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Article

Health law: definition and cross-cutting integration into the pedagogical project of law courses

Direito da saúde: definição e integração transversal no projeto pedagógico dos cursos de Direito

Derecho de la salud: definición e integración transversal en el proyecto pedagógico de las carreras de Derecho

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Abstract

Objectives: To identify the conceptual core of Health Law and its scientific autonomy and, based on these ideas, propose a guideline for the integration of its contents in Bachelor of Laws courses. **Methodology:** The construction of theoretical paradigms was based on bibliographic research submitted to narrative review, guided by synoptic reading; while the integrative proposal was based on documentary research and the researchers' lived experience. **Results:** The rights and duties related to health, which are the object of Health Law, are expanded by the perception that health does not only result from specific conducts and actions of the doctor-patient relationship, but also from conducts related to the determinants. On the other hand, there is a normative framework that requires the transversal insertion of health issues, by requiring, in Brazil, the transversal treatment of the environmental health theme. **Conclusions:** Health Law, due to the continued and permanent development of the concepts of health and the right to health and the establishment of a system aimed at embracing all dimensions of these concepts, preserving the epidemiological bias, must embrace the new social, economic and political facets of the right to health. These new facets reveal such a broad scope for this branch of knowledge that it is possible to design the integration of its theme in all traditional curricular units of the bachelor's degree in law and, thus, comply with the current normative determination.

Keywords: Health Law; Models Educational; Interdisciplinary Studies; Education Public Health Professional.

Resumo

Objetivos: identificar o núcleo conceitual do Direito Sanitário e sua autonomia científica e propor, ancorado nessas ideias, uma pauta para a integração de seus conteúdos nos cursos de bacharelado em direito. **Metodologia:** a construção dos paradigmas teóricos ancorou-se em pesquisa bibliográfica submetida à revisão narrativa, pautada pela leitura sintópica; enquanto a proposta integrativa ancorou-se em pesquisa documental e na experiência vivenciada pelos pesquisadores. **Resultados:** os direitos e deveres relacionados com a saúde, objeto do Direito Sanitário, veem-se ampliados pela percepção de

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a saúde não decorrer apenas de condutas e ações pontuais da relação médico-paciente, mas também de condutas relacionadas aos determinantes. De outro lado, há arcabouço normativo que exige inserção transversal de questões sanitárias, ao se exigir, no Brasil, o tratamento transversal da temática saúde ambiental. **Conclusões:** o Direito Sanitário, em razão do desenvolvimento continuado e permanente dos conceitos de saúde e de direito à saúde e do enraizamento de um sistema voltado a acolher todas as dimensões desses conceitos, preservando o viés epidemiológico, tem de acolher as novas facetas sociais, econômicas e políticas do direito à saúde. Essas novas facetas desvelam objeto tão amplo para esse ramo do saber que é possível desenhar a integração da sua temática em todas as unidades curriculares tradicionais do bacharelado em Direito e, assim, cumprir a determinação normativa vigente.
Palavras-chave: Direito Sanitário; Modelos Educacionais; Estudos Interdisciplinares; Educação Profissional em Saúde Pública.

Resumen

Objetivos: Identificar el núcleo conceptual del Derecho de la Salud y su autonomía científica y proponer, anclado en estas ideas, una agenda para la integración de sus contenidos en los cursos de Licenciatura en Derecho. **Metodología:** La construcción de paradigmas teóricos se ancló en la investigación bibliográfica sometida a revisión narrativa, guiada por la lectura sintópica; mientras que la propuesta integradora estuvo anclada en la investigación documental y la experiencia vivida por los investigadores. **Resultados:** Los derechos y deberes relacionados con la salud, objeto del Derecho de Salud, se amplían por la percepción de que la salud no sólo resulta de conductas y acciones específicas en la relación médico-paciente, sino también de conductas relacionadas con los determinantes. Por otro lado, existe un marco normativo que requiere la inclusión transversal de las cuestiones de salud, requiriendo, en Brasil, el tratamiento transversal de las cuestiones de salud ambiental. **Conclusiones:** El Derecho de la Salud, debido al continuo y permanente desarrollo de los conceptos de salud y derecho a la salud y al arraigo de un sistema encaminado a abarcar todas las dimensiones de estos conceptos, preservando el sesgo epidemiológico, debe abarcar nuevas facetas sociales, económicas y Aspectos políticos del derecho a la salud. Estas nuevas facetas revelan un objeto tan amplio para esta rama del conocimiento que es posible diseñar la integración de su temática en todas las unidades curriculares tradicionales de la Licenciatura en Derecho y, así, cumplir con la determinación normativa vigente.

Palabras clave: Derecho Sanitario; Modelos Educacionales; Estudios Interdisciplinarios; Educación en Salud Pública Profesional.

Introduction

Even before the normative consolidation of the public and universal health system (prompted by the 1988 Constitution of the Federal Republic of Brazil - CF88 and made effective by the law that regulates health actions and services in the country, Law nº 8.080 of 1990), the Brazilian doctrine of Health Law acquired a conceptual outline[1] and the recognition of its scientific autonomy[2].

After this historic moment (the 1970s and 1980s), health law underwent major transformations in terms of its subject matter and relevance[1], which is why its conceptual core and scientific autonomy should be rediscussed.

On the other hand, the old-fashioned recognition of its autonomy has not led to this field of knowledge being recognized in the political pedagogical projects of bachelor's degree courses in law, to the point where such an autonomous subject is included in these courses and its content is not even incorporated in a transversal way (in traditional or modern curricular units).

The aim of this investigation was to revisit the discussion on the conceptual core and autonomy of this legal knowledge, in order to present, based on these foundations, a proposal for integrating its contents into higher education law courses.

In order to re-discuss the concept of Health Law and its scientific autonomy, doctrinal research was undertaken. The search was carried out on the Scielo, Virtual Health Library and Google Scholar portals, using the associated terms "health law" or "health law" and "autonomy" or "concept", excluding the texts found that discussed Medical Law (considered, in this research, to be a sub-area of the branch under investigation). The analysis followed the narrative review method[3, p. 338-339], using the syntopical reading technique[3, p. 143-145].

The presentation of the integration proposal followed a different methodological path. Five political pedagogical projects of law courses and the teaching plans of their curricular units were read in order to identify the extent to which the content of health law is covered by the curricular units of bachelor's degrees in law. To this analysis was added the experience of those involved in more than a decade of teaching this knowledge in *lato* and *stricto sensu* postgraduate courses.

Results and Discussions

1) The Right to Health

1.1) Remote reflections

In 1914, Silvio Lessona wrote the first work we know of to make general comments on the possible autonomy of health law, the "*Trattato di diritto* sanitario"[4]. In 1972, in his doctoral thesis, Dirceu dos Reis defended the "autonomy of health law", based on the idea that this branch of knowledge had its own principles, institutes, methods, object and concept[2].

However, these works spoke of a different kind of Health Law, focused on practically a single object: epidemiological surveillance and the control of the spread of diseases[1, p. 255].

The contours of current Health Law (which we particularly prefer to call Health Law) have been modified by the realization that its object, health, is more than an epidemiological issue, it is also a social phenomenon and process[1, p. 255]. Furthermore, the perception that health (its object) has to be studied and understood in all its relationships: in the legal relationships amalgamated by public policies, as well as in the legal relationships amalgamated by private agreements (which is why it includes Medical Law).

Under this reflective challenge, we point out what can be considered nuclear or peripheral in Health Law. Also, to what extent do the core contents of Health Law condition what we could identify as the principles of this branch of knowledge[5].

1.2) Nearby reflections

Sueli Dallari, when reflecting on the discipline of Health Law, although she considers the autonomy of this field of knowledge to be a fact[6, p. 333], does not conceptualize it. However, she identifies the need for sanitarians to consider as their object not only raising the level of health[6, p. 330], but also the various forms of expression and realization of the right to health in the contemporary world[6, p. 331]: health in its basic core (absence of disease) and in its nebulous halo (physical, mental and social well-being)[6, p. 327]. And he points out a guideline: in order to define Health Law, it is necessary to map out all the normative regulations relating to these two areas, the basic core and the conceptual halo of health[6, p. 327].

Romero, for his part, reveals that the old Sanitary Law, focused only on health surveillance and disease control, has changed in the face of the realization that health is also a social phenomenon and process[1, p. 255-256]. On the other hand, the birth of medical law in Latin America, linked to the idea of responsibility, civil and criminal law, took place much earlier than health law, anchored in constitutional and administrative law[1, p. 255-256]. Finally, he makes some comments that make us worry about the relationship between these two fields of regulation:

> Some say that Medical Law and Health Law are siblings, children of Law and Medicine who, like very demanding parents, encourage them to grow and prosper.
> I have no opinion on whether they should grow up together, like Siamese siblings, or apart, like siblings whose ages, personalities and interests are different.
> It's possible, in fact, that they're not siblings, but cousins, since the mother of Health Law is more likely Epidemiology and not Medicine. Hygeia, not Panacea.[1, p. 256]

Fernando Aith, presents a definition for the autonomous branch of Health Law. For him: "Sanitary Law is the branch of law that disciplines public and private actions and services of interest to health"[7, p. 91]. And then he turns his attention to what this plexus of actions and services would be, what health interests would be (in its expanded version). In this work, we see the concrete explanation of many of the dimensions of the new Health Law pointed out by Romero[1] and by Dallari[6]. In other works by Aith, we can also see his concern with the objects that would be more properly part of Medical Law, such as the delimitation of the spheres of action of each of the health professionals[8, 9].

1.3) Dynamic and responsive concept of health

There is some agreement between the most recent authors cited on the following point: in order to think about current health law, it is necessary to take into account the multiple facets of the object or legal good being protected, health. For this reason, it seems convenient to take into account, with a little more precision, the various conceptions or concepts of health.

Within the basic core or zone of certainty, health is the absence of illness. It's important to note, however, that this concept is the result of a paradigm that has overlapped others: that of health as a gift and illness as a punishment (magical-religious model); that of health as balance and illness as imbalance (holistic model); that of health and illness as states related to empirical and observable elements (Hippocratic model); that of health and illness as the result of processes, causes (biomedical model); health as part of a system and disease as a result of the disintegration of this system (systemic model); health and disease as a result of interaction with the causative agents, the environment and development (natural history model)[10, 11, 12].

However, this scope of certainty has broadened. Health has come to encompass a state of complete physical, mental and social well-being, according to the preamble to the Constitution of the World Health Organization - WHO[13].

Understanding this "state" and how to guarantee it has led us to realize that health depends on determinants or conditioning factors, it depends on how people are born, grow up, live, work, grow old and access the healthcare system[14]. In other words, it depends on physical or biological determinants (such as age, gender, genetic factors and reproductive capacity), but also on economic determinants (work, income and poverty), social determinants (food, housing, transport, sedentary lifestyle and sexual behavior), effective access to certain services (leisure, education, health) and

overcoming certain political deficits (representativeness; transparency, accountability and responsibility; institutional adaptability; intersectoriality and regulation)[15].

It was this realization that led Health Law to renew itself, moving away from the restricted object of epidemiological control of diseases and limited public health assistance (health services aimed at preventing the spread of diseases) to the broader object of social and economic policies.

In parallel with this perception that the social, economic and political reality has an impact on health law, the perception has grown around the world that the natural and man-made environment also affects health. This has been consolidated in various international regulations, according to Abud, Oliveira and Lamy[16]: Article 24, 1 of the Convention on the Rights of the Child of 20/11/1989; Item 6.1 of the United Nations Conference on Environment and Development, June 1992; the Pan-American Conference on Health and the Environment, October 1995; the United Nations Summit on the Millennium Development Goals, 2000; the National Conference on Environmental Health, 2009; the United Nations Conference on Sustainable Development, 2012; the United Nations Summit on Sustainable Development, 2015.

The environmental determinants of health have therefore gained prominence: the supply of safe and nutritious food; the supply of drinking water, bathing water, basic sanitation; solid waste management; air quality; reducing exposure to unhealthy products or routines. This perception has led Health Law to renew itself, adding environmental policies.

In practice, health does not have a single structured and rigid concept. Health has to be conceptualized in an open, dynamic, structuring and receptive way, learning from what has already been established in its core zone and adding what is continually discovered in peripheral zones.

1.4) The Fundamental Human Right to Health

In order to think about health law, we must also take into account that the right to health is now considered a fundamental human right.

Fundamental is a characteristic that can be culturally and historically attributed - formally (in Brazil, due to art. 6 of the CF88) or materially, as axiological invariants, according to Miguel Reale[17] - to a right, because it is understood that a given subjective right constitutes, in a concrete society (situated in time and space), one of the logical or ethical ideas structuring its legal system.

Because it is fundamental, the right to health must be considered legally unavailable (if the system depends on it, it does not allow its non-compliance, even if voluntary); with the characteristic note of precedence (in the event of a collision, it has priority, as it makes up the "existential minimum", an obstacle to the reserve of the possible) and with the operational dimension of non-retrogression and progressiveness (the system is designed to develop from it)[18].

Being a human right means being a right that belongs to man's patrimony for one reason and one reason only, because it belongs to mankind. Being human, the right to health is marked by universality (dimension of the right's ownership: it belongs to everyone, under the terms of art. 196 of the CF88, regardless of race, ethnicity, origin, creed, gender, sexual orientation, economic condition); it is conditioned by the characteristic note of equality (a dimension that concerns the exercise of the right, the application of the Aristotelian principle of distributive justice, "treating the equal equally and the unequal unequally in proportion to their inequalities", conditioned by the measures of need, vulnerability and social risk) and with the operational dimension of interdependence (human rights depend on other human rights - which are also conditioning and determining)[18].

The fact that the right to health is fundamental and a human right gives rise to the principle of comprehensiveness, a guideline for health actions and services (art. 198, II of the CF88). The protection of health must be guided by comprehensive care for all dimensions of health. Conversely, health also needs to be included in all other rights, ensuring that they are interdisciplinary and intersectoral[19].

These hallmarks of individual and collective law are structuring Sanitary Law and condition how we should think of this branch of knowledge.

1.5) From the right to health to health law

In light of the above reflections on the dynamic and receptive concept of health and the human and fundamental notes of the right to health, the following consideration becomes pertinent:

> The right to health - a human and fundamental right to physical, mental and social well-being - can therefore be understood as an extremely complex right, since it includes both access to services (promotion, protection, recovery, rehabilitation or palliative care) and to health products (medicines and equipment), as well as to the essential conditions that determine health (drinking water, sanitation, adequate food and housing, healthy working conditions and the environment, information and education). It has both an individual dimension (the subjective right to all its object) and a collective, public or social dimension (which corresponds, in particular, to the state's duty to institute public health policies).[20]

Taking into account the concept of health and the notes on the right to health mentioned above, it seems possible to conclude that health law could be conceptualized in this way, provisionally and currently:

Health law is the branch of law that can be understood as the articulated and complex set of principles, rules and institutions designed to guarantee, promote and protect the human and fundamental right to health (in the individual and collective spheres) and to establish the contours of individual and collective duties related to health.

The scope of guaranteeing, promoting and protecting the right requires access to health services (promotion, protection, recovery, health rehabilitation or palliative care) and access to health products (medicines and equipment). The sphere of duty requires action to transform the essential conditions and determinants of health (social, economic, environmental and political).

State action in the area of access to health services and products involves both the public assistance dimensions and the regulatory dimensions of the private provision system, in regulations relating to professional skills and the circulation of services and products. State action in the area of determinants involves the obligation to monitor health phenomena (health, epidemiological and labor surveillance), the obligation to institute public policies that transform social, economic, environmental and political conditions, and the obligation to include health in all other state policies (intersectorality).

The protection of the enjoyment of the right to health, both in the individual and collective dimensions, also depends on the establishment of public and private liability regimes for the violation of any of the obligations related to health.

With this in mind, we could talk to Romero[1] and say that health law is a genus, of which health law and medical law are species. Furthermore, dialoguing with Dallari[6], we could state that health law is more than a fact, it is a body of knowledge that requires, due to its complexity, the recognition of a didactic autonomy.

The current and ideal conceptual outlines of health logically allow us to consider health law and, ultimately, health law as a branch of legal science. The proposal for a new definition of health law, which encompasses both medical law and traditional health law, points to the following reflection: whether it is a branch of law that has truly achieved its scientific autonomy.

1.6) Scientific autonomy of health law

In 1972, Dirceu dos Reis defended the autonomy of Health Law, based on the idea that it was a branch of legal knowledge that had its own principles, institutes, methods, object and concept[2].

Although the Health Law of the 1970s is different and smaller than the Health Law of today, the same reflection is possible.

Health law has its own subject, which consists of the human and fundamental right to health (in its individual and collective dimensions) and the individual and collective duties (public and state) related to health.

The hallmarks of unavailability (which mitigates free disposal), precedence (which establishes a concrete guideline for any conflict or collision of rights), progressiveness (which goes beyond the prohibition of retrogression), universality (which defines the right to health as being for everyone and the duties in relation to health being carried out with an eye on everyone), equality (which encompasses non-discrimination and also the protection of vulnerabilities), interdependence (which requires intersectorality, health in all policies), comprehensiveness (which requires attention to all dimensions of health, all its needs, including preventive ones) and social participation (the realization of the democratic state we want) are all principles of health law.

Health Law is immersed in the paradigms of multidisciplinarity, as its themes cross over and in some way depend on other areas and sub-areas of knowledge[21]. This is why its methods are multiple and integrative. Multiple, because it draws on the source of all the sciences and each science has its own usual methods. Integrative, because it combines these methods.

It is natural, for example, for the discourse of health law to draw on the theoretical and abstract views of philosophy combined with the precise and concrete views of statistics, the logical views of sociology and the technical views of health.

On the other hand, it is common for Health Law to deal with its themes by using literature review methods (to shape the state of the art or the abstract reflections that are necessary) at the same time as using methods aimed at handling empirical data.

2) Integrating Health Law into the pedagogical projects of law courses

2.1) International support: Health in education policy

In 2006, the WHO launched the Health in All Policies (HiAP) approach, which aims to make the formulation of any public policy (including education policies) a procedure that considers (takes into account and systematically addresses) health implications. In practical terms, we want all sectors to work together for health, for all public sectors (including education) to become levers for transforming everyone's health[22, 23, 24].

In other words, a kind of filter that conditions the way we see (like a tinted lens that changes the entire landscape seen through it) public issues or problems in all sectors and areas of politics and that consequently condition public (state and government) action, especially decision-making.

In the specific field of education, UNESCO has recognized the need for resilient and health-promoting education systems. And that UNESCO's first strategy for health education should measure, as a priority, the integration of health and well-being into public policies and plans[25, p. 10].

There is, therefore, an international commitment: that health should be a priority in any educational project.

2.2) National support: Currricular components for the law course

The Resolution CNE/CES Nº. 5, dated December 17, 2018[26], which established the Guidelines for Undergraduate Law Courses, as amended by CNE/CES Res. Nº. 2, of April 19, 2021[27], establishes that undergraduate law courses in Brazil, prioritizing interdisciplinarity and the articulation of knowledge (expressions of the *caput*), must include in the Course Pedagogical Project content and activities that meet the following formative perspectives:

- General training, involving knowledge from other training areas, such as: Anthropology, Political Science, Economics, Ethics, Philosophy, History, Psychology and Sociology.
- Technical legal training, necessarily including essential content in the following areas: Theory of Law, Constitutional Law, Administrative Law, Tax Law, Criminal Law, Civil Law, Business Law, Labor Law, International Law, Procedural Law, Social Security Law, Financial Law, Digital Law and Consensual Forms of Conflict Resolution.
- Practical-professional training, including activities related to legal practice, the preparation of the Course Conclusion Paper, digital literacy studies, remote practices mediated by information and communication technologies.

It is also proposed that emphasis be placed on problem-solving in a transversal way, i.e. integrating the three training perspectives (as can be deduced from §1 of article 5); that emerging and transdisciplinary problems be observed (terms of §2 of article 5).

Finally, paragraph 3 of article 5 allows Higher Education Institutions to introduce other curricular components to develop knowledge not covered by the components listed in the sections, but which are of regional, national or international importance, or related to new knowledge that is emerging in the world of law, such as: Environmental Law, Electoral Law, Sports Law, Human Rights, Consumer Law, Child and Adolescent Law, Agrarian Law, Cyber Law and Port Law.

On the other hand, §4 of article 2 of Res. CNE/CES nº 5, of December 17, 2018, requires that the Course Pedagogical Project contemplate forms of transversal treatment of content required in other specific national guidelines, including some that it expressly mentions (environmental education, education in Human Rights, education for the third age, education in gender policies, education in ethnic-racial relations and Afro-Brazilian, African and indigenous histories and cultures).

The law course resolution does not mention the official documents of the National Guidelines that it has explained.

The guidelines that are available on the federal government's website, which lists the national guidelines for all levels of education[28], filtered according to the criteria to be applicable to Higher Education and have instituting regulations, are just the following:

- the 2012 National Curriculum Guidelines for Environmental Education[29], which developed the National Environmental Education Policy established in 1995;[30]

According to these guidelines, environmental education must relate the environmental dimension to social justice, human rights and health (art. 14, I); the management of educational

institutions must contribute to the valorization of knowledge relating to environmental health, including in the work environment, with an emphasis on health promotion to improve the quality of life (art. 17, II, e), as well as promoting intervention projects in the educational institution and in the community, with a focus on risk prevention, protection and preservation of human health (art. 17, III, e);

- the 2004 National Curricular Guidelines for the Education of Ethnic-Racial Relations and the Teaching of Afro-Brazilian and African History and Culture;[31]
- the 2012 National Guidelines for Human Rights Education.[32]

The latter two do not comment specifically on health.

2.3) Cross-cutting treatment of health law

In order to comply with the international recommendation that Health be present in educational policy (considering that a course's Pedagogical Project is an educational micro-policy) and the national recommendation that Law courses be guided by the resolution of emerging problems in a transversal and transdisciplinary way, a first step has been taken: the following identifies content related to Health Law that has links with the traditional curricular units (or disciplines) of Law courses.

2.3.1) General training axis

A) Anthropology

In this discipline, there is a need to address Health Law, which has been evident since the birth and spread of studies in the Anthropology of Health, which investigate the construction of people, the body or emotions, associated with the phenomena of "illness" or its disturbances.

B) Political Science

The subject of Political Science can be used to study modern reflections arising from the European view of public policies, the way in which the state exercises and fulfills its powers and duties, including with regard to health.

C) Economy

In this area, health economics is one of the most challenging issues for the welfare state, which takes on the burden of health care, and for the modern liberal state, which has to regulate and control this economic sector of health care.

D) Ethics

It is possible to study the ethical rules of the fourteen regulated health professions, bioethical issues and the extent to which health policies conform to the paradigms of social justice.

E) Philosophy

The extent to which health makes up the essential core of a dignified life, influences quality of life, a happy life.

F) History

In this discipline, it is appropriate to reflect on the historicity of health models. Foucault[33] , for example, shows how the segregationist model was born as a reaction to leprosy, the isolationist model as a reaction to the bubonic plague, the protectionist model as a reaction to malaria (with the birth of vaccination), the model of social reinsertion of those with mental disorders as a reaction to the fateful experience of the bombing of psychiatric hospitals.

G) Psychology

In the Psychology curricular unit of law courses, we work with specific psychology content, with concepts and foundations of this knowledge that allow us to understand legal phenomena. In the criminal sphere, to understand the reasons for delinquency, which can be permeated by momentary or chronic psychic deviations, as well as to understand the psychic conformation sought by socio-educational measures. In the civil sphere, to understand the mental health reasons justifying interdiction or restriction of custody or visitation rights, to establish parental alienation or psychological violence, to characterize the psychological damage that gives rise to civil liability. All these issues are relevant to health law.

H) Sociology

It is possible to develop what used to be studied by medical sociology and is now studied by health sociology: how social, economic, cultural and political factors influence, affect and shape the experience of health and illness; how social inequalities and socially shaped behaviors modify the experience of health and illness.

2.3.2) Technical-legal training:

A) Theory of Law

The subject of legal theory is far removed from everyday health issues. However, its foundations have a reflexive impact on what we think about health law. Discussing coactivity, the realization that the imperative nature of the law comes not only from the norm, but also from court orders and international pressure, prepares the legal scholar to understand binding court decisions related to health and the international paradigms that shape health law. Discussing the theory of order prepares the legal scholar for the dialogue of sources and the filter of effectiveness or the best realization of rights; essential elements for understanding and accepting a functional Health Law. Studying the theory of norms prepares law students to handle the principles of health law and the scope of health regulations. Studying the theory of interpretation prepares the student for the logic of optimization, for the hermeneutics of development; logics that are essential for the progressive realization of social rights.

B) Constitutional Law

The 1988 Constitution of the Federative Republic of Brazil, commonly known as the 1988 Federal Constitution (CF88), contains detailed rules on the right to health.

On a conceptual level, the CF88[(34)] establishes an explicit characterization of the right to health as a fundamental right (art. 6), as a right that protects workers (art. 7, XXII) and as a right that has absolute priority when its holders are children, adolescents and young people (art. 227). In addition, health actions and services are considered to be of public relevance (art. 197) and the lack of health is characterized as a relevant social risk, which is why it is an element of social security (art. 194).

In terms of responsibilities, the CF88 establishes the common administrative competence of the Union, States, Municipalities and the Federal District to take care of health (art. 23, II), with emphasis on the role of the Municipality (art. 30, VII), prescribing the principle of decentralization (art. 198, I) - from which stems the idea of regionalization[(35)] -; the concurrent legislative competence of the Union, States and Federal District (art. 24, XII) and supplementary competence of the Municipalities (art. 30, II). Furthermore, from a practical point of view, it stipulates that the state is responsible for: 1) instituting social and economic policies aimed at reducing the risk of disease and other illnesses (art. 196); 2) providing health care (art. 196); 3) controlling and inspecting, exercising health,

epidemiological and worker surveillance (art. 200, I, II, VI and VII); and 4) acting in collaboration with sanitation (art. 200, IV) and environmental (art. 200, VIII) policies.

Within the scope of the Public Administration, the cumulation of positions is excepted for two positions held by health professionals (art. 37, XVI, c).

In the social security sphere, it authorizes the establishment of differentiated age and contribution time for the retirement of civil servants whose activities are carried out with effective exposure to chemical, physical and biological agents harmful to health (art. 40, §4-C), an authorization that is repeated in the general social security system (art. 201, §1, II).

In the tax sphere, the Union has the power to impose taxes on the production, extraction, sale or import of goods and services harmful to health (art. 153, VIII) and a special tax regime is allowed for goods and services offered by health care plans (art. 156-A, §6, II).

In the budgetary sphere, it establishes minimum budgetary percentages to be allocated to health (art. 108, §§ 2 and 3), failure to comply with which constitutes a hypothesis for federal (art. 34, VII, e) or state (art. 35, III) intervention; as well as setting individual amendments to the budget bill to be approved within the limit of 2% of net current revenue for the previous year, requiring half of this percentage to be allocated to public actions and services. 35, III); as well as establishing that individual amendments to the budget bill will be approved within the limit of 2% of the net current revenue of the previous year, requiring that half of this percentage be earmarked for public health actions and services (art. 166, §9), counting this amount towards the minimum budget (art. 166, §10). On the other hand, it allows tax revenues to be earmarked for health actions and services (art. 167, IV). In the more specific context of the social security budget, it establishes the separation of the health budget into a specific item (art. 194, VI), ensuring the autonomy of health in the management of its resources (art. 195, §2), delegating the law to establish the criteria for transferring resources from the Union and the States (art. 195, §10).

Within the scope of the special protection regimes, aimed at safeguarding vulnerabilities, it establishes special attention for basic education students (art. 208, VII), assigning it its own source of funds (art. 212, §4), as well as for comprehensive health care programs for children, adolescents and young people (art. 227, §1), notably for maternal and child care (art. 227, §1, I) and for specialized care for people with disabilities (art. 227, §1, II).

In the field of social communication, it authorizes federal law to establish means of protection against the advertising of products, practices and services that may be harmful to health (art. 220, §3, II).

A) Admnistrative Law

In this area, police power is usually studied in terms of regulation, authorization, supervision and sanction, as well as the legal systems that regulate the actions of private individuals in collaboration with the state. These topics are also relevant to Health Law.

It is in Administrative Law that the attributions and procedures of the public health and supplementary health agencies, the National Health Surveillance Agency (ANVISA) and the National Supplementary Health Agency (ANS), can be studied. In particular, the regulatory impact of these agencies[36].

The state activities of authorization (license or permit), supervision of the conditions of authorization and sanctions for non-compliance are relevant to health law. In addition, the epidemiological, health[37] and worker surveillance systems are of particular importance to health.

It is Administrative Law that also establishes the legal framework for the implementation of public health policies, which unfolds in the provision of public health services and in the public supply of health products by the state itself (SUS) or by private entities acting under a collaborative regime (Complementary Health).

B) Tax Law

The growth of the health economic sector makes it relevant to include in the Tax Law subject the taxation system for health services and products, any exemptions and tax incentives or disincentives, the special tax system for private health entities, including philanthropic ones, since the history of Brazilian health was and continues to be built with the collaboration of the Houses of Mercy.

C) Criminal Law

Criminal law has a wide range of topics directly related to health law.

The Penal Code[38] establishes the following crimes in connection with endangering life and health: Bodily injury (art. 129), Danger of venereal contagion (art. 130), Danger of contagion of a serious disease (art. 131), Danger to the life or health of others (art. 132), Abandonment of an incapacitated person (art. 133), Exposure or abandonment of a newborn child (art. 134), Omission of help (art. 135), Conditioning emergency medical care (art. 135-A), Mistreatment (art. 136), Psychological violence against women (art. 147-B).

In relation to public health, the Penal Code establishes the following crimes: Epidemic (art. 267), Infringement of a preventive health measure (art. 268), Failure to notify a disease (art. 269), Poisoning of drinking water or food or medicinal substances (art. 270), Corruption or pollution of drinking water (art. 271), Falsification, corruption, adulteration or alteration of food substances or products (art. 272), Falsification, corruption, adulteration or alteration of a product intended for therapeutic or medicinal purposes (art. 273), Use of a prohibited process or an impermissible substance (art. 274), Wrapping or container bearing a false indication (art. 275), Product or substance under the conditions of the two previous articles (art. 276), Substance intended for falsification (art. 277), Other substances harmful to public health (art. 278), Medication not in accordance with a medical prescription (art. 280), Illegal practice of medicine, dentistry or pharmacy (art. 282), Charlatanism (art. 283), Curandeirismo (art. 284).

D) Civil Law

In the chapter on personality rights in the Civil Code[39], there are rules on the disposal of one's own body when it entails a permanent diminution of physical integrity (art. 13), on the disposal of one's own body after death (art. 14) and on the limitation of forced treatment (art. 15). In the area of liability, the specific rule established for damage to life (art. 948), health (art. 949), working capacity (art. 950) and for situations in which such damage arises from professional activity (art. 951)[40].

In the contractual sphere, the possibility of refusing a passenger (art. 739) or something to be transported (art. 746) due to health conditions. This also governs all health insurance contracts, which are governed by Law 9.656/1998.

In the area of neighborhood rights, the possibility of stopping interference harmful to health (art. 1.277).

In the area of marriage annulment, there is the hypothesis of essential error about the person, which occurs if there is ignorance of a defect that endangers the health of the other spouse or their offspring (art. 1.557, III) and the hypothesis of coercion anchored in considerable and imminent fear

of health (art. 1.558). With regard to parents' rights, the right to receive information about their children's health (art. 1.583, §5).

E) Business Law

In Business Law, it is appropriate to study the legal regime of industrial and intellectual property (patents for medicines and technologies, trademarks for health products and services, copyright on health research); the limitations on advertising and marketing of health products and services; the protection and privacy of health data; the transparency and accountability of health entities; the limitations on mergers and acquisitions of companies operating in the field of health, especially supplementary health; the insurance regime for possible liability arising from damage resulting from professional health and systemic actions (patient safety).

F) Labor Law

In the subject of Labor Law, it is essential to study the system for protecting workers' health (for day-to-day work - such as the rules relating to personal protective equipment, as well as for the moment of dismissal, postponed due to possible temporary stability), as well as the guarantees established for the unwanted consequences of accidents at work and occupational illnesses.

G) International Law

The discipline of International Law also has vast and relevant content for Health Law, since the recognition of the autonomy of the right to health and its characteristics has effectively taken place in international documents. For example: it was in the WHO Constitution of 1946 that health was given its first expanded content[13] ; it was the International Covenant on Economic, Cultural and Social Rights of 1966[41] that spelled out state obligations with regard to health and the desirable characteristics for the right to health to be real (availability, accessibility, acceptability and quality); it was the Protocol of San Salvador of 1988[42] that spelled out the autonomy of the right to health.

H) Procedural Law

In the Brazilian procedural sphere, there is no special process or procedure established by law for actions involving health. There is, however, a significant body of jurisprudence and mandatory decisions (notably decisions handed down in repetitive special appeals and extraordinary appeals with general repercussion) that provide a binding, preceptive or persuasive view of how lawsuits involving health should be handled[43].

On the other hand, it should be borne in mind that, according to the CNJ[44] , the issue of health is one of the fastest growing in terms of the number of lawsuits filed year on year in our country (the phenomenon of the judicialization of health).

It is therefore important to direct the traditional treatment of this knowledge towards procedural issues relevant to health. To discuss, for example: the requirements of *fumus boni iuris* and *periculum in mora in* requests for provisional relief of urgency or evidence (precautionary or anticipatory) related to health; how to value and weigh up the technical evidence offered by health professionals accompanying a given party, expert opinions and Nat-Jus manifestations; to what extent the decision on the merits in health actions is conditioned to the health circumstances reported in the case file or can embrace prospective orders for future needs (limits of res judicata); to what extent compliance incidents (in the face of the phenomenon of indirect non-compliance) can be a way of updating, through the logic of the equivalent practical result, what is established in the court order.

I) Social Security Law

This subject has a natural connection with Health Law, as it studies benefits related to accidents at work and occupational diseases, as well as the special situation of disability pensions. The cross-cutting treatment of Health Law in this subject is therefore effortless.

J) Financial Law

Here we study public finances, how multi-annual budget plans, budget guidelines and the law that sets the public budget each year are formed. Given how much health represents and has to represent in the budget, the widespread set of normative provisions (including constitutional ones) that set minimum budget levels for health, rules that condition the transfer of funds between federal entities and even the importance given to non-compliance with these rules (to the point of allowing federal or state intervention), it is natural that the discipline of Financial Law devotes part of its attention to the health dimensions.

K) Digital Law

This subject covers the regulation of digital health (how systems for collecting, storing and using health data are structured, including those for compulsory notification) and telemedicine (what are the limits, possibilities and precautions that need to be established for health services mediated by any technology, whether or not mediated by the open internet). This subject also studies how electronic (or digital) contracts relating to health services should be agreed and executed, the rules of electronic commerce of health products (e-commerce), the rules applicable to digital intellectual property relating to health (related to digital content).

L) Consensual forms of conflict resolution

Although the modern state has consolidated the natural coexistence with the state imposition of a fair solution to cases, in the face of resisted claims, legal theory has always proposed a dilemma: justice does not always derive from truth, it can also come from consensus[45].

In the face of conflictual situations between parties who will contingently return to form ongoing legal relationships, the imposition of a fair solution to an experienced situation can only momentarily calm the conflict until it is reborn. On the contrary, a fair solution reached by consensus has real prospective potential.

This perception gave rise to the proposal to include in the curriculum of law courses the learning of alternative solutions to imposition, consensual solutions, notably conciliation and mediation.

In the context of health law, it has been found that resistance to claims (due to some unfulfilled dimension of the right to health) arising from systemic shortcomings (not omission or specific action) or the effective distance of resources, needs to be resolved by compositional methods[46].

2.3.3) In the context of new knowledge

A) Environmental Law

The subject of Environmental Law is the ideal place to discuss in detail the consolidation of the concept of environmental health and sustainable development, sparked by the 1987 Brundtland Report and consolidated at Eco-92, Rio+20 in 2012 and the adoption of the SDGs in 2015.

B) Electoral Law

In this field, the right to health appears occasionally: in the concern for electoral accessibility for people with some health limitation, in the adaptation of the electoral process in situations of public

health emergency, in the assessment of possible health conditions that may impact on the eligibility of candidates.

C) Sports Law

It is possible to reflect across the board on the importance of practicing physical activity in order to protect health in all age groups, but it is also important to study the abusive and harmful practices to the health of sportspeople resulting from the immediate search for maximum performance and forced accelerated recovery.

D) Human rights

Here it is possible to explore how health has ceased to be merely a necessary factual condition for human rights and has become an autonomous right, albeit interdependent with other human rights.

E) Consumer law

In the subject of Consumer Law[47] it is appropriate to study the protection that the Consumer Defense Code establishes for beneficiaries of health plans, for contractors of health services and for users of public health services. It looks at both the guarantees of a material nature that affect the legal business relationship (agreements and practices considered abusive, the characterization of defects in services and products, as opposed to defects in services and products), and the guarantees that affect the legal procedural relationship (such as the reversal of the burden of proof).

F) Child and Adolescent Law

In this area, it is necessary to study not only the absolute priority given to health (art. 4 of the Statute of the Child and Adolescent - ECA)[48], but also the entire chapter of the ECA focused on health, which shapes the conduct that is due in relation to reproductive health (arts. 7 to 10), and the health of children and adolescents (arts. 11-14).

G) Agrarian Law

In Agrarian Law, it is necessary to study the impact that agricultural and rural activities can have on people's health or the environment. More specifically, it is necessary to study safety and health in rural work (notably exposure to pesticides, the use of PPE, working hours), the possible impacts of rural activity on soil and water pollution, the standards required for food safety, public health policies aimed at the rural population.

H) Cyber Law

In this field, the protection of health data (including protection against potential attacks), the protection of the privacy of health data that passes through the web, and the guarantee of informed consent in the case of care mediated by web technologies are of particular importance. Furthermore, it is in this discipline that the study of cyber-crimes that can affect health, such as virtual rape and virtual *stalking*, gains prominence.

I) Port law

In the Port Law subject, it is necessary to study working conditions in the port (everything that concerns the safety and health of port workers, such as exposure to toxic substances, regulation of tasks involving the handling of heavy loads, measures to prevent accidents); the crucial public health measures for the transportation and entry of food, agricultural products and animals, which prevent contamination, suffering and the maintenance of quality; environmental legislation relating to emissions and waste disposal; emergency management plans (such as leaks of dangerous substances, fires, breakdowns and accidents); measures to control the health of passengers and the population.

2.4) Health Law

independent curricular unit, the Health Law subject, in higher education law courses, since there is content in this field of knowledge that needs detailed development and requires more teaching time than is available in traditional law units. Examples include.

The subject of Administrative Law can study the figure of municipalities (when it develops the subject of Indirect Administration) and, in doing so, it will discuss the emergence of this type of entity and the powers it can assume. It can even take a cross-cutting approach, exemplifying the emergence and competences of ANVISA and ANS (municipalities relevant to Health Law).

However, there isn't enough time to explain procedures in the Administrative Law course that are essential for professionals working in the field of health law, for example: a) the registration procedure for authorizing the production, import and marketing of new medicines at ANVISA; b) the subsequent price-setting procedure that takes place at the Medicines Market Regulation Chamber (CMED); c) the subsequent procedure for incorporating new technologies into the SUS that takes place at the National Commission for the Incorporation of Technologies into the Unified Health System (CONITEC); d) the Preliminary Intermediation Notification (NIP) administrative procedure that takes place at the ANS.

The length of this text does not allow us to report here on the content that should be reserved for the autonomous Health Law unit.

Conclusions

This text sought to identify the current conceptual core of Health Law and its scientific autonomy and to propose how to integrate its contents into the pedagogical projects of higher education law courses.

Among the results found, it was seen that the rights and duties related to health, which are the object of Health Law, have been expanded as a logical consequence, because the concept of health has been expanded and because a health care system has been set up in our country that aims to protect health in all its dimensions.

From the normative or imperative point of view, it was found that there is a norm that indirectly requires the cross-cutting treatment of health issues, as Brazil has required the cross-cutting treatment of environmental health issues.

Health law, due to the continuous and permanent development of the concepts of health and the right to health and the rooting of a system aimed at taking in all the dimensions of these concepts, has to take in the new social, economic and political facets of the right to health.

The broad subject matter of this branch of knowledge has made it possible to integrate its themes into all the traditional curricular units of the bachelor's degree in Law. Despite this, there are reasons for cross-curricular integration to coexist with the autonomous disciplinary unit of Health Law.

In order to keep to the ideal length for scientific articles, the content of the autonomous unit has not been described in detail in this text.

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The author declares that there is no conflict of interest.

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