



Review

Specialization Course in Health Law: a necessary education

Curso de Especialização em Direito Sanitário: uma formação necessária

Curso de Especialización en Derecho Sanitario: una formación necesaria

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Abstract

The review presents the work 'Specialization Course in Health Law – Online Education: A Virtual Journey of Reflections and Knowledge,' the result of an important pedagogical initiative developed in the field of Health Law, which made the outcome of this work available to the public. The book, available electronically and free of charge, stimulates critical thinking and contributes to the consolidation of knowledge on relevant health issues.

Keywords: Health Law; Teaching; Distance Education.

Resumo

A resenha apresenta a obra 'Curso de especialização em direito sanitário – EAD: uma jornada virtual de reflexões e conhecimentos', fruto de importante ação pedagógica desenvolvida na área de Direito Sanitário e que disponibilizou ao público em geral, o resultado desse trabalho. O livro, disponível de forma eletrônica e gratuita, estimula o pensamento crítico e contribui para a consolidação de conhecimentos de questões sanitárias relevantes.

Palavras-chave: Direito Sanitário; Ensino; Educação a Distância.

Resumen

La reseña presenta la obra 'Curso de especialización en derecho sanitario – Educación en línea: un viaje virtual de reflexiones y conocimientos', resultado de una importante acción pedagógica desarrollada en el área de Derecho Sanitario, que puso a disposición del público en general el resultado de este trabajo. El libro, disponible en formato electrónico y de forma gratuita, estimula el pensamiento crítico y contribuye a la consolidación de conocimientos sobre temas sanitarios relevantes.

Palabras clave: Derecho Sanitario; Enseñanza; Educación a Distancia.

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The book *Specialization Course in Health Law – Online Education: a virtual journey of reflection and knowledge*⁽¹⁾ was organized by professors Sandra Mara Campos Alves, Maria Célia Delduque, Pedro Gonet Branco and José Rafael Cutrim Costa, based on cooperation between the Health Law Program of the Fundação Oswaldo Cruz Brasília (Prodisa/Fiocruz) and the Department of Interfederative and Participatory Management of the Ministry of Health/Brazil (DGIP/MS). The book, which follows the logic of the educational offer, is structured around two essential axes for understanding the new infra-legal organizational logic: legal sciences, made up of twelve themes; and collective health, made up of six themes.

The first chapter of axis 1, written by Jairo Bisol and entitled ‘Health Law I’, aims to introduce students to the concept of the rule of law, through the historical context and other elements, such as the challenges faced.

The central point is the conclusion that infra-legal health law has developed like an immense, disconnected catalog, a factor that compromises the work of magistrates, encouraging judicialization and judicial activism. It argues that normative unity is essential for overcoming conflicts between public powers and draws attention to the challenges of the disarray between powers, reinforcing the need to improve the forms of state.

The second chapter presented in the first axis, written by Jarbas Ricardo Almeida Cunha and entitled ‘Health Law II’, deals with the evolution of legal science, going through the passage from dogma to legal construction and theoretical schools. The author begins by listing the main characteristics that form and structure the law; establishes an analysis of dogma, addressing the creativity of the jurist as part of the politization of the norm that imposes itself on dogmas; and addresses natural law, legal positivism and post-positivism, finally demonstrating the importance of the Constitution, highlighting the hierarchical ranking of legal norms thought up by Hans Kelsen. For the author, the chapter is essential for students to understand the importance of Kelsen's theory and to adopt the other concepts as essential for resolving judicial and extrajudicial issues.

Later, Victor Marcel Pinheiro, in the chapter ‘Health Law III’, addresses the complexity of drafting legal norms. By highlighting the importance of formulating laws, the author makes it clear that poorly formulated legal norms can create barriers to accessing health services and attribute unnecessary costs to their provision. On this basis, he emphasizes that learning the rules and good practices of Health Impact Assessment³ contributes significantly to the drafting and preparation of relevant and well-designed normative acts. It concludes by presenting ten questions inspired by formal and material law for drafting normative acts, which contribute significantly to the student's learning experience.

Also on this axis, Oswaldo José Barbosa Silva works on ‘Constitutional Health Law’, a subject that introduces students to the historical and political context that resulted in the Democratic Rule of Law and the Constitution. This subject focuses on the realization of social rights aimed at protecting health and their occurrence through the ‘Sistema Único de Saúde (SUS)’. Thus, the subject addressed discusses the formation of modern states; the constitutionalization of health as a right; health as a social right and the challenges to its realization; and the SUS as a guarantee and its principles, covering public, complementary and supplementary health. In this context, it presents the reader with the protectionist perspective attributed to the State by the Constitution regarding the health of the community, considering its limits and possibilities in making this right effective.

³ Análise de Impacto Normativo em Saúde (AIN) in portuguese.

In the following text, 'Regulation and Consolidation in Health', Márcio Nunes Iorio Aranha Oliveira emphasizes the Theory of Responsive Regulation and regulatory modeling strategies, as well as presenting concepts of regulatory law, including the infra-legal regulation of the SUS and its administration. This discussion enables students to understand how SUS rules are consolidated. The author makes it clear that this understanding is important because the SUS is governed by rules that determine it individually, but in a sparse manner, which can make it difficult to understand how they are connected and form a coherent whole.

The course also includes the subject 'Research Methodology in Health Law', from which Maria Célia Delduque explains that the transformations experienced by contemporary society have an impact on all areas of knowledge, a fact that justifies the need to understand the basic elements capable of enabling students to safely outline the phases they will go through until their scientific research is completed. To achieve her aim, the author gives a brief historical overview of science, legal science and health law, introducing students to fundamental theories and concepts in order to solidify their understanding that research is not born ready-made, but that it is a process of construction that will be monitored and guided.

Next, Sandra Mara Campos Alves develops the theme of 'Advocacy in Health', explaining that the term "ad vocatus" means to call to oneself, justifying its use when one advocates for ideas, causes or proposals, exerting pressure on the Public Power in favor of social changes. From this perspective, he conceptualizes advocacy as a cause, idea and proposal, concluding that it is a process of participation aimed at the recognition, defense, protection or effectiveness of a right. Looking back at the history of social rights and the emergence of the term advocacy in the United States, the lecturer highlights the importance of the practice in health, especially given the complexity of the links needed to make it effective. In this sense, she presents the phases of the advocacy cycle and demonstrates how essential and decisive the engagement of society around decisions related to the right to health is.

To deal with 'Administrative Law Applied to the SUS', the course is divided into two parts. The first, written by Alethele de Oliveira Santos, presents the General Theory of Administration, correlating it to administrative health law. Through chronological categorization, the course demonstrates the cumulative and comprehensive effect of management theories and their applicability over time, highlighting their challenges. In the same context, the author discusses the division of powers, emphasizing that the structure of the Brazilian state and its reforms make it complex to understand. Finally, she discusses administrative law and its relationship with public health policy, stating that the provisions of the Constitution, which deal with health, have not yet achieved the aspirations raised at the 8th National Health Conference, and that there is a constant need for attention and successive debates on health law, in order to bring about the evolution of society.

In the same vein, Joana Angelica Oliveira Molesini and Gisela da Costa Mascarenhas continue part two of the theme, discussing the political-administrative decentralization of the SUS. To this end, they reflect on the concept of autonomy of the entities, as well as federalism and its direct and indirect impacts on the SUS and its planning. In this sense, they explain that, given the quest to maximize abstract resources, the SUS requires strategic planning, which considers the involvement of various actors and the political viability of the plans, and which is the joint responsibility of the three federal spheres. For the authors, the health sector should be guided by general planning rules, combined with provisions contained in sectoral or specific rules, which range from organic laws to infra-legal publications.

Civil Health Law' is part of the course, led by Marcelo Lamy, who presents the rules established by the Civil Code and the Consumer Defense Code, which can be used in situations of civil liability in a legal health business regulation. In addition to the technical concept of the legal consumer relationship, it addresses the rights guaranteed to the parties, observing the specificities and presenting the relevant outlines when protecting adherents and consumers in situations of breach of contractual obligations, with a focus on the regime for repairing damages. In this way, the course prepares students to understand the scope of the duty to repair, listing its elements and referring to the legal provisions that underpin it.

Axis 1 also includes 'Sanitary Criminal Law', which, through the teachings of Ana Carolina Figueiró Longo, discusses the principles of criminal law and identifies crimes and offenses related to public health. In this way, the teacher indicates the concept, material and formal sources, the classification of offenses, their characteristics and subjects, highlighting the principles of legality, minimum intervention, fragmentation and social responsibility. She concludes by presenting crimes against public health and infractions against the supplementary health system - an essential theme for understanding the violation of legal provisions.

The subject 'International Health Law' by Roberta de Freitas Campos aims to familiarize students with the basic aspects of international law and its relationship with domestic law. The author mentions international human rights law, refugee law, humanitarian law and the relationship between health and international documents. She highlights the role of public policies, international cooperation in health and globalization, as well as the effects of technological development and patents in the area of health. It concludes by stating that the current development model and the humanitarian epidemiological future require deeper discussions on how to reap the benefits of scientific progress.

To conclude axis 1, Edith Maria Barbosa Ramos and Maria Célia Delduque teach about the judicialization of health and health mediation, dividing the subject into two parts. In the first, Edith Ramos explains the phenomenon of the judicialization of public health policy through the Constitution, constitutionalism and neoconstitutionalism. The author explains that democracy is a necessary condition to explain the expansion of the judiciary, from which, under the influence of the redemocratization process, all the promises of the state came to be understood as demands that could be judicialized. Next, Maria Célia Delduque discusses instruments and methods for resolving conflicts that were previously dealt with by the Judiciary: conciliation and mediation, outlining their characteristics and establishing legal frameworks. With regard to health mediation, the author highlights intersectoral and interdisciplinary dialogues, stating that health mediation is not to be confused with any other mediation, as it is specifically aimed at resolving conflicts in the areas of private health and collective health. Therefore, in this course (part one and part two), it is possible to offer the student a conceptual point of view on judicialization and a practical perspective, capable of highlighting the challenges of mediation in a subject as complex and urgent as health.

Axis 2, dealing with collective health, begins with the theme 'Health and disease: concepts and contexts', with lessons from Fernando Passos Cupertino de Barros on the concept of health and disease, relating them to social, economic and political issues. At this point, the author discusses health in the context of globalization, considers social medicalization and other pathologies of modernity. He also presents information on morbidity and mortality and their social impact; violence and its implications for health and the health system; chronic, degenerative and non-communicable diseases. Finally, it portrays the determinants of health and establishes limitations and perspectives as a right for all. This

text shows how issues that are often neglected can interfere in the process of making the right to health a reality, bringing about significant reflections.

In the second article, Maria Inez Montagner presents the 'History of Health Policies', with the aim of presenting the role of public policies in the conception of citizens' rights in health promotion, prevention and recovery. For the author, thinking about public policies requires knowing their limits and understanding their possibilities. For this reason, she begins by presenting the concept of public policies, their processes and their contextualization in Brazilian law, bringing up a brief review of the history of public health and the construction of public health policies, which is essential for students on the course to understand more about such a complex subject.

Next, Everton Nunes da Silva presents the topic of 'Health Economics', dealing with fundamental concepts, focusing on the sustainability of health systems, the efficiency of public and private spending and equity in access to and quality of health services. The author points out that health has specific characteristics, which bring singularities to this sector of the economy and stresses that, under the terms of the Constitution, its financing is a fundamental part of guaranteeing this right.

The next topic, 'Bioethics', by Marcelo Moreira Corgozinho, introduces principles and explains the Universal Declaration on Bioethics and Human Rights, especially with a view to analyzing collective health practices. The author works on morality, ethics and bioethics, taking a brief look at historical aspects, emphasizing the main points, and adding the principia list theory to bioethics, based on the principles of respect for autonomy, beneficence, non-maleficence and justice. Finally, it elucidates the regulation of research involving humans in Brazil and shows students the relevant documentation for scientific papers whose themes are related to bioethical issues.

In the text 'Health and the Environment', Aldira Guimarães Duarte Domínguez brings together approaches to environmental and anthropic conditions and human health, introducing students to essential concepts about environmental health, based on the logic of sustainability. To this end, the author organizes the course into three parts: concepts and historical background of environmental health; climate issues and health; and the major environmental challenges facing the planet and human health. Through these topics, she emphasizes that the process of environmental degradation has an impact on human health, and seeks to enable students to understand the relationship between environmental health and other issues that develop critical and reflective skills.

Finally, axis 2 ends with the subject 'Health Surveillance', through which Marcos Takashi Obara demonstrates the evolution of demographic and epidemiological transformations in Brazilian society, making notes on the dichotomous concept of 'health-disease' and presenting the concept of health surveillance. The author points out that it is imperative for the national, state and municipal health systems to work together with research institutions and even the World Health Organization (WHO), because this way it is possible to improve the detection of viral adaptations and other issues, leading to improvements in the population's health.

From this brief analysis of the configuration of the course textbook, what can be said is that, far from providing definitive solutions to the problems and issues raised, the work aims to inform, while stimulating the reader's critical thinking, consolidating an education based on theories and credible data, disseminating knowledge of technical quality, but still accessible to the whole community.

The subject of health is, in these terms, ambivalent, in that it becomes simple, given its essentiality and its fundamentality, but it is complex because of the links needed to understand it. Because of this, it is imperative that each publication be based on scientific knowledge and yet be a

didactic read in order to democratize access to information. In this sense, the book is extremely relevant, since it satisfies the interests of the academic and scientific community, while at the same time presenting itself as a manual of important legal and health issues accessible to all.

Conflict of interest

The authors declare that there is no conflict of interest.

Authors' contribution

All the authors contributed substantially to the conception, writing and revision of the content of the review submitted.

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