

The Criminality and Wrongful Nature of Any Policy or Norm for Holding Human Beings as Chattel

Published on: 2nd September, 2024 | Edited on: 28th September, 2024.

Author: Sameer A. Khan | Copyright: All rights reserved.

The corporate policy of not discharging the patient from a hospital's or clinic's premises, until and after the complete payment for the healthcare provider's goods and services have been made by the patient, or by the patient's next-of-kin, is faulty. This is because such a systematic corporate policy directly leads to a situation wherein the patient (or a dead body or biological sample) is opportunistically held captive under confinement, by the healthcare provider's coordinated management and staff within the organization's building, as a chattel or as a piece of collateral item, in order to exercise leverage over the patients' next-of-kin for extracting payments for various healthcare goods and services. Those healthcare goods and services in turn, may or may not have been administered correctly or priced fairly, by the healthcare provider.

As such, the only fair practice in the healthcare industry is to firstly discharge the care-recipient or the body from the premises of the healthcare provider, without any hassles or hurdles, and without having charged manifestly large sums of money as "advance cash payments", and to then have the charged healthcare fees and bills clear via an invoicing mechanism, so that:

- (a) if the payment needing to be made by the Consumer eventually becomes "unrecoverable" for the healthcare provider, upon the elapse of the time-period stipulated within the terms and conditions of the invoice, for rendered goods and services, then the healthcare provider can file a claim with its business insurance provider and also have a collections agency legally pursue the debt owed by the particular Consumer;
- (b) if the payment or the modality of the payment, needing to be fulfilled by the Consumer, in consideration of goods or services already received, is disputed, then the Consumer can avail the Civil Right and opportunity to seek legal remedies for resolution of the dispute without any hurt, injury, or damages being suffered by the Consumer, due to the patient or a dead body or any biological samples being held for leverage, or as ransom, by the healthcare provider.

Additionally, a "Provisional Bill" or a "Final Bill" given by a vendor to a Consumer is merely a memo and not a contract, because it typically does not have any terms and conditions of a binding contract. However, an "Invoice", especially a "Commercial Invoice", is a contract between the Consumer and the vendor because it has terms and conditions that explicitly define, by when and how, the Consumer is to fulfill the stipulated payments to the vendor, in consideration for the "fairly charged" goods or services rendered by the vendor, as per the Consumer's and the vendor's expected quality of the business transaction. The terms and conditions conveyed through an invoicing mechanism establish the rights, responsibilities, and liabilities belonging to each of the stakeholders that are a party to the business transaction including third-party suppliers and regulators. As such, vendors or suppliers of commercial goods and services can circumvent legal ramifications of statutes concerning their promissory and contractual obligations, to a Customer or a Consumer, by avoiding an invoicing mechanism in their commercial operations, while taking undue advantages of naive Consumers.

Especially in the healthcare and pharmaceutical industry, where the life and limb of a patient or care-recipient are at stake, the fair practice of furnishing a proper invoice to a Consumer would rightly respect the patient's safety and wellness *as a priority*, while giving the patient and the next-of-kin or the guardian, the rightful opportunity to have a fair remedy to any disputed or unfairly charged items, when required. A proper invoicing mechanism would simultaneously preserve the corporate rights, responsibilities, and indemnities of the provider of healthcare goods and services. In this way, the healthcare products and services sold by a vendor in earnest and in good-faith to Consumers through an invoice, would allow the hospital or healthcare provider to receive a fair sales price and revenue, from properly serviced and satisfied Consumers, whereby those Consumers would honour the terms and conditions of the invoicing mechanism, also, in earnest and in good-faith.

If the intentional and deliberate activity of holding a student or a child, as a piece of collateral property, were practiced by a school or a college in the education industry, for coercing the parents to pay suddenly surcharged tuition fees to secure the release of their child, then the punishable and criminal nature of that type of kidnapping, would most probably be more obvious to law enforcement agencies. However, somehow, the predatory and organized activity of holding patients or dead bodies as collateral for suddenly increased post-paid services, to force the next-of-kin or the guardian, to pay surcharged amounts for securing the release of their family member or the family member's body, from a healthcare provider, has been flying under the radar of the police and the [National Accreditation Board for Hospitals & Healthcare Providers \(NABH\)](#).

It is evident that a corporation's systemic policy of holding a patient as leverage, by using the hospital's enterprise resources to potentially or actually force the patient into confinement, for debt collection, is entirely preemptively in bad-faith, against all Consumers from the public at large. It is plainly clear that these types of crimes entailed within existing trade practices of certain healthcare providers in India's medical and pharmaceuticals industry, directly constitute violations of medical ethos, and of industry-wide managerial best practices. Such punishable offenses occurring due to deliberate trade practices of those culpable healthcare providers are a form of professional malpractice, that violates and abuses the Basic Human Rights, Fundamental Rights, Consumer Rights, as well as the Civil Rights belonging to people from the general public. Worst of all, a systemic policy of treating human beings as chattel for debt collection, directly constitutes the statutory crime of "Avaiddh Vasooli" (अवैध वसूली), i.e. unlawful money collection via the organized crime of extortion, by using duress, coercion, threats, and the blackmail of keeping the vulnerable patient confined till the demanded payments are made by forcefully subdued Consumers.

Therefore, hospitals or healthcare providers, that exploit and cunningly take undue advantage of innocent and vulnerable Consumers from national as well as international regions of the world, via blackmail and unlawful confinement of the patient or a dead body, are insidious enemies of the public and of the very concept of innocence.

The applicable statutes in such cases of punishable offenses may include, and are not limited to:

1. Bharatiya Nyaya Sanhita (BNS) 2023, Sections:

- "61. Criminal conspiracy."
- "111. Organised crime."
- Particularly, via the implementation and application of "enterprise resources and policies" as a multiplicative factor to the force used in wrongfully confining, or abducting a person:
 - "115. Voluntarily causing hurt."

- "116. Grievous hurt."
- "125. Act endangering life or personal safety of others."
- "135. Assault or criminal force in attempt to wrongfully confine a person."
- "137. Kidnapping" (of a person from lawful guardianship).
- "138. Abduction."
- "140. Kidnapping or abducting in order to murder, or for ransom, etc."
- "142. Wrongfully concealing or keeping in confinement, kidnapped or abducted person."
- "308. Extortion."
- "316. Criminal breach of trust."
- "318. Cheating."
- "351. Criminal intimidation" (eg. threats via blackmail).
- "357. Breach of contract to attend on and supply, wants of helpless person."

2. Prevention of Corruption Act 2018.

3. Indian Contracts Act 1872.

4. Consumer Rights Protection Act 2019.

* * * * *