



BETWEEN THE PRECARIOUSNESS AND THE COMMODIFICATION OF MEDICINE: DID THE DOCTOR BECOME AN ENTREPRENEUR?

‘ENTRE A PRECARIZAÇÃO E A MERCANTILIZAÇÃO DA MEDICINA: O MÉDICO VIROU EMPRESÁRIO?’

‘ENTRE LA PRECARIZACIÓN Y LA COMERCIALIZACIÓN DE LA MEDICINA: ¿EL MÉDICO SE HA CONVERTIDO EN EMPRESARIO?’



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ABSTRACT

Medicine has undergone significant changes over time, especially considering the current social context (¿). This is because, previously, the physician was seen as an authority by patients, who accepted all treatment decisions without any objection. Thus, medical activity was seen as an object of admiration and contemplation, endowed with public notoriety and economic prestige. Consequently, in the social imagination—reflected in artistic productions such as soap operas and films—these professionals were portrayed as respected, successful individuals in perfect health. This stereotype reflected and, at the same time, reinforced the symbolic projection of this "hero-doctor," whose image still permeates the collective and media subconscious today. Today, however, we observe a reality distinct from that once attributed to medical professionals. In this sense, it is appropriate to raise some questions about the myth of "Prometheus Bound" and the current medical professional condition, in order to provoke reflection on the increasingly common model of precariousness and pejotization of medicine. Drawing this parallel between Prometheus and the contemporary physician is justified by the discrepancy between the ethical nature of medicine and the

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challenges faced by the demands of the job market, in addition to contrasting with the ideal of the doctor-priest perpetuated in the social imagination. According to the myth, Prometheus was punished by Jupiter for opposing his intention to condemn humanity to an irrational condition. Moved by this intention, Prometheus managed to seize a spark from the celestial fire, thus endowing man with reason and the faculties necessary for the cultivation of intelligence, science, and the arts. Thus, as punishment, he was chained to a rock by Zeus, condemned to have his liver devoured daily by a vulture for all eternity. In light of this mythical narrative and considering the current scenario of commodification and devaluation of medicine, the following reflection is proposed, perhaps a provocation that remains unanswered: have doctors become entrepreneurs? Are doctors, like Prometheus, being punished by a system that incessantly consumes them? This article then addresses ethical, legal, and jurisprudential issues surrounding the precariousness and pejotization of medicine. Finally, it aims to present proactive measures that contribute to overcoming the labor adversities and legal repercussions experienced by these healthcare professionals in today's world.

Keywords: Precariousness. Pejotization. Medical Code of Ethics. Federal Constitution. Contracts.

RESUMO

A medicina passou por significativas mudanças ao longo do tempo, sobretudo considerando o presente contexto social (1). Isso porque, anteriormente, o médico era visto como uma autoridade pelos pacientes, que acatava todas as decisões referentes ao tratamento sem qualquer objeção. Desta forma, a atividade médica era tida como objeto de admiração e contemplação, revestida com notoriedade pública e prestígio econômico. Consequentemente, no imaginário social - refletido em produções artísticas como novelas e filmes - esses profissionais eram retratados como indivíduos respeitados, bem-sucedidos e detentores de saúde perfeita. Tal estereótipo refletia e, ao mesmo tempo, reforçava a projeção simbólica desse “médico-herói”, cuja imagem ainda permeia, atualmente, o subconsciente coletivo e midiático. Hodiernamente, contudo, observa-se uma realidade distinta daquela outrora atribuída ao profissional da Medicina. Nesse sentido, revela-se conveniente tecer algumas indagações acerca do mito de “Prometeu Acorrentado” e a atual condição profissional médica, a fim de provocar a reflexão frente ao modelo cada vez mais comum de precarização e pejotização da Medicina. Traçar este paralelo entre Prometeu e o médico contemporâneo justifica-se pela discrepância entre a natureza ética da Medicina e os desafios enfrentados pelas exigências do mercado de trabalho, além de se contrastar com o ideal do médico-sacerdote perpetuado no imaginário social. Segundo o mito, Prometeu foi punido por Júpiter ao se opor à sua intenção de condenar a humanidade à condição irracional. Condoído com tal intento, Prometeu conseguiu se apoderar de uma faísca do fogo celeste, dotando, assim, o homem da razão e das faculdades necessárias ao cultivo da inteligência, das ciências e das artes. Assim, como castigo, foi acorrentado a um rochedo por Zeus, sendo condenado a ter seu fígado diariamente devorado por um abutre, por toda a eternidade. À luz dessa narrativa mítica e considerando o cenário atual de mercantilização e desvalorização da Medicina, propõe-se a seguinte reflexão, que talvez seja uma provocação que fique sem resposta: o médico virou empresário? Estaria o médico, assim como Prometeu, sendo punido por um sistema que o consome incessantemente? Ato contínuo, o presente artigo propõe-se a abordar questões éticas, jurídicas e jurisprudenciais que permeiam o tema da precarização e da pejotização da Medicina. Por fim, pretende-se apresentar medidas propositivas que contribuam para a superação das adversidades



laborais e das repercussões jurídicas vivenciadas por este profissional da saúde na contemporaneidade.

Palavras-chave: Precarização. Pejotização. Código de Ética Médica. Constituição Federal. Contratos.

RESUMEN

La medicina ha experimentado cambios significativos a lo largo del tiempo, especialmente considerando el contexto social actual. Esto se debe a que, anteriormente, el médico era visto como una autoridad por los pacientes, quienes aceptaban todas las decisiones terapéuticas sin objeción alguna. Así, la actividad médica era vista como un objeto de admiración y contemplación, dotada de notoriedad pública y prestigio económico. En consecuencia, en el imaginario social —reflejado en producciones artísticas como telenovelas y películas— estos profesionales eran retratados como individuos respetados, exitosos y con una salud impecable. Este estereotipo reflejaba y, al mismo tiempo, reforzaba la proyección simbólica de este "médico-héroe", cuya imagen aún permea el subconsciente colectivo y mediático. Hoy, sin embargo, observamos una realidad distinta a la que antaño se atribuía a los profesionales de la medicina. En este sentido, conviene plantear algunas preguntas sobre el mito de "Prometeo encadenado" y la situación actual de los profesionales médicos, para reflexionar sobre el modelo cada vez más común de precariedad y pejotización de la medicina. Este paralelismo entre Prometeo y el médico contemporáneo se justifica por la discrepancia entre la naturaleza ética de la medicina y los desafíos que enfrenta el mercado laboral, además de contrastar con el ideal del médico-sacerdote perpetuado en el imaginario social. Según el mito, Prometeo fue castigado por Júpiter por oponerse a su intención de condenar a la humanidad a una condición irracional. Movido por esta intención, Prometeo logró apoderarse de una chispa del fuego celestial, dotando así al hombre de razón y las facultades necesarias para el cultivo de la inteligencia, la ciencia y las artes. Así, como castigo, fue encadenado a una roca por Zeus, condenado a que un buitre devorara su hígado diariamente por toda la eternidad. A la luz de esta narrativa mítica y considerando el escenario actual de mercantilización y devaluación de la medicina, se propone la siguiente reflexión, quizás una provocación que permanece sin respuesta: ¿se han convertido los médicos en empresarios? ¿Están los médicos, como Prometeo, siendo castigados por un sistema que los consume incesantemente? Este artículo aborda cuestiones éticas, legales y jurisprudenciales en torno a la precariedad y la precarización de la medicina. Finalmente, busca presentar medidas proactivas que contribuyan a superar las adversidades laborales y las repercusiones legales que experimentan estos profesionales de la salud en el mundo actual.

Palabras clave: Precariedad. Pejotización. Código de Ética Médica. Constitución Federal. Contratos.



1 INTRODUCTION

The specialized literature describes the world of work in Medicine as a dynamic triad, composed of three interdependent pillars: the economic basis of medical practice; the demands of professionals in the area; and the effective provision of services. Considering the most recent changes in the exercise of medical work, with the increase in the supply of labor and competition in the labor market, it is considered how these facts have currently become part of the reality of health professionals today. (Macedo and Batista, 2010).

Over time, the practice of Medicine has undergone profound transformations in the context of labor relations. There is currently a growing supply of medical labor in the labor market, combined with an intensification of competition in this same place. This scenario has become part of the usual reality of the profession, directly influencing the configuration of job opportunities, the forms of hiring and the working conditions of these professionals (Macedo and Batista, 2010).

In Brazil, the work of the physician is guided by the Unified Health System (SUS), and the services provided are made possible through state origin in public-private partnership, in addition to companies with commercialized access, with its intermediation crossed by insurance and health plans. Thus, the forms of hiring and the respective remunerations vary according to the segment of the health system in which the professional is inserted. (Rankings, 2022).

In this sense, the regulation of labor relations underwent an important change with the enactment of the 2017 Labor Reform, which made several provisions of the Consolidation of Labor Laws (CLT) more flexible (Brasil, 1943). As a result, a trend of self-regulation of the labor market was established, which had already been established over the years and ended up being disguised as legality through this new normative modification. In this context, the health sector itself ended up being given the prerogative to establish the form of hiring, salaries, and working conditions of physicians (Rankings, 2022).

Consequently, in addition to the growing increase in the number of these newly graduated health professionals who enter the labor market every day, there was a trend towards an increase in the outsourcing of these services. As an example, the massive insertion of physicians as Legal Entities (PJ) stands out, a practice that was made possible by the flexibilization of labor relations in the country (Machado; Neto, 2018). Recent data reveal that most of these professionals maintain multiple employment relationships, working simultaneously in the public and private sectors (Miotto, 2018).

Data from the Medical Demography 2024, prepared by the Federal Council of Medicine (CFM) and released in April of that year, indicate a significant growth in the number



of doctors in the state of Rio de Janeiro. From 2010 to the present, the number of professionals jumped from 57,175 to 75,388 in the State of Rio de Janeiro, which represents an increase of 31.86% in the period analyzed. As a result of this increase, the medical density was also increased, from 3.57 to 4.38 doctors per thousand inhabitants (Scheffer, 2025).

At the national level, the same study points out that Brazil reached, in 2025, the largest contingent of active doctors in its history: 635,706 regularly registered professionals. This number places the country among those with the largest number of doctors in the world, resulting in a ratio of approximately 4.38 doctors per thousand inhabitants — the highest ever recorded in the national territory (Scheff, 2025).

Thus, the present research aims to analyze the transformations that have occurred in Medicine, adopting as a central axis the forms of hiring doctors and the consequent labor relationship established with the different jobs. It also seeks to present a critique of the impacts of the commercialization of Medicine, in view of the currently predominant contract models, notably those "offered" to physicians at the beginning of their careers.

The article will continue with a brief historical contextualization of Medicine, addressing the concerns of professional practice in contemporary times and the role played by physicians in this new arrangement. To this end, the myth of "Prometheus in Chains" will be used as a symbolic resource and invitation to reflect on the persistent burdens of the socially constructed medical ideal, as a symbol of health, prestige and tireless dedication.

From this perspective, the objective is to demonstrate the reality faced by physicians in the initial phase of insertion in the market, marked by the disorderly growth of medical schools, often devoid of the rigor necessary for adequate professional training, by the precariousness of labor relations and by the fragility of the contractual models adopted.

From a legal point of view, the work will analyze the normative provisions and jurisprudential understandings established by the Superior Courts, focusing on the legality and implications arising from the current medical contracts. The Code of Medical Ethics will be used as a critical parameter in the face of the process of commercialization of Medicine, whose market logic often collides with the ethical principles that govern medical practice.

Finally, the article will present propositional measures aimed at the protection of newly graduated physicians, in order to mitigate risks at the time of entering into a contract with the contracting institution.

Under the terms of the Code of Medical Ethics, the commercialization of the profession is prohibited. However, the current scenario points to the consolidation of an opposite logic: Medicine as a business enterprise, where physicians see themselves as employees inserted in a system that they are often unaware of in its regulatory complexity. Such lack of knowledge



favors the perpetuation of precarious labor relationships and the uncritical acceptance of contractual models that, ultimately, weaken professional dignity (Federal Council of Medicine, 2018).

Physicians, in comparison with other health categories, maintain very peculiar forms of bonding, with a significant predominance of non-salaried forms (Girardi; Carvalho, 2007). This circumstance reinforces the collective imagination that physicians have full autonomy over their practice, even if, in reality, this is often not reflected in the contracts signed.

Pejotization is the modality of hiring in the labor market to provide services performed through a company to other companies in substitution of the worker model hired by the CLT.

In this line, Ferreira and Santos assert that pejotization is the form of changing the figure of the individual worker into a legal entity, resulting in the contractual nature of the worker. This is now a service provider company through the registration of a legal entity. (Ferreira; Santos, 2021).

The formalization of physicians' ties with health institutions, both in Brazil and abroad, takes on diverse and complex forms, which requires special attention to understand the legal and ethical implications of this process (Girardi; Carvalho, 2007).

In this sense, the history of Medicine dates back millennia, originating in magical and ritualistic practices aimed at warding off diseases. The etymology of the word "medicine", from the Latin *ars medendi*, refers to the "art of healing", an essence that persists to the present day, despite the transformations imposed by time and society.

The Code of Medical Ethics, in its article 58, expressly prohibits the mercantilist practice of Medicine. In addition, article 20 determines that monetary values should not override the best choices of health care and prevention. Also, in Chapter II, items 4 and 5, the physician is guaranteed the right to receive fair and dignified remuneration. However, the expression "fair and dignified" is open and subjective, demanding reflection on its practical application in medical work relations (Brasil, 2018). The same chapter also guarantees the professional the right to refuse to work in places that do not offer dignified conditions for the exercise of the profession, ensuring protection of physical and mental health, a prerogative extended to all workers by the Federal Constitution (Brasil, 1988).

The question then arises: is the doctor a worker or an employee? The CLT, in its article 3, establishes the requirements for the characterization of the employment relationship, which generates, for both parties, reciprocal duties and guarantees. However, in an attempt to reduce tax burdens and ensure greater contractual flexibility, the practice of pejotização gained strength — by which the physician, although he should be recognized as an



employee, is compelled to constitute a legal entity, receiving his fees through it, and not as a formal salary (Brasil, 1943).

The figure of the doctor — once equated with that of Asclepius, the deity of healing — is still the target of a certain social idealization. However, with the advancement of technology and the globalization of knowledge, the professional is no longer the exclusive holder of medical knowledge. Today, it competes for space with tools such as search engines and artificial intelligence, being increasingly demanded not only in its technical competence, but also in its communication capacity and diagnostic clarity.

2 GOAL

General objective:

- To discuss the precariousness of the doctor's work today, in the presence of the peiotization of metdicine.

Specific objectives:

- Inform about the current work scenario of the doctor, based on the main guidelines that are provided by the code of medical ethics;
- To facilitate the understanding of health professionals about their conditions and rights within the profession;
- Highlight possible social, economic, labor and ethical impacts;
- Assist in the prevention of these repercussions and suggest intervention proposals, with measures to cope with the labor difficulties of this system.

3 METHODOLOGY

This study is an integrative literature review, which involves a synthesis of already published research on the peiotization of medical work, with a broader and more critical understanding of the area studied, enabling the inclusion of studies with different methodologies, ensuring a more comprehensive and in-depth analysis of the existing literature.

4 DEVELOPMENT

Of Aeschylus' seven known plays, one of the most notable is "Prometheus in Chains." As described in Hesiod's Theogony, when Jupiter assumed the government of the universe, he considered the possibility of reducing humanity to a quasi-animal condition, or even destroying it. However, defying Jupiter's designs, the titan Prometheus, moved by the fate of humanity, manages to steal a spark of celestial fire, giving man the power of reason, as well



as the ability to cultivate the intellect, the sciences and the arts. In retaliation for this act, Jupiter orders Prometheus to be chained to a rock, where he will remain for millennia with an eagle daily devouring his liver. (Hesiod, 2006).

This mythological metaphor can be understood as an analogy to the historical trajectory of Medicine and the social role attributed to the doctor. In this sense, Hoirisch, when analyzing the construction of medical identity, points out that, since the Middle Ages – a period in which the title of "doctor" began to be conferred on the doctor – a social prestige associated with the exercise of this profession has also been established. Since then, Medicine has become the object of idealizations, often linked to attributes such as altruism, scientific research and symbolic power over life and death (Hoirisch, 1992).

Complementing this perspective, Kauffman maintains that the doctor complements the role of his patient, representing health, power and life. Thus, it becomes almost obligatory for him to constantly play this role, whose objective is to be young, healthy and, therefore, eternally alive, in antithesis to the aging, sick, mortal and powerless patient (Kauffman, 1988).

This symbolic construction of the physician as a representative of the vital force, as opposed to the patient's fragility, reinforces the social imaginary of an invulnerable professional, a condition that often conflicts with the reality imposed by the current labor and market structures (Kauffman, 1988).

Today, this figure contrasts, in an increasingly evident way, with the labor reality faced by these professionals in contemporary times. When entering the job market, physicians are faced with different contractual modalities, the choice of which is often not based on criteria of social protection or legal certainty, but rather by requirements imposed by the contracting institutions and by the flexible dynamics of the health sector.

In this context, it is essential to examine the available legal contracting regimes, with emphasis on the one historically consolidated as a standard: the one provided for by the Consolidation of Labor Laws (CLT). (Brazil, 1943)

The hiring of the employee under the CLT regime is the most traditional contractual modality in the Brazilian legal system, being widely recognized for its normative scope and the guarantees it offers, both to the employer and to the worker.

It is a legal regime that establishes a structured set of rights and duties, regulating labor relations in order to ensure contractual stability, predictability of reciprocal obligations and social protection (Brasil, 1943).

The prevalence of the CLT is directly related to the protection of workers' fundamental rights, such as: regulated working hours, overtime pay, minimum wage, paid annual vacation, 13th salary, maternity and paternity leave, in addition to essential benefits such as the



Guarantee Fund for Length of Service (FGTS) and unemployment insurance in cases of unjustified dismissal. These devices are pillars for sustaining labor dignity and promoting decent working conditions (Brasil, 1943).

In addition, the requirement of formal registration in the Work and Social Security Card (CTPS), as well as the execution of the contract in writing, contribute to the legality and transparency of the contracts. Such elements reduce the rates of informality in the market, favoring a legal and economic environment guided by legal predictability and trust, in addition to compliance with the minimum requirements due for the social well-being of the worker. For employers, it represents a secure normative basis for the planning of their activities; For employees, it is a legal safeguard that guarantees respect for their rights and professional integrity. (Brazil, 1943).

Notwithstanding the advantages associated with the CLT regime, it is essential to understand the legal criteria that objectively define the existence of an employment relationship. The characterization of this legal relationship does not depend only on the contractual form adopted, but, above all, on the fulfillment of certain requirements established by labor legislation. In this sense, in order to fit into the concept of employee by labor legislation, it is necessary to comply with the following requirements, provided for in article 3 of the CLT: personality, habituality, subordination and onerousness (Brasil, 1943).

Although the CLT contract represents the most traditional and guarantor contractual modality in the Brazilian legal system, there is a growing adoption of other forms of work organization in contemporary medical practice. Among these alternatives, the constitution of simple societies stands out, especially in situations in which the practice of medicine is carried out autonomously or in cooperation between professionals who work from the intellectual perspective of the activity. Understanding the legal nature and implications of this corporate structure is essential for the adequate formalization of the provision of medical services outside the CLT regime (Santos, 2010).

A simple company is defined by the legal system as an organization focused on the exercise of intellectual activity, of a scientific, artistic or literary nature, even if it has the help of employees or service providers, except for the exceptions provided for by law. It is a corporate type that does not have a business character, and is therefore excluded from the provisions applicable to business companies (Brasil, 2002).

Pursuant to article 997 of the Civil Code, the articles of association of the limited liability company must contain mandatory clauses, such as: the complete qualification of the partners; the precise definition of the corporate purpose; the indication of the headquarters; the term of duration; the value of the capital stock and its form of payment; the possibility of



contribution from members through the provision of services; the appointment of directors; the participation of each partner in the profits and losses; as well as the delimitation of the responsibility of each partner in relation to the corporate obligations (Brasil, 2002).

The drafting of the articles of association is of special importance, as it is at this moment that the partners will establish fundamental provisions for the governance of the company. Among the points that deserve attention are: the possibility of entry of heirs; the form of distribution of profits; the definition of the subsidiary or joint liability of the partners; among other relevant aspects to ensure harmonious and legally secure coexistence among the members of society (Oliveira, 2010).

It is important to highlight that the constitution of a simple company requires, by its nature, the personal and direct action of the partners, and it cannot be constituted for business purposes. Its main application occurs among professionals who exercise intellectual activity individually or in conjunction with others of the same nature (Oliveira, 2010).

This corporate model is commonly adopted by doctors who provide specialized services in the health area, such as performing exams or clinical care. In these specific cases, the constitution of the company must be based exclusively on intellectual medical activity. If the articles of association contain typical elements of the business activity — such as management structure, organizational control, or provision of services unrelated to the intellectual activity of the partners — there will be a mischaracterization of the simple company, which will then be classified as a business company, with all the legal consequences arising therefrom, including the loss of tax and regulatory benefits provided for the simple company, becoming a business company (Oliveira, 2010).

Still in the context of contractual alternatives used by physicians and other liberal professionals to formalize their activity, the figure of the Single-Member Limited Liability Company (SLU) deserves to be highlighted, which has been gaining space in the Brazilian legal system for its simplicity, autonomy and patrimonial security. Unlike the simple company, the SLU allows the incorporation of a legal entity without the requirement of plurality of partners, offering significant advantages for the individual exercise of the professional activity (Torres, 2025)

In other words, the Single-Member Limited Liability Company (SLU) is constituted as a business modality that does not require the presence of partners for its formation, allowing a single natural person to appear as the owner of the company. One of its main characteristics is the separation between the entrepreneur's personal assets and the assets of the legal entity, providing greater asset security. Thus, any obligations contracted by the company,



including in cases of bankruptcy or significant debts, do not affect the private assets of the holder, except in the cases of piercing of the corporate veil provided for by law (Torres, 2025).

Another relevant aspect is the absence of a minimum capital requirement for the constitution of the SLU. This feature makes the model especially accessible to professionals at the beginning of their careers, who wish to formalize their activity without the need for high financial contributions. For these reasons, SLU represents a viable, modern, and legally safe alternative for physicians who choose to practice their profession individually, but under the auspices of a business structure (Torres, 2025).

In addition to formal corporate structures, another contractual practice frequently observed in the health area — especially in institutions that seek alternatives to the traditional formalization of bonds — is the use of the Autonomous Payment Receipt (RPA). Although it presents less bureaucratic complexity, this modality involves legal particularities that deserve analysis, especially with regard to the characterization (or not) of the employment relationship and the implications arising from its adoption (Soares, 2025).

The Autonomous Payment Receipt (RPA) is a document used to formalize the payment of services provided by individuals who are not registered as a legal entity (CNPJ) and who are hired sporadically or occasionally. It is an instrument that, in theory, does not constitute an employment relationship under the Consolidation of Labor Laws (CLT), since it is not presumed to be a consubstantiation of habituality, subordination, or continuous personality in the provision of the service (Soares, 2025).

This model is commonly used by companies and institutions — such as hospitals and clinics — that hire liberal professionals, such as doctors without a CNPJ constituted, for specific performances. In these cases, the RPA works as a means of formalizing the payment for the service provided without legally constituting an employment relationship, thus removing the labor charges arising from the formal CLT contract (Soares, 2025).

However, the use of the RPA requires caution, especially in view of the risk of mischaracterization of the alleged autonomy, if the presence of the typical elements of the employment relationship is verified in practice. In these cases, the relationship can be judicially recognized as an employment relationship, with all the legal and financial consequences for the contracting party (Soares, 2025).

Following the attempts to make medical labor hiring more flexible in Brazil, among the most controversial practices in this scenario is pejotization, a phenomenon that reflects an attempt to adapt to the fiscal and economic requirements of the contracting institutions, but which has serious repercussions on labor rights and the legal security of medical



professionals. In view of this, it is essential to critically analyze the main forms of professional bonding currently used in the health sector (Coelho, 2022).

As previously detailed in the paragraphs above, medical professionals, in the Brazilian legal system, can carry out their activities under three main regimes: as employees governed by the Consolidation of Labor Laws (CLT), as self-employed or through the constitution of a Legal Entity (PJ). In the current context of the health system, the growing prevalence of the model informally known as "Pejotão" stands out — a popular expression that designates the practice of converting CLT contracts into contracts signed through a legal entity, often without changing, in practice, the objective conditions of the employment relationship (Coelho, 2022).

Pejotization consists of the formalization of an individual or corporate company with the purpose of enabling contracts that, despite the corporate legal clothing, hide a typical employment relationship. One of the structures used in this context is the Participation Account Company (SCP), in which the doctor appears as a hidden partner or investor, participating in the profits arising from the provision of services. However, this configuration is often merely formal, since the professional continues to perform his functions under hierarchical subordination, personality, habituality and onerousness — elements that characterize the employment relationship. In this sense, the "Pejotão" operates as a legal artifice with the purpose of camouflaging the employment relationship and, thus, circumventing the charges provided for in the labor legislation (Kfoury Neto et al., 2022).

In theory, it would be up to the physician to evaluate, with contractual freedom, which regime best meets his professional expectations — whether the CLT, acting as a self-employed person or formalization via PJ. In practice, however, what is observed is the imposition of the pejotization model by health institutions, which condition the provision of services to the adoption of this structure. At first glance, this form of contracting may appear to have tax advantages, since the legal entity doctor bears an approximate tax burden of 11.33%, while the CLT professional can reach up to 27.5% of income taxation (Coelho, 2022). However, the main beneficiaries of this arrangement are employers, who significantly reduce the costs of labor and social security charges, to the detriment of the worker's social rights.

The pejotization was legally boosted by the enactment of Law No. 11,196/2005, which authorized the contracting of intellectual services through a legal entity, including the participation of legally qualified professionals. Despite its formal legality, the practice has been revealed as one of the vectors of progressive precariousness of medical work in Brazil, especially by subtracting historical guarantees provided for in the CLT, such as: severance pay, paid vacations, 13th salary, unemployment insurance and remuneration in the first fifteen



days of leave for health reasons. Such burdens, when absent, fall exclusively on the physician himself, who finds himself in the paradoxical condition of his own employer (Coelho, 2022).

In addition, in the specific case of the Partnership in Participation Account, the doctor — as a hidden partner — may be held jointly and severally liable for any tax or labor debts linked to the contracted company, increasing its legal and financial vulnerability. The indiscriminate use of this corporate form, without due care as to the factual reality of the employment relationship, constitutes not only a risk to the dignity of work, but also a deviation from a legal purpose subject to judicial challenge (Kfourir Neto et al., 2022).

5 LEGAL ASPECTS AND CURRENT JURISPRUDENCE

As stated in the previous paragraphs, the Brazilian labor legislation provides for the employment relationship as a bond when it meets four essential requirements: personality, habituality, onerosity and subordination (Brasil, 1943).

In these terms, pejotization occurs when the employer requires the doctor to constitute a legal entity to be hired, often masking an employment relationship to avoid labor costs.

Article 9 of the CLT establishes that any act performed with the intention of defrauding labor rights is null and void. In addition, article 3 of the CLT defines an employee as one who provides services on a personal, continuous, subordinate basis and for a salary. In this way, when pejotization occurs fraudulently, doctors can seek recognition of the employment relationship in the Labor Court. (Brazil, 1943.)

Another relevant point is the application of the Labor Reform (Law 13,467/2017), which introduced the figure of the exclusive self-employed worker. However, this modality does not necessarily rule out the employment relationship if the characteristic elements of the employment relationship are present. (Brazil, 2017)

The jurisprudence of the Superior Labor Court (TST) has consolidated understandings against fraudulent pejotization. In several judgments, the TST recognizes the employment relationship when there are clear indications of subordination and exclusivity. Recent decisions include:

Recognition of an employment relationship between a doctor hired as a legal entity and a hospital, in view of the presence of the requirements of article 3 of the CLT. BRAZIL. Superior Labor Court. Appeal No. 100700-69.2017.5.01.0066, 3rd Panel, Judge Alberto Luiz Bresciani de Fontan Pereira, judged on Aug. 09. 2022. Reaffirmation of the understanding that formalization by a legal entity does not remove the employment relationship, when the elements that characterize the employment relationship are present (TST, 2022).

Hospital condemned for hiring doctors exclusively via legal entity, characterizing fraud to labor legislation. BRAZIL. Superior Labor Court. Review Appeal No. 10558-



34.2019.5.03.0113, 4th Panel, Rel. Min. Alexandre Luiz Ramos, judged on March 15, 2019. 2023. BRAZIL. Superior Labor Court. Appeal No. 1000248-28.2018.5.02.0077, 6th Panel, Rel. Min. Augusto César Leite de Carvalho (TST, 2023).

The Federal Supreme Court (STF) has also analyzed the issue from the perspective of contractual freedom and the principle of free enterprise, considering that pejotization can be legitimate, as long as the doctor has real autonomy in the provision of services. However, when the relationship is one of subordination, the STF has validated labor decisions that recognize the employment relationship (STF, 2024).

The decision rendered by the Federal Supreme Court (STF) in Complaint No. 65.011/SP represents a relevant milestone in the jurisprudential consolidation of pejotization as a legitimate form of contracting in the scope of medical activity, reinforcing the legal certainty of the model when adopted lawfully. In the specific case, the existence of an employment relationship between a doctor and a hospital was discussed, despite the fact that the professional had provided services through a legal entity (PJ) during the period of five years. The Regional Labor Court of the 2nd Region (TRT-2) and, later, the Superior Labor Court (TST), recognized the existence of the employment relationship, condemning the health institution to pay the resulting labor amounts.

The Federal Supreme Court, however, when judging the constitutional complaint, overturned the decisions of the lower courts, based on binding precedents — notably the Allegation of Non-Compliance with a Fundamental Precept (ADPF) 324 and the judgment of Theme 725 of the General Repercussion (RE 958.252). In these paradigmatic decisions, the STF established the understanding that outsourcing, including in core activities, as well as hiring via legal entities, are legally valid practices, as long as there is no distortion of the contractual relationship with the intention of defrauding labor legislation.

This decision of the STF strengthens the thesis that pejotization, when adopted with transparency and autonomy, can configure a legitimate alternative for the organization of medical work, promoting greater contractual flexibility, professional autonomy and, simultaneously, mitigating legal risks for health institutions. However, the recognition of the lawfulness of hiring by a legal entity does not exempt the State or the Judiciary from the duty to supervise the use of this model, especially when used to hide *de facto* employment relationships. The analysis of the presence of the elements of article 3 of the CLT – personality, habituality, subordination and onerousness – remains essential in light of the concrete reality of each contractual relationship.



More recently, in April 2025, Justice Gilmar Mendes ordered the national suspension of all proceedings that deal with the lawfulness of hiring workers as legal entities, recognizing the general repercussion of the matter (Topic 1389) (STF, 2025).

From a constitutional perspective, it is worth remembering that the Federal Constitution of 1988, in its article 7, caput, guarantees urban and rural workers protection against the precariousness of labor relations, as well as the effectiveness of social rights that aim to guarantee decent working conditions. In the case of the pejotized doctor, this protection is often relativized due to the false presumption of full autonomy or the idealization of the medical figure as a privileged professional and immune to the weaknesses of the market (STF, 2024).

This stereotype — historically constructed and reinforced by the social imaginary — that physicians occupy a position of superiority and unquestionable prestige contributes to the invisibility of the concrete vulnerability experienced by many of these professionals in the workplace. The idealized image of the "hero-doctor" often masks the strenuous working hours, the multiplicity of precarious contracts, the absence of labor guarantees and the legal insecurity to which they are subjected.

In this sense, it is necessary to demystify this symbolic construction that imprisons the physician in an ideal of excellence disconnected from practical reality. The critical analysis of the phenomenon of pejotization must, therefore, take into account not only the legal and contractual aspects, but also the social, historical, and constitutional elements that condition the position of physicians in the current scenario of labor relations in Brazil.

6 CONCLUSION

The pejotization of medical work is a reflection of a transformation in labor relations in the health area, marked by the flexibilization of bonds and the loss of rights previously considered guaranteed. Although, in certain contexts, acting as a legal entity can bring some degree of autonomy, what is seen, in practice, is a reality often imposed, especially on newly graduated doctors, which weakens contractual security and compromises professional dignity.

The doctor, first of all, is a worker. And as such, it must have ensured the right to a fair contract, with minimum conditions of protection, recognition and stability. The discussion about pejotization needs to go beyond the legal discourse: it must also consider the human and social impacts of treating health professionals as disposable service providers, rather than essential agents of care.



It is essential that the Medical Councils, unions and other class entities take an active role in guiding doctors, especially those who are just starting out, about the risks, duties and rights that involve the different contractual models. Offering affordable legal and accounting support can be an important step in helping these professionals make more conscious and confident decisions regarding their career.

At the same time, the government needs to invest in valuing Medicine as a career, ensuring compatible remuneration, adequate work environments and conditions that preserve the physical and mental health of these professionals. This not only strengthens the practice of Medicine, but also improves the care offered to the population.

Finally, it is necessary to undo the idealized image that still surrounds the doctor as an automatic symbol of *status*, success and stability. This view, often romanticized, disregards the reality of long working hours, fragile bonds, and multiple demands that mark the routine of many of these professionals. The doctor is not only an entrepreneur of his own career – he is, above all, a worker who has chosen to take care of lives as a trade. The work performance of physicians in the labor market requires the promotion of dignified, fair and balanced contractual relationships, it is not only an institutional duty, it is an ethical commitment to the future of health.

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