

EN BANC

[G.R. No. 234448, November 06, 2018]

PRIVATE HOSPITALS ASSOCIATION OF THE PHILIPPINES, INC. (PHAPI) REPRESENTED BY ITS PRESIDENT, DR. RUSTICO JIMENEZ, PETITIONER, VS. HON. SALVADOR MEDIALDEA, EXECUTIVE SECRETARY, AND THE ACTING SECRETARY OF DEPARTMENT OF HEALTH, RESPONDENTS.

DECISION

TIJAM, J.:

On grounds of denial of substantive due process, repugnancy to the constitutional presumption of innocence, violation of the equal protection and involuntary servitude clauses, petitioner Private Hospitals Association of the Philippines, Inc., (PHAPI) - an organization of privately-owned clinics, hospitals, and other health facilities - seeks to declare as unconstitutional and void the duty imposed upon hospitals, medical practitioners and employees to prevent actual death or injury under Section 1; the penal provisions under Section 4; the presumption of liability clause under Section 5; and the reimbursement and tax deduction clause under Sections 7 and 8, all of Republic Act (R.A.) No. 10932^[1] otherwise known as an Act Strengthening the Anti-Hospital Deposit Law.

The Antecedents

In 1984, Batas Pambansa (BP) Bilang 702 entitled 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 was enacted. BP 702 was described as a landmark legislative measure that aimed to stop the practice of hospitals and medical clinics of asking for deposits or advance payments for treatment or confinement of patients in emergency and serious cases.^[2]

Essentially, BP 702 makes it unlawful for any director, manager or any other officer of a hospital or medical clinic to demand any deposit or any other form of advance payment for confinement or treatment in such hospital or medical clinic in emergency or serious cases.^[3] BP 702 penalizes such erring director, manager or any other officer of a hospital or medical clinic with a fine of not less than one thousand pesos but not more than two thousand pesos or imprisonment for not less than fifteen days but not more than thirty days, or both such fine and imprisonment.^[4]

On August 25, 1997, BP 702 was amended by R.A. No. 8344.^[5] R.A. No. 8344 makes it unlawful not only to demand, but also to request, solicit, and accept any deposit or advance payment as a prerequisite for confinement or medical treatment in emergency or serious cases. R.A. No. 8344 further makes the refusal to

administer medical treatment and support as dictated by good practice of medicine to prevent death or permanent disability unlawful. In case the hospital or the medical clinic has no adequate medical capabilities, R.A. No. 8344 outlines the procedure for the transfer of the patient to a facility where appropriate care can be given.^[6] Under a new provision, R.A. No. 8344 allows the transfer of the patient to an appropriate hospital consistent with the latter's needs after the hospital or medical clinic has administered medical treatment and support.^[7]

R.A. No. 8344 also provides the following governing definitions for purposes of the law:

(a) Emergency - 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.

(b) Serious case - 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.

(c) Confinement - a state of being admitted in a hospital or medical clinic for medical observation, diagnosis, testing, and treatment consistent with the capability and available facilities of the hospital or clinic.

(d) Hospital - a facility devoted primarily to the diagnosis, treatment and care of individuals suffering from illness, disease, injury or deformity, or in need of obstetrical or other medical and nursing care. It shall also be construed as any institution, building or place where there are facilities and personnel for the continued and prolonged care of patients.

(e) Emergency treatment and support - any medical or surgical measure within the capability of the hospital or medical clinic that is administered by qualified health care professionals to prevent the death or permanent disability of a patient.

(f) Medical clinic - a place in which patients can avail of medical consultation or treatment on an outpatient basis.

(g) Permanent disability - a condition of physical disability as defined under Article 192-C and Article 193-B and C of Presidential Decree No. 442; as amended, otherwise known as the Labor Code of the Philippines.

(h) Stabilize - the provision of necessary care until such time that the patient may be discharged or transferred to another hospital or clinic with a reasonable probability that no physical deterioration would result from or occur during such discharge or transfer.

R.A. No. 8344 also increased the penalties prescribed under BP 702 to imprisonment of not less than six months and one day but not more than two years and four months, or a fine of not less than twenty thousand pesos, but not more than one hundred thousand pesos, or both at the discretion of the court. However, if the

violation was committed pursuant to an established hospital or clinic policy or upon the instruction of its management, the director or officer responsible for the formulation and implementation of such policy shall suffer imprisonment of four to six years, or a fine of not less than one hundred thousand pesos, but not more than five hundred thousand pesos, or both, at the court's discretion.^[8]

Sensing the need to curb the still prevalent practice of refusing to provide initial medical treatment and support in emergency or serious cases without the corresponding deposit or advance payment, House Bill No. 5159^[9] was submitted by the House Committee on Health which seeks to increase the penalties for violation of BP 702 as amended by R.A. No. 8344; expand the definition of "emergency care" to include women in active labor and at the risk of miscarriage or fetal distress; include reimbursement from the Philippine Health Insurance Corporation (PhilHealth) for the expenses advanced by hospitals and medical facilities in treating poor and indigent patients; and mandate the Philippine Charity Sweepstakes Office (PCSO) to provide assistance to poor and marginalized patients on emergency treatment in hospitals.^[10]

This development met similar support from the Senate through Senate Bill No. 1353^[11] submitted by its Committees on Health and Demography, Justice and Human Rights, and Ways and Means. Similar to its lower house counterpart, Senate Bill No. 1353 aims to increase the penalties for violation of the law; define "basic emergency care"; and include PhilHealth reimbursement of basic emergency care incurred by the hospital or medical clinic. However, peculiar to the Senate version is the presumption of liability imposed against the hospital, medical clinic, and the involved official, medical practitioner, or employee in the event of death, permanent disability, serious impairment of the health condition of the patient, or injury to or loss of the unborn child proceeding from the denial of admission to the health facility pursuant to a policy or practice of demanding deposits or advance payments for confinement or treatment.

A consolidation of Senate Bill No. 1353 and House Bill No. 5159 gave birth to R.A. No. 10932 which was signed into law on August 3, 2017.

Thus, as it presently stands, R.A. No. 10932 makes it unlawful to request, solicit, demand or accept deposit or advance payment as a prerequisite not only for confinement or medical treatment but also for administering basic emergency care.^[12] It expands the scope of "basic emergency care" to include medical procedures and treatment administered to a woman in active labor.^[13]

In case a transfer to another hospital is deemed appropriate, R.A. No. 10932 further mandates the local government unit where the hospital or medical clinic is located to allow free use of its emergency medical vehicle. Moreover, all hospitals are required to post a notice indicating its classification level and the list of medical services it is authorized to perform.^[14]

R.A. No. 10932 also introduces the creation of a Health Facilities Oversight Board (Board) where complaints against health facilities for violations of the law shall be initially filed. The Board is given the power to investigate, adjudicate and impose administrative sanctions including the revocation of the health facility's license.^[15]

Further to the matter of penalties, R.A. No. 10932 imposes upon an erring official, medical practitioner or employee of the hospital or medical clinic the penalty of imprisonment of not less than six (6) months and one (1) day but not more than two (2) years and four (4) months, or a fine of not less than P100,000.00, but not more than P300,000.00, or both at the court's discretion. However, when the violation was made pursuant to an established hospital policy or upon instructions of its management, the penalties are increased as against the director or officer formulating and implementing such policy to four (4) years to six (6) years, or a fine of not less than P500,000.00, but not more than P1,000,000.00, or both, without prejudice to an award for damages.^[16]

In addition, R.A. No. 10932 introduces the three-strike rule, or when upon 3 repeated violations committed pursuant to an established policy or upon instruction of the management, the health facility's license to operate shall be revoked by the Department of Health (DOH). The law also makes the president, chairman, board of directors, or trustees and other officers of the health facility solidarily liable for damages.^[17]

Apart from the foregoing, R.A. No. 10932 presumes liability against the hospital, medical clinic, and the official, medical practitioner, or employee involved, in the event of death, permanent disability, serious impairment or permanent injury to or loss of an unborn child, proceeding from the denial of admission to a health facility pursuant to a policy of requiring deposits or advance payments for confinement or treatment.^[18]

R.A. No. 10932 also mandates that the PhilHealth reimburse the cost of the basic emergency care and transportation services rendered by the hospital or medical clinic to poor and indigent patients and that the PCSO provide medical assistance for the basic emergency care needs of the poor and marginalized groups. Expenses incurred in giving basic emergency care to poor and indigent patients not reimbursed by PhilHealth are allowed to be treated as tax deductions.^[19]

Meanwhile, pending resolution of the instant petition or on April 4, 2018, the DOH issued Administrative Order No. 2018-0012 implementing R.A. No. 10932.

The Arguments for the Petitioner

Petitioner claims *locus standi* to file the present Petition for *Certiorari* and Prohibition as it stands to be directly injured by the implementation of R.A. No. 10932 insofar as the law regulates the conduct of its members and places the latter's management and staff at the risk of administrative, civil, and criminal sanctions.^[20] At any event, petitioner claims that the issues herein presented specifically on the denial of due process and to equal protection of laws are of transcendental importance that should allow the present petition to prosper despite the absence of direct injury.^[21]

Petitioner further claims that the issues raised in the instant petition are ripe for adjudication given the imminent threat of the imposition of the unconstitutional duties and the corresponding unconstitutional sanctions under R.A. No. 10932 against petitioner's members with the impending approval of the rules implementing

R.A. No. 10932.^[22] Petitioner also argues that an allegation that R.A. No. 10932 infringes upon the constitutional rights to due process, equal protection of laws and the presumption of innocence, is sufficient to invoke the Court's power of review.^[23]

Claiming exception to the doctrine of hierarchy of courts, petitioner also advances the view that direct resort to the Court is justified given the genuine issues of constitutionality posed by the present petition.^[24]

Going into the merits of the petition, petitioner seeks to strike down as unconstitutional R.A. No. 10932 for being unduly oppressive and thus violative of substantive due process. Elaborating, petitioner argues that Section 1 of BP 702 as amended by R.A. No. 8344 and R.A. No. 10932 *imposes* upon the proprietor, president, director, manager or any other officer, medical practitioner or employee of a health care institution the duty to administer basic emergency care or medical treatment and support as dictated by good practice of medicine to *prevent* death, or permanent disability, or in the case of a pregnant woman, permanent injury or loss of her unborn child, or non-institutional delivery in emergency or serious cases.^[25]

Petitioner argues that "basic emergency care" and "emergency treatment and support" as defined under R.A. No. 10932 imposes upon the physician, the hospital, its management and staff the *untenable* duties to *actually prevent* death, permanent disability, permanent injury to or loss of an unborn baby or its non-institutional delivery and to *sufficiently address* an emergency situation and in case of a woman in active labor, to *ensure* the safe delivery of the baby.^[26] Echoing *Lucas, et al. v. Dr. Tuaño*,^[27] petitioner emphasizes that a physician is not an insurer of the good result of treatment.^[28] Petitioner thus argues that the duty imposed by R.A. No. 10932, being predicated on the achievement of an end that is impossible to guarantee, amounts to a denial of due process.^[29]

Further, petitioner aims to strike down the fines imposed under Section 4 for being unjust, excessive, and oppressive as they are not commensurate to the act or omission that is being penalized.^[30] Petitioner also questions the solidary liability for damages under Section 4 insofar as it generally makes "other officers" of the health facility solidarily liable with the president, chairman, members of the board of directors or trustees.^[31]

The presumption of liability spelled under Section 5 of R.A. No. 10932 is also being assailed for being repugnant to the constitutional presumption of innocence. It is the contention of petitioner that the presumption of liability clause allows for a presumption of generalized liability, i.e., administrative, civil and criminal, upon the occurrence of death, permanent disability and serious impairment of the health condition of the patient or her unborn child after the denial of the patient's admission due to a hospital policy of demanding deposits or advance payments.^[32]

Also, petitioner emphasizes that the presumption of liability clause necessarily presumes that there is, at all times, a causal connection between the injury and the acts or omissions complained of.^[33] Expounding on this argument, petitioner argues that the offense defined under R.A. No. 10932 involves medical malpractice. As such, the causation between the injury and the medical action are determinable only