



## **Compliance in health institutions: a debate about the possibility of harm prevention**

### **Conformidade em instituições de saúde: um debate sobre a possibilidade de prevenção de danos**

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#### **1 INTRODUCTION**

Health institutions are subject to adversity, like any other for-profit or non-profit entity. Since they propose to care for and work for the well-being of people, hospitals, clinics, pharmacies, cooperatives and other entities that operate in the segment, need greater attention in order to prevent failures, since they have as their object of action the care of human life, an element characterized by its delicacy.

Institutionalizing the maxim of popular wisdom that prevention is better than cure - so applicable to the context of health care - compliance presents itself as an exceptional tool for adapting health institutions to legislation, regulatory standards and good governance practices that have the potential to avoid numerous imbroglios.

The fact that health institutions, by their nature, are subject to making mistakes (*rectius* : failing to comply with administrative rules and the safety of the person), makes them a frequent defendant in lawsuits; according to data made available by the National Council of Justice (CNJ), between 2008 and 2017, 498,715 cases involving health issues were identified in the first judicial instance, and another 277,411 in the second instance (CNJ, 2019). Thus, this research faced the problem of how compliance can contribute to reducing the errors made and, consequently, reducing the number of lawsuits that health institutions respond to.

#### **2 OBJECTIVE**

Analyze how compliance in health institutions can contribute to the prevention of damage caused in their activities.

#### **3 METHODOLOGY**

This is a study about the nature of compliance to present a propositional thesis of the benefits of compliance for legal entities whose object is the provision of health



services. Based on a bibliographic and documentary review, a survey of the main risks to which health institutions are subject was carried out. In this sense, the specialized literature was consulted in order to present an implementation model that is able to meet the peculiarities of the sector, offering greater security to both managers and patients.

#### **4 DEVELOPMENT**

Compliance refers to internal control mechanisms adopted by public or private institutions in order to prevent damage (social, political or economic) and preserve the reputation of the entity (ABDULLAH; INDULSKA; SADIQ, 2016). It derives from the English word to comply, which can be understood as "doing it right". In practice, it means creating an institutional culture that is committed to making prescribed or agreed standards - of a legal or business nature - effective, in addition to ethical conduct adjusted by integrity.

The importance of compliance lies in the possibility of avoiding misfortunes, focusing on the prevention of acts that would compromise the fame and honor of the legal entity through the management of operational, reputational and compliance risks. The seriousness of this discussion is evidenced by the data presented by the National Council of Justice in the report "Judicialization of health in Brazil: profile of demands, causes and proposals for solutions", which points out that there has been a 130% increase in the number of lawsuits related to health. It is also stated in the diagnosis that several companies operating in the segment are among the most demanded parties with the most diverse causes of action: Unimed collects 4.48% of the lawsuits in the analyzed period; SulAmérica, 4.08%; Bradesco Saúde, 2.9%; Amil Assistência Médica, 2.37%; meanwhile, states and municipalities were in the passive pole in only 9.07% of the processes, that is, less than the four health institutions added together (CNJ, 2019).

Furthermore, the adoption of a precise Code of Ethics and Conduct, accompanied by rigorous enforcement, plays a key role in embedding the desired customs to avoid irregularities, which can be more complicated to deal with once they have materialized.

Knowing that compliance collaborates to establish compliance with the rules applicable to the institution, when it comes to health, it must be recognized that the mechanism has an even greater relevance. This is because, dealing with the life and illness of others, organizations in the area have many regulatory standards of their own, such as, for example, the National Supplementary Health Agency (ANS), the National Health Surveillance Agency (Anvisa), the class bodies of health professionals, etc.



Thus, in addition to hindering acts of corruption, harassment, fraud, labor obstacles and other internal difficulties, there is also a need to prevent problems related to patient safety, the spread of diseases, more serious damage due to recklessness, malpractice or negligence, leakage of patient data, among others.

Properly planned compliance has the potential to avoid fines by regulatory agencies, unfavorable court decisions and damage to the institution's reputation (which in turn would damage the relationship with customers and investors).

A priori, each institution must analyze the risks inherent to the business developed and evaluate its current performance in the demand against them (WEBER; WASIELESKI, 2013). Therefore, it is necessary to draw up a Code of Ethics and Conduct that contemplates and operationalizes the normative prescriptions of a legal, administrative and business nature, also adding internal rules that can be allied to the objective - precepts of coexistence and personal treatment among employees, guidelines for customer service and principles of transparency in administrative acts, for example - and implement internal control mechanisms - such as periodic audits, anonymous reporting system, action plans and others (ANDREISOVA, 2016) -, to apply the rules rigorously. It is not a matter of fostering behavior based on coercion, on the fear of punishment by employees, but of internalizing the rules through their understanding as indispensable for the work to function well and without the occurrence of avoidable mishaps.

## **5 FINAL CONSIDERATIONS**

Healthcare organizations play a fundamental role in the care of human life. Evidently, the risks to which they are subject, due to the relevance of the good of life they aim to treat, considerably exceed those existing in institutions with other service provision. The adaptation of these entities to the various rules arising from laws, regulatory standards, agreements, among other possibilities, must be done with even greater zeal.

In this sense, this research presents the propositional thesis that compliance is a viable alternative for managers who seek to adapt their organizations, thus mitigating the possibilities of occurrence of failures that can be committed and strengthening credibility in relation to patients.



## REFERENCES

ABDULLAH, N.; INDULSKA, M.; SADIQ, S. Compliance management ontology – a shared conceptualization for research and practice in compliance management. *Information Systems Frontiers*, v. 18, n. 5, p. 995-1020, out., 2016.

ANDREISOVA, L. Building and maintaining an effective compliance program. (Report). *Journal of Organizational Leadership*, v. 5, n. 1, p. 16-24, jan., 2016.

CONSELHO NACIONAL DE JUSTIÇA - CNJ. Judicialização da saúde no Brasil: perfil das demandas, causas e propostas de solução. Brasília: CNJ, 2019.

WEBER, J.; WASIELESKI, D. Corporate Ethics and Compliance Programs: A Report, Analysis and Critique. *Journal of Business Ethics*, v. 112, n. 4, p. 609-626, fev., 2013.