Wallet Biopsy: necessary or not?

ATTY. RODEL V. CAPULE, MD, FPCP[1]

Republic Act No. 10932 is explicit in its mandate that in emergency or serious cases, it shall be unlawful for a medical practitioner of a hospital or medical clinic "to request, solicit, demand or accept any deposit or any other form of advance payment as a prerequisite for administering basic emergency care to any patient, confinement or medical treatment of a patient in such hospital or medical clinic or to refuse to administer medical treatment and support."[1-4] In addition, Republic Act No. 6615 states that all government and private hospitals or clinic are required "to render immediate emergency medical assistance and to provide facilities and medicine within its capabilities to patients in emergency cases who are in danger of dying and/or who may have suffered serious physical injuries."[5,6] Given the spirit of the law, delivery of "basic emergency care" or "immediate emergency assistance" in an "emergency or serious case" or to a patient "who are in danger of dying or have suffered serious physical injuries" is not conditioned on the patient's ability to pay.

On the other hand, there are allegations or even accusations that the most frequent "diagnostic procedure" performed in a hospital is the "wallet biopsy" or claims that "all too often, the first thing a patient now receives in the emergency room is an examination of their wallet."[7,8] It is not hard to conclude that when "wallet biopsy" occurs to patients in need of urgent medical care "it is unconscionable and completely contrary to the proud tradition of [] health care professionals."[9]

The term "wallet biopsy" has gained notoriety through the years and has evolved to mean several concepts like the practice of requiring a substantial cash deposit from uninsured patients before admitting the individual for care or seeking the assurance that a patient can pay for his or her care before any service is actually rendered.[10,11] A more emphatic meaning is "asking the patient or family more detailed questions about insurance and financial responsibility when they first come in than they do about the patient's condition, in order to be sure they can refuse treatment if the patient cannot pay and is not in a serious condition."[12] The outcome of conducting a "wallet biopsy" could either be a delay in medical treatment or thwarts patient's own choice of an attending physician or illegal or unethical transfers of poor patients to other hospitals.[13]

On the upside, conducting a "wallet biopsy" is beneficial not only for the patient but also for a hospital. Of course, it should be done only if it will not violate the laws (*Republic Act No. 10932 and Republic Act No. 6615*). When a patient has limited financial resources, or has no means of defraying medical costs, e.g., private insurance, HMO, Social Security or PhilHealth benefits, a "wallet biopsy" actually is necessary. In accordance with ethical practice, an attending physician at times should act also as a financial adviser, determining the best medical course to take considering the limited financial resources of a patient. In fact, it is mandated that "a physician should [also] place paramount consideration on the cost of diagnostic tests and procedures, and of management and treatment modalities recommended."[14] This concept is still compatible with reasonable practice because "cost-effectiveness has rarely been an explicit element of Clinical Practice Guidelines" or Evidence-based practice.[15]

In the final analysis, the appropriateness of a "wallet biopsy" shall be determined by the intent behind it. Its potential benefit for patients and private hospitals should not be underestimated, especially in third world countries.

References

1. "An Act Prohibiting the Demand of Deposits or Advance Payments for the Confinement or Treatment of Patients in Hospitals and Medical Clinics in Certain Cases", As Amended by Republic Act No. 8344
2. Section 2(a), R.A. no. 10932. A condition or state of a patient wherein based on the objective findings of a prudent medical officer on duty for the day there is immediate danger and where delay in initial support and treatment may cause loss of life or cause permanent disability to the patient, or in the case of a pregnant woman, permanent injury or loss of her unborn child, or would result in a non-institutional delivery.
3. Section 2(b), R.A. no. 10932. Refers to a condition of a patient characterized by gravity or danger wherein based on the objective findings of a prudent medical officer on duty for the day when left unattended to, may cause loss of life or cause permanent disability to the patient, or in the case of a pregnant woman, permanent injury or loss of her unborn child.
4. Section 1, R.A. no 10932

[1] Dr. R.V. Capule is an attorney specializing in medical malpractice, physical injuries and food torts. He is a law professor of Legal Medicine and Problem Areas in Legal Ethics at Arellano University School of Law and a consultant in Legal Medicine at Adventist Medical Center Manila and Makati Medical Center.

5. “An Act Requiring Government and Private Hospitals and Clinics to Extend Medical Assistance in Emergency Cases”
6. Section 1, R.A. No. 6615
7. c.f. “Patient Dumping-No One Wins and We All Lose” American Journal of Public Health October 1988, Vol. 78, No. 10 https://ajph.aphapublications.org/doi/pdfplus/10.2105/AJPH.78.10.1279 last accessed September 10, 2021
8. Laura D. Hermer, The Scapegoat: EMTALA and Emergency Department Overcrowding, 14 J.L. & Pol’y 695, 696 n.9 (2006)
9. Rodriguez v. American International Insurance Co. of Puerto Rico, 263 F. Supp. 2d 297 (2003)
10. id.
11. Kellermann AL, Hackman BB: Emergency department patient "dumping": An analysis of interhospital transfers to the Regional Medical Center at Memphis. Am J Public Health 1988; 78:1287-1292.
12. Hall M.A., Bobinski, M.A., Orentlicher, D., “Medical liability and Treatment Relationships”, Third Edition 2013 Wolters Kluwer Law & Business
13. Lewis R. Goldfrank, M.D., “The Public Hospital”, Volume 24, Issue 4 page 703 1996 Article 5 Fordham Urban Law Journal
14. Section 4.3, Article IV “Professional Responsibilities to the Health Care System”, Code of Ethics of the Medical profession 2019 (Philippine Medical Association)
15. Avraham, Ronen, "Overlooked and Underused: Clinical Practice Guidelines and Malpractice Liability for Independent Physicians" (2014). Connecticut Insurance Law Journal. 123.