Consideraciones finales: hay necesidad de mejoras no que se refiere ao proceso de patenteamento no Brasil. Espera-se a possibilidade de um impulso maior nas pesquisas de produtos industriais na área da saúde. Descriptores: Saúde da Família; Tecnologia em Saúde; Enfermagem.

RESUMEN
Objetivo: proporcionar reflexión sobre los conceptos, tendencias e posibilidades del registro de patente.
Método: estudio descritivo, tipo análisis reflexivo, apoyado en referenciales teóricos sobre la legislación de patentes, tendencias e posibilidades. Resultados: una patente es un título de propiedad temporal sobre una invención o modelo de utilidad, otorgado por el Estado a los inventores. El proceso de solicitud de patentes en el país se considera bastante burocrático. La Ley de Propiedad Intelectual, 9.279/1996, establece criterios que devem ser considerados no registro de una patente. Para que un producto sea patentable, los requisitos de novedad, inventiveness y practical aplicability deben ser contemplados. La cultura del país se considera muy burocrática. El proceso de solicitud de patentes en el país es considerado bastante burocrático. A Lei da Propriedade Intelectual, 9.279/1996, establece critérios que devem ser considerados no registro de uma patente. Para um produto ser patenteável, os requisitos de novidade, atividade inventiva e aplicação industrial devem ser contemplados. A cultura do país no que tange a produção de conhecimento científico que gera patente ainda é insignificante. Final remarks: there is a need for improvement of the patenting process in Brazil. The possibility of a greater boost in research activities on industrial products in the area of healthcare is expected in the near future. Descriptors: Family Health; Biomedical Technology; Nursing.

RESUMO
INTRODUCTION

Innovation is a global challenge. Developing research projects and creating new ideas opens the prospect of adding inventions to the industrial production, with the possibility of patenting new products. In recent years, Brazil has been implementing an institutional environment conducive to technological innovation and its protection. Among the various actions carried out, we highlight: the Innovation Law, the “Lei do Bem” (Law of Goods), the Programme for Accelerated Growth and the “Plano Brasil Maior” (Greater Brazil Plan). Despite these initiatives, in 2012 Brazil was 58th in the ranking of global innovation.¹

The patent process in Brazil, although bureaucratic, has been dominating scientific discussions at universities. Since a product resulting from a study may obtain a patent, researchers have the opportunity not only to achieve public recognition of their discoveries, but also the applicability and commercialization of such discoveries. The granting of the patent takes about six to seven years, depending on the technology area. This delay does not only happen in Brazil. In the United States, the average waiting time for a patent to be granted is five years. Exceptions are found in South Korea and Japan, with an average of two and a half years.

Since 2002, the National Institute of Industrial Property (NIIP) - headquartered in Rio de Janeiro and with representations in all states of the federation - encourages the development of Technological Innovation Centers (TIC) in partnership with federal universities, with the aim of encouraging technological innovation and knowledge production.²

Researchers must publish in order to make knowledge available to the scientific community and they must patent their inventions in order to protect the public investments that were made for the research conduction as well as to protect their invention. Thus, this study aims: to provide a reflection on the concepts, trends and possibilities of patent registration.

METHOD

This study was developed from a paper presented at the III Forum on Integration of Professional Masters in Nursing, held on November 27-29th, 2013 at the Nursing School of Ribeirão Preto - SP.

It is a reflective analysis study on trends and possibilities of patents and trademarks registration, which was developed in 2013, in the Professional Masters Program in Family Health of the University Center UNINOVAFAPI. The study is based on a literature review on the concepts, theoretical references of the legislation, trends and opportunities of patent registration. Search was conducted in the National Institute of Industrial Property (NIIP) and Brazilian Institute of Intellectual Property (BIIP) databases, as well as in other virtual libraries and databases.

RESULTS

It is through the legal mechanism of trademarks and patents that creativity and technological capacity of authors and inventors are preserved and guaranteed. The inventor of some mechanism, the creator of an original work or the creator of a trademark should know what to do in order to protect his/her invention. According to the National Institute of Industrial Property (NIIP), trademarks are visually perceptible signs; they must be easily perceived and distinguished from a product other or services. A trademark is a kind of visual symbolic representation of a given entity. Through this symbolic representation we can immediately identify the entity that is linked to it. The owner of a registered trademark has the exclusive right to use it in his/her branch and national territory.³

A patent is a title of temporary ownership over an invention or utility model, granted by the State to inventors, authors, or other physical or legal persons who hold rights over a particular creation. Inventors or patent holders can prevent others from producing, using, offering for sale, selling or importing the product under patent protection and/or the process or product directly obtained through a patented process without their consent. In contrast, the patentee agrees to disclose in detail all the technical content of the “product” protected by patent.

The merit of researchers is measured by the number of publications they have to their names. The more papers they publish, the greater their professional recognition and the higher the rates of project approval by funding agencies. In 2008, Brazilian researchers published 30,415 articles, representing 2.63% of the world's scientific output. Nevertheless, the subject patent is taboo to some researchers. They claim lack of time to devote themselves to the subject, say it is too complicated, bureaucratic, time consuming, and, above all, expensive. In fact, the patent process should not be seen as
complicated, but as a way of protecting their research.³

If a research results in a technological potential, there are two possibilities for its outcome: the researcher may apply for a patent, a company may be interested in implementing it and they may establish a partnership to produce or license the technology; or the researcher may not apply for a patent, a company may take advantage of his/her research and register the patent, leaving the researcher with no possibility of contesting this right. The simple act of applying for a patent already guarantees an expectation of being granted industrial right (the actual right is conferred with the grant of the patent). Likewise, the publication of an article ensures copyright protection.

The Industrial Property Law (IPL) does not protect inventions and utility models such as creations, abstract ideas, intellectual activities, scientific discoveries, inventions or methods that cannot be industrialized.⁴ Some of these creations can be protected by the Copyright Law, which is not linked to the ILP. The “research-patent flow” is a new culture. Although intellectual property (IP) is a topic little explored in Brazil, it is gradually entering the academic setting, bringing researchers and industries closer together.

The process of patent application is considered to be very bureaucratic in Brazil. In 2006, a process for recognition of industrial property rights took about eleven years to be granted or declined. In 2011, this time was reduced to five years. Currently, the NIIP plans to reduce it to four years, which is the acceptable duration time for a process to be analyzed by Brazilian and world agencies.⁴ Many difficulties still need to be overcome. Factors such as the waiting time for the request patent to be granted, the lack of referees at the NIIP and obstacles in national legislation make the process very slow.⁵

The Intellectual Property Law (IPL) - number 9,279/1996 - establishes some criteria that must be considered in the registration of a patent. For a product to be patentable, the requirements of novelty, inventiveness and practical applicability must be met. Thus, in order to obtain a patent, a product or process should be totally original and novel. Another relevant aspect is that the product or process must have industrial application. If the patent has an industrial character, it must be produced by an industry or be applied in industrial processes. A product that needs to be produced manually is considered artisanal and cannot be patented because it is something that has no industrial property.⁵

There is a lack of professionals and infrastructure at universities and research centers to support and counsel researchers in dealing with the protection of intellectual property assets. The Innovation Law (Law 10.973/2004) determines that the research centers should create and implement a technological innovation center (TIC) to support researchers and manage the intellectual property assets of the institution. Although the law has been in force since 2004, structural improvements and internal recognition for the performance of its activities are necessary for the implementation and consolidation of TICs, including the expansion of human resources to operationalize competencies. Many articles still cite a strong resistance from public managers to stimulate or encourage researchers to protect their IP.⁶,⁷

In the field of Biotechnology, research is more rigorous and difficulties are greater because studies with native biological material - from animal or vegetal species or microorganisms - need to be authorized by the Ministry of Environment through the Board of Management of Genetic Heritage (BMGH), which is responsible for granting access to genetic resources for the purpose of technological development, economic potential or research in the country. In addition, according to the IPL, inventions that are contrary to morals, good customs, public security, order and health are not patentable.⁸

In some Brazilian universities such as the one in Ribeirão Preto/SP, a study conducted by nurses on the use of polymers obtained from crustaceans’ shells as a second skin to promote healing in burn patients has been showing promising results. The use of viscoelastic polymers in mattresses and bone end protectors for bed patients in order to minimize pressure ulcers is also being studied and has high possibilities of being patented.

**FINAL REMARKS**

Although much has already been achieved and improved in this matter, the patent process in Brazil still presents many difficulties. In the not-too-distant future, the possibility of a greater boost in research activities on industrial products in the area of healthcare is expected. Moreover, the academic world is expected to give its contribution and properly represent a reality that exists in the scientific community.
REFERENCES


Submission: 2014/04/01
Accepted: 2014/05/14
Publishing: 2014/07/15

Corresponding Address
Maria Eliete Batista Moura
Programa de Mestrado Profissional em Saúde da Família do Centro
Universitário/UNINOVAFAPI
Condomínio Acauã
Rua Orquídea, 430 / Ap. 700
Bairro Jockey
CEP 64049-150 – Teresina (PI), Brasil

English/Portuguese
J Nurs UFPE on line., Recife, 8(Suppl. 1):2494-7, July., 2014