

CAN MEDICINE BE PROTECTED BY THE 5TH AMENDMENT?

Editorial

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"Medical science" as an abstract discipline or field of study cannot be protected by any law, since constitutional rights are granted exclusively to individuals.

However, scientists, doctors, and health officials can individually invoke the Fifth Amendment to the United States Constitution to avoid self-incrimination in a legal process.

This issue has gained enormous public relevance because Dr. Anthony Fauci, former director of the National Institute of Allergy and Infectious Diseases (NIAID), invoked the Fifth Amendment more than 110 times during a tense hearing before a Senate committee led by Republican Rand Paul.

But how does this right work in the field of medicine and scientific research?

The right is individual, not institutional

- **Protection of individuals:** The Fifth Amendment protects any individual from being compelled to testify against their own interests if their answers could expose them to criminal charges. A doctor or scientist subpoenaed by Congress or a court has exactly the same constitutional right as any other citizen.
- **This does not apply to corporations or scientific data:** Institutions (such as hospitals or pharmaceutical companies) and public medical records themselves cannot "declare the Fifth". Official documents, laboratory data, and institutional emails can be obtained through legal orders and are not covered by this right to remain silent.

The legal debate: Pardons and testimonies in the Fauci case

The use of the Fifth Amendment by figures in medical science has opened a profound legal debate in the wake of recent events:

- **The effect of a pardon:** Former President Joe Biden granted Fauci a preemptive pardon before leaving office to protect him from potential political persecution. In classical legal theory, if a person has already been pardoned and cannot be prosecuted for the crime, they lose the right to invoke the Fifth Amendment because there is no longer a risk of self-incrimination.
- **Current perjury risks:** Fauci's lawyers argued that the pardon only covered past actions. Any new sworn testimony before Congress could be used by his political opponents to initiate new **perjury or false testimony investigations** if they believed he lied during the hearing.

Consequences professionals and legal

Although declaring oneself in contempt of Congress is a legitimate constitutional right and **does not imply an admission of guilt** before the law, it often generates strong repercussions in the public and political spheres. Following Fauci's refusal to answer questions about the origins of COVID-19 and the funding of scientific research, the Senate committee voted to declare him in **contempt of Congress**, a legal dispute that has now moved to federal court.

The invocation of the Fifth Amendment has profound **symbolic and sociological consequences that directly undermine public trust** in medical science. While legally a legitimate individual right, in the court of public opinion, scientific silence distorts the perception of transparency and neutrality in medicine.

The main consequences for institutional trust can be divided into the following areas:

1. Perception of opacity and conspiracy theories

- **Silence as a synonym for guilt:** For the average citizen, invoking the Fifth Amendment is often interpreted as an admission of guilt, suggesting that the scientific community is "hiding something" about the origins of the virus or the effects of health policies.
- **Validation of skepticism:** The refusal to answer detailed questions (more than 110 times in the Fauci case) serves as a powerful argument for those who use these hearings as "proof" that official medical guidelines lacked a transparent basis.
- **Fear of public exposure :** Medical professionals and researchers may choose to avoid public leadership positions or controversial areas of medical research (such as pathogen study or gain of function) for fear that their careers or personal notes (such as diaries and emails) will end up being subject to criminal scrutiny and media lynching years later.

2. Politicization and instrumentalization of medicine

- **Right-wing science vs. left-wing science:** Trust is no longer based on scientific evidence but rather on ideological affinity. While sectors aligned with critics of the pandemic response see the defiance as confirmation of institutional corruption, defenders of the scientists view the interrogations as political persecution aimed at imprisoning them.
- **Institutional reform based on distrust:** Political figures rely on this decline in trust to justify drastic restructurings or funding cuts in federal regulatory and public health agencies, arguing the need for a "reckoning" against what they call coercive mandates.

3. Impact on future health crises and public compliance

- **Erosion of medical authority:** The next time public health authorities issue recommendations regarding a new variant, influenza outbreak, or medical emergency, a considerable portion of the population will question the legitimacy of the message due to the erosion of credibility of their historical spokespeople.
- **Resistance to official recommendations:** The resulting skepticism weakens the effectiveness of vaccination campaigns, preventive treatments, and collective health protocols, as citizens tend to seek alternative or informal sources of information instead of government or academic guidelines.

4. Inhibitory effect within the scientific community (Chilling Effect)