EDITORIAL

1. Past President of the Peruvian Society of Obstetrics and Gynecology. Obstetrician-gynecologist, ORCID: https://orcid.org/0009-0003-7451-6958.

Correspondence:
Alfredo Celis López
acelislop@gmail.com

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The illegal practice of medicine. Being or appearing to be a doctor in Peru

Ejercicio ilegal de la medicina. Ser o parecer médico en el Perú

Alfredo Celis López[1,a]

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Our country is characterized by a pervasive culture of informality, which has become embedded in daily life and, arguably, in our way of being, manifesting across multiple domains; the healthcare sector is no exception to this phenomenon.

Within this context, the illegal practice of medicine emerges as the tip of the iceberg of a fragile healthcare system, on a trajectory toward becoming a significant public health concern.

Unlike the COVID-19 pandemic, which emerged and subsequently subsided, the illegal practice of medicine exhibits an endemic character, coexisting with society while remaining largely unrecognized by the population. It is tacitly tolerated by the governing authority, which has done little to combat it and, in some cases, appears to accept it as a response to its inability to resolve deficiencies in healthcare delivery. This stance is often justified under a misconceived notion of Public Health, arguing that in the absence of physicians, someone must provide care to the population.

To accept this is to admit that in Peru, the right to health care is tiered, with first-, second-, and third-class citizens; the former are treated by doctors, while the latter are treated by any other health care professional, highlighting the profound inequality of our health care system.

"It is unacceptable that, under the pretext of providing public healthcare, professional competencies be granted that were not acquired during university training."

The illegal practice of medicine is defined as the practice of the medical profession by individuals who, without a degree or authorization—or exceeding the limits of such credentials when they possess them—practice medicine by making diagnoses or prescribing treatments, frequently placing individuals' lives and health at risk.

This illegal practice has been spreading in a worrying and uncontrolled manner. It occurs in various areas of medical practice, but is far more critical in obstetrics and gynecology, where for a long time a large number of obstetrics graduates have been performing medical procedures that go beyond their professional scope and competencies.

Various arguments are put forward to justify this type of action, ranging from the right to education, the right to work, and the right to scientific and technological progress, as well as the right of professional associations to define their professional standards. Let us briefly analyze these arguments.

The right to education is a fundamental right recognized by the state to acquire knowledge that prepares individuals for life[1]. However, this right, like all rights, is not absolute, as limits may be imposed upon it.

In this regard, the application of knowledge is regulated by the State, which ensures that the professional is authorized and possesses the competencies to perform the acts inherent to their profession in accordance with their professional degree[2]. Thus, a non-medical healthcare professional may acquire knowledge of surgical techniques for a specific pathology, if they so desire; but this does not authorize them to perform surgery using that technique.

Regarding the right to work, it should be noted that all work must be performed within the scope of one's professional profile and competence[3]. The right to work does not authorize a healthcare professional to perform acts outside the scope of their training and professional competence, as this violates patients' right to be treated by the appropriate professional to address their condition.

Similarly, scientific and technological advancements cannot be used as a justification for actions that fall outside the scope of an individual's professional training. Such advancements must always be utilized by trained, qualified, and certified professionals for beneficial purposes and in accordance with their professional profile. Otherwise, people's lives and health are put at risk.

Regarding the role of professional associations, the Constitution recognizes their autonomy[4], which has three dimensions: (i) administrative autonomy, (ii) economic autonomy, and (iii) regulatory autonomy; as can be seen, none of these three areas pertains to the determination of professional profiles.

Thus, the autonomy enjoyed by professional associations is not unrestricted but amounts to autarchy[5], since it "does not authorize professional associations to regulate or establish professional competencies or profiles," as is frequently claimed by some professional associations.

Based on the foregoing, it can be concluded that any healthcare professional has the freedom and the right to continue acquiring new knowledge, has the right to work, and to utilize scientific or technological progress, provided that the acquisition of such knowledge and skills falls within their professional profile. However, what they do not have the right to do is use this information to treat patients outside the scope of their professional profile and the competencies specified in their professional license, which constitutes the illegal practice of medicine and is punishable by law.

The risk is that these trends will spread to other countries in the region and could affect low-income populations, becoming a public health problem. In Argentina, a bill was introduced a few years ago that sparked controversy and opposition. That bill did not establish limits on the roles and activities of obstetrician-gynecologists and authorized "midwives" to perform purely medical procedures, such as assisting in surgeries and participating in medical boards[6].

Even the WHO was promoting a project in conjunction with FIGO called "Models of Midwifery Care"[7] which, while referring to teamwork, promoted a single-professional approach led by midwives, relegating obstetricians and other health professionals to a secondary role—a significant risk given that midwives' professional qualifications do not allow them to resolve childbirth complications.

Another situation, parallel to all of the above, which is both quite concerning and not being given the attention it deserves, is the nature of the medical profession in Peru. One might think that to be a doctor, it is obvious that one must study medicine, but this is not necessarily the case in our country.

We constantly see various health professionals claiming the authority to call themselves doctors or act as such without having studied medicine or holding a medical degree, relying on the support of a law passed by Congress or regulations issued by the Ministry of Health itself.

This has been clearly demonstrated by the fact that on December 11, 2024, the Congress of the Republic passed Law 32210, which establishes that the work of a dental surgeon is recognized as a medical practice based on the performance of medical acts in dentistry and stomatology[8].

The main implication of this law is that adding the word "doctor" to the health procedure they perform effectively turns dental surgeons into doctors without having studied medicine, because only a doctor can perform a medical procedure. This raises a question: Could a doctor perform a dental procedure? The answer is no, because they did not study dentistry; similarly, a dentist cannot perform a medical act because they did not study medicine.

As background, in 1967 and 1981, Laws No. 16447[9] and No. 23346[10] were passed, respectively, which recognized the professions of dentistry, pharmaceutical chemistry, and obstetrics as medical professions. This was interpreted by a large group of these professionals to mean that they should be considered doctors.

Erich Fromm pointed out that socially, having is more important than being[11]. By analogy, in our country it often appears more important to seem like a physician than to actually be one: simply wearing a white coat and a stethoscope around the neck may suffice to be perceived as a doctor. Frequently, patients—particularly those with limited resources—prioritize the appearance of medical authority over genuine professional qualifications, thereby placing their health at risk.

Therefore, in Peru, it is not necessarily required to study medicine to be perceived as a physician; it is often sufficient to appear and act as one.

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