Doctor charged in patient's death during surgery at a home clinic

By Hector Becerra, Los Angeles Times
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Osvaldo Hernandez stepped into what looked like a humble, stucco-slathered home in Inglewood.

He walked into a former bedroom and sat on the edge of a sectional table. Sheets covered the windows. Boxes and cabinets of medical supplies were arrayed along the walls.

Hernandez undressed. He stretched out on the table and was hooked up to a monitor. The doctor inserted an IV line into a vein in the crook of his left elbow and began giving him Lidocaine, a powerful local anesthetic.

More than six hours later, the 30-year-old dishwasher, an illegal immigrant who arrived with a pain in his belly and about $3,000 in his wallet, was carried out to a coroner's van.

Last month, nearly two years after Hernandez's death in 2008, Los Angeles prosecutors filed involuntary manslaughter charges against Dr. Roberto Bonilla, 61, the surgeon Hernandez had sought out for gallbladder surgery.

Bonilla has treated patients in the South Los Angeles area for three decades, much of that time performing operations in his clinic in a former home on Arbor Vitae Street. Before Hernandez's death, he had no disciplinary actions on his record.

Soft-spoken and thin, with a gray mane of hair, Bonilla defends his unorthodox medical practice as necessary to provide care to patients who could not otherwise afford it.

He grew up in South Los Angeles and said he takes pride in helping the poor. Inside the clinic hangs a painting of the Virgin of Guadalupe that he said he accepted from a woman who could not afford to pay him otherwise.

"This is not something you get wealthy doing. You have to work pretty long hours," he said. "These are low-income people on fixed incomes. There's like a 20% unemployment rate in these neighborhoods. They need help."

Health officials agree that the case illustrates the lengths to which the poor and uninsured will sometimes go to save money on medical care. Moreover, Hernandez's case appears to underscore
a loophole in state laws regulating where major surgeries can be performed.

A 1996 law effectively prohibits surgeries outside of hospitals or accredited surgical centers when general anesthesia is required. Bonilla used a local anesthetic on Hernandez and other patients, putting his actions in a gray area of the law.

Officials have long been concerned about low-cost surgeries performed outside of hospitals, particularly in low-income communities, but there are no statistics about problems during such operations.

Bonilla had three medical assistants with him but no anesthesiologist or nurse anesthetist. The clinic is just around the corner from Centinela Hospital Medical Center, and while Bonilla tried to revive the patient for three hours, he never called 911. But he did call a funeral home to pick up the body.

The manslaughter charges are based on "the totality of things. This was not an appropriate setting for major surgery," said John Lonergan, the prosecutor on the case from the L.A. County district attorney's office. "When the patient went into cardiac arrest, he should have immediately gotten a higher level of care. A hospital was just a short distance away."

Bonilla's attorney, Mike Khouri, said the doctor did not kill Hernandez and, instead, did all he could to save him. Khouri said the case involves overzealous investigators and an overreaction in the wake of high-profile celebrity deaths that involved allegations of doctor-aided overdoses.

"This matter began to careen out of control when the family got a lawyer to sue for wrongful death," Khouri said. "This individual was undocumented, and I believe his family was undocumented, and I believe they are taking advantage of the American legal system to put money in their pockets."

Family members said Hernandez simply wanted to pay for treatment he could afford.

His mother, Juana Escobar, 59, who lives in Matatlan in the state of Oaxaca, said she had urged Hernandez to return to Mexico for treatment. Hernandez had talked about going back home to marry his girlfriend and live among the agave fields that have supported his family for decades. His mother told him the family would pay for the surgery if he didn't have the money.

"He said, 'Don't worry, I have enough. I'm almost done paying the doctor,' " Escobar said. "I told him, 'Come back, you'll heal better with your family.' He said, 'No, there are better doctors here.' He had more faith in the doctors over there."

Hernandez was working at a Malibu-area restaurant when he went to Bonilla, complaining of abdominal pain. In May 2008, the doctor told him he had stones in his gallbladder and a hernia that needed to be repaired. A cousin dropped Hernandez off for the gallbladder surgery in the early afternoon of June 4.

Had Bonilla administered general anesthesia, he would have been breaking state law before he
even made an incision. Khouri said Bonilla had planned to conduct a "minimally invasive" mini-
cholecystectomy, an operation to remove the gallbladder through a small incision.

Still, it was open surgery, and Dr. Edward Phillips, chief of general surgery at Cedars-Sinai
Medical Center, said local anesthesia is ordinarily not used for such procedures unless the patient
is too feeble and ill to survive a general anesthetic. Moreover, those surgeries almost always take
place in a hospital or surgical center, with an anesthesiologist or nurse anesthetist present,
Phillips said.

Using local anesthesia for surgery elevates the risk of an overdose, Phillips said, in part because a
relatively high dose of the drug is needed to get an "anesthetic block" on layers of muscle, organs
and other tissue. And the margin of error between the highest maximum levels of Lidocaine
recommended and the amount that can become toxic is not large, he and other experts said.

But Khouri said the gallbladder removal was a type of surgery Bonilla had done more than 200
times "without incident." He insisted that Hernandez didn't receive an overdose of anesthesia but
died of an allergic reaction to Lidocaine.

Bonilla made the first incision, about 4 inches long, at 4:15 p.m., and Hernandez quickly went
into cardiac arrest, according to the autopsy report and an investigation by the Medical Board of
California. Bonilla began cardiopulmonary resuscitation and said he continued to do so for hours,
without calling 911. Khouri said Bonilla was more qualified to try to revive Hernandez than a
paramedic would have been.

"He's a doctor, a surgeon. He's been certified for advanced life support," Khouri said. "Why
would he need a fireman?"

Bonilla pronounced Hernandez dead at 7:20 p.m. After getting a call, Hernandez's relatives
arrived at the house and confronted the doctor.

"I said, 'Did you call 911 for help?' He said, 'No, there was no need because I'm a doctor, and I
tried to revive him, and I couldn't,' " said Hernandez's uncle, Ray Bautista, a U.S. citizen who has
been in this country about 30 years.

Bautista said he called 911 but was surprised when a funeral home van called by Bonilla arrived
to pick up his nephew's body. He told the funeral home worker not to take the body.

"I told the doctor, 'How could you call a mortuary?' " Bautista said. "I couldn't believe it."

Family members insisted on calling the coroner, who initially classified Hernandez's death as an accident.

But the Medical Board began proceedings against the doctor. A few months after Hernandez's
death, Bonilla and the board agreed on a suspension of his ability to perform surgery outside a
hospital or surgical center without first completing a program at UC San Diego.
Physicians had sent the board letters of support, describing Bonilla as "a kind and skillful surgeon" and a "humanitarian."

Days later, the state attorney general's office issued a formal accusation, saying Bonilla had been "grossly" negligent for, among other things, performing gallbladder surgery outside a hospital or certified surgical facility; not having an anesthesiologist present; performing the surgery under local anesthesia; administering excessive Lidocaine; "failing to provide adequate respiratory support"; and performing CPR for more than 2 1/2 hours but never calling 911.

In January, about a year and a half after the death, the coroner's office amended Hernandez's death certificate. Based in part on an examination by an independent anesthesiologist, the coroner concluded that Bonilla had overdosed Hernandez with Lidocaine; the coroner reclassified the death as a homicide.

Prosecutors say a trial could take place this fall. But almost two years after her son died, Hernandez's mother said she can't make sense of what happened.

"I ask myself, ‘Why did he go there? Why didn't he go to a hospital? And why didn't that doctor call for help?' " she said between sobs. "I can't understand. I can't, I can't."