demandas crescentes: parcerias entre instituições de pesquisa e a esfera pública procuram entender a judicialização da saúde e propor estratégias para lidar com o fenômeno. *Revista Pesquisa FAPESP*, ed. 252, fev. 2017. Available at: <http://revistapesquisa.fapesp.br/2017/02/10/demandas-crescentes/>. Accessed on: 25 Jan. 2018.

⁷CHIEFFI, Ana Luiza; BARATA, Rita Barradas. *op. cit.*, p. 1839-1849.

⁸VIEIRA, Fabiola Sulpino; ZUCCHI, Paola. Distorções causadas pelas ações judiciais à política de medicamentos no Brasil. *Rev. Saúde Pública*, São Paulo, v. 41, n. 2, p. 214-222, abr. 2007. Available at: <http://www.scielo.br/pdf/rsp/v41n2/5587.pdf>. Accessed on: 08 May. 2017. <https://doi.org/10.1590/S0034-89102007000200007>.

⁹MACHADO, Marina Amaral de Ávila *et al.* Judicialização do acesso a medicamentos no Estado de Minas Gerais, Brasil. *Rev. Saúde Pública*, Belo Horizonte, v. 45, n. 3, p. 590-598, abr. 2011. Available at: <http://www.scielosp.org/pdf/rsp/2011nahead/2403.pdf>. Accessed on: 09 May. 2017. <https://doi.org/10.1590/S0034-89102011005000015>.

Moreover, the Brazilian National Drug Policy of SUS determines the responsibilities of each sphere of government in the field of pharmaceutical care, and judicial determinations often disregard this standardization. That is, the municipality is obliged to provide medicines from the Exceptional Circumstance Drug Dispensing (under the responsibility of state management), while the state is forced to provide primary care medications (the responsibility of municipal management)¹⁰.

The budget for health in 2016 in Brazil was around 3.8% of Gross Domestic Product (GDP)¹¹, *i.e.*, R\$ 238 billion (IBGE, 2017). Of this total, more than 1.6 billion was allocated only by the federal government to the acquisition of medicines requested by judicial means. This unplanned demand may compromise the National Drug Policy, equity in access and rational use of medicines in SUS. The lack of knowledge about the severity of the problem can hinder the reduction of excess judicialization of health and harm the population as a whole.

Objectives

Considering the exponential growth of this phenomenon, this paper seeks to analyze the problem of health judicialization, its relevance in the commitment of the budget destined to health and its impacts on society. The general objective of this work is to analyze lawsuits that require the supply of medicines by SUS in order to provide a better understanding of the effects of naturalization of the use of the judicial system to obtain health resources.

To this end, specific objectives were defined: to analyze data from lawsuits contained in the selected documents, in order to interpret the character of these lawsuits in Brazil and in the state of São Paulo; collect and analyze data from lawsuits selected on the portal of the Justice Court of São Paulo to understand the profile of these cases; and to evaluate the implications of data collected for SUS.

Material and methods

The present study consists of a bibliographic review of the narrative type. The technical procedure of this work was documentary research, with a qualitative methodological approach, carried out in the databases *Web of Science*, *PubMed*, *Medline*, *Scholar Google* and *LILACS*, in the newspaper of great circulation *Folha de S. Paulo*, on the news portal *Setor Saúde* and on sites of the following government agencies: Anvisa, National Health Council (CNS), National Health Fund (FNS), Virtual Health Library (VHL), Brazilian Institute of Geography and

¹⁰VIEIRA, Fabiola Sulpino; ZUCCHI, Paola. *op. cit.*

¹¹BUSCATO, M. Retrospectiva 2016: O ano em que a saúde chegou aos tribunais. *Revista Época*, 27 dez. 2016. Available at: <http://epoca.globo.com/saude/noticia/2016/12/retrospectiva-2016-o-ano-em-que-saude-chegou-aos-tribunais.html>. Accessed on: 24 de Jul. de 2017.

Statistics (IBGE), Supreme Federal Court (STF), Ministry of Health, Government of Brazil and City Of São Paulo. At the end, data from 13 documents were included in the results of this study.

The descriptors used to collect the references were: “judicialization of health” and “right to health”. The inclusion criteria were: articles and government sites that provided descriptive data from lawsuits published between 2007 and 2018 in Portuguese, English or Spanish. Exclusion criteria were: publications in languages other than Portuguese, English or Spanish; publications prior to 2007; and publication whose approach did not meet the objectives of the work.

Data selected for the analysis of judicial proceedings were extracted from the electronic portal of the Justice Court of São Paulo, which provides consultations of lawsuits brought against the state of São Paulo or its municipalities. Part of the research universe are lawsuits involving the claim of medicines, health services and supplies, registered from June 1, 2016 to July 31, 2016, filed against the State by patients residing in Brazil. In these actions, the main variables analyzed were: registration of the drugs requested in Anvisa and participation or not of the drugs requested in the relationships standardized by SUS. In the case of drugs not belonging to SUS programs, therapeutic alternatives were found in these programs through the Clinical Protocols and Therapeutic Guidelines available on the Ministry of Health portal^{12,13}.

Were also selected 100 lawsuits on the site of the Justice Court of São Paulo, out of a total of 2,650 lawsuits requesting drugs registered between June 1, 2016 and July 31, 2016. The lawsuits were elected from the provision on the electronic portal by the date of registration. Starting from the total number of actions, the division by the number of desired processes (100) generated a selection pattern, capturing data of one every 26 actions. Thus, there was uniformity in the choice of processes throughout the analyzed period. The following data from these lawsuits were analyzed: date, municipality of residence informed in the process and medication requested.

Information on drug records in Brazil were obtained through Anvisa’s database of drugs and blood products. In addition, to establish the percentage of lawsuits whose requested products have standardized therapeutic alternatives in SUS, the drugs that present the same therapeutic subgroup of those requested in the lawsuits were considered as therapeutic alternatives, according to the classification of the Anatomical and Therapeutic Chemical System.

¹²MINISTÉRIO DA SAÚDE - MS. Biblioteca Virtual em Saúde. *Protocolos clínicos e diretrizes terapêuticas*, v. 1. Available at: http://bvms.saude.gov.br/bvs/publicacoes/protocolos_clinicos_diretrizes_terapeuticas_v1.pdf. Accessed on: 09 Nov. 2020.

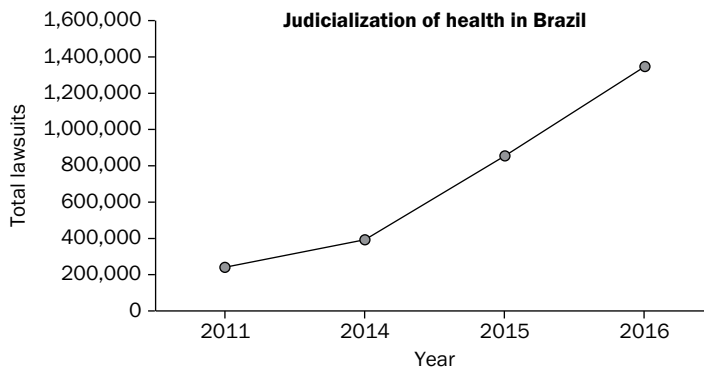
¹³MINISTÉRIO DA SAÚDE - MS. Biblioteca Virtual em Saúde. *Protocolos clínicos e diretrizes terapêuticas*, v. 2. Available at: http://bvms.saude.gov.br/bvs/publicacoes/protocolos_clinicos_diretrizes_terapeuticas_v2.pdf. Accessed on: 09 Nov. 2020.

For the characterization of the lawsuits according to the defined aspects and the analysis of their extension, the Excel 2013 program (Microsoft® Corp., USA) was used, which allowed the processing of data and the assembly of figures used in the work and presented in the “Results” section.

Results and discussion

I. Judicialization of health in Brazil

According to the report “Justice in Numbers” by the National Council of Justice, in 2016 1,346,931 lawsuits were filed regarding the request for health services and materials in Brazil¹⁴. This number represents a growth in the number of cases and, therefore, in the judicialization of health. Figure 1 shows the measurements presented by the National Council of Justice in recent years:



Own preparation Source: National Justice Council (2017).

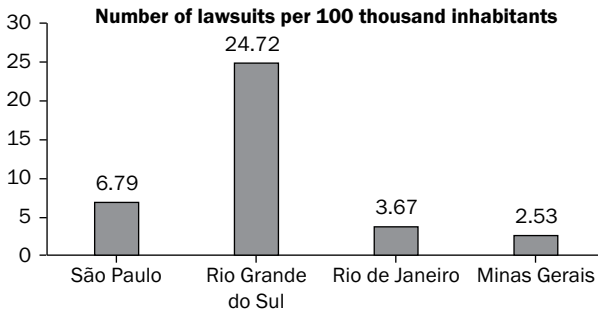
Figure 1. Number of lawsuits related to the judicialization of health in Brazil, 2011-2016.

According to the Observatory of Political Analysis in Health (OAPS), in the first half of 2016 federal government spending reached R\$ 730.6 million. It is estimated that spending for the entire year of 2016, only by the federal government, reached R\$ 1.6 billion and, in addition to the investments of states and municipalities, R\$ 7 billion.

¹⁴SCHULZE, Clenio Jair. Números atualizados da Judicialização da Saúde no Brasil. *Empório do Direito*. 11 set. 2017. Available at: <http://emporiododireito.com.br/backup/numeros-atualizados-da-judicializacao-da-saude-no-brasil-por-clenio-jair-schulze/>. Accessed on: 24 Jan. 2018.

Also, in 2016, the Ministry of Health spent approximately R\$ 654.9 million on the purchase of the 10 most costly drugs among the requested ones, destined to only 1,213 patients. Of these drugs, six were not registered in Anvisa¹⁵.

According to a study published by Interfarma¹⁶, in 2015 the state with the highest number of processes in relation to the number of inhabitants was Rio Grande do Sul, with about 24.72 lawsuits per 100,000 inhabitants, as can be seen in Figure 2.



Own preparation Source: Interfarma (2016).

Figure 2. Number of lawsuits per 100 thousand inhabitants in Brazil, 2015.

However, according to the Health Committee and the Systemic Planning and Management Committee, both from the National Council of Justice, in 2016 there was a 16% drop in spending on the judicialization of health in Rio Grande do Sul. This result has been attributed to courses and workshops in the interior of the state and to the implementation of mediation by the Public Defender's Office, which oversees the need for lawsuits.

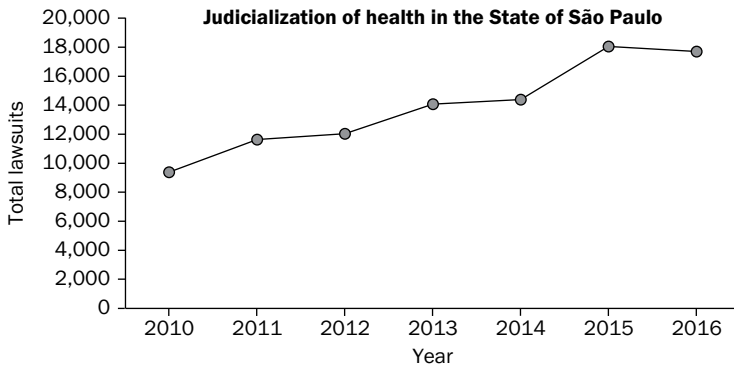
II. Judicialization of health in the State of São Paulo

According to the São Paulo State Health Department (SES of São Paulo), the number of lawsuits related to the request for health services and medicines grew between 2010 and 2015 and, for the first time in that decade, fell in 2016, when it decreased by 2% compared to 2015, as can be seen in Figure 3.

¹⁵PIERRO, Bruno de. *op. cit.*

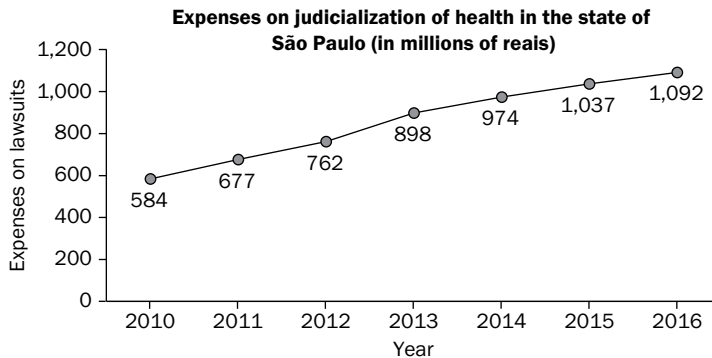
¹⁶JUDICIALIZAÇÃO da saúde na prática: fatos e dados da realidade brasileira. *Interfarma* – Associação da Indústria Farmacêutica de Pesquisa. 2016. Available at: <https://www.interfarma.org.br/public/files/biblioteca/102-caderno-judicializacao-jul2016-site.pdf>. Accessed on: 24 Feb. 2018.

The drop in the number of lawsuits, however, does not represent a reduction in expenses for processes related to the judicialization of health. Figure 4 indicates that, according to the SES de São Paulo, there was an increase of approximately 5.3% in spending in 2016 compared to 2015.



Own preparation Source: São Paulo State Health Department (2018).

Figure 3. Number of lawsuits related to the judicialization of health in the State of São Paulo, 2010-2016



Own preparation Source: São Paulo State Health Department (2018).

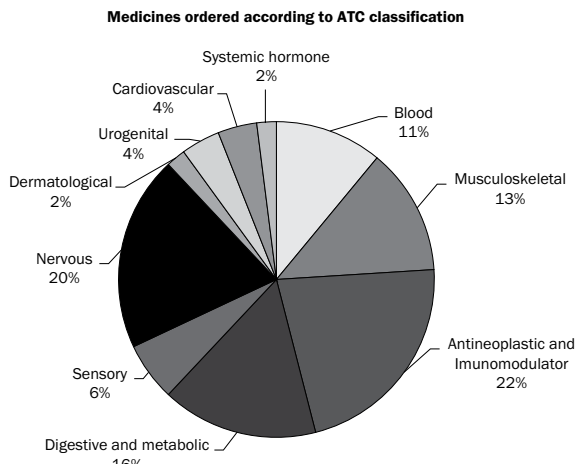
Figure 4. Total expenditure on the judicialization of health in the State of São Paulo, 2010-2016.

Also, according to the SES of São Paulo¹⁷, the profile of the judicialization of health in the state indicates that the majority (58%) of the lawsuits request medicines

¹⁷ ESTUDO revela situação da judicialização da saúde no Brasil. *Setor Saúde. Jurídico*. 01 fev. 2018. Available at: <https://setorsaude.com.br/estudo-revela-situacao-da-judicializacao-da-saude-no-brasil/>. Accessed on: 13 Feb. 2018

prescribed by doctors from private services. The supply of medications prescribed by professionals in the private service confronts the principle of SUS's integrality.

In relation to the judicial processes selected through the electronic portal of the Justice Court of the State of São Paulo (TJ-SP), it is possible to observe in Figure 5 the division of the requested drugs, according to the classification of the Anatomical and Therapeutic Chemical System (ATC code). The antineoplastic and immunomodulatory system and the nervous system stand out, responsible for 22% and 20% of the drugs ordered, respectively.



Own preparation Source: Justice Court of the State of São Paulo (2016).

Figure 5. ATC classification of drugs ordered in lawsuits filed in São Paulo, 2016.

Of the selected lawsuits, 22.1% requested medicines that were part of lists standardized by SUS. In relation to other requests (drugs ordered not standardized by SUS), 82.8% had alternative therapy available in the public network. It is possible to notice a tendency by the Judiciary to approve judicial requests for medicines and supplies without considering the standardization adopted by the Ministry of Health, which indicates that the lack of knowledge of the lists can lead to an excess of the judicialization of health. Another possibility is that there is a failure in SUS supply and medication management system, which would cause temporary shortages of medications in the public network.

Of the items requested, only 17.2% had no therapeutic alternative available in the public system, which also shows that part of the lawsuits could have been avoided had the prescribing physicians been concerned with basing their treatment

indications on the lists provided by SUS and/or the judicial system consulted those lists or health experts before approving requests submitted to the government.

In the analyzed lawsuits, it was also found the percentage of 2.5% of medicines ordered that did not have registration in Anvisa, that is, without authorized use and commercialization in Brazil. The approval of processes that request medicines not approved by Anvisa also contradicts SUS principles. As stated in the National List of Essential Medicines (Rename), standardized medicines for the public system must be analyzed for cost-effectiveness, in addition to ensuring safety and scientific proof¹⁸.

The establishment of parameters for the judicialization of health can contribute to the progressive reduction of the request for medicines not registered in Anvisa. An example occurred in 2016, when Law no. 13,269/2016¹⁹, which authorized the use of synthetic phosphoethanolamine by patients with malignant neoplasms, even though there was no health record or evidence of clinical efficacy. However, in December of the same year, due to the setting of parameters for the judicialization of health, the permission to use the drug was suspended²⁰.

Aiming to revert the current situation of the judicialization of health, measures have been devised to reduce the significant costs of these resources. In 2009, the Rio de Janeiro Court of Justice (TJ-RJ), the State Health Department of Rio de Janeiro and the Civil Defense agreed on the creation of the Technical Advisory Center (NAT) in Health Lawsuits, which employs health professionals and aims to provide technical assistance to magistrates in lawsuits related to the judicialization of health. The analysis of urgent orders takes place in 24 hours and, of the others, in 48 hours. Based on the opinion provided by NAT, the magistrate decides whether to supply the drug²¹.

At the end of 2016, the National Council of Justice and the Ministry of Health, in partnership with *Hospital Sírio-Libanês*, started a project aimed at expanding NAT, in order to assist all states. The project also aims to create a database with

¹⁸MINISTÉRIO DA SAÚDE - MS. Secretaria de Ciência, Tecnologia e Insumos Estratégicos Departamento de Assistência Farmacêutica e Insumos Estratégicos. *Relação Nacional de Medicamentos Essenciais: RENAME 2017*. Brasília-DF, 2017. Available at: http://bvsms.saude.gov.br/bvs/publicacoes/relacao_nacional_medicamentos_rename_2017.pdf. Accessed on: 24 Jan. 2018.

¹⁹BRASIL. *Lei 13.269. de 13 de abril de 2016*. Autoriza o uso da fosfoetanolamina sintética por pacientes diagnosticados com neoplasia maligna. Available at: http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2016/lei/l13269.htm. Accessed on: 08 Nov. 2020.

²⁰JUDICIALIZAÇÃO na saúde: panorama aponta aumento de 727% nos gastos da União. Autor: Equipe de Redação. *Observatório de Análise Política em Saúde*. Instituto de Saúde Coletiva. Universidade Federal da Bahia, Salvador, 24 mar. 2017. Available at: <https://www.analisepoliticaensaude.org/oaps/noticias/?id=ae52bac4b5a12668347eb6626c67f&pg=1>. Accessed on: 25 Jan. 2018.

²¹CASTRO, K. R. T. R. *Os juízes diante da judicialização da saúde: o NAT como instrumento de aperfeiçoamento das decisões na área da saúde*. 2012. 88 f. Dissertação (Mestrado) - Fundação Getúlio Vargas Direito, Rio de Janeiro, 2012. Available at: <http://bibliotecadigital.fgv.br/dspace/bitstream/handle/10438/9769/K%C3%A1tia%20Regina%20Tinoco%20Ribeiro%20de%20Castro.pdf?sequence=1&isAllowed=y>. Accessed on: 26 Jan. 2018.

technical information based on scientific evidence, with free access by magistrates from all over the country. They will be able to consult, for example, if the requested medication has a similar one available by SUS²².

In São Paulo, the *Acessa SUS* project was launched in early 2017. The agreement between the TJ-SP, SES, the Public Prosecutor's Office and the Public Defender's Office created a place to request medicines and supplies. In this space, there is in-person reception of patients and also receiving administrative demands via the Public Ministry and Public Defender's Office. The health technicians, then, seek to meet the demands through SUS, suggest the replacement by a compatible drug already available or formalize the administrative request²³.

In the case of the TJ-SP, judges from the capital and the Metropolitan Region can consult *Acessa SUS* to verify the feasibility of supplying medicines or supplies requested in lawsuits against the state. In these cases, the consultation is made by e-mail and the technicians respond to the demand within 30 days or, in case of clinical urgency, 72 hours. With this consultancy and guidance on therapeutic alternatives, the project aims to avoid lawsuits that request medicines already present in the health system or that have therapeutic alternatives available²⁴.

The measures adopted to control the judicialization of health may have influenced the number of lawsuits registered in the State of São Paulo in 2017. That year, there was a 16% drop in the number of cases, which resulted in savings of around R\$ 205 million compared to the previous year²⁵.

Conclusion

The judicialization of health is an important and, in some cases, unique tool for patients to claim legitimate non-standardized treatments in the health system, avoiding possible State negligence. However, the phenomenon of the judicialization of health has become widespread, and its spread can be justified by the inability of the health system to absorb all the services, technologies and treatments available on the market.

It is necessary to find solutions to guarantee the right to health care for all citizens, providing access to products and services with safety and efficacy proven by scientific evidence, with a possible cost-effectiveness within the budget allocated to SUS and registered in Anvisa.

²²PIERRO, Bruno de. *op. cit.*

²³TRIBUNAL DE JUSTIÇA DO ESTADO DE SÃO PAULO. 'Acessa SUS' evitará ações desnecessárias para fornecimento de remédios. *Notícias*, 13 de fev. 2017. Available at: <<https://tjsp.jus.br/Noticias/Noticia?codigoNoticia=38743>>. Accessed on: 26 Jan. 2018.

²⁴*Id. Ibid.*

²⁵COLLUCCI, Cláudia. Pedidos de remédio na Justiça caem, e SP evita gastos de R\$ 205 milhões. *Folha de S. Paulo*, São Paulo, 10 mar. 2018. Available at: <https://www1.folha.uol.com.br/cotidiano/2018/03/pedidos-de-remedio-na-justica-caem-e-sp-evita-gastos-de-r-205-milhoes.shtml>. Accessed on: 12 Mar. 2018.

Thus, it is possible to ensure that the health judicialization tool remains viable to guarantee rights in cases that are necessary and not covered by the health system, without the excess of processes harming the budget planning of the area and, consequently, universal access to SUS goods and services.

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