

The practice of acupuncture in Brazil

A prática da acupuntura no Brasil

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The Federal Council of Physical Therapy and Occupational Therapy (COFFITO) was the first professional health council to recognize the practice of acupuncture in Brazil, a technique introduced in the country by Chinese immigrants in the 19th century, when they came to work in tea plantations, and later by Japanese immigrants.

In 1985, the then president of COFFITO, Dr. Sônia Gusman, issued COFFITO Resolution No. 60¹, which authorized physical therapists to practice acupuncture. Based on this administrative act, different professional councils adopted the same model to authorize their professionals to practice acupuncture. The first resolutions addressed the practice itself, but later, resolutions to regulate the acupuncture specialty were issued – in the case of physical therapy, COFFITO Resolution No. 219/2000².

Ten years after COFFITO Resolution No. 60/1985, the Brazilian Federal Council of Medicine (CFM), also by an administrative act, regulated acupuncture as a physicians' specialty. Unlike other professional councils, in an attempt to obtain the exclusivity of the technique, a legal battle against all other health professions began, which was popularly called “the battle of the needles.” Since then, perhaps a hundred actions have been considered by the judicial system, leading to the annulment of resolutions on acupuncture previously issued by all professional councils. Currently, as no legislation exists in Brazil, the inspection agencies of regulated professions, including CFM, cannot legislate, that is, they cannot issue resolutions on the topic.

However, despite the linear understanding of the unconstitutionality of administrative acts of federal councils, a recent decision of minister Gurgel de Faria of the Brazilian Superior Court of Justice (STJ), via Special Appeal No. 1,592,450 – RS (2016/0072200-2) of June 21, 2022, stated that:

COFFITO resolutions (...and 221/2001) on these practices are limited to technically recognize these activities, stating that they can be performed by professionals regulated by the Council (...) and do not expressly authorize that physical therapists and occupational therapists perform activities reserved for physicians; because of that, they should not be considered illegal³.

Regardless of the different interpretations in the courts of justice, the main point of understanding, which should guide the practice in Brazil, is the lack of specific legislation or regulation allowing all professionals to practice acupuncture. In the Brazilian Classification of Occupations (CBO)⁴ of the Ministry of Labor and Employment, 3221-05 (Acupuncture technician) and 2236-50 (Acupuncturist physical therapist) are the codes for this occupation. In the past, the second code was one of the demands of the Brazilian Society of Acupuncturist Physical Therapists (SOBRAFISA). The classification also has codes for acupuncturist psychologists and acupuncturist pharmacists.

To solve this professional dilemma, the Committee on Social Affairs (CAS) of the Brazilian Federal Senate drafted Law No. 5,983/2019, which aims to regulate the professional practice of acupuncture.

The text provides that the professional practice of acupuncture will be ensured for holders of a higher education degree in acupuncture issued by a duly recognized educational institution; holders of a similar or equivalent higher education diploma issued abroad after the appropriate validation and registration of the diploma by the competent bodies; health professionals with higher education holding the title of acupuncture specialist, recognized by the respective federal councils; holders of a diploma of a technical course

in acupuncture issued by an educational institution recognized by the government; and professionals who, even without a diploma, have been provenly and uninterruptedly practicing acupuncture activities for at least five years⁵.

While this draft law is not put to the vote for approval, acupuncture can be practiced freely in Brazil by trained professionals. In all of this, users benefit as they can freely choose the best professional to perform their treatment.

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