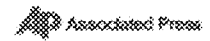


Fla. hospital defends secretly deporting patient



By LAURA WIDES-MUNOZ, AP Hispanic Affairs Writer
Thu Jul 23, 3:23 am ET

STUART, Fla. — All sides agree on one thing in the strange case of a South Florida hospital that secretly repatriated a seriously brain injured patient back to Guatemala.

During the early hours of a steamy July 2003 morning, Martin Memorial Medical Center chartered a private plane and sent 37-year-old Luis Jimenez back to the Central American country without telling his relatives in the U.S. or Guatemala — even as his legal guardian frantically sought to stop the move.

There, things get murky. The man's guardian, also his cousin, is suing the hospital for essentially deporting Jimenez, who was an illegal immigrant. The hospital, which spent more than \$1.5 million on his care over three years, says Jimenez wanted to go home.

Underlying the dispute is the broader question of what's a hospital to do with a patient who requires long-term care, is unable to pay and doesn't qualify for federal or state aid because of his immigration status. Health care and immigration experts across the country are watching the case, which could go to a jury Thursday, and which could set precedent in Florida and possibly beyond. Lawyers for Jimenez said this appears to be the first time a lawsuit has been filed in such a case.

"Regardless of the decision, it will heighten the awareness of hospitals nationwide. The next time they debate shipping a patient overseas, they're going to have to do their homework because it's going to leave them open to a lot of legal challenges and questions," said Steve Larson, an assistant dean at the University of Pennsylvania's School of Medicine and medical director of a nonprofit clinic for Latino immigrants.

But Linda Quick, president of the South Florida Hospital & Healthcare Association, says hospitals may become even more wary about providing extended care to uninsured immigrants.

Hospitals are already struggling under the staggering costs of treating the nation's roughly 47 million uninsured. Illegal immigrants make up an estimated 15 percent of this group, according to the Pew Hispanic Center.

"I think they'll do what's required according to physician orders," she said, "but I think they will be more pro-active and aggressive in finding a discharge plan."

Like millions of others, Jimenez came the U.S to work as a day laborer, sending money home to his wife and small children. In 2000, a drunk driver crashed into the van he was riding in, leaving the robust soccer player a paraplegic. For more than a year he lingered in a vegetative state before he began to recuperate, eventually reaching a fourth grade level in cognitive ability. The hospital sent him to a long-term care facility for a brief stint, but eventually he was returned to the hospital for care. Armed with

a letter from the Guatemalan minister of health stating the poverty-ridden country could care for him, the hospital sent him home.

Because Jimenez has diminished capacity to make decisions, his cousin, Montejo Gaspar, was named as his legal guardian. Gaspar appealed a judge's order approving the move. The appellate court later reversed that order, ruling a state court lacks the authority to decide immigration cases. But by then, Jimenez had been released from the Guatemalan hospital and was living with his mother in a one-room home in the mountainous state of Huehuetenango, 12 hours from the Guatemalan capital. There is no road to the house, making it nearly impossible for his mother to get help for him in an emergency.

A South Florida Roman Catholic priest described a visit to Jimenez in an e-mail to The Associated Press: "He was clean, glad of the visit and occasionally made apparently good sense comments," wrote the Rev. Frank O'Laughlin. "It seemed that he was cooperating with his caregiver and would survive, I guessed, until his first pneumonia."

O'Laughlin said he wasn't sure that Jimenez should be returned to "medical care in an alien Florida institution."

But he maintains the lawsuit is important because hospitals should not be allowed to deport people.

He and Larson also say a country that relies on cheap, immigrant labor for everything from agriculture, to clothing to construction, should factor in the cost of catastrophic injuries to those providing these essential services — whether it means requiring employers to offer coverage even for day laborers or ensuring public and nonprofit hospitals can care for them.

Carla Luggiero, a senior associate director for American Hospital Association, stressed that cases such as Jimenez's are rare. Most of the time, hospitals are able to work with the families to find alternative and acceptable care. And most of the time families don't have pro bono lawyers working for them as Jimenez does.

But she also warned the issue is serious, and it is one Congress has yet to address in its health care reform proposals.

"There is absolutely no discussion about it," Luggiero said. And yet, hospitals that receive Medicare reimbursements are required to provide emergency care to all patients and must provide an acceptable discharge plan once the patient is stabilized.

"It's a complicated, huge issue. Without repatriation, the issue of undocumented immigrants is already a hand grenade and so is health care," Larson said. "So together, you're really walking a tightrope."