

4th CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

9 JUL 28 P 1:19

SENATE

S.B. No. 3357

RECEIVED

Introduced by Senator Ramon Bong Revilla, Jr.

EXPLANATORY NOTE

Section 11, Article XIII of the 1987 Constitution provides that:

"Section 11. The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the under-privileged, sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers."

Through this proposed measure, a patient or his or her representatives has a non-adversarial way of seeking the redress of his or her grievances against a physician and other medical personnel, thereby avoiding unnecessary litigation. His or her complaint, which must state the act or failure complained of, the parties to whom the complaint is directed against, the conduct or duty violated, and other allegations which the complainant deems necessary to include, will go to the Grievance Board created for this purpose by the hospital, composed of hospital officials, doctors, and representatives from the local health unit, and the consumer arbitration office in the place where the hospital is located. Any decision of the Board will not deprive the patient the right to seek other remedies allowed under other existing laws. Provided, that, he or she shall not be allowed to recover twice for the same remedy.

This bill seeks to establish an effective, efficient and just grievance mechanism that will ensure the protection of a person's right to a decent, humane and adequate health care in all health institutions providing medical treatment in the Philippines, be it private or public.

Immediate passage of this bill is highly needed.


RAMON BONG REVILLA, JR.
Senator

9 JUL 28 P1:49

SENATE

S.B. No. 3357

RECEIVED BY



Introduced by Senator Ramon Bong Revilla, Jr.

**AN ACT ESTABLISHING A PATIENT GRIEVANCE MECHANISM FOR
TREATMENT-RELATED GRIEVANCES IN ALL PUBLIC AND PRIVATE HEALTH
INSTITUTIONS WITH THE SUPERVISION OF THE DEPARTMENT OF HEALTH,
AND FOR OTHER PURPOSES**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. - This Act shall be known as the "Patient Grievance Mechanism Act of 2009".

SECTION 2. Declaration of Policy. - The State values the dignity of every person and upholds full respect for human rights. It shall then maintain the policy of protecting and promoting the citizen's right to health and instilling health awareness among them. Thus, it is imperative for the State to establish an effective, efficient and just grievance mechanism that will ensure the protection of a person's right to a decent, humane and adequate health care. This Act intends to create a functional mechanism that will address the problems and complaints of medical patients in relation to their treatment.

SECTION 3. Definition of Terms. - For purposes of this Act, the following terms shall mean:

- (a) "Patients" - persons requiring medical attention from any medical practitioner.
- (b) "Medical Grievance" - a grievance or complaint specific to the provision or nonprovision of medical care or services. It can be any complaint arising from injury or death of a patient in relation to his or her diagnosis, prognosis, or treatment by a physician or any medical practitioner and/or his or her assistant due, but not limited to, the following:
 - (1) Gross incompetence or negligence in the practice of his or her profession;
 - (2) Aiding or acting as a dummy of a person unqualified or unregistered to practice medicine; and
 - (3) Violation of the doctor-patient privilege.
- (c) "Grievance Board" - the grievance mechanism instituted by the hospital which will receive, investigate, examine and resolve all medical grievances that may fall under its jurisdiction.

- (d) "Gross negligence" - pursuit of a course or conduct, which would naturally and reasonably result in injury and/or death. It is characterized by a lack of care and an intentional neglect to act in the call of duty while maintaining a conscious indifference to consequences it will have on other people. The existence of negligence in a given case is not determined by reference to the specific judgment of a person involved in a complaint, but by what would be reckless, blameworthy and negligent in a person of average intelligence and prudence.
- (e) "Health Care Provider" - all medical and health personnel involved in the diagnosis, prognosis and treatment of a patient.
- (f) "Hospital" - health institution defined as such under Republic Act No. 4226 or the Hospital Licensure Act of 1965.
- (g) "Consumer Arbitration Officer" - person appointed for the effective and efficient protection of consumer rights under Republic Act No. 7394 or the Consumer Act of the Philippines.
- (h) "Legal Representative" - the members of the patient's immediate family or his or her guardian or counsel chosen by the patient to represent him or her.

SECTION 4. Formation of a Grievance Board in all Public and Private Hospitals. - All hospitals must create a Grievance Board that will receive, investigate, adjudicate and recommend actions to arrive at a resolution of complaints related to the diagnosis, prognosis and treatment of patients who sought the services of such health institution.

The Hospital Grievance Board shall have at least seven (7) members:

- (a) One (1) grievance officer appointed and permanently designated by the hospital who shall act as the chairperson. He or she must hold a supervisory or managerial position and must not be a medical doctor.
- (b) Two (2) doctors from the hospital's pool of physicians: Provided, That they were not involved in the treatment of the patient - complainant: Provided, further, That they have the necessary expertise in the branch of medicine that is the subject matter of a given case: Provided, finally, that they are not related up to the third degree of consanguinity to any party involved in the complaint or grievance;
- (c) The local health officer or his/her duly authorized representative: Provided, That the representative is a full-time staff of the local health unit and must be a college graduate;
- (d) One (1) representative from the Philippine Medical Association (PMA) or any recognized national or nongovernmental health organization;
- (e) One (1) representative from the Department of Health (DOH) Regional Office and implementing arm in every region - Center for Health Development (CHD); and
- (f) One (1) consumer arbitration officer who has jurisdiction over the area where the hospital is located. Each hospital shall draft a list of experts for each field who are authorized to sit in the Board. The DOH shall have the duty of ensuring the establishment of the Grievance Boards and acting as their overseer.

SECTION 5. Patient Grievance Procedure. - A patient desiring to file a grievance under this Act shall submit a complaint in writing to the Hospital Grievance Board, a copy of which shall also be sent to the respective Center for Health Development (CHD). The document must be

signed and sworn to by the patient himself or herself or his or her legal representative and must be filed within thirty (30) days from the occurrence of the event on which the complaint is based. It must state the act or failure complained of, the parties to whom the complaint is directed against, the conduct or duty violated, and other allegations which the complainant deems necessary to include.

SECTION 6. Action on the Grievance. - It is the duty of the grievance officer to examine the stated allegations and determine what falls within the jurisdiction of the Grievance Board. He or she may require the parties to submit affidavits, briefs or other pertinent documents within a reasonable period and under appropriate conditions to determine the validity of the complaint.

The grievance officer shall act on the complaint within fifteen (15) days upon receipt. If the complaint is deemed not actionable, the officer shall inform the patient, or his or her legal representative, in writing, the basis of the said dismissal. Should the officer find that the complaint is actionable, he or she shall submit a report to the Board and recommend the case for mediation.

The Board shall have thirty (30) days from receipt of the grievance officer's report to resolve the complaint.

This Act shall not deprive the patient the right to seek other remedies allowed under other existing laws. Provided, that, he or she shall not be allowed to recover twice for the same remedy.

SECTION 7. Remedies to be Awarded - If the physician and his or her assistants are found guilty of any of the acts listed on the complaint, the Grievance Board, through majority vote of all members except the grievance officer who endorsed the case, may grant relief prayed for by the complainant. Remedies shall be limited to compensation for actual monetary loss and will not cover psychological damages or other explicitly nonmonetary losses. Likewise, the Board may recommend disciplinary action on the respondent under the civil service rules and regulations, in case of public hospitals, to the Professional Regulation Commission, and the concerned medical association.

SECTION 8. Rules of Procedure. - The hospital shall promulgate its rules and regulations which must clearly state the procedures and methods of filing and addressing grievances. The rules must be consistent with the provisions of this Act and shall require the approval of the DOH before implementation. The procedure must be broad enough to apply to the handling of various types of complaints and must effectively facilitate the settlement of grievances at the soonest possible time. It shall include the rules on taking appeal.

All records received from the parties and the proceedings of the Board shall be kept strictly confidential and shall not be disclosed, except upon lawful order of a competent court.

SECTION 9. Appeal. - Any party adversely affected by a decision, ruling or inaction by the Grievance Board on a patient's complaint may file an appeal before the Secretary of the DOH within thirty (30) days upon receipt of the resolution of the Grievance Board. The Secretary of Health shall act on it within thirty (30) days upon receipt of the appeal.

SECTION 10. Implementing Rules and Regulations - The DOH, in coordination with the Department of Justice, the Professional Regulation Commission, the Professional Regulation Commission - Board of Medicine, the Philippine Medical Association (PMA), the Philippine Hospital Association, the Philippine Health Insurance Corporation and concerned private agencies, nongovernmental organizations and people's organizations shall issue the implementing rules and regulations necessary to carry out the provisions of this Act within one hundred eighty (180) days after its approval.

SECTION 11. Prescriptive Period. - The time during which the case is submitted for mediation shall toll the running of the prescriptive period for the filing of a civil or criminal case under the Revised Penal Code or any administrative case under existing laws.

SECTION 12. Separability Clause. - If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SECTION 13. Repealing Clause. - All laws, presidential decrees or issuances, executive orders, letters of instruction, administrative orders or rules and regulations, which may be inconsistent with this Act shall be deemed repealed, amended or modified accordingly.

SECTION 14. Effectivity Clause. - This Act shall take effect fifteen (15) days following its publication in two (2) newspapers of general circulation.

Approved,