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IMPLEMENTING RULES AND REGULATION OF REPUBLIC ACT 10932 “AN ACT STRENGTHENING THE ANTI-HOSPITAL DEPOSIT LAW BY INCREASING THE PENALTIES FOR THE REFUSAL OF HOSPITALS AND MEDICAL ...

ADMINISTRATIVE ORDER NO. 2018-0012, April 06, 2018

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Adopted: 04 April 2018
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Pursuant to the provisions of R.A. 10932 under Section 9, the Department of Health (DOH), in coordination with PhilHealth and the Bureau of Internal Revenue (BIR), and in consultation with Non-Government Offices (NGOs) advocating for patients’ rights and public health, is mandated to promulgate the necessary rules and regulations to carry out the provisions of the aforementioned law to promulgate the necessary rules and regulations of the said Act, the following are hereby issued:

1. Section 1 of the said Act provides: “ In emergency or serious cases, it shall be unlawful for any proprietor, president, director, manager or any other officer, and/or medical practitioner or employee 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 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: Provided, That by reason of inadequacy of the medical capabilities of the hospital or medical clinic, the attending physician may transfer the patient to a facility where the appropriate care can be given, after the patient or his next of kin consents to said transfer and after the receiving hospital or medical clinic agrees to the transfer:

Provided, however, That when the patient is unconscious, incapable of giving consent and/or unaccompanied, the physician can transfer the patient even without his consent: Provided, further, That such transfer shall be done only after necessary emergency treatment and support have been administered to stabilize the patient and after it has been established that such transfer entails less risks than the patient’s continued confinement: Provided, furthermore, That no hospital or clinic, after being informed of the medical indications for such transfer, shall refuse to receive the patient nor demand from the patient or his next of kin any deposit or advance payment:

Provided, finally, That strict compliance with the foregoing procedure on transfer shall not be construed as a refusal made punishable by this Act.”

2. Section 2 – Definition of terms, for the purpose of implementing the above, the following definitions are provided:
2.1 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, or in the case of a pregnant woman, permanent injury or loss of her unborn child, or would result in a non-institutional delivery.

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2.2 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, or in the case of a pregnant woman, permanent injury or loss of her unborn child.

2.3 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.

2.4 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. The hospital shall be duly licensed by the Health Facilities and Services Regulatory Bureau (HFSRB) of the DOH.

2.5 Medical Clinic – a place in which patients can avail of medical consultation or treatment on an outpatient basis such as but not limited to non-institution based Ambulatory Surgical Clinic (ASC) and non- institution based Hemodialysis Clinics (HDC).

2.6 Permanent Total Disability and Permanent Partial Disability – a condition of physical disability as respectively defined under Article 198-C and Article l99-B and C of Presidential Decree No. 442 of 1974, as amended and renumbered, otherwise known as the Labor Code of the Philippines. (Annex A*)

2.7 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.

2.8 Basic Emergency Care – the response to a situation where there is urgently required medical care and attention, and shall include procedures required for initial diagnosis, use of equipment and supplies in sufficiently addressing the emergency situation, considering the welfare of the patient. It also includes the necessary medical procedures and treatment administered to a woman in active labor to ensure the safe delivery of the newborn.

2.9 Non-institutional delivery – the delivery of a newborn while in transit, outside of a health facility, after an initial consultation was done with a health facility.

2.10 Poor or indigent[1] – refers to those income falls below the poverty threshold and who cannot afford in a sustained manner to provide for their food and non-food needs, and/or officially identified by Department of Social and Welfare Development (DSWD) through National Household Targeting System for Poverty Reduction (NHTS- PR)

2.11 Unidentified Poor/Indigent – those belonging to the poor or indigent sector, as defined in R.A. 10932 but were not included in the NHTS- PR master list of DSWD.

2.12 Marginalized[2] – refers to those groups in society who, for reasons of poverty, geographical inaccessibility, culture, language, religion, age, gender, migrant status or other disadvantage, have not benefitted from health, education, employment and other opportunities, and who are relegated to the side lines of political persuasion, social negotiation and economic bargaining.

3. Transfer of Patients – Section 3 of R.A. 10932 provides: “After the hospital or medical clinic mentioned above shall have administered medical treatment and support, it may cause the transfer of the patient to an appropriate hospital consistent with the needs of the patient, especially in the case of poor or indigent patients”.

3.1 Patients should be transferred to the nearest next higher level facility.

3.2 The transfer of patients contemplated under this R.A. 10932 shall at all times be properly coordinated and

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documented, which may include electronic communications or otherwise allowed under RA. 8792, otherwise known as the “Electronic Commerce Act of 2000”.

3.3 The hospital or medical clinic must provide a staff nurse based from the licensing guidelines of DOH on ambulance service provider with advanced cardiovascular life support (ACLS) certification as recognized by DOH or its equivalent to accompany the patient in the emergency vehicle.

3.4 When the patient is no longer under the state of emergency, the hospital should inform the patient that he/she must abide by the internal policies of the hospital.

3.5 The local government unit (LGU) where the hospital or medical clinic is located shall allow the free use of its emergency vehicles to transport the patient if there is no available ambulance in the hospital or medical clinic.

3.5.1 The LGU shall formulate and implement a system wherein it can provide emergency vehicle without delay during emergency and serious cases, if there is no available ambulance in the said hospital or medical clinic.

3.5.2 The LGU shall set up a “hotline” or a “call center” for receiving requests for ambulance 24/7; and

3.5.3 The LGU shall enter into a Memorandum of Agreement or Undertaking with the specific hospital on the free use of its emergency vehicles.

3.6 All hospitals shall use a Uniform Discharge/Transfer Slip for cases covered by R.A. 10932 which shall include, but not necessarily be limited to, the following information:

(Annex B*)

3.6.1 Vital signs;

3.6.2 Name of Attending Physician;

3.6.3 Treatment given to patient;

3.6.4 Name of receiving hospital;

3.6.5 Name of contact person and approving official at receiving hospital; and

3.6.6 Consent of the patient or companion. Provided, that in case of an unaccompanied minor or patient who is unconscious or otherwise incompetent to give consent, they may be transferred without consent as long as the provisions of Section 1 of R.A. 10932 are strictly observed;

Provided further, that the hospital shall endeavor to use all forms of communication to contact the next of kin of the unaccompanied minor or patient who is unconscious or otherwise incompetent to give consent.

3.7 In case of refusal of transfer, the name of the hospital, the name(s) of person(s) who refused and the reason(s) for the refusal shall be indicated in the patient’s chart."

3.8 A copy of license to operate (LTO) of a hospital issued by the DOH and a signage with the complete list of medical services including its classification or level shall be posted in a conspicuous area at the entrance of hospitals and medical clinics.

4. Penal Provisions – any official, medical practitioner or employee of the hospital or medical clinic who violates the provisions of R.A. 10932 shall, upon conviction by final judgment, be punished by 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 One hundred thousand pesos (P100,000.00), but not more than Three hundred thousand pesos (P300,000.00) or

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both, at the discretion of the court. Provided, however, That if such violation was committed pursuant to an established policy of the hospital or clinic or upon instruction of its management, the director or officer of such hospital or clinic responsible for the formulation and implementation of such policy shall, upon conviction by final judgment, suffer imprisonment of four (4) to six (6) years, or a fine of not less than Five hundred thousand pesos (P500,000.00), but not more than One million pesos (P1,000,000.00) or both, at the discretion of the court, without prejudice to damages that may be awarded to the patient-complainant: The established policy referred to in this section shall be in the form of writing such as Circular, Notice, Memorandum, Resolution, Directives, and similar acts. Provided, further, That upon three (3) repeated Violations committed pursuant to an established policy of the hospital or clinic or upon the instruction of its management, the health facility's license to operate shall be revoked by the DOH. The president, chairman, board of directors, or trustees, and other officers of the health facility shall be solidarily liable for damages that may be awarded by the court to the patient-complainant.

5. A presumption of liability shall arise against the hospital, medical clinic, and the official, medical practitioner, or employee involve in the denial of a patient's admission to a health facility when the following requisites are present:

5.1 Requisites
5.1.1 The denial of the patient's admission was pursuant to a policy or practice of demanding deposits or advance payments for confinement or treatment; and

5.1.2 The denial of the patient's admission was the proximate cause of any of the following:

5.1.2.1 Death or permanent disability of the patient- complainant;

5.1.2.2 Serious impairment of the health condition of the patient-complainant; OR

5.1.2.3 In the case the patient-complainant is a pregnant woman, permanent injury or loss of her unborn child.

5.2 Providing evidence to contest

The presumption can be overcome by the presentation of evidence that one of the requisites is not present

6. All complaints for violations of this R.A. 10932 against health facilities shall be filed initially with the Health Facilities Oversight Board under the HFSRB of the DOH.

6.1 The Board shall be appointed by the Secretary of Health and shall be composed of:
6.1.1 A DOH representative with a minimum rank of Director to serve as Chair;

6.1.2 A representative from the Philippine Health Insurance Corporation (PhilHealth);

6.1.3 A representative from the Philippine Medical Association (PMA);

6.1.4 A representative from private health institutions; and

6.1.5 Three (3) representatives from non-government organizations (NGOs) advocating for patient's rights and public health, one of whom would be a licensed physician.

Members can be added as may be deemed necessary by the Board.

6.2 Functions of the Board:
6.2.1 Investigate the claim of the patient through a fact-finding investigation.
6.2.2 After adjudication, impose administrative sanctions in accordance with R.A. 10932, including the revocation of the health facility's license.
6.2.3 Facilitate the filing of the criminal case in the proper courts.
6.2.4 Develop and implement its own rules and procedures.

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6.2.5 Undertake activities as it may deem necessary to implement these rules and regulation.

7. Reimbursement of Basic Emergency Care

7.1 PhilHealth shall reimburse the cost of basic emergency care and transportation services incurred by the hospital or medical clinic for the emergency medical services given to poor and indigent patients adopting the resuscitation (emergency) and referral (transportation) package of PhilHealth
7.1.1 The PhilHealth membership is already a guarantee for treatment even without deposit

7.1.2 The classification of patients as to financial status for enrolment under Point of Service shall be certified by a duly licensed medical social worker of a government institution trained in DOH means tests. Whenever the patient has been provided care in a private institution, the patient shall be enrolled through the PhilHealth in the Point of Service Program in coordination with a government facility. Details for which shall be stipulated in the policy that will be issued by PhilHealth.

7.2 The Philippine Charity Sweepstakes Office (PCSO) shall provide medical assistance for the basic emergency care needs of the poor and marginalized groups. All patients managed for emergency cases and continuously admitted in the hospital shall be eligible for assistance from PCSO for the emergency care expenses following its guidelines of Endowment Fund Program and Individual Medical Assistance Program.

8. Tax Deductions

8.1 Basic emergency care to poor and indigent patients provided by the hospital or medical clinic not reimbursed by PhilHealth and PCSO shall be deductible from gross sales/receipts. The documentary requirements and details of mechanics on availment of the deduction shall be covered by a Revenue Regulation to be issued by the Bureau of Internal Revenue.

9. In order to demonstrate compliance with the provisions of R.A. No. 10932, all hospitals and medical clinics are instructed to institute the following measures:

9.1 Display a copy of the law and its implementing rules and regulations prominently in all hospital emergency rooms, hospital admission counters and medical clinic premises;

9.2 Have their hospital and clinic managers instruct their personnel to provide prompt and immediate medical attention to emergency and serious cases without any prior requirements for payment or deposit;

10. This administrative order covers only the provision of medical and surgical goods and services, and does not cover the provision of non-medical amenities which have nothing to do with the treatment of the emergency or serious case. The provisions of and payment for these non-medical amenities shall be subject to appropriate institutional business practice.

11. Alleged violations of the Act and this Order may be reported to the Health Facilities Oversight Board of HFSRB, Department of Health, Sta. Cruz, Manila, which shall immediately conduct a fact-finding investigation. Persons convicted of violation shall be punished in accordance with the provisions of R.A. No. 10932.

12. Administrative proceedings may also be pursued against erring clinics or hospitals that could lead to either suspension or revocation of appropriate licenses by DOH HFSRB.

13. Separability Clause

Should any of the provisions herein be declared invalid or unconstitutional by an appropriate authority or court of law, the same shall not affect the validity of other provisions unless otherwise specified.

14. Repealing Clause

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These rules and regulations shall repeal and supersede all administrative orders and previous issuances inconsistent thereof.

15. Effectivity

These Rules and Regulations shall take effect after fifteen (15) days, following the completion of its publication in the Official Gazette or in a newspaper of general circulation

Adopted: November 17, 2017

(SGD) FRANCISCO T. DUQUE III, MD, MSc
Secretary of Health

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[1] RA 8425 “An Act Institutionalizing the Social Reform and Poverty Alleviation Program, Creating for the Purpose The National Anti-Poverty Commission, Defining its Powers and Functions, and For Other Purposes.” December 11, 1997
[2] Social Development Committee Resolution No. 3 Series of 2012

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