

The snake's egg hatches in Pandora's Box

*Antônio Ferreira Couto Filho**

The Health System agonizes in Brazil, but there is still hope. In 1999, more than five years ago, we wrote an article entitled “The snake’s egg”, with the purpose of alerting the Brazilian society in general to the risks of copying the North-American style, in respect to the establishment of the unjust ‘industry of damage’. On that occasion, we drew attention to the avalanche of lawsuits that doctors as well as public and private hospitals would suffer, which would ruin the doctor-patient relationship and highlight the inefficacy of the constitutional right to guarantee the health of all citizens. Sadly, our prediction came true: chaos has been established and the snake’s egg has hatched in Pandora’s Box.

According to the ranking published by the World Health Organization, the quality of Brazilian health is in the 124th place. The amount that we spend annually to pay public health costs has no relationship to reality and this is totally shameful. According to statistics of Abramge/Fenaseg, 31 billion Reals are spent to take care of 35 million of insured people, while SUS (the Government Healthcare Plan) spends almost the same quantity to assure the right to health to more than 145 million of Brazilians.

It is easy to conclude that the matter is not related to this or that Government or even to specific political parties, the question is much deeper. For decades we have not complied with the constitutional law of protecting the health of the Brazilian population and, by total lack of ethics, we pretend that the 124th place is ours.

Within this universe, other questions become complex and it is difficult to establish a standard as the recent case of wage readjustment of the healthcare plans shows. The government tries to regulate the market intervening in the economic area, displeasing Greeks and Trojans, only because of the lack of ethical

rules that escape from the casuism and paternalism systems that we are used to. On one hand, health insurance companies need to fulfill their social duty and profit at a low cost. On the other, people must pay a fair price for a quality service, specifically in the field of supplementary health.

The law related to the protection of the Consumer considered ‘casuistic and paternalist by excellence’, are defended, understood and praised by all of us, while consumers are affected by the economic power, which when applied to the doctor-patient relationship, the law has been excessively rigorous and caused the “industry of damage”, according to statistics of the Magistrate Miguel Kfoury Neto, in his book ‘Culpa Médica e Ônus da Prova’ (Doctor’s guilt and the burden of proof) published by RT, where he affirms that 80% of the legal processes against physicians are judged unfounded.

Therefore, other questions constitute the Pandora’s Box, such as the out-of-date doctor’s honoraria, registration of physicians in healthcare plans and better distribution of physicians around the country, amongst many others. And no evil will totally dishonor us as long as the most precious jewel is maintained inside this box and survives the curiosity of Pandora: that is HOPE.

At the beginning of the composition of a mixed commission inside the Health Parliamentary Front, formed by physicians, lawyers and parliamentarians, it is necessary to define parameters and to establish an important position for Health through the Health National Code.

** President of IAB (Brazilian Attorneys Institute) Biorights Commission - author of the book ‘Instituições de Direito Médico’ (Medical Law Institutions)*