

Strategies to approach the judicialization of health in Brazil: an evidence brief

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Abstract *This article seeks to identify and discuss evidence-informed options to address the judicialization of health. The Supporting Policy Relevant Reviews and Trials Tools were used to define the problem and the search strategy, which was carried out in the following databases: PubMed, Health Systems Evidence, Campbell, Cochrane Collaboration, Rx for Change Database, and PDQ-Evidence. Selection and assessment of methodological quality was performed by two independent reviewers. The results were presented in a narrative synthesis. This study selected 19 systematic reviews that pointed out four strategies to address the judicialization of health in Brazil: 1) Rapid response service, 2) Continuous education program, 3) Mediation service between the parties involved, and 4) Adoption of a computer-based, online decision-making support tool and patient-mediated interventions. This study therefore presented and characterized four options that can be considered to address the judicialization of health. The implementation of these options must ensure the participation of different actors, reflecting on different contexts and the impact on the health system. The availability of human and financial resources and the training of teams are critical points for the successful implementation of the options.*

Key words *Judicialization of health, Evidence-informed policy, Health Policy*

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Introduction

The right of all citizens to health is a guarantee set forth in the Brazilian Federal Constitution, ratified in 1988, and which defined the State as accountable for this guarantee¹. The Brazilian Unified Health System (SUS), under Federal Law 8,080/1990, sets forth the principles of universality, equality, and integrality².

Even with the affirmation of this universal right to health, citizens often need to appeal to the judicial system and the courts to guarantee it, a phenomenon which has become known as the “judicialization of health”^{3,4}. The growth of court cases has been the underlying motive of concerns among health managers and legal practitioners throughout Latin America⁴ due to the significant impacts upon the framework, financing, and organization of the health system, and consequently, upon the availability of services and technology provided to the Brazilian population.

Brazil is the country with the highest number of studies on the judicialization of access to medicines^{4,5}, and the Brazilian Federal Government’s expenses with the judicialization of health has surpassed 1.3 billion reais (US\$ 260 million), yet the expenses with medicines conceded by the courts fell 4.1%, in real terms in 2019⁵.

In Brazil, SUS has sought to provide efficacy in the supply of services and safe and effective technologies provided to the Brazilian population, through pharmaceutical policies, which foster the use and the updating of the National List of Essential Medicines (REAME, in Portuguese); by defining the clinical protocols and therapeutic guidelines (PCDT, in Portuguese), which guide the incorporation of new medicines, products, and procedures⁶; and through the implementation of the National Commission for the incorporation of Technologies in SUS (CONITEC, in Portuguese)⁶, a permanent collegiate body⁷ that advises the Ministry of Health through recommendations regarding health interventions.

However, the judicialization of health in Brazil includes demands with different aims, from the guarantee of individual and collective rights to the search for market expansion on the part of the health industrial complex. In this sense, judicialization often interferes in health policies geared toward the incorporation of technologies about which there is no robust scientific evidence regarding their beneficial effects or risks^{3,8}.

When called upon concerning the guarantee of one’s right to health, the Judiciary Branch defends the immediate compliance with the

Federal Constitution, generally adopting a regulatory perspective to meet demands, without necessarily appealing to the data and available scientific evidence (studies intended to provide a high-quality methodology and demonstrate efficacy) concerning the requested health technologies, be they treatments or technologies. Although the need to train magistrates with regard to the analysis of health requests has already been identified, involving public managers from the field^{9,10} in the question, studies have shown limited consideration for the scientific evidence about health technologies¹¹⁻¹⁵, justifying the importance of the tools for the translation of knowledge to uphold a court decision and based on public policies.

Therefore, the aim of this evidence brief sought to identify options to approach the judicialization of health in Brazil, as well as to debate their main characteristics (benefits, potential damages, and uncertainties), in an attempt to subsidize decision-making in different contexts of implementation.

Materials and methods

The present study adopted the Supporting Policy Relevant Reviews and Trials (SUPPORT) tools for Evidence-Based Policies, which guide the systematization of the search, evaluation, adaptation, and application of the results from scientific studies, such as the subsidy of the formulation and implementation of health policies^{16,17}. The SUPPORT tools propose methods that encompass from the characterization of relevant health problems to the description of interventions, called “options to confront the problems”^{16,17}, considering the local context, including the social values involved, available resources, and health needs. The characterization of options also includes their potential benefits and damages, as well as the identified uncertainties. This methodology produces that which we define as the Evidence Brief.

The problem of judicialization was defined in the first stage, considering its definition, relevance, and magnitude. After, together with the key actors of the Ministry of Health, especially CONITEC, which demanded evidence concerning the topic of judicialization, a survey was conducted during the alignment meeting, within a brainstorming model, of the potential key words to identify options to approach the problem. The identified key words are available in the Chart 1.

Systemic reviews and overviews of systemic reviews, which treated the effects of interventions to approach the problem of judicialization, were included in this study. The information from these studies was used to characterize the options

and their elements. The searches were conducted in March 2016 and updated in December 2021, in the following databases: PubMed; Health Systems Evidence; Campbell Collaboration; Cochrane Library; Rx for Change Database, and

Chart 1. Databases and search strategies used to survey the systematic reviews of the options to treat the problem.

Date	Databases	Strategy	Result
Option 1 - Rapid response service to support the use of the best scientific evidence as a subsidy for decision-making involving health technologies			
10/22/2016	Cochrane Library	rapid response:ti,ab,kw or rapid review:ti,ab,kw or rapid synthesis:ti,ab,kw or rapid systematic review:ti,ab,kw or rapid evidence synthesis or rapid assessment or rapid evaluation or rapid HTA:ti,ab,kw Publication Year from 2010, in Cochrane Reviews (Reviews only), Other Reviews and Methods Studies (Word variations have been searched)	Identified 212 articles; 08 excluded by duplication; 202 excluded by titles and abstracts; 02 selected (01 excluded after reading the full text)
10/22/2016	PDQ-Evidence	((title:(title:(rapid response) OR abstract:(rapid response)) OR (title:(rapid review) OR abstract:(rapid review)) OR (title:(rapid synthesis) OR abstract:(rapid synthesis)) OR (title:(rapid systematic review) OR abstract:(rapid systematic review)) OR (title:(rapid evidence synthesis) OR abstract:(rapid evidence synthesis)) OR (title:(rapid assessment) OR abstract:(rapid assessment)) OR (title:(rapid evaluation) OR abstract:(rapid evaluation)) OR (title:(rapid HTA) OR abstract:(rapid HTA))) OR abstract:((title:(rapid response) OR abstract:(rapid response)) OR (title:(rapid review) OR abstract:(rapid review)) OR (title:(rapid synthesis) OR abstract:(rapid synthesis)) OR (title:(rapid systematic review) OR abstract:(rapid systematic review)) OR (title:(rapid evidence synthesis) OR abstract:(rapid evidence synthesis)) OR (title:(rapid assessment) OR abstract:(rapid assessment)) OR (title:(rapid evaluation) OR abstract:(rapid evaluation)) OR (title:(rapid HTA) OR abstract:(rapid HTA)))) Filters: Publication year: Last 5 years; Publication type: Systematic Review.	Identified 78 articles; 01 excluded by duplicate; 75 excluded by titles and abstracts; 02 selected (01 excluded after reading the full text)
10/22/2016	Health Systems Evidence	rapid response OR rapid review OR rapid synthesis OR rapid systematic review OR rapid evidence synthesis OR rapid assessment OR rapid evaluation OR rapid HTA	No article was identified
Option 2 - Continuous education program, geared toward legal practitioners, for the development of skills for the comprehension and understanding of SUS, its policies, and the importance of the evaluation of health technologies (ATS, in Portuguese) in this context			
06/06/2016	PubMed	((education* OR teach* OR learn* OR course) AND teaching[MeSH Terms]) AND public health AND (policymak* OR decision mak*) AND systematic review (60 referências) +22 ((education* OR learn*) AND teaching[MeSH Terms]) AND((public health) AND (policymak* OR decision mak*)) AND ((Evidence-Based Practice[MeSH Terms]) OR evidence-informed)) AND systematic review (14 referências + 157)	Identified 74 references, 14 repeated were excluded, 48 excluded by reading the title; 9 excluded by reading the abstract, 03 excluded after reading the full text
06/07/2016	Centre for Reviews and dissemination (CRD)	Education (any field) OR teaching (any field) OR learn (any field) OR Course AND public health AND (policymake OR decision making) Any field FILTRO: DARE 0	Identified 21 references, 2 repeated, 19 excluded by reading the titles

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Chart 1. Databases and search strategies used to survey the systematic reviews of the options to treat the problem.

Date	Databases	Strategy	Result
06/13/2016	Health Systems Evidence	(education OR teach OR learn OR course) AND (health information OR health communication) AND public health AND (policymak OR decision make) AND systematic review Filtro: Qualquer organização dos sistemas de saúde 0	Identified 30 references, 26 excluded by reading the titles; 3 excluded by reading the abstract; 01 excluded after reading the full text
06/20/2016	Cochrane Library	((education\$ OR learn\$ OR teach\$ OR course) AND (public health) AND (policymak\$ OR decision mak\$) AND (Evidence based practice OR evidence informed)) AND systematic review 256 in all text Filtro: Cochrane Reviews - Reviews	Identified 06 reviews; 5 excluded by titles, 01 excluded after reading the full text
06/23/2016	Campbell Library	education* OR teach* OR learn* OR course AND public health AND policymak* OR decision mak* AND Evidence-Based Practice OR evidence-informed AND review (type of document) 241	Identified 126 references, 1 repeated, 121 excluded by reading the title; 3 excluded by reading the abstract; 01 excluded after reading the full text
07/06/2016	Rx for Change	(education OR teach* OR learn* OR course) AND (public health OR policymak* OR decision mak*) 0	Identified 172 reviews; 14 repeated, 144 excluded by titles and 9 excluded by abstracts. 02 excluded after reading the full text. Selected 3 references
	PDQ-EVIDENCE	24	Identified 5 reviews; 4 excluded by titles and 01 excluded after reading the abstract
Option 3 - Mediation service between the involved parties as regards the establishment and continuity of judicial proceedings involving health technologies			
05/13/2016	PubMed	((negotiating[Title/Abstract] OR mediati*[Title/Abstract] OR mediator[Title/Abstract] OR conflict resolution[Title/Abstract] OR alternative dispute resolution[Title/Abstract] OR external dispute resolution[Title/Abstract])) AND ((policymaking[Title/Abstract] OR decision making[Title/Abstract])) Filtro: revisão sistemática	Identified 30 references, 25 excluded by reading the titles; 05 excluded after reading the abstract
05/13/2016	Centre for Reviews and dissemination (CRD)	negotiating OR mediati* OR mediator OR conflict resolution OR alternative dispute resolution OR external dispute resolution)	Identified 100 references, 15 repeated, 80 excluded after reading the title; 05 excluded after reading the abstract

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PDQ-Evidence. The specific search strategies for each of the three options are described in the Chart 1. For option 4, no specific search strategy was formulated; these were identified through the included studies.

In all of the investigated databases, the search strategy was adapted and filters for the systematic review were applied, obtaining 2,128 studies (Figure 1). The articles were selected and evaluated by two independent reviewers.

Our study excluded 446 duplicates, leaving 1,682 studies for the reading of the titles and abstract, of which 2,099 were excluded as they did not meet the inclusion criteria. Twenty-nine articles were selected for the reading of the entire article based on the pre-defined inclusion and exclusion criteria. After the full reading of the texts, 10 articles were excluded, as they were not systemic reviews and did not meet the aim of this Evidence Brief. A final study was excluded after

Chart 1. Databases and search strategies used to survey the systematic reviews of the options to treat the problem.

Date	Databases	Strategy	Result
05/13/2016	Healthevidence	negotiating OR mediation OR mediator OR conflict resolution OR alternative dispute resolution OR external dispute resolution	Identified 45 references, 9 repeated, 36 excluded after reading the titles
05/13/2016	Health Systems Evidence	negotiating OR mediati* OR mediator OR “conflict resolution” OR “alternative dispute resolution” OR “external dispute resolution”	Identified 31 references, 8 repeated, 21 excluded after reading the titles; 02 excluded after reading the abstracts
05/13/2016	C o c h r a n e Library	negotiating or mediation or (conflict and resolution) or (alternative and dispute and resolution) or (external and dispute and resolution) Título, abstracts e keyword Filtros: Cochrane Reviews	Identified 46 references; 13 repeated, 32 excluded after reading the titles; 01 excluded after reading the abstract
05/13/2016	C a m p b e l l Library	(negotiating OR mediation OR mediator OR conflict resolution OR alternative dispute resolution OR external dispute resolution) and (policymaking OR decision making) all text	Identified 206 references, 1 repeated, 194 excluded after reading the title; 10 excluded after reading the abstract. Selected 1 article
06/01/2016	Rx for Change	negotiating OR mediation OR mediator OR conflict resolution OR alternative dispute resolution OR external dispute resolution	Identified 70 reviews; 20 repeated, 45 excluded after reading the titles, 4 excluded after reading the abstracts. 01 excluded after reading the full text
05/13/2016	PDQ-Evidence	((title:(negotiating OR mediati* OR mediator OR conflict resolution OR alternative dispute resolution OR external dispute resolution) OR abstract:(negotiating OR mediati* OR mediator OR conflict resolution OR alternative dispute resolution OR external dispute resolution)) AND (title:(policymaking OR decision making) OR abstract:(policymaking OR decision making)) Filtro: revisão sistemática	Identified 170 references; 37 repeated, 112 excluded after reading the titles; 16 excluded after reading the abstract, 03 excluded after reading the full text. Selected 2 articles. 1 articles was excluded after data extraction
05/13/2016	BVS	conflict resolution OR alternative dispute resolution OR external dispute resolution mh:”Negociação”	Identified 5 references; 2 excluded after reading the title; 03 excluded after reading the abstract

Source: Authors.

the extraction of information, as it did not meet the aims of this Evidence Brief (Figure 1).

For Option 1, an issue brief¹⁸ informed the searches and an overview was identified and later included, totaling 19 studies selected for data extraction. One article was recovered for Options 1 and 3, two articles were included by means of a manual search of the list of references of one of the articles from Option 2.

No restrictions were applied regarding the language of the publication, but the filter of the year was applied for the publications between 2010 and 2021. The selected systemic reviews were evaluated regarding the quality of the methodology, using the Assessment of Multiple Systematic Reviews (AMSTAR) tool¹⁹. Chart 2 characterized the studies, the option elements, the evaluation of quality to approach the judicialization, and the AMSTAR of each included study.

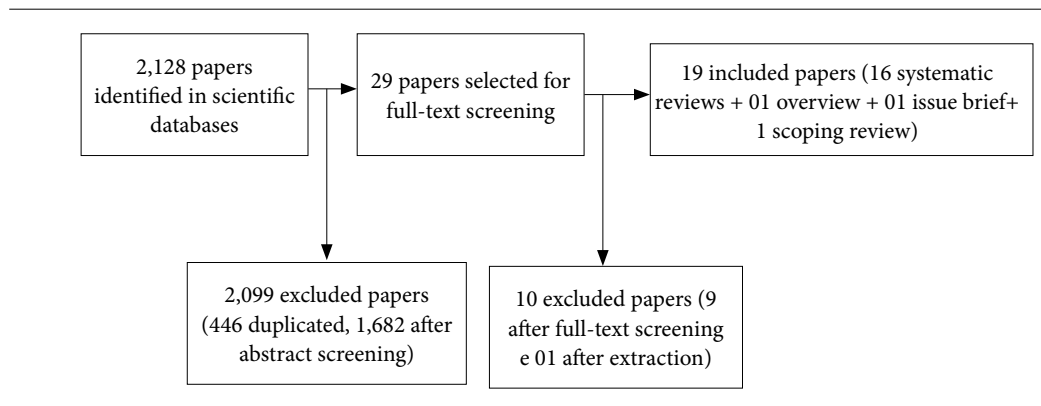


Figure 1. Flowchart.

Source: Authors.

Results

Considering the previous prioritization and the selected studies, four options were identified to treat the theme of the judicialization of health: 1) Rapid response services to support the use of the best scientific evidence as a subsidy for decision-making involving health technologies²⁰⁻²³; 2) Continuous education program, geared toward legal practitioners, for the development of skills for the comprehension and understanding of SUS, its policies, and the importance of the evaluation of health technologies (ATS, in Portuguese) in this context²⁴⁻³¹; 3) Mediation service between the involved parties as regards the establishment and continuity of judicial proceedings involving health technologies^{23,32,33}; 4) Adoption of computer-based online tools to support decision-making and interventions mediated by patients to improve the clinical practice³⁴⁻³⁶.

Chart 3 contains a detailed description of each policy option.

The survey of possible barriers to the implementation and options was also conducted to deal with them, from the individual level to the judiciary and health levels.

Option 1 - Rapid response services to support the use of the best scientific evidence as a subsidy for decision-making involving health technologies

Rapid response services are understood as a service that develops rapid reviews of high-quality evidence, in an opportune manner, promoting the interaction between researchers and decision-makers, and is customized to the needs of

the latter^{18,20}. The time to carry out the production of a rapid response can vary from a few days up to six months²², if shortcuts are applied to accelerate the process, such as: limitations on the searches per year, databases, languages, and other sources beyond electronic searches; as well as the definition of only one reviewer to review the title and abstract, review the entire text, and evaluate the methodological quality and/or data extraction. There is a need for greater attention to be given to the transparency and to the specification and detailed description of the methods used in the review to achieve a rapid response²² in such a way as to enable a high-quality evaluation, as well as to develop other strategies to facilitate the acceptance and use of these reviews.

Among the operational questions that need to be considered in the formulation of a rapid response²¹ are the conciliation between the time of development of the product and its payment, and the recruitment of qualified human resources for the job. The facilitator aspects that are frequently reported for the use of rapid responses in decision-making are: the collaboration between researchers and policy-makers, a good relationship and good skills among the participants, and studies that are in accordance with beliefs, values, interests, or practical objectives and strategies of the decision-makers²⁰.

As regards the challenges of implementation, it is estimated that the target public may have a low-level of familiarization with and minimal interest in the ATS as a subsidy for decision-making. Alternatives to face this barrier include the organization of educational activities (conferences, presentations, workshops, and internships) and the distribution of educational ma-

Chart 2. Characteristics of the studies, option elements, and evaluation of the quality to approach the judicialization.

Study	Option elements	Aim of hte Study	AMSTAR
Option 1 - Rapid response services to support the use of the best scientific evidence as a subsidy for decision-making involving health technologies. Five (05) studies were included			
Wilson <i>et al.</i> , 2015 ¹⁸ Developing a rapid-response program for health system decision-makers in Canada: findings from an issue brief and stakeholder dialogue	<i>Issue brief</i> which informed the search for Option 1	Describe the best available study evidence related to the rapid response programs, three general characteristics of this program and the considerations for implementation	NA
Best <i>et al.</i> , 2012 ²⁰ Large-System Transformation in Health Care	Present elements to facilitate the promotion of transformations in large health systems	Analyze examples of initiative of successful or less successful transformation to synthesize the knowledge about the subjacent mechanisms, defining the role of the government and highlighting options for the evaluation	5/11
Haby <i>et al.</i> , 2016 ²¹ Designing a rapid response program to support evidence-informed decision-making in the Americas region: using the best available evidence and case studies.	Develop a rapid response program	Inform the formulation of a rapid response program for evidenced-based decision-making in health policies and practices for the region of the Americas. (1) What are the best methodological approaches for rapid reviews of study evidence? (2) What other strategies are necessary to facilitate the evidence-informed decision-making in health policies and practices? (3) What is the best way to operationalize a rapid response program?	10/11
Ganann <i>et al.</i> , 2010 ²² Expediting systematic reviews: methods and implications of rapid reviews.	Produce reviews for rapid responses in such a way as to inform about the decision	Examine methods used to carry out reviews for rapid responses, as well as the implications in expediting methodological stages in terms of accuracy, bias, and results	6/11
Yamauti <i>et al.</i> , 2020 ²³ Strategies Implemented by Public Institutions to Approach the Judicialization of Health Care in Brazil: A Systematic Scoping Review	Technical support to the Judiciary and IT systems	Categorize and analyze the strategies implemented by public institutions in Brazil to approach the judicialization of health	7/11

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terials (published or printed recommendations about clinical care, including clinical practice guidelines, audiovisual materials, and electronic publications, delivered in person or through mass mailings).

By contrast, the implementation of local-level services may require the allocation of resources and the standardization of methods. One may also face a lack in the availability of professionals who are capable of developing rapid response products in the ATS, making it necessary to involve different actors in the decision-making process in order to facilitate communication and to adopt systematic and transparent method-

ological standards in the development of rapid responses concerning health technologies. The adherence to the rapid response services in the realm of organizations of the Judiciary Branch may be heterogeneous and dependent on individual positions, even though governmental agencies, such as the National Justice Council, can act to create management policies for courts and standardize decision-making performed by judges. The actors' educational and engagement activities can facilitate the implementation of a rapid response service.

Finally, in the judiciary and health ecosystems, which involve the political arena, the pop-

Chart 2. Characteristics of the studies, option elements, and evaluation of the quality to approach the judicialization.

Option 2 - Continuous education program, geared toward legal practitioners, for the development of skills for the comprehension and understanding of SUS, its policies, and the importance of the evaluation of health technologies in this context; Eight (08) articles were included			
Marinopoulos S <i>et al.</i> , 2007 ²⁴ Effectiveness of continuing medical education	Perform activities of continuous education to convey knowledge and change conducts and behaviors of health professionals	Identify that methods of continuous education are more effective to a) convey knowledge to the doctors; b) change the attitudes of doctors; c) develop skills; d) change the behaviors of doctors in their professional practices; and e) change the clinical outcomes of medical practices	7/11
O'Brien MA <i>et al.</i> , 2007 ²⁵ Educational outreach visits: effects on professional practice and health care outcomes	Carry out educational visits as a way to change the conduct of health professionals	Investigate the effects of educational visits on the practices of health professionals or on the outcomes related to the patients	8/11
Forsetlund L <i>et al.</i> , 2021 ²⁶ Continuing education meetings and workshops: effects on professional practice and health care outcomes	Carry out educational meetings and continuous education activities to change the conduct of health professionals and improve the health outcomes of the patients	Evaluate the effects of the educational/continuous education meetings on the professional practices and on the health results of the patients	9/11
Vaona A <i>et al.</i> , 2018 ²⁷ E-learning for health professionals.	Development of educational programs using e-learning versus traditional learning to improve the results of patients or behaviors, skills, and knowledge of the health professionals	Evaluate the effects of e-learning programs versus traditional learning to improve the results of patients and knowledge of the health professionals	9/11
Rowe <i>et al.</i> , 2019 ²⁸ These may not be the courses you are seeking: a systematic review of open online courses in health professions education	Develop open online courses for regulated educational processes for health professionals	Describe the available evidence regarding the characteristics of the open Online Courses in the education of health professionals and analyze their use for decision-making using a self-developed structure that consists of scores referent to efficacy, student experiences, viability, pedagogy, and economy	8/11
Radcliffe <i>et al.</i> , 2019 ²⁹ Collective intelligence in medical decision-making: a systematic scoping review	Make use of collective intelligence in medical decision-making Treats a scoping review	Describe and analyze studies that use collective intelligence in medical decision-making	7/11
Giguère <i>et al.</i> , 2020 ³⁰ Printed educational materials: effects on professional practice and healthcare outcomes	Use printed educational materials to influence the practices of health professionals and patients' health	Evaluate the effect of printed educational materials (for example, source, content, format) regarding their effect on the practices of health professionals and patients' health	11/11
Flodgren <i>et al.</i> , 2019 ³¹ Local opinion leaders: effects on professional practice and healthcare outcomes	Use local opinion leaders to improve the practices of health professionals and patients' outcomes	Evaluate the efficacy of the local opinion leaders to improve the conformity of health professionals with evidence-based practices and patients' results	11/11

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ulation in general, along with the media and interest groups, can present counterpoints to the rise in the importance of scientific evidence

in the judicial proceedings involving access to health. Effective strategies include the users of health systems who make decisions about the use

Chart 2. Characteristics of the studies, option elements, and evaluation of the quality to approach the judicialization.

Option 3 - Mediation service between the involved parties as regards the establishment and continuity of judicial proceedings involving health technologies; Three (03) articles were included			
McCoy <i>et al.</i> , 2011 ³² A systematic review of the literature for evidence on health facility committees in low- and middle-income countries	Strategies and methodologies of social participation and decision-making in public policies	a) review the literature about the effectiveness of “health service committees” in low- and middle-income countries b) develop a comprehension of factors that determine and influence the functioning and effectiveness of health service committees	5/9
Street <i>et al.</i> , 2014 ³³ The use of citizens’ juries in health policy decision-making: A systematic review	Strategies and methodologies of social participation and decision-making in public policies	Analyze the use of citizen juries for the involvement of the community through health studies focused on methodological aspects	5/9
Yamauti <i>et al.</i> , 2020 ²³ Strategies Implemented by Public Institutions to Approach the Judicialization of Health Care in Brazil: A Systematic Scoping Review	Alternative resolution of conflicts, State health committees, and Pharmacy and Therapeutic Committees	Categorize and analyze the strategies implemented by public institutions in Brazil to approach the judicialization of health	7/11
Option 4 - Adoption of computer-based online tools to support decision-making and interventions mediated by patients to improve the clinical practice			
Légaré <i>et al.</i> , 2018 ³⁴ Interventions for increasing the use of shared decision making by healthcare professionals	Interventions for patients and health professionals in order to expand shared decision-making	Determine the effectiveness of interventions to increase shared decision-making among health professionals and patients	10/11
Syrowatka <i>et al.</i> , 2016 ³⁵ Features of Computer-Based Decision Aids: Systematic Review, Thematic Synthesis, and Meta-Analyses	Use integrated resources of computer-based decisions for decision-making	Propose resources integrated in computer-based decision resources and evaluate if the integration of specific resources was associated with high-quality decision-making	8/11
Fønhus <i>et al.</i> , 2018 ³⁶ Patient-mediated interventions to improve professional practice	Interventions mediated by patients in the performance of health professionals (adherence to clinical practice guidelines or recommendations for clinical practice)	Evaluate the effectiveness of interventions mediated by patients concerning the performance of health professionals (adherence to clinical practice guidelines or recommendations for clinical practice)	10/11

Source: Authors.

of medicines, such as shared decision-making interventions³⁷ and patient decision aids³⁸, which help the users to consider the available evidence, together with their beliefs, values, and preferences regarding treatments and care, in turn opting for more well-informed care, and/or to optimize the communication with the users about the use of medicines, among other relevant questions.

Option 2 - Continuous education program, geared towards legal practitioners, for the development of skills for the comprehension and understanding of SUS, its policies, and the importance of the evaluation of health technologies in this context

This option consists of the development of continuous education strategies, together with the legal practitioners, in such a way as to promote changes in the skills and practices of com-

Chart 3. Strategies to approach the judicialization of health in Brazil.

	Option 1 - Rapid response service to support the use of the best scientific evidence as a subsidy for decisions involving health technologies	Option 2 - Continuous education program, geared towards legal practitioners, for the development of skills for the comprehension and understanding of SUS, its policies, and the importance of ATS in this context	Option 3 - Mediation service between the involved parties as regards the establishment and continuity of judicial proceedings involving health technologies	Option 4 - Adoption of computer-based online tools to support decision-making and interventions mediated by patients to improve the clinical practice
Advantages	Distribution of printed material and of executive summaries of evidence briefs facilitate the use of evidence in decision-making ²¹	Facilitates the acquisition and retention of knowledge, attitudes, skills, and behaviors, influencing professional practices and outcomes for the population ^{25,26}	Favor the involvement of citizens in decision-making regarding health policies ^{32,33} , promoting engagement and awareness, in addition to stimulating transparency in public accountability ³²	The offer of information or educational activities for the patients, as well as the promotion of interactions that make it easy for patients to provide information to the health professionals, has the potential to increase the adherence of professionals to guidelines and recommendations for clinical practice ³⁵ . The integration of interactive or media-rich resources to aid in computer-based decision-making can improve the quality of the decision-making that is sensitive to preferences ^{35,36}
Disadvantages	Not identified	Not identified	Not identified	Not identified
Potential costs	The implementation of this service implies a minimal structure needed to conduct searches, training of professionals or hiring of trained professionals and costs for the dissemination of the produced knowledge. Perspective of long-term saving related to the use of evidence in decision-making in health	Hiring of trained human resources for continuous education strategies on the theme, cost of training or training of the actors involved, as well as the availability of multimedia resources, which proved to be more effective in learning ²⁴	Training of human resources for facilitation, material and transport support provided to participants ³²	When mediated by Technologies, such interventions demand training of human resources for their use and costs related to the development and maintenance of the software ^{35,36}
Acceptability	Rapid response services are accessible by telephone, e-mail, or sites; provide instructions about what the decision-maker needs to include as part of his/her request; as well as provide an outline of what can be expected within the different time periods. The product of the rapid response service can be: a list of the main evidence found on the theme, a briefing of the evidence, or a detailed executive summary, which can be made available for other decision-makers to have access to ¹⁸	External factors (such as pressure in the form of demands from the population, follow-up by control agencies, guidelines of professional advice, etc.) and characteristics of the target public (such as gender, age, time working as a health professional, etc.) deserve special attention and can influence in such a way that continuous education models are more effective in specific groups ²⁴	It is necessary to clearly define the authority of mediation spaces ^{32,37} and strengthen the participation of different actors. Smaller groups and sessions that last up to one day have proven to be effective in the deliberations ³³	These interventions have still not been studied in the realm of the judicialization of health and with professionals without a degree in the field of health ^{34,36} . Still, little is known about the degree of acceptability of the patients regarding their mediation of such interventions

Source: Authors.

prehending and understanding SUS, its policies, and the interpretation of technical-scientific knowledge in the field of ATS in the judicialization cases in the field of health^{24,25}.

Interventions with the use of live media have proven to be more effective than printed materials. Printed educational materials have a positive effect on the practices of health professionals, but it makes little to no difference in the health of the patient, when compared to no intervention at all. The computer versions may make little or no difference in the practices of health professionals when compared to the printed versions of the same educational materials³⁰. The use of multimedia sources has also proven to be more effective than interventions with individual medias. In the end, the use of multiple exposures to the educational material has proven to be more effective than a single exposure²⁵. Educational visits have also proven to be effective in provoking positive changes in the practices of health professionals and in the outcomes related to the patients²⁵. The term “educational visits” was used to describe a visit, by one outside trained professional, to health professionals in their work environments so as to promote change in professional practices.

Educational meetings, whether isolated or combined with interventions, can improve professional practices and patients’ health results²⁶. Strategies to increase attendance in educational meetings, using mixed, interactive, and didactic formats, and with focus on results that will most likely be perceived as severe, can increase the effectiveness of the educational meetings.

Collective discussions on cases, called “collective intelligence” or “wisdom of the crowds”, “crowdsourcing”, “collective innovation” or “collective views” in medicine, appear as efforts to make medical decisions when the specialists contribute with their collective insight on a case. Information Technology (IT) facilitates the collective intelligence, adding individual medical opinions by means of mobile technologies or based on the web (individual cases) or by supplying a virtual platform for the discussion and consensus of specialists (group cases). This study did not investigate the precision of the collective intelligence or its benefits in individual decision-making²⁹.

Educational programs, in the format of e-learning or Open Online Courses for health professionals, is an emerging field²⁸. However,

distance learning, when compared to traditional education, has not shown a significant improvement in relation to the health outcomes of patients or changes in the behaviors and knowledge on the part of health professionals, and it is not clear if the e-learning format increases or reduces the skills of a health professional²⁸.

As regards the challenges of implementation, it is important to highlight that the members of the Judiciary Branch can present levels of knowledge that can vary greatly regarding SUS operations. It is possible to use opinion leaders and involve people and leading institutions in the target public so as to disseminate the importance of a continuous education program concerning ATS, as well as organize educational activities (conferences, presentations, workshops, or internships) and distribute educational materials, with a language style adapted to this specific ATS public, together with evidence-based and informed decision-making.

One continuous education program for the members of the Judiciary Branch may require a didactic approach that offers a differential and is adapted to the target public. The educational model and the adapted language can be determining factors for the success of this option. Thus, strategies to facilitate communication and shared decision-making in the development of the program can expand their adaptation to the target public and obtain better results.

In the realm of the organization of the services, the implementation of this option can require the establishment of institutional partnerships and justifications for the allocation of SUS resources for this purpose. The involvement of the interested organizations from the initial conception of the program can aid in the establishment and maintenance of necessary institutional partnerships.

In a broader spectrum of the judicial and health systems, which involve the political arena, the population in general, and the media, the regulatory system can be used to question the legality of the development of this option when faced with the limits of applying the resources for distinct and planned purposes. It may be necessary to guarantee the aid of instances of internal, external, and social controls regarding the implementation of this option. In this case, the use of opinion leaders and the facilitation of communication and shared decision-making can be a useful strategy.

Option 3 - Mediation service between the involved parties as regards the establishment and continuity of judicial proceedings involving health technologies

The limited communication between the involved parties (health system user, manager, and health professional) in the judicial proceedings involving health technologies suggest the need for a mechanism with the potential to resolve future conflicts and allow for an interaction among the parties, prior to the establishment of a litigation of judicial proceedings³³.

The mediation is an extrajudicial resource through which to resolve the conflict, used to provide a solution or prevent situations of litigations or an impasse in communication³⁹, including that set forth in Law 13,140/2015, guided by such principles as those of the impartiality of the mediator, isonomy, and autonomy between the parties, the search for consensus, and good faith. In this sense, the mediation should be understood as a conversion/negotiation intermediated by an impartial individual who favors and organizes the communication between the parties involved in the conflict. It is the creation of the opportunity for the parts to debate, question, and contest the conflicts openly in order to identify consensual solutions that lead to mutual benefits, regardless of being better for one party or for the other.

The operationalization of the mediation services includes jury models³², which represent processes of short and pre-defined duration, conducted by small groups of representatives of the community mediated by facilitators, as well as health services committees³², understood as formally constituted structures, with a community representation, linked explicitly to a health unit, in such a way as to allow for the participation of citizens in the improvement of the services rendered and of the health results.

When raising possible barriers to the implementation, it is understood that the poor familiarity among the users regarding the functions and objectives of the mediation services, as well as potential conflicts of individual interests of the lawyers involved in the case, when faced with financial gains stemming from the established judicial proceedings, can represent important barriers to the effective implementation of the option. The mass diffusion of this resource, through the varied use of communication to reach a large number of people (television, radio, newspapers, posters, flyers, and booklets), can be necessary to

inform and favor the adherence of the public to this option, representing an alternative to the judicial proceedings.

There does not appear to be an availability among skilled health professionals to develop mediation activities within their own realm of work, in such a way that the implementation of mediation services can require the reallocation of resources for their implementation and continuous operation. In addition, the mediation may well be seen as an additional opportunity to place pressure on SUS in order to force the managers to be flexible, without considering the scientific evidence. The aid from the instances of internal, external, and social controls provided for the implementation of the option may once again be necessary in order to generate the maximum transparency concerning the proceedings.

Finally, the installation of mediation can require the definition of additional regulatory marks so that they can be considered legitimate. Interest groups can use the option to increase their capacity to intervene directly in individualized decisions within SUS. It may be necessary to guarantee support from the regulatory instances in order to implement this option. In this case, the use of opinion leaders and the facilitating of communication and shared decision-making may well be a useful strategy. Help from the instances of internal, external, and social controls provided to generate the maximum transparency concerning the proceedings may be a good alternative.

Option 4 - Adoption of computer-based, online tools to support decision-making and interventions mediated by patients to improve the clinical practice

The information, the educational level of the patient, and the clinical decisions in the health professional's practices, such as help in decision-making, is an emerging field and is gradually being moved to computer-based, online environments³⁵. Help in decision-making includes support tools meant to help patients to evolve in their decision-making skills. The integration of interactive resources and multimedia to help with computer-based decision-making can improve the quality of decision-making that is sensitive to preferences, although the scientific evidence has limitations to guide its use³⁵.

Interventions mediated by patients include from the information or educational activities for the patients to the promotion of interactions

that help the patient to supply the proper information to health professionals³⁶. These interventions have the potential to increase the adherence of health professionals to guidelines and recommendations for clinical practices; however, their impacts on both health and patient satisfaction, as well as their possible adverse effects, are still rather uncertain. Moreover, due to the low quality of studies, it is impossible to draw clear conclusions about their effects³⁶.

Discussion

Equity enables equality in one's right to health. From this point of view, the actions that seek to act upon the judicialization of health must seek to reduce inequalities, guaranteeing one's right to health and the sustainability of the system. The options, which are given priority and set according to the problem, supported by available evidence, seek to use the ATS as a tool to act upon the judicialization of health and to minimize its causes. In the implementation of the options, one must consider the possibility of damage to the system, which interferes negatively in the organization of SUS, shifting public resources from health policies.

The implementation of a rapid response service to support the judicial and managerial instances of SUS, in the three spheres of government, could possibly provide underlying support to the use of the best scientific evidence as a technical subsidy for decision-making regarding judicial demands in health⁴⁰, consistent with the results of scientific research and considering the technologies available within SUS as safe and efficacious therapeutic alternatives. In this sense, the use of ATS studies, in the rapid response format, concise documents that bring objectively presented information, presents a high potential to be used by the Judiciary Branch as a consultation source to back, both technologically and scientifically, the decisions made regarding health lawsuits.

In the judicial decisions about health, the legal practitioners may consider the scientific evidence as a relevant subsidy to support the process of convincing the courts. In this sense, the implementation of a continuous education program or of mediation must consider the participation of different actors in order to overcome the barrier of the technical-scientific limits among the involved parties⁴¹.

Another important point to be considered is the availability of human and financial resources

and the need to adapt the proposed strategies to the different realities. Continuous education programs geared toward legal practitioners are an interesting option in that they promote an exchange between the professionals and can be adapted to different availabilities of time and teaching methodologies. However, these commonly require both expansion and training of the team, as well as the verification of the possible provision of necessary devices and structures. Small municipalities, for example, with limited human and financial resources, may have an advantage due to difficulty of access to the options offered in the brief, which require regional strategies to be adopted and adapted.

If one considers the implementation of a service of mediation between the parties, an innovative proposal for the area of the judicialization of health, with the perspective of greater involvement of the society, it is also necessary to bear in mind the social and economic barriers to the participation of the community, which can be aggravated by fiscal barriers associated with the topographical characteristics of the region and with the travel distance and availability of transport. The mediation service can also be implemented, when possible, using virtual connection resources and by means of forums with the participation of a wide range of citizens, in such a way as to foster the construction of a common agenda among the different actors.

The options presented here to treat the problem of judicialization are not mutually exclusive, and can be used in a complementary manner, requiring an intersectorial and locally integrated action. The implementation of the options must consider the participation of different actors, such as decision-makers, legal practitioners, companies from the health industry, health professionals, the civil society, and their representatives. Another important point to be analyzed is the availability of the human and financial resources, adapting the interventions to the different realities, as well as verifying the possible provision of necessary devices.

The fact that only one specific study was found about the options to treat the theme of the judicialization of health is a limitation of this brief in the sense that the options presented are related to the target public of health professionals and not to law enforcement officers. Likewise, most of the studies included here were carried out in high-income countries. In this sense, the implementation of the described options must be accompanied by monitoring and evaluation

practices. The development of specific future research in the area of the judicialization of health, focused on the decision-making of these actors, is also necessary.

Final considerations

The judicialization of health, if it is not generated in an intersectorial manner and considering the best available evidence of effectiveness, represents a major threat to the sustainability of the health systems. The implementation of the described options in this article can favor processes of more transparent and equal judicial decision-making. For this, it is important to highlight that regional differences and future barriers to implementation and equity are treated appropriately, handling the development of strategies in such a way as to deal with future challenges.

Collaborations

FR Floriano worked on the conception, analysis, investigation, methodology, write-up, review, and edition of the article. L Boeira worked on the conception, analysis, investigation, methodology, validation, review, and edition of the article. CA Biella worked on the conception, analysis, investigation, methodology, validation, write-up, review, and edition of the article. VC Pereira worked on the conception, analysis, investigation, methodology, write-up, review and edition of the article. M Carvalho worked on the conception, analysis, investigation, methodology, write-up, review, and edition of the article. JOM Barreto worked on the conception, analysis, investigation, methodology, administration of the project, write-up, review, and edition of the article. SMVL Oliveira worked on the analysis, investigation, methodology, administration of the project, supervision, write-up, review, and edition of the article.

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