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Health Judicialization and the Activity of The Open University of the Brazilian National Health System to strengthen Home Care in Brazil

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Abstract

Health judicialization in Brazil made important changes in the public health scenario of the country. Among these changes, we considered the strengthening of policies focused on Home Care. These aim not only to deinstitutionalize the public health system, but also gives it a more humanitarian character, extends the autonomy of its members, avoids unnecessary hospitalization and allows for a more appropriate use of resources, besides providing a set of actions to promote health, illness' treatment and rehabilitation provided at home. Created by the Ministry of Health to promote training for the Brazilian National Health System's professionals through the model of Distance Education, The Open University of the Brazilian National Health System (UNA-SUS) has developed and provided a training program in Home Care. Thus, the aim of this article is to explain how this program collaborates, using technological resources, for the strengthening of the Brazilian policy of Home Care.

Keywords: *Health Judicialization, Home Care in Brazil*

1. Introduction

The National Health System - NHS - corresponds to a recent public policy compared to earlier health models adopted in Brazil and has a universal dimension that covers the entire population, representing the largest policy of social inclusion in Brazilian history (Mendes, 2013).

However, the weaknesses of the NHS have generated discussion about the access to health care via litigation in Brazil, involving increasing debates among academics, legal practitioners, public administrators and civil society, bringing to the center of the debate the role of the judiciary in relation to guaranteeing the right to health (Marques, 2008).

One can not ignore that in recent years lawsuits related to acquired rights are suffering uninterrupted growth, which shows a progressive dissatisfaction of the population with respect to the state tutelage of health promotion, becoming inevitable to consider the importance of judicialization as a flag for individual and collective needs of the population (Gomes et al., 2014), revealing the mismatch between supply of services and demand of citizens in the public health system (Ventura, Seamus, Pepe & Schramm, 2010).

This phenomenon should be interpreted as a sign that the system needs to rethink its current organization, to improve it, because if so many are seeking the courts, there are indications that something is fragmented, whether in the application of resources, whether in logistics of service provision. In fact, judicialization was responsible for the origin of several structuring programs for health protection, when recurrent individual demands claiming the same service have led to the incorporation of this service to the system (UNA-SUS, 2014).

The Ministry of Health states that among the achievements that arose from the Judicialization of Health, is the Home Care Program, guaranteed in Article 19-I of the Law 8.080/1990 and legislated by the MH Ordinance nº 963/2013, which reduces the demand for hospital admission to the extension that it decreases the length of stay of patients who have recovered enough to continue treatment at home (Brazil, 2013). This measure not only de-institutionalize the system, but also gives it a more humanitarian character, besides expanding the autonomy of its users, prevent unnecessary hospitalizations from emergency services and allows for a better use of resources (Brazil, 2012). This means that every citizen has the right to "a set of actions for health promotion, prevention and treatment of illness and rehabilitation provided at home, with guaranteed continuity of care and integrated to the health care networks" (MH Ordinance nº 963, Article 2, II). So, the Home Care Service of substitutionary way occur or "complementary to hospitalization or outpatient care" (MS Ordinance No. 963, Section 2, II).

Therefore, the Open University of Brazilian National Health System (UNA-SUS), created by the Ministry of Health for the purpose of offering professional training courses to health workers through distance education, created the Multicenter Program of Distance Professional Qualification in Home Care, in order to bring information to the largest possible number of professionals through the accessibility offered by the diffusion of the internet as a means of connection between teaching units and more remote areas of large urban Brazilian centers. It is a self-instructional course and it was designed so that students advance on their own through all units, doing activities at the end of each one and going through online tests.

Given the importance of Home Care and of the initiative implemented by UNA-SUS, this paper aims to highlight the value of its methodology, through distance education, for the qualification of Brazilian National Health System professionals and the promotion of the basic attention offered in the country.

2. NHS and Health judicialization in Brazil

In the 70s, Brazil went through a time of flourishing of democratic principles; this been a particularly fertile time for achievements in the field of health. Trade union organizations and mobilizations of health professionals led to the Health Reform Movement, and with the discussions held at the VIII National Health Conference. Thereafter, NHS had its foundations laid. In particular, the first movement was what defined the basic principles for its institutionalization, serving as reference for approval of the chapter on Health in the Constitution (Marques, 2008). By the mid '80s, it was seen an enabling environment to build a new democratic institutional order, which was established in the 1988 Constitution, maximum representative of the establishment of the Democratic State of Law (Weiller and Kocourek, 2013).

Among the many achievements of social movements, it was seen the extent of the construction of health as a service of public importance, which is now regarded as essential for the exercise of other rights, particularly the right to life. Considering infra-constitutional provisions, such as the Organic Health Law, from 1990, which establishes the creation of the NHS, it can be seen that the knowledge of the guidelines of its institutionalization constitutes a potential tool for the effectiveness of the right to health. (Asensi, 2010).

The Organic Health Law (LOS 8080/8142, 1990) establishes as principles for NHS functioning: 1) Universality: treats health as a right of every Brazilian citizen; 2) Equity: ensures that the availability of health services consider the differences between the various groups of individuals and 3) Completeness: sees each person as a whole and as part of a community (Weiller and Kocourek, 2013). Nevertheless, it is recognized the problem of non-fulfillment of these rights in the lives of most Brazilians, especially the less fortunate, where most users are unaware of health as a right and duty of the State (Baptista and Machado, 2009; Asensi 2010; Silva, Sena, Seichas, Feuerwerke & Merhy, 2010; Victora *et al.*, 2011; Fleury, 2012; Gomes *et al.*, 2014).

The bureaucratic apparatus is a major problem for the effectiveness of rights in the country and in this context, hinders the understanding and accomplishment of NHS's regulation presuppositions (Krüger, 2000). Coming against this situation, it is remarkable the growth of the role and participation of legal institutions in the process of formulating, execution and monitoring health policies, thus, producing several ways of decisive performance in ensuring the right to health and the implementation of public policies (Asensi, 2010).

Health Judicialization is therefore, a relatively recent phenomenon in Brazil. The sharp contours we see today began to appear ten years ago, but its first traces were outlined in the body of the 1988 Constitution. Prior to that date, the constitutional command was not designed like that, but understood by the government as an interesting suggestion, available for actions of Public Powers, in case they decided to seek some guidance there. However, in the new Brazilian Constitution, regulatory forecasts had their imperative nature recognized on the national political scene, and finally elevated to the status of law, with all the legal implications that arise

from this status (Barroso, 2007).

Of course, a court decision that disregards or is not aware of the logistics of the inner workings of the NHS is likely to harm the entire system, as if it ignores the inherent limitations of its gigantic structure, is unable to predict the impact that a timely action can achieve in its sequentially chained composition (Brazil, 2006; UNA-SUS, 2014).

According to Victora *et al.* (2010), today there are theorists who condemn the judicial interferences within the health ambit as it favors groups of individuals with higher income and greater access to laws, while for Fleury (2012) others bet on these interferences as means to save the NHS from privatization resulting from neoliberal policies.

The predominant model of health care in Brazil is still centered in the hospital and medical knowledge, fragmented, biologicist and mechanicist. The epidemiological and demographic transition of societies point to the need for recasting this model, so that it is possible, in addition to guaranteeing the right to health, deal more effectively with the health needs resulting from this scenario. As the population ages and there is an increase of chronic degenerative diseases, there is also an increase in the number of people who require continued and more intensive care (Brazil, 2012).

Thus, a central axis of Home Care (HC) is "dehospitalization". Provides celerity to the process of hospital discharge with continued care at home; minimizes clinical complications; reduces the risk of hospital infections, especially in the elderly; offers necessary emotional support for patients with severe or terminal condition; and proposes autonomy for the patient in care outside the hospital. Therefore, HC enables the deinstitutionalization of patients who are hospitalized, besides preventing unnecessary hospitalizations from emergency care and from supporting the primary care teams in the care of patients who require (and benefit of) health care provided in the home, strengthening what presupposes the NHS, in particular, access, reception and humanization (Brazil, 2012).

Thus, according to Ordinance nº 2527 of October 2011, repealed by Ordinance nº 963/GM/MS of May 27, 2013, HC constitutes a "modality of health care substitutive or complementary to existing ones, characterized by a set of actions for health promotion, prevention and treatment of illness and rehabilitation provided at home, with guaranteed continuity of care and integrated to Health Care Networks"(Brazil, 2013).

3. The program - objectives and methodology

To strengthen the NHS, the bet is on the change in attitude, behavior and need for ongoing education to its workers. However, the demands of the Knowledgeable Society can no longer be solved with traditional methods of training and qualification. Therefore, the online continuing medical education is an important means of permanent education for the professional of the XXI century, especially in the health area, where the volume of scientific information grows exponentially (Leite, Carlini, Ramos & Sigulem, 2010). Due to double shifts, the need to always upgrade and qualify, among other things, we saw policies that bet on Continuing Medical Education arise, as a pledge of maintaining quality in the performance of health professionals (McGaghie, Issenberg, Cohen, Barsuk & Wayne, 2011; Mariane, Terra and Fernandes, 2012;

Mesquita, Silva and Igreja, 2012).

Inserted in this context of continuous training and qualification of health professionals, Brazil bets on the National Policy on Permanent Health Education as a strategy to ensure quality of care to the population needs and development of the NHS (Brazil, 2009). The Open University of the Brazilian National Health System promotes NHS' professionals qualification, through training courses, specialization and even master degree, offered in the form of Distance Education (DE), organized in a decentralized network that proposes the exchange of experiences, and sharing institutional material.

The immersion of Information and Communication Technology (ICTs) in educational practices caused a revolution in the world of education, leading to the emergence of Distance Education - DE, which grows increasingly due to its numerous possibilities of knowledge dissemination, constituting thus an indispensable tool for the democratization of knowledge, especially in a country of continental dimensions like Brazil and the stage for social inequalities (Mariane, Terra & Fernandes, 2012).

Home Care has expanded considerably in Brazil, mainly due to the specific characteristics of this practice, which allows for the articulation of multiple points of the health network, optimizes the use of hospital beds and resources, increases access to hospital bed and to home care, besides representing a solution to the overloaded Emergency units. Thus, the Multicenter Program of Distance Professional Qualification in Home Care is a course that aims to make managers become able to deploy and manage home care services and make health care professionals develop skills to improve service provided in this modality.

The course offered by UNA-SUS is introduced through distance education via the Internet, and made available within a virtual platform, accessed through <http://www.unasus.gov.br/cursoAD>, where is available the content taught and forums for discussions and debates, exchange of experiences, surveys, among other activities. The health professional can also have access to the content via tablets and smartphones.

Consisting of 19 modules, the program is fully self-instructional; being the result of a partnership between the Ministry of Health and universities that are members at the UNA-SUS network [Federal University of Maranhão (UFMA), Federal University of Ceará (UFC), Federal University of Santa Catarina (UFSC), Federal University of Minas Gerais (UFMG), Federal University of Health Sciences of Porto Alegre (UFCSA), Federal University of Pernambuco (UFPE), Federal University of Pelotas (UFPEl) and State University of Rio de Janeiro (UERJ)]. For each module were offered 5,000 vacancies for managers and health professionals who can share experiences through the "Practice Community" and participate in surveys and discussion forums promoted by the course platform. "The themes of the modules dialogue with the real needs of the population. The program was thought to be as useful and dynamic as possible", says Ministry of Health's Home Care General Manager, Aristides Vitorino de Oliveira Neto.

Some modules are already available, having been produced by federal and state universities. The first module is "Introduction to Home Care", offered by the Nucleus of Technology and Distance Education in Health - NUTEDS/UFC, which aims to provide tools for HC and Primary

Care professionals on national and international Home Care standards, its legislation and implementation stages for a Home Care Service (HCS).

This module is organized into three units, the first being responsible for presenting the current home care scenario, its advantages and peculiarities; the second unit questions the challenges of implementing it and the conditions that enhance HC as a care modality; and the third unit addresses the current legislation and the criteria for joining the "Best at Home" program (also promoted by the Ministry of Health), and the consequent implementation of a HCS in accordance with this regulation. The module is self-instructional and contains fixation activities at the end of each unit.

At the end of this module, which has a 30 hour workload, it is expected that students – health professionals and NHS administrators and managers – are able to describe HC potentialities, as well as to list criteria for implementing a HCS, knowing how to correctly indicate the necessary level of HC, listing the steps to organize the flow of HC in accordance with the health network.

The second module is "Home Care at the Health Primary Care Network", offered by UFMG and designed to focus on the actions of management, execution and evaluation of HC1 (modality aimed at people with controlled health problems, or that need less complex care, and with limited mobility to health facilities); the definition of means, inputs, contributions and infrastructure relevant to its execution; and flow and protocols of its articulation with other services and other Health Care Networks. The module aims to give health professionals and other health workers and managers the idea that HC1, as one of the HCS modality, typifies and describes the services from the primary health care network as a programmatic action to be implemented in all municipalities of the country. The module is scheduled to be performed in 45 hours.

The third module, with 30 hours, deals with the "Implementation and Service Management of Home Care Service – HCS", it is offered by UFSC and intends to qualify managers and health professionals for the implementation and management of HCS interconnected to municipal and regional health care network. The content of this module encompasses the operation and infrastructure of the HCS, its processes and selection mechanisms, the method of recruitment and training of home care teams and their means of dissemination among other health services and the community, besides the processes of monitoring and evaluation.

Offered by UERJ, the fourth module discusses different aspects of NHS, such as its organizational structures and responsibilities within the context of the right to health, in addition to treating deviations from health Judicialization in Brazil. The course is organized in 30 hours.

The fifth module has as a theme "Home Acute Complications 1", it is offered by UFMA, specifically directed to doctors and nurses. In it, promotion actions, treatment and rehabilitation of patients are discussed and it also presents some health problems that can be treated at home. It is a 60 hours module.

The sixth module presented was "Home Acute Complications 2" prepared by UFC and also directed to doctors and nurses. This module aims to train such professionals and addresses

issues related to home care for people who require constant monitoring, whether due to mobility limitations, chronic diseases or terminal phase. The module has a workload of 60 hours.

The seventh module was "Household Approach to Common Maternal & Child Clinical Situations" offered again by UFMA directed for practitioners in nursing and medicine. It explores ways to identify and assess the main maternal-infant clinical conditions at home. Deals with the strategies of management, how to reference the cases of maternal approach in prenatal and newborn, in addition to presenting the most common syndromes in the first years of the baby's life. The workload is 30 hours.

The eighth module is "Approach to Violence in Home Care", offered by UERJ, aims to analyze the impact of violence on health and family environment, focusing on situations of violence in each population segment and in the daily routine of the HC professional within communities and areas considered most risky. The workload is 45 hours.

Finally, the last completed module is "Caregivers and Home Care", in partnership with UFCSPA, with a workload of 30 hours. The course aims to present and discuss the concept of formal and informal caregiver, in addition to analyzing the competencies and skills of that professional and of the person being cared for.

The next modules of the course are in process of construction. If the students achieve a score equal or greater than 70% accuracy in the activities, they will receive certification for each module completed, with its respective workload. For every moment of revision exercise or final evaluation, a system for automated correction was established with immediate feedback on the student's performance.

4. Results already achieved

Can enroll in the modules of the course doctors, nurses and dental surgeons, workers of the NHS, and therefore, professionals that are inserted into the National Health Establishments Registry - CNES. The entrance to the course is done via the internet, by the website: <http://www.unasus.gov.br/cursoAD>. In this link, the professional chooses the module(s) of interest, and is then directed to the module's page. First, however, it will be asked for the professional to fill in the required data and register a password that will grant him access to the content of the available modules of the course. Only students who achieve an average grade greater than or equal to 7.0 during the proposed activities will be certified.

It is important to mention that the modules happen independently, not being prerequisite for enrollment in a module, the completion of another module, ie. the student has the freedom to enroll only in modules of his professional interest.

Figure 01 shows some quantitative results already achieved by the program. It shows the relationship between graduates who enrolled in the modules: Home Acute Complications 1, which started in August 2013; and Household Approach to Common Maternal & Child Clinical Situations, released in October 2013. Both developed by the Federal University of Maranhão (UFMA).

Notice that in the month the modules were launched, there were 44 and 31 students who

concluded the modules Home Acute Complications 1 and Household Approach to Common Maternal & Child Clinical Situations respectively. In March 2014, this number increased to 324 and 220. There was a significant increase in participants, since the launch of the modules until the month of March 2014, which reflects the interest of the professionals in the course, possibly a result of the increase services demand due to the current home care public policies.

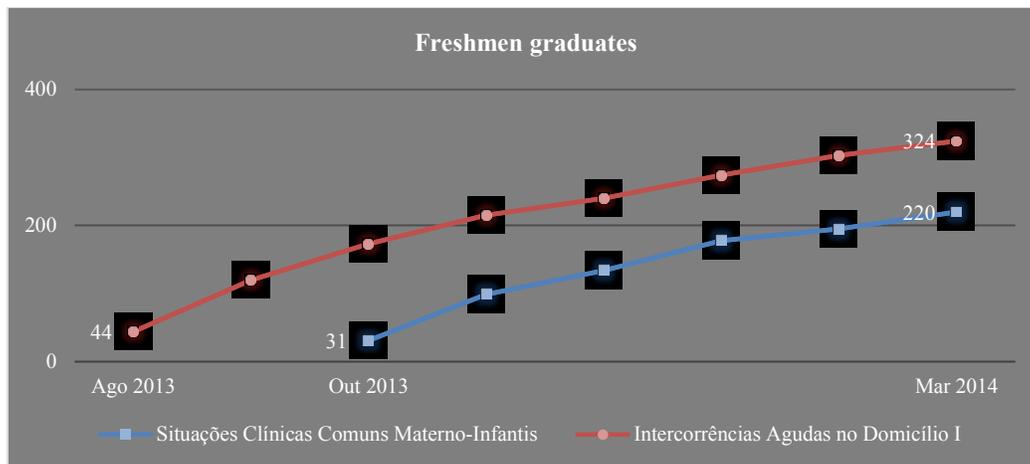


Figure 1: Relation of freshmen in the program, graduates of the modules: Acute Complications 1 (in red) and Household Approach to Common Maternal & Child Clinical Situations (in blue), from August 2013 to March 2014.

5. Concluding Remarks

Promoting continuing education nationwide aims to provide management professionals a training that facilitates the implantation of home care services, and also providing health care professionals the opportunity to improve care in this modality. Home Care is one of the areas chosen by the UNA-SUS as an object of study and work as it is a sector that has expanded steadily in recent years in Brazil. This achievement is due to factors arising from the judicialization of health, in order to comply with what the Constitution advocates and is described in the Brazilian health policy, represented by the Brazilian National Health System.

Among the biggest advantages conceived by the Brazilian National Health System, through the Multicenter Program of Distance Professional Qualification in Home Care, is the dissemination of knowledge and the increase in the number of health professionals who had access to the information provided by the distance education model adopted by UNA-SUS. The methodology applied makes it possible to share experiences, material and different contents between many universities spread across the country, proving possible to reduce geographical distance within a sector where personal contact seemed to be the only answer.

The continuity of this project should reveal even more advantages for the Brazilian society and all these gains will result in a large investment in Home Care which, in turn, will help change the current reality observed in hospitals and medical care units around the country. Thus, we understand the interference of judicial decisions in the health area a key in the search for

accomplishing the rights of the Brazilian citizens since the community involvement is an essential factor for the continuity of the program, which should be guaranteed by the phenomenon of social/digital inclusion promoted by the technological resources that support distance learning and professional training.

One can not deny the important relationship maintained between this social sector and the virtual world, means by which not only this, but many other programs get the driving force necessary to obtain positive results, setting the distance education modality as a big bet for changing the social context of Brazilian society.

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