



HEALTHCARE UNDER LOCK AND KEY

Dissecting the Hospital Detention Law

■ By CANDY DIEZ

THE Right to Health of everyone is guaranteed both in international conventions and domestic laws.

The 1987 Philippine Constitution under Article 13, Section 11 states, *"There shall be priority for the needs of the under-privileged, sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers."*

The United Nations International Covenant on Economic, Social and Cultural Rights (UN ICESCR) also stresses the right to health of everyone. Article 12.2-D

emphasizes: *"The creation of conditions which would assure to all medical service and medical attention in the event of sickness"*.

However in spite of these state guarantees and

conventions, quality and affordable healthcare remains elusive for Filipinos.

The unfortunate, impoverished people

Suffering from prolonged labor, Marites was admitted in Bukidnon Provincial Hospital in Maramag on the 12th of July, 2007. She was then pregnant with her 7th child.

With her husband afflicted with malaria, Marites was left with 6 children to feed, a Php4,750.00 unpaid hospital bill and a new-born baby detained with her at the provincial hospital's abandoned outpatient department. Without sufficient finances to settle hospital obligations, Marites and her baby still remained admitted almost a month after she was hospitalized.



Photos: MEDICAL ACTION GROUP (MAG)



Detainees: Indigent patients and their families kept in detention at the Bukidnon Provincial Hospital of Maramag. Photos: MEDICAL ACTION GROUP (MAG)

Marites was just among the 18 patients who lay languishing in carton mats in a ward resembling a detention ward in the Bukidnon Provincial Hospital in August of 2007. Bukidnon patients were constantly afraid of acquiring other diseases during their stay in the filthy hospital ward. Patients detained for almost three months have reportedly tried to escape the hospital premises for lack of adequate food and nourishment provided by the hospital.

to demand for his/her medical certificate as well as other papers necessary for his/her release from the said medical facility. In case of deceased patients, the corresponding certificates and other documents shall be similarly released to the patients' relatives.

Failure to adhere to the Hospital Detention Law would entail fines amounting to not less than twenty thousand pesos (P20,000.00), but not more than fifty thousand pesos

The state's lack of political and moral will to address the issue of healthcare remains evident in the 2007 National Budget.

(P50,000.00). The violating party may also be imprisoned for not less than one month, but not more than six months. Both fine and imprisonment may also be applied depending on the discretion of the proper court.

The Hospital Detention Law, however, does not apply to patients who opted for private rooms. It prioritizes indigent patients.

Profits vs public service
While the Hospital

The Hospital Detention Law

To address the recurring cases of patients who get held in hospitals because they were unable to pay their bills, a legislative measure was enacted in April 27, 2007, declaring the act of detaining patients in hospitals illegal.

Under Republic Act No. 9439, popularly known as the Hospital Detention Law, patients without the financial capacity to settle their hospital obligations but have fully or partially recovered are allowed to leave the hospital or medical clinic upon the accomplishment of a promissory note.

The promissory note covering the patient's hospital expenses should be guaranteed by a mortgage or a co-maker who will be similarly held liable for the unpaid hospital dues.

A patient also has the right



Gaol or refuge? Under RA 9439, hospitals cannot detain patients who are unable to pay for medical services.

Detention Law gained praise for its pro-poor principles, its passage did not please hospital owners as well as doctors and nurses. The Private Hospitals Association of the Philippines (PHAP) began publicly airing their opposition to the law.

PHAP argued that without the payments from hospital fees, hospital funds will not suffice for medicine and equipment expenses as well as the salaries of hospital employees. The group added that the hospital's lack of fund sources will lead to closures of hospitals and will further drive health professionals to work abroad, where better compensation and benefit packages await them.

Rustico Jimenez, spokesperson of PHAP, argued that many hospitals are burdened with unpaid bills. According to him, among the patients who secured promissory notes, only one out of 10 of them honored the promissory agreements. Meanwhile, in their desperation, other patients resort to providing fictitious names and addresses to avoid their unpaid obligations.

With these arguments, PHAP threatened to conduct a nationwide 'hospital holiday,' with PHAP member hospitals closing down two to three times a month (although their emergency wards will be kept open). The holiday will continue until 2008 or until the law is amended or reasonable Implementing Rules and Regulations (IRR) are formulated. Among the 300 member hospitals of PHAP are St. Luke's Medical Center, Asian Hospital, University of Santo Tomas (UST) Hospital, Medical City, and the Makati Medical Center.

The Department of Health (DOH) responded to the appeals of PHAP to consider the private hospital's interest in the issue. DOH, through Undersecretary Alexander Padilla, invited PHAP in the formulation of the IRR of the Hospital Detention Law.

PHAP relented and postponed its planned strike. But after the initial crafting of the



Photo: MEDICAL ACTION GROUP (MAG)

IRR, the group renewed its call for the hospital boycott, saying the IRR can not sufficiently protect the interest of the private hospitals.

During the hospital holiday debates, DOH Secretary Francisco Duque III contested the arguments of the possible decrease in the private hospitals' profits. Duque pointed out that these hospitals are actually receiving sufficient funds from PhilHealth. According to the Health secretary, 70% of PhilHealth reimbursements go to private hospitals, and a meager 30% was reimbursed to government hospitals.

Last priority

According to the latest analysis (2003) of the National Statistical Coordination Board (NCSB), **24 out of 100 Filipino families have not earned enough to fulfill their basic food and non-food needs.** Unemployment rates also remained high according to the National Statistics Office, with 2.8 million Filipinos unemployed as of July this year.

With not enough earnings to spend for basic necessities, healthcare remained the least of

the Filipinos' priorities.

In 1999, the DOH reported that cases of under medication (antibiotics) or over-medication on cheap preparations were prevalent. The World Health Organization meanwhile attested in their World Drug Situation in 2000 that less than 30% of Filipinos have regular access to medicines. 40% have never seen a doctor.

In 2006, a meager 2.9 percent is being spent on medical care by a Filipino family. Expenditures on healthcare reflected that 24.1 percent alone was spent on hospital room charges in 2001. 21.7 percent was used for other medical charges such as doctor's fees.

With poverty plaguing Filipinos around the nation, to trust in the government's health care aid is the second most logical recourse. The state however, has again failed in this aspect.

The state's lack of political and moral will to address the issue of healthcare remains evident in the 2007 National Budget. The state's budget for health in 2007 was only 1.28 % of the National Budget compared to the 8% allocation

for national defense and 21% for debt service.

In fact in the WHO World Health Statistics 2007, the Philippines received a low rank (153rd out of 192 countries) in the government's health spending as a share of a country's total spending on health.

Thus it is no longer surprising that in a study conducted by the World Bank in 2001, data showed that Filipino patients prefer private hospitals over government health facilities. According to the Filipino Report Card of Pro-Poor services, patients utilize the private hospitals and clinics the most in the Philippines and across the regions (46%-59%). Government hospitals ranked second with 30%-45% nationwide and in NCR and Luzon.

In spite of their financial limitations, Filipino families continue to demand for quality and satisfactory healthcare services. This demand is far from being met by the government, what with a measly health budget allocation each year. The need for better healthcare is therefore being answered by the private hospitals.

In the guise of healthcare reform

While sincerely attempting to resolve the accessibility and affordability issues of healthcare, the passage of the Hospital Detention Law has just merely transferred the state's obligations to the private sector.

Instead of creating an environment in which healthcare is accessible and affordable by allocating sufficient health budget to address the healthcare needs of the public, the government has preferred to prioritize expenditures for national defense and debt servicing.

Patients are then forced to make out-of-pocket payments, driving them to the mercy of private hospitals that are charging fees beyond the patients' financial means.

Private hospitals, meanwhile, are far from being unscathed. In their desire to earn more profits, they have managed to neglect the individuals they have sworn to protect and care for. Thus healthcare in the private sector is oftentimes based on the financial capacity of the patient.

While the blatant profiteering of private hospitals at the expense of the poor Filipino patients is by itself condemnable, their arguments, however are not. The threat of hospital closures as well as the possible increase in the migration of health professionals cannot simply be disregarded.

In 2003, two hundred hospitals closed down and eight hundred were partly closed due to the lack of health workers. The Philippines to date is the number one exporter of nurses around the world. An estimated 85% of Filipino nurses are working abroad. The Professional Regulation Commission in 2004 reported that 8,931 nurses leave the country each year. The large international demand for nurses triggered the doctors to become nurses as well. The medicine enrollees have decreased by 33% in 2004.

If the government is truly sincere in its efforts to address



the cases of hospital detention in the country, the passage of a law prohibiting such cases will never be enough.

Until the widespread poverty continues to ail the Filipinos, until the government truly recognizes its right to health obligation to its people, until comprehensive and systematic reforms in the various aspects of the healthcare system in the Philippines are implemented, the passage of the Hospital Detention Law will only remain a symbolic gesture of the state's attempt to fulfill its Right to Health obligations to the Filipinos.



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