Caveat Emptor does not cut it: The Regulatory and Philosophical Nightmare of Medical Tourism

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INTRODUCTION

We live in the era of Facebook, Fitbit, and Skype. As such, it would be unreasonable to expect that the healthcare industry would not see the same kind of globalization as do our social spheres and consumer activities. Indeed, the explosion of information technology, the ease of transcontinental travel, and the emergence of a more globally aware citizenry allows for scientific collaboration that has had many positive effects on global health. However, the economic and structural disparities between systems of healthcare delivery in the industrialized world and parts of the developing world have created a monster in the form of an international medical tourism industry that endangers the health and safety of citizens of the host country as well as visiting patients.

Not only does the practice of medical tourism pose a practical danger to those in direct contact with the industry, but it brings up troubling philosophical problems centering on national responsibility and the commodification of healthcare, among other important issues. In the United States, the driving force behind international medical tourism is the exorbitant cost of healthcare, particularly for the uninsured but also for the underinsured and those who experience catastrophic medical expenses from chronic illness or sudden health crises. Not only have individuals begun to look outside the U.S. for surgical procedures and other expensive therapies, but employers have begun to toy with the idea of outsourcing the medical care of the employees they insure in order to cut costs.

ANALYSIS

In other industrialized nations, the issues that underpin international medical tourism are related to healthcare rationing and reflect different shortcomings in the delivery of healthcare in those nations, such as the United Kingdom and Canada, that have single-payer systems. Yet the regulatory and philosophical implications for both patients and hosts of international healthcare are largely the same.

The challenge of regulating international trade in medical care is obvious and becomes particularly acute when there are insurers and employers involved. Complicating matters further, medical care that takes place outside the country of origin of the patient is often brokered by "medical concierge services," which, though quick to claim indemnity from any harm arising from substandard or inappropriate medical care, cannot be divorced from responsibility for the health outcomes of their clients. Agreements hashed out between concierge services and patients specify that any remedy for harm stemming from their medical care must be pursued within the confines of the law of the host country, but the practical implications of this are troublesome. How can a foreign patient—often without either linguistic or cultural competency in the host country—be expected to navigate the complexity of a foreign legal system, particularly one that may be far less developed than (or at least largely incongruent with the values of) his home country?

Furthermore, if insurance companies and employers are involved with such care, who pays for an adverse result or determines responsibility for harm that may befall the patient? Under which countries' laws? If a patient travel to

Singapore for sexual reassignment surgery or a cardiac valve repair, returns to the States and suffers complications, who pays for the restoration of her health?

Beyond legal standards and judicial remedies for harm to patients seeking care on the international market, there is the question of what ethical standards and norms apply to such patients. What effect does it have on American patients, for example, to receive care within a system that does not emphasize autonomy and informed consent the way they are used to? Why should foreign physicians care about the cultural mores of their patients' country of origin? Can they (or should they) be expected to grasp cultural differences between American, Canadian, and British patients?

The medical concierge might respond, "Well, buyer beware!" This is unreasonable: It is nearly impossible for any patient to accurately assess the various options, risks and benefits that go with a particular medical treatment, much less the patient who is attempting to do so on the international market. And the crass invocation of the doctrine of caveat emptor betrays a view of healthcare as a commodity that is naive and inappropriate.

Paramount in my mind, however, are the practical implications for the care of the citizens of developing nations that host international patients and the broader philosophical issue of what the goals of the medical profession as a whole and each country's individual healthcare system should be. While I understand the argument that international medical tourism creates great economic gains for developing nations, which can then be channeled toward the care of their citizenry as a whole, there is much reason to doubt that this "trickle-down" model of economics provides real benefits for underserved, whether in healthcare or other arenas. What is more likely is that, while lucrative international "medi-cities" may keep bright doctors in their home countries, it is also likely to lure them away from the institutions that serve the lion's share of their countrymen. With the concentration of talented native doctors in private hospitals that serve citizens of the developed world, the population at large is left to obtain care at institutions that suffer "brain drain" from the flight of talented local staff to more prestigious, often "brand name," institutions that give them more Western-like salaries while allowing them to practice in their countries of origin.

CONCLUSION

The very fact that citizens of the wealthiest nations in the world are forced to go abroad for life-saving care speaks to an abdication of national responsibility on the part of their home countries. The provision of health care is one of the principal responsibilities of any nation and it is unacceptable that a nation with the strength and wealth of the United States would take advantage of the weaker political and economic situations of developing nations in order to shirk its responsibility to its fellow citizens. If we take care of our countrymen and take pride in an equitable system of healthcare delivery, there will be no need to shrug our shoulders and say "Buyer beware" to the patient who heads to the Philippines for heart surgery.