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Félix Héctor Rígoli[1]

PROFESSIONAL OR INTERPROFESSIONAL REGULATION OF WORK IN HEALTH? CHALLENGES FOR HEALTH SYSTEMS IN INDIA, UNITED STATES, FRANCE AND BRAZIL

[1]Universidade de São Paulo. São Paulo/SP, Brazil.

Correspondence: felix.rigoli@gmail.com

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Not very long ago, the decision on getting a qualification in health, professional practice and other aspects related to a profession in the healthcare area were considered relatively stable facts of reality that depended mainly on individual decisions and possibilities. This did not mean that the State did not play some role, especially in the medical profession; in most cases, it acted as sponsor of the professional bodies.

However, the growing role of health policies as public policies — added to some malpractice scandals that reached the public opinion — forced the inclusion of regulatory mechanisms as part of the functions of the State.

These functions are performed in many different formats, as can be analyzed in the experiences in India, United States, France and Brazil, described on this issue of *Revista de Direito Sanitário* (Journal of Health Law). In general, it could be said that there is a continuum going from self-regulation of professional organisms in watertight compartments to flexible models with the participation of the services users. Even considering, in common sense, that there are differences between what a physician, a nurse or a dentist do, international variations in the scope of practice of health practitioners suggest that the skill groupings into professions are usually arbitrary and more based on customs, traditions, incentives, professional policy and power than on demonstrable skills or curriculum of training programs.

The attempts of drawing up rules for the professions' scope of practice resulted in inefficient use and shortage of professionals in many areas. In some cases, rules prevent these professionals from supplying the full range of services they were trained to perform. In others, the lack of a coherent regulatory framework creates obstacles to the implementation of efficient health services, as basic care services and care to patients with chronic diseases.

The set of articles presented here develop more general issues on the reasons behind the need of regulations in a certain field — basically, because of the potential and growing conflicts between public interests and the motivations of the professionals in issues that affect critical public assets such as life, health and safety. Due to these critical aspects, regulations have become denser and more diversified in the last hundred years, and the supervisory agencies proliferated in the same proportion, using a mix of modalities of their own and external.

According to *Dubois* and *Singh*[1], this set of institutions and agencies can be classified in:

(i) political structures that define the distribution of responsibilities and powers between various occupational groups;

(ii) rules, bylaws and laws that rule the providers behavior and the working conditions;

(iii) regulatory organs that take control of professional activities; and

(iv) policies and legislation that provide incentives to health practitioners to improve their practice.

As these bodies produce more and more regulation, training and practice in health can be more rigid, therefore less sensitive to the population needs. On the other hand, the excess of regulation propitiates the overlapping and contradiction of competences. This is the perfect recipe for legal conflict, since the Brazilian by *Aith* et al study shows and classifies an unending list of professional territory claims that are likely to conclude creating a de facto deregulation by means of infinite judicialization.

The example of India in the article by *Dharmesh Kumar Lal* shows an even more complex field, due to the country's diversity and the different orientations for practice in health, that use very different referentials – even questioning the foundations of scientific nature of the so called western medicine, accepted (although challenged) as unique in other realities.

In the case of the French, the article by *Stéphane Brissy* shows how the government's special interest in progressively bringing into reality a universal health policy, comes into conflict with the desire for self-regulation of every professional group. The fact of existing multiple levels of regulations creates a moving scenario, with regulatory organisms that operate in different levels, but crossing their dispositions between one another and with the State initiatives. The initiative of creating spaces of advanced and common practice among the old professions still appears, at this moment, as a "politically and socially difficult operation".

Jean Moore's analysis of the bottlenecks in United States, due to the presence of 50 different professional regulations (one per state), also shows a positive aspect: the possibility of testing and comparing the results of each model. It also shows that even with the dynamic evolution of this aspect, practices so simple as the prescription of the vaccine against the *influenza* by pharmacists took ten years to extend to all the states. Finally, the example of the United States reinforces the conclusion of the other countries, indicating how to break down barriers between professions is a necessary task for the expansion of the health system. At the same time, as in Brazil and France, this process demonstrates how "long, controversial and demanding" it can be.

Along the last decade, many governments introduced reforms in the area of health with the promise of improving the use of the health services providers spectrum though interprofessional team work and the integration of health services. However, in opposition to the rhetoric claims of interprofessional team work, the educational training of health professionals remains relatively rooted in the traditional paradigm, providing limited interdisciplinary learning opportunities that prepare these professionals to work collaboratively within the limits of every specialty. Students are trained separately (even with a tad of prejudice about the other professions) and, on the day after their graduation, at work they are told: "Now you are a team!"

Develop new roles and search for more flexibility in the use of health professionals will also require an evaluation of the environmental conditions that influence concrete practice and contractual mechanisms of health professionals, as can be seen in France, where the crucial role of the unions and employers is detailed.

Due to the multiplicity of action plans, players and powers involved and the crisscrossing of regulatory levels, this issue of the *Revista/ Journal* may leave the impression that there is no way out for the obstacles we described here. However, looking at the big picture, what is perceived as apparent chaos corresponds to an age of paradigm breakdown, in which, as described by *Gramsci*, "the new is not yet born, and the old has not yet died"[2]. Therefore, in the midst of so much tensions and contradictions there is the need for maintaining a steady track: to make the health system and its professionals an instrument for achieving the right to health for the entire population.

References

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Félix Héctor Rígoli – Doctor in Sciences by *Faculdade de Medicina de Ribeirão Preto* of the *Universidade de São Paulo* (USP); Master in Health Administration (*Administration de Santé*) by *Université de Montreal*; graduated in Medicine by *Universidad de la Republica Uruguay*. Specialist in Health Systems of the South American Institute of Government of the Union of South American Nations (ISAGS-UNASUL). São Paulo/SP, Brazil. E-mail: felix.rigoli@gmail.com

[2]Original: "*Il vecchio mondo sta morendo. Quello nuovo tarda a comparire*". GRAMSCI, Antonio. *Quaderni del Carcere*, Vol.1, No. 3. Torino, Einaudi, 4 vols. p. 311.