

Incorporating the regulation of Physical Education as a profession ten years later: conflicts, discussions and perspectives

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Abstract: This article addresses some aspects related to the accreditation of Physical Education professionals, the development of the profession and the participation of political actors. It aims at giving an objective and comprehensive presentation on the development of this controversial theme, and to show the stand taken by parties that took part in this debate and their justifications. For this purpose, important aspects related to the accreditation of professionals are presented in the introduction, followed by the analysis of the law and resolutions passed by the Council, the most outstanding of which are: (a) their meaning; (b) attributions and competences; (c) their surveillance limits and power to monitor, and (d) to identify the professional's typical activities. The conclusion describes aspects of a fairly recent discussion, the subjugation of Dance, Yoga and Martial Arts to the Physical Education Federal Council.

Key words: Work practice. Physical Education. Professional expert councils.

1 INTRODUCTION

The discussion of current and polemic themes, such as the development of CONFEF) poses certain additional difficulties to this study. Firstly, it is not always easy to

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distinguish the main events and actors from secondary ones. The passing of years or decades often times shows to the researcher that the more recurring issues, both in the media and related to the study, were not very significant, while other aspects considered marginal take on a much greater importance. Another feature that hinders a closer study is the heated debate, in that practically all the individuals from the academic milieu involved are sympathetic with and have friends in one or many groups that participate in the discussion on the organisation of CONFEF.

Even facing these difficulties, it seems important to ponder these issues and their development, considering first and foremost how relevant they are to the Brazilian Physical Education community. In this sense, and keeping in mind the difficulties of the subject-matter at hand, this article is constructed as follows: initially it addresses the regulating of professions; then, it analyses CONFEF's laws and resolutions focusing on (a) their meaning; (b) attributions and competences; (c) their surveillance limits and power to monitor, and (d) identifies the professional's typical activities. Later, the study identifies the conflicts between Dance, Yoga, Martial Arts and CONFEF, presenting the viewpoints of groups directly involved. It concludes by pointing out the Council's perspective and the relationship with Physical Education.

The purpose of this study is to show and, as far as possible, to contribute to the discussion, conflicts, discourses¹

¹ The method is characterised by initiating the discussion of sensitive issues and showing the stand of social actors in relation to these themes based on opinions and articles. Habermas (1989) proposes the construction of discourses based on the justifications given by the social actors involved in a situation of specific voicing, i.e. building a world view and interpreting the situation by assessing the different stands taken by actors that perform as researchers or counselors, or as a professional. For this reason, this article does not intend to give a definite world view, but rather, it is an inter-text that articulates the different argumentations, trying to understand the actions undertaken by the actors and the difficulty in building consensus for the different viewpoints. In this situation of conflict, social actors try to build a discourse supporting the strategic plan to maximise power and the unilateral legitimising of the group, forsaking a communicative plan that perhaps would lead to building understanding through discussions based on mutual respect and consensual solutions.

and perspectives of both the social actors and the institutions involved.

2 THE PROFESSIONS

The idea of regulating professions in Brazil dates from the '40s to the '60s, when the following activities were regulated: lawyer, artist, social assistant, footballer, librarian, estate agent, insurance broker, dentist, economist, household worker, nurse, engineer, architect, agronomist, statistician, pharmacist, physiotherapist and therapist, geologist, doctor, veterinarian, musician, nutritionist, counselor, psychologist, pilot, advertiser, chemist, PR, actuary and journalist. Exactly thirty professions were regulated during just the three above-mentioned decades, not to mention the ones recently regulated, such as Physical Education, under Law 9.696/1998 and future ones, by Bill 7109/06, for example, that will regulate Information Technology professionals.

The process of regulating a profession is notably influenced by the State policy that controls workers, which was implemented by the Getúlio Vargas Administration. One of the biggest problems of that period was to control the emerging middle-class that was comprised of different professionals. The solution was to regulate those professions, putting them in the fold of the State, where they could be monitored and controlled.

With the strengthening of the State, laws were drafted to build an efficient and centralising framework that would be able to control the creation and enforcement of labour-, industrial- and social-related measures. A series of legislations were created to broaden social benefits particularly in the labour field by enforcing and monitoring laws, as well as different forms of controlling trade unions and professionals (GOULART, 1990). The same legislation that guaranteed benefits also restricted the autonomy of trade unions and the workers' independent fight. Therefore, it was a key period for

the State-worker relationship, where the State took over the process of drafting labor-related legislation, through which it intended to establish contact with workers and employers in order to adjust their interests during confrontation and to minimise conflicts, whereby they would have to participate in a centralised social dynamics.

On the one hand, this process enabled the State to reach its purpose of control in a specific historic period; on the other, it was conducive to creating an intelligentsia (intellectual elite) within the identified and protected trades (a) in relation to the State; (b) to other professions and (c) to the “layperson” that wished to “encroach” in these fields; closing the different groups in institutional legal frameworks.

The road that leads to the regulation of professions has characteristics that we, the instructors of physical education already know: (a) it is never consensual, for the very fact that it needs a law to enforce it; (b) it reserves the right to practicing the professions; (c) it proposes different forms of becoming part of and paying for accreditation after the diploma is obtained; (d) it exposes corporatism because working in that profession is peer-monitored, rather than monitored by the society for which it will provide services; (e) given its top-bottom nature it is subject to criticism about the payment of regular fees and the notorious market reserve, where only individuals affiliated to this class can work in their trade.

The existing conflicts about the regulation of Physical Education instructors are also found, in a greater or smaller scale, in relation to other trades. Being a lawyer, which is one of the oldest regulated professions, is nowadays facing peer-resistance given the high rate of applicants that flunk the Brazilian Bar Association (AOB) exam. This shows how difficult it is to create a consensus in environments that fight to gain power, a dynamics whereby class representation automatically pre-empts the possibility of other individuals to take on the entity’s management and control. Seeking

consensus to solve labour conflicts becomes an arduous and somewhat impossible task given that social actors involved have significantly different perceptions of the world and try to impose their beliefs to other people. Another reason is that imposing their world view at the limit permits them to become legal representatives of a whole class and this leads to status and power (HABERMAS, 1989).

3 THE ROAD TO REGULATING PHYSICAL EDUCATION (PE): THE CONFLICTS

The road to regulating PE was built over many years. Going back in history, it should be noted that during the Sarney Administration teachers Inezil Penna Marinho, Manuel Tubino and Valter Giro Giordano had the Bill regulating the trade passed by the House of Representatives and the Senate, which was then vetoed by the President, justifying that teachers were subordinated to MEC, and as such, were already duly controlled. After this event, a group of professional led by Prof. Jorge Steinhilber, the first and only president of CONFEF (1998-2009) to fly the flag in favour of the regulation, which culminated in approval in the plenary of the Physical Education Brazilian Congress, the highest authority of class representation, on December 1994 (STEINHILBER, 1998). In 1987, the publication of the legal opinion that led to the creation of the Bachelor's degree in Physical Education, a profession that until then was not yet regulated by the Ministry of Education and Culture (MEC). In the wake of this recognition, the Movement that backed the Regulation was able to promote the passing of Bill 330-C (MASCARENHAS, 1995) of 1996 with the Commission for the Constitution and Justice, which later underwent some amendments to become Law 9696/98 (MONTEIRO, 2006), excluding Dance.

As the legal framework that changed the status of Physical Education instructors, CONFEF² became a special regime autarchy and a non-profit organisation headquartered in Rio de Janeiro, the purpose of which was to regulate and monitor the activities of Physical Education professionals. The law aimed at regulating the trade of the Physical Education instructor, and also qualified the Professional of Physical Education as the only individual authorised to work in this field, where he or she was required to be accredited by the Physical Education Regional Council (CREF).

The main idea was to limit the accreditation of individuals that could work as Physical Education instructors, affirming that only professionals registered with CREF could work in the field. Hence, the Council had the power to award or to deny the inclusion of an individual in the Physical Education market at their own discretion. The group that favoured the regulation defended the need to protect the job market, as individuals that did not hold a Bachelor's degree in that field were encroaching and taking on scarce positions to be had. With this legal instrument in place, it was possible to minimise the problems related to the Physical Education field by preventing laypersons, former instructors and unauthorised individuals to work in the field³.

Another important aspect refers to the quality of delivery. It was said that the quality of PE classes was poor because many professionals did not have specific formal education to teach and monitor physical activities. The regulation of the profession would also be important for society, because as of 1998, only an accredited individual would be able to work as an instructor, thus establishing the ethics for the profession (REPPOLD FILHO, 2003).

² Within this management context, the Federal Councillors of CONFEF and the State Councillors of the CREFs stand out, responsible for enforcing the Professional Code of Ethics, representing the Council in events and legislating about rules adopted by the trade Councils, which is one of their attributions. CONFEF (2002).

³ Steinhilber (1998) affirms: dilettantes should not work in that profession. Merely having empiric knowledge or some type of individual talent are not enough qualities for being a good and conscientious professional.

Advocates⁴ for the regulation and the Council point out the importance of expert knowledge and the continuous search of exclusive syllabus for the field. Therefore, the Physical Education professional would be a graduate professional of the physical activity field, just like lawyers, doctors, psychologists or nurses are in their own professions. To create an intelligentsia for society and other long-established trades, they endorsed the need to set up a trade Council and a Code of Ethics. Under the logic that dictates the regulation, these initiatives are essential in order to establish professional conduct standards, guarantee high-quality service and to project the image of a professional. The regulation enables a legal institution to protect a field that is vulnerable to encroaching by non-professionals.

Professor Barros says that legalisation is not an instrument that will guarantee a better professional. This would only occur via the professional's performance, consciousness, education and ethics-guiding principles. In this way, the trade Council would have many functions, one of which would be to ensure specific and exclusive niches for this professional (BARROS, 2000, p. 108-109). Under this approach, one can draw the conclusion that professionals in favour of regulation support some "truths": firstly, that holding the accreditation is synonymous to quality and competence; secondly, a monitoring group interferes with professional ethics; and lastly, accredited professionals guarantee safety for the population.

Groups contrary to regulating the trade point out to the right of freely working in the field as a means of building workers class consciousness; they also support that market vision, trade cartels, corporatism and the neoliberal model are the basis behind the regulation logic (NOZAKI, 2004). From

⁴ Summarising, the following names and documents oppose trade regulating: – *Reflexões acerca da regulamentação da profissão e Day After* (LINO CASTELLANI FILHO); *O velho problema da regulamentação* (ALFREDO GOMES DE FARIA JUNIOR; CARLOS FERNANDO FERREIRA DA CUNHA JUNIOR; HAGIME TAKEUCHI NOZAKI; VICTOR ANDRADE DE MELO).

the viewpoint of the Marxist theory matrix, the workers' trade union to fight capital would become more difficult with regulation, where each specific field focuses on solving their peer-problems by creating internal forms to perpetuate power that tends to hinder the development of class awareness.

Nozaki and Faria Junior (2004) point out that regulating the trade bespeaks of a privatising notion about Physical Education because it supports the growing number of courses in private Universities and Bachelor's degrees; they also argue that a Bachelor's degree sums up the idea from the '70s of valuing physical activity associated to the concept of transforming education (FARIA JUNIOR, 1993). Under this approach, CONFEF is implemented as a means of adapting PE to the capitalist society (SILVA; LANDIM, 2003). Other claims made by the group against trade regulation, e.g. the National Movement Against Regulation (MNCR), in 2007, points to issues that focus particularly on the CONFEF/CREF System, such as lack of information about their objectives; the attempt of conservative Physical Education sectors to reclaim their political space; trade resolutions established in restricted meetings, i.e. code of ethics, coalitions, by-laws, extracurricular training, and lastly, the definition of the Physical Education paradigm as a physical skill. In order to better discuss these topics, it is necessary to quickly illustrate the legal framework of the CONFEF/CREF System.

4 THE FRAMEWORK OF THE CONFEF/CREF SYSTEM

Article one of Law 9696/98 establishes CONFEF as the public administration agency - an autarchy - created by law to regulate accreditation and to monitor⁵ the venues where PE

⁵ Figures published on the Council's website give an idea of CONFEF's monitoring and work CONFEF (until 2006). Received: 3,675 denunciations; notifications: 12,892 commercial and/or professional establishments that were not complying with the Code of Ethics, or individuals that worked illegally. Under this figure, some 645 municipalities were involved; of all the notifications, 2,155 were forwarded to the Public Prosecutor Office (MP) to carry out an investigation and hold 766 hearings. And lastly, it notes that there

professionals work. The power of monitoring and policing is typical of autarchies; however, this power should be supported by the Public Prosecutor's Office (MP) and agencies under the Executive Power as partners in their diligences.⁶

One of the most controversial issues refers to who can work as a professional Physical Education instructor. Another core aspect refers to how individuals that used to work as Physical Education instructors before the law came into effect should be handled. Article two gives the answer to this dilemma. It sets forth that only individuals holding a Physical Education diploma from a duly recognised or authorised course would be able to join the CREF, and also individuals that by the date when the law came into effect could prove they worked as Physical Education professionals,⁷ under the terms set forth by CONFEF. With the Bill that has been submitted for approval by the Federal Senate, senators proposed an amendment (item III, art. 2) enabling professional that already worked in the field before the law came in effect to be granted accreditation by the Council with certain specifics to be able to work in their old job.

The legislator granted to CONFEF the power to determine how these non-graduated individuals that already worked as Physical Education professionals would be able to guarantee their acquired rights. Hence, the Council edited a series of resolutions addressing the subject-matter, of which the most outstanding is Resolution 045/2002 that sets forth that individuals that do not hold a diploma in Physical Education must attend a course given by CREF in order to obtain their accreditation as a Physical Education graduated professional.

were 17,304 *in loco* surveillance actions, of which 6,658 were new visits and 10,646 re-visits.

⁶ Art. 5 of Resolution 23/2000 sets forth that the Council is responsible for doing the surveillance and should denounce to the relevant authorities irregularities identified and not remedied within the deadline, showing that this Resolution complies with the legal requirements (CONFEF, 2002).

⁷ Individuals that do not hold a diploma are granted identification, accrediting them as technicians for a given field, but not at the same level as holders of a Bachelor's degree; however, they have the same responsibilities as the aforementioned.

After it was determined which administrative entity (autarchy) would be responsible for accrediting professionals and who could be accredited, the legislator described in detail the competence and fields in which he or she would be entitled to work, and first and foremost, to exercise their right as an accredited professional. The list is exhaustive, in that the law enables specific groups in detriment of the collective for the right to work, for example, whereby it should be analysed restrictively. Hence, article 3 provides for the obligations of the Physical Education professional, e.g. “[...] to coordinate, plan, schedule, [...], undergo special training, [...], all of which in the fields of physical activities and sports”. (CONFEEF, 2002). Two issues need to be addressed now. Firstly, schools questioned the Council’s competence to regulate the activities carried out by teachers. Given that the list is exhaustive and that an internal resolution cannot confront the law, it is clear that CONFEEF does not detain competence to provide for rules related to school teachers of PE. The second issue is related to the field of Dance; does it fall under the physical activities and sports field?

Even in the face of this restrictive interpretation, the Council used Resolution 046/2002 to provide for the Intervention of the Physical Education Professional, whereby it is difficult to interpret the legal document and the exhaustive list is too long. This led to an uproar from different segments that work with the body, i.e. *Capoeira*, Dance, Martial Arts and Circus instructors, and school teachers.⁸ According to the aforementioned Resolution, the Physical Education instructor is an expert in physical activities, under its different forms: Gymnastics, Work-Out, Sports, Games, different Fighting arts, *Capoeira*, Martial Arts, Dance, Yoga, Occupational or Routine

⁸ Professional specification set forth in article 2 of Resolution 046/2002 provides for lecturing/teaching PE. The doubt about CONFEEF’s competence to expand the scope of fields of intervention still remains. The principle of the hierarchy of laws states that a Normative Resolution is only effective within the scope of that given administrative entity, and that it is not effective *erga omnes* (against all). This is what occurred with Resolution 046/2002 that reached professionals that work in fields not directly related to PE, and thus not governed by article 2 of Law 9696/98. Therefore, it seems that the effect of the above-mentioned Resolution should be minimised.

Compensatory Exercises and other body-related activities. It is important to note that physical activities and sports governed by the law under this Resolution were classified and body-related activities. “Body-related activities” is a more comprehensive expression that includes all that is related to the movement of the body or that intervenes with it. It is not easy to clearly understand the Council’s purpose in expanding the scope of intervention. Would it be an attempt to fit the Human Motility theoretical model or merely a means of reproducing and expanding its scope of influence?

Article 4 of Law 9696/98 provides for the simultaneous creation of the Federal Council Federal and CREFs. It is questionable if a federal law can empower the hierarchically higher CONFEF to set up subordinate CREF entities. In other words, there should be a law to regulate CONFEF, and other laws to provide for the creation of Regional Councils in each Brazilian State. Hely Lopes Meirelles and Celso Antonio Bandeira de Mello, both Administrative Law attorneys, believe that this is possible due to the principle of Public Administration hierarchy, where the entity directly under the higher autarchy of public administration creates lower hierarchy entities to facilitate compliance with the law’s subject-matter; the first autarchy created by that law is accountable for their subordinate entities should they fail to comply.

Another Resolution that led to debating in the academic milieu and generated more doubt about the objectives and decisions made by the Council was Resolution 23/2000 that provides for the monitoring of Legal Entities. This Resolution describes the means to monitor trade and Legal Entities that provide such services, which duly comply with the rules for autarchies under the Administrative Law. However, this Resolution has a feature that attracts attention: Legal Entities are obliged to pay an annual fee. The Resolution sets forth that companies that provide physical activity, sports and similar services must pay an annual fee to comply with provisions set forth in item IV, art. 56 of CONFEF’s By-Laws. This institute

does not retain a legal enforcement nature. The Council justifies that companies that provide services related to physical activities are legally obliged to guarantee that services rendered are provided ethically when they take on the responsibility of any given physical activity provided for users, directly or indirectly; the duly accredited Physical Education professional will be accountable. However, Legal Entities are governed by their own laws (Commercial Law) and not by the Council's By-Laws; hence, they should exempt from the annual fee.

5 THE CONTROVERSY ABOUT EXPANDING THE SCOPE OF INFLUENCE OF PHYSICAL EDUCATION INSTRUCTORS: DEBATES

After Resolution 046/2002 was published, where it expanded the scope of influence of PE and consequently encroached on the area of other trades, there was a heated manifestation opposing it, especially those in the field of Dance. They argued that Dance should not be a private PE field, affirming that CONFED is incompetent to govern, monitor, guide and create norms for another trade category that is not legally included in that field. One of the fruits of this protest was Bill 7370/02 drafted by Representative Luiz Antonio Fleury, excluding from the Federal and Regional Councils for Physical Education the surveillance of Dance, Martial Arts, Yoga and *Capoeira* professionals. These professionals are waiting for the Bill to be passed, given that their activities cannot be accredited by CREF and CONFED. It seems that the regulation phenomenon once again requires a great level of specialisation, which will lead to a greater scope of regulated professions.

The relationship between Dance and Physical Education professionals is a tense one. Intellectuals and Dance instructors believe that Physical Education professionals lack the competence to work with dance-related contents, because

when they do it, routines are generally performed acrobatically and superficially, where they take up a technical approach. Physical Education professionals, on the other hand, believe they are totally entitled to teach Dance due to their academic education, in that they have studied anatomy, kinesiology, expressive activities and how to work with body movements. It should be noted that this is a long-standing conflict, since the first Bill provided for both Dance and Physical Education place professionals under the same Council.

Dance professionals claim that the only reason that justifies expanding the scope is to increase PE's market reserve⁹; hence the Public Civil Action with the Federal District. The syllabus of different universities, both for Physical Education and Dance institutions were appended to the court records. It was judged that Dance professionals retain the expertise and greater competence to work in that field, in detriment of Physical Education teachers. Judgment affected Resolution 046/2002 in its entirety; according to the Judge, the Resolution exceeded the legal limits of the law that created the autarchy.

Groups that disagree with the regulation of the trade focus their criticism on the concept of physical activity (any movement made by the human body). Hence, according to CONFEF, each and every activity, e.g. Dance, Yoga or different forms of Fighting are subjected to its ruling (MNCR, 2007).

In the opinion of Dance instructors, people who take up dancing (SARAIVA, 2005) professionally or as a hobby do not aim at increasing muscular mass, flexibility or aerobic capacity.

In Dance, the physical activity is only a means to practice an art that in many cases represents the typical manifestation of the Brazilian culture. Yoga, on the other

⁹ A fact confirmed in Judgment No. 2005/JRJO/JF/DF - 14 th, automobiles No 2001.34.00.031582-3, Public Civil Action, proposed by dance professionals in DF.

hand, is an activity that seeks mental and body balance, basically via breathing and concentration exercises; it does not involve physical activity, as it is a philosophy rather than a sports modality. Martial Arts (Karate, Judo, Tai Chi Chuan, etc.) involve body movement, but they are not activities typical of the Physical Education professional. Both Martial Arts and Yoga have their own set of teachings that reflect hundreds of years of culture, rather than mere body-related activities. In this case, there are two lines of thought (JUNIOR; DRIGO, 2001). The first points out that the syllabus of Physical Education graduation courses rarely include teaching the knowledge required to know the cultural universe of Martial Arts. The second school of thinking describes invasive training sessions usually taught by former athletes. Opinions vary and point to misinterpretations of the same phenomenon.

Notwithstanding the conflicts that arise after the above-mentioned Resolution was passed, the relationship between Dance and Physical Education is more complex than merely stating that Physical Education prioritises physical activity and that Dance is an art (PACHECO, 1999). In his work, Soares (1992) already affirmed that Dance is a subject of Physical Education within the school environment, similar to Games, Sports, Gymnastics and *Capoeira*. It is hard to affirm if the expansion of the scope is incidental or a consequence of discussions about Physical Education and Dance over the last decades.

The requirement of accreditation granted by CREF to formally teach it (School Physical Education) was deferred by preliminary injunction filed in Rio de Janeiro.¹⁰ The diploma is proof enough of competence to teach Physical Education in schools.¹¹

¹⁰ Public Civil Action 2003.5101019004-0.

¹¹ In this respect, State Law 11.361/SP was passed, where Art. 2 states that "Only duly accredited professional that hold a Bachelor's degree in Physical Education are entitled to teach the discipline of Physical Education". Other opinions against the regulating of

However, the debate and argument grows and multiplies. CONFEF (2002, 2001) journals point out that in spite of the Court's decision waiving the need for Dance, Yoga and Martial Arts professional to be affiliated, only those accredited and holding a diploma in PE retain the knowledge required to work as a teacher or instructor.

Monteiro (2006), discussing the subject-matter, shows the stand taken by Mr. José Maria de Camargo Barros, Legislation and Norms Counselor for CONFEF, stirring up different opinions. He affirms that Physical Education was regulated as a profession based on a sweeping concept that tried to address the needs of society. The Physical Education concept includes Dance, Martial Arts and Yoga. The Counselor adds: "What is your purpose when you practice Yoga, Martial Arts or play Soccer? You want to move your body, enjoy yourself, feel reinvigorated, experience bodily and psychological liberation, to mention but a few factors; that is the reason why these different means are exercising are taken on".

This CONFEF Counselor believes that the poor understanding of the physical activity concept is a consequence of different theoretical references adopted in Physical Education. The concept of Physical Education or Physical Activity adopted by CONFEF, according to José Maria de Camargo Barros, is based on the theory of Human Motility by Manuel Sérgio (1989). The term 'human motility' is defined as the ability and need of human beings to transcend movement in order to live. Practicing a physical activity means to know the movements and neuro-motor controls that are associated to the movements. According to this viewpoint, it is based on this premise that the professional that works with human motility will be capable of assessing the movements, interfering and contributing to the development of physical activities. Given that this concept is very comprehensive,

teachers are worthy of mention (OPINION Nº 75/99/COJUR/MEC; OPINION PJ Nº 004/2000)

it is difficult to agree on what would not fall under the definition of Human Motility.

6 REGULATING THE PROFESSION: PERSPECTIVES

As was noted at the beginning of this article, addressing a recent and controversial object of research can be difficult for the researcher in many ways. Keeping in mind that this process may undergo great and fast changes, it is possible that the Bills¹² by Paulo Paim and Luiz Antonio Fleury Filho will put an end to the controversy with other fields, excluding accreditation and monitoring by CONFEF of: (a) the qualified, registered and accredited teachers to work in compliance with the education legislation in effect, provided they do so according to the syllabus; (b) teachers, instructors and monitors of sports and physical culture initiation and specialisation level, duly accredited, registered and monitored by their federations and confederations; (c) professionals in the fields of Dance, Martial Arts, Yoga, *Capoeira* and Circus.

Still in relation to the expectations, if the aforementioned Bill is not passed, both Public Civil Actions may legalise (restricting or maintaining) resolutions that expand the scope of CONFEF's controlling powers, or, under a more extreme scenario, judges may vote that the CONFEF/CREF System is unconstitutional, whereby it will cease to be legal.

The most probable outcome is that the regulation of the PE professional will be still governed by law and that professionals will still be legally accredited by CREF. Also, as most accredited professionals do not participate in the discussions about the regulation of the profession, debates are restricted to the academic milieu and venues such as the Federal, State and Municipal Secretariats.

¹² Bill 3559/2002 – Paulo Paim, and Bill 7370/2002 – Luiz Fleury Filho.

Faria Junior (2001) points out that regulation is yet to attain its goals because it has been implemented in only a few Brazilian regions, as shown by the small number of professionals accredited by the Councils, which is lower than the yearly figures for Bachelor's degree graduates from 200 PE courses and schools Brazil wide. Despite the lack of evidence that there is a study in place validating this affirmation, and although data does not identify accredited professionals holding a Bachelor's degree, it seems proper to affirm that implementing the Council throughout Brazil has not been an easy task given the different regional characteristic and the sheer size of the country. However, the strongest justification is the small number of holders of a Bachelor's degree in Physical Education in the developing regions, where private investment is scarce in the field of physical activity. Within this scenario, the trend is that CONFEF will expand its scope of influence as regional development grows and there are more job opportunities for holders of a Bachelor's degree.

Another factor that could strengthen the Council is the growing number of lawsuits between professionals and clients. As an arm of the public authority, the Council will be responsible for protecting the professional and supporting the legal decision by providing opinions, expert investigations and counselling. Upon such litigations, the Council will have more visibility with the community.¹³

This article reaches its conclusion reaffirming how important it is to bring the debate outside the academic milieu; the current model of debating merely reproduces the repetitious discourse of the same groups, from both sides, advocating the same justifications. Therefore, the purpose hereof is to encourage a more comprehensive debate and to attract new participants to this field of discussion and thinking.

¹³ Bill 3559/2002 – Paulo Paim and Bill 7370/2002 – Luiz Fleury Filho.

A inserção da regulamentação da profissão na área de Educação Física, dez anos depois: embates, debates e perspectivas

Resumo: Este texto discute alguns aspectos da regulamentação da profissão na área da Educação Física, seu desenvolvimento e a participação dos principais sujeitos políticos. Frente a um tema atual e polêmico, procura-se fazer uma apresentação objetiva e abrangente do seu desenvolvimento e ilustrar as posições e os argumentos dos sujeitos que participam do debate. Para tanto, inicia-se apresentando aspectos importantes da regulamentação das profissões, para depois elaborar uma análise da lei e resoluções do Conselho destacando: (a) o seu significado; (b) atribuições e competências; (c) o limite para a fiscalização e do poder de polícia e (d) apontar as atividades típicas do profissional. A título de fechamento, descreve-se aspectos de uma polêmica bastante recente, a subordinação da dança, da *yoga* e das artes marciais ao Conselho Federal de Educação Física.

Palavras-chave: Prática profissional. Educação Física. Conselhos de especialidade profissional.

La inserción de la regulación de la profesión en el área de la educación física, diez años después: embates, debates y perspectivas.

Resumen: Este texto discute las controversias sobre la regulación de la profesión. Nuestro interés es dar un soporte teórico de un lado, y oír a los ciudadanos relacionados directamente en estas controversias de otro. Para esto primero, decidimos clarificar los aspectos iniciales de la regulación de las profesiones, un análisis de la ley y de las resoluciones del consejo: (a) el significado; (b) atribuciones y capacidades; (c) el límite para el fiscalización y poder de policía y (d) señalar las actividades típicas del profesional. Después de esta parte levantaremos un tema polémico: la subordinación de la danza, *yoga*, artes marciales al consejo federal de la educación física.

Palabras clave: Práctica profesional. Educación Física. Consejos de especialidades.

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