

THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
*First Regular Session* )

'04 JUN 30 P12:02

SENATE

RECEIVED BY: 

S. No. 2

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*Introduced by Senator Flavier*

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### EXPLANATORY NOTE

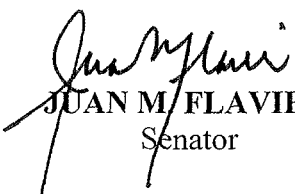
It is a declared policy of the State to ensure and protect the rights of patients to decent, humane and quality health care.

Further, the State shall adopt an integrated and comprehensive approach to health and development which shall endeavor to make essential goods, health and other social services available to the people at affordable costs. The State shall likewise endeavor to provide free medical care to pauper.

Therefore, this proposed Magna Carta of Patients Rights shall provide patients the following basic rights: right to proper and appropriate medical care and humane treatment; right to informed consent; right to privacy and confidentiality; right to information; right to choose physician/health care provider; right to self-determination; right to religious belief; right to medical records; right to leave; right to refuse participation in medical research; right to correspondence and to receive visitors; right to express grievances; right to be informed of his rights and obligations as a patient.

With rights come responsibilities. As we seek to improve our patients, we also envision to make them more responsible citizens of this country.

In view of the foregoing, immediate approval of this measure is earnestly sought.

  
JUAN M. FLAVIER  
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC }  
OF THE PHILIPPINES }  
First Regular Session }

'04 JUN 30 P12:02

S E N A T E

S. No. 3

RECEIVED BY: 

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*Introduced by Senator Flavio*

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**AN ACT DECLARING THE RIGHTS AND OBLIGATIONS OF PATIENTS AND  
ESTABLISHING A GRIEVANCE MECHANISM FOR VIOLATIONS  
THEREOF AND FOR OTHER PURPOSES**

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

**Title I: Title and Declaration of Policies**

**Section 1. Short Title.** – This Act shall be known as the “Magna Carta of Patient’s Rights and Obligations.”

**Sec. 2. Declaration of Policy.** – It shall be the policy of the State to protect and promote the right to health of the people and instill health and consciousness among them. It shall likewise be the policy of the State for Congress to give the highest priority to the enactment of measures that protect and enhance the right of all people to human dignity. Towards this end, the State shall ensure, provide and protect the rights of patients to decent, humane and quality health care.

**Title II: Definition of Terms**

**Sec. 3. Definition of Terms.** As used in this Act, the following terms are defined as follows:

- (1) **Advance Directive-** is a document with written instructions made by a person before he/she reaches the terminal phase of a terminal illness or a persistent vegetative state and incapable of making decisions about medical treatment when the question of administering the treatment arises. It includes, but is not limited to, a health care proxy or a living will. It is preferably, a duly notarized document executed by a person of legal age and of sound mind, upon consultation with a physician and family members. It

directs health care providers to refrain from providing extraordinary measures when the person executing such directive reaches the terminal phase of his terminal illness.

- (2) **Emergency** – an unforeseen combination of circumstances which is unanticipated and episodic; life-threatening; and there is disability of function which calls for *immediate medical* intervention to preserve the life and limb of a person and/or patient as may be determined by a responsible health care worker.
- (3) **Health Care** – measures taken by a health care provider or that are taken in a health care institution in order to determine a patient's state of health or to restore or maintain it.
- (4) **Health Care Institution** – a site devoted primarily to the maintenance and operation of facilities for the prevention, diagnosis, treatment, and care of individuals suffering from illness, disease, injury, or deformity if in need of medical and nursing care.
- (5) **Health Care Professional/Practitioner** – any physician, dentist, nurse, pharmacist or paramedical and other supporting health personnel, including, but not limited to, medical and dental technicians and technologists, nursing aides, therapists, nutritionists trained in health care and/or duly registered and licensed to practice in the Philippines as well as traditional and alternative health care practitioners.
- (6) **Health Maintenance Organization** – any entity licensed by the appropriate government regulatory agency which arranges for coverage designated health services needed by plan members for a fixed prepaid premium.
- (7) **Human Experimentation** – the physician's departure from standard medical practice of treatment for the purpose of obtaining new knowledge or testing a scientific hypothesis on human subjects.
- (8) **Indigent Patient** – a patient who has no visible means of income or whose income is insufficient for the subsistence of his family.

- (9) **Informed Consent** – the voluntary agreement of a person to undergo or be subjected to a procedure or other bodily intervention based on his understanding of the relevant consequences of receiving a particular treatment, as clearly, truthfully and reasonably explained by the health care provider in a manner and language understandable to the patient. Such permission must be in writing.
- (10) **Mass Media** – embraces means of communication that reach and influence large numbers of people, including print media, especially newspapers, periodicals, and popular magazines, radio, television, and movies, and involved in the gathering, transmission and distribution of news, information, messages, signals and all forms of written, oral and visual communications.
- (11) **Media Practitioner** – any person who is engaged in the practice of mass media.
- (12) **Medically Necessary** – a service or procedure which is appropriate and consistent with diagnosis and which, using accepted standards of medical practice, could not be omitted without adversely affecting the patient's condition.
- (13) **Patient** – a person who avails himself or herself of health and medical care services or is otherwise the subject of such services
- (14) **Public Health and Safety** – the state of well-being of the population in general, the protection of which may require the curtailment or suspension of certain rights of patients.
- (15) **Terminal Care** – is an array of services offered by a team of doctors, nurses, therapists, social workers, clergy and volunteers which provide active total care directed at maintaining or improving the comfort of a person suffering from terminal illness, including the management of pain and physical symptoms, and the provision of spiritual, psychological and emotional support for the person and his family in an institution, a hospital

or at the patient's home. Care does not hasten nor postpone death. It affirms life and regards dying as a normal process. Care continues so that the remaining life can be lived to the fullest until a dignified and peaceful death comes in the terminal phase of the person's illness.

- (16) **Terminal Illness** – is an illness or condition resulting in death within the foreseeable future.
- (17) **Terminal Phase** – is the stage of terminal illness when there is no real prospect of recovery or remission of symptoms on either a permanent or temporary basis.
- (18) **Traditional and Alternative Health Care** – the sum total of knowledge, skills and practices on health care, other than those embodied in biomedicine, used in the prevention, diagnosis and elimination of physical or mental disorder.
- (19) **Traditional and Alternative Health Care Practitioner/Provider** – a person who practices other forms of non-allopathic, occasionally non-indigenous or imported healing methods, such as reflexology, acupuncture, massage, acupressure, chiropractic, nutritional therapy, and other similar methods.
- (20) **Unwarranted Public Exposure** – a situation where the patient is subjected to exposure, private or public, either by photography, publication, videotaping, discussion, TV broadcasting or radio broadcasting, or by any other means that would otherwise tend to reveal his person or identity and circumstances under which he has or will be under medical or surgical treatment without his/her consent.

### **Title III: Declaration of Rights**

**Sec. 4. *The Rights of Patients.*** – The following rights of the patient shall be respected by all those involved in his care:

(1) **Right to Appropriate Medical Care and Humane Treatment.**– Every person has a right to health and medical care corresponding to his state of health, without

any discrimination and within the limits of the resources, manpower and competence available for health and medical care at the relevant time.

The patient has the right to appropriate health and medical care of good quality. In the course of such care, his human dignity, convictions, integrity, individual needs and culture shall be respected.

If any person cannot immediately be given treatment that is medically necessary he shall, depending on his state of health, either be directed to wait for care, or be referred or sent for treatment elsewhere, where the appropriate care can be provided. If the patient has to wait for care, he shall be informed of the reason for the delay.

Patients in emergency shall be extended immediate medical care and treatment without any deposit, pledge, mortgage or any form of advance payment for treatment.

**(2) Right to Informed Consent.** - The patient has a right to a clear, truthful and substantial explanation, in a manner and language understandable to the patient, of all proposed procedures, whether diagnostic, preventive, curative, rehabilitative or therapeutic, wherein the person who will perform the said procedure shall provide his name and credentials to the patient, possibilities of any risk of mortality or serious side effects, problems related to recuperation, and probability of success and reasonable risks involved: *Provided*, That, the patient will not be subjected to any procedure without his written informed consent, except in the following cases:

- a. in emergency cases, when the patient is at imminent risk of physical injury, decline or death if treatment is withheld or postponed. In such cases, the physician can perform any diagnostic or treatment procedure as good practice of medicine dictates without such consent;
- b. when the health of the population is dependent on the adoption of a mass health program to control epidemic;
- c. when the law makes it compulsory for everyone to submit to a procedure;
- d. when the patient is either a minor, or legally incompetent, in which case, a third party consent is required;

- e. when disclosure of material information to patient will jeopardize the success of treatment, in which case, third party disclosure and consent shall be in order;
- f. when the patient waives his right in writing.

Informed consent shall be obtained from a patient concerned if he is of legal age and of sound mind. In case the patient is incapable of giving consent and a third party consent is required, the following persons, in the order of priority stated hereunder, may give consent:

- i. spouse;
- ii. son or daughter of legal age;
- iii. either parent;
- iv. brother or sister of legal age, or
- v. guardian

If a patient is a minor, consent shall be obtained from his parents or legal guardian.

If next of kin, parents or legal guardians refuse to give consent to a medical or surgical procedure necessary to save the life or limb of a minor or a patient incapable of giving consent, courts, upon the petition of the physician or any person interested in the welfare of the patient, in a summary proceeding, may issue an order giving consent.

**(3) Right To Privacy and Confidentiality.** – The privacy of the patients must be assured at all stages of his treatment. The patient has the right to be free from unwarranted public exposure, except in the following cases: a) when his mental or physical condition is in controversy and the appropriate court, in its discretion, orders him to submit to a physical or mental examination by a physician; b) when the public health and safety so demand; and c) when the patient waives this right.

The patient has the right to demand that all information, communication and records pertaining to his care be treated as confidential. Any health care provider or practitioner involved in the treatment of a patient and all those who have legitimate access to the patient's record is not authorized to divulge any information to a third party who has no concern with the care and welfare of the patient without his consent, except:

a) when such disclosure will benefit public health and safety; b) when it is in the interest of justice and upon the order of a competent court; and c) when the patients waives in writing the confidential nature of such information; d) when it is needed for continued medical treatment or advancement of medical science subject to de-identification of patient and shared medical confidentiality for those who have access to the information.

Informing the spouse or the family to the first degree of the patient's medical condition may be allowed; *Provided*, That the patient of legal age shall have the right to choose on whom to inform. In case the patient is not of legal age or is mentally incapacitated, such information shall be given to the parents, legal guardian or his next of kin.

**(4) Right to Information.** – In the course of his/her treatment and hospital care, the patient or his/her legal guardian has a right to be informed of the result of the evaluation of the nature and extent of his/her disease, any other additional or further contemplated medical treatment on surgical procedure or procedures, including any other additional medicines to be administered and their generic counterpart including the possible complications and other pertinent facts, statistics or studies, regarding his/her illness, any change in the plan of care before the change is made, the person's participation in the plan of care and necessary changes before its implementation, the extent to which payment maybe expected from Philhealth or any payor and any charges for which the patient maybe liable, the disciplines of health care practitioners who will furnish the care and the frequency of services that are proposed to be furnished.

The patient or his legal guardian has the right to examine and be given an itemized bill of the hospital and medical services rendered in the facility or by his/her physician and other health care providers, regardless of the manner and source of payment. He is entitled to a thorough explanation of such bill.

The patient or his/her legal guardian has the right to be informed by the physician or his/her delegate of his/her continuing health care requirements following discharge, including instructions about home medications, diet, physical activity and all other pertinent information to promote health and well-being.



At the end of his/her confinement, the patient is entitled to a brief, written summary of the course of his/her illness which shall include at least the history, physical examination, diagnosis, medications, surgical procedure, ancillary and laboratory procedures, and the plan of further treatment, and which shall be provided by the attending physician. He/she is likewise entitled to the explanation of, and to view, the contents of the medical record of his/her confinement but with the presence of his/her attending physician or in the absence of the attending physician, the hospital's representative.

Notwithstanding that he/she may not be able to settle his accounts by reason of financial incapacity, he/she is entitled to reproduction, at his/her expense, the pertinent part or parts of the medical record the purpose or purposes of which he shall indicate in his/her written request for reproduction. The patient shall likewise be entitled to medical certificate, free of charge, with respect to his/her previous confinement.

The patient has likewise the right not to be informed, at his/her explicit request.

**(5) The Right To Choose Health Care Provider and Facility.** - The patient is free to choose the health care provider to serve him as well as the facility except when he is under the care of a service facility or when public health and safety so demands or when the patient expressly or impliedly waives this right.

The patient has the right to discuss his condition with a consultant specialist, at the patient's request and expense. He also has the right to seek for a second opinion and subsequent opinions, if appropriate, from another health care provider/practitioner.

**(6) Right to Self-Determination.** - The patient has the right to avail himself/herself of any recommended diagnostic and treatment procedures. Any person of legal age and of sound mind may make an advance written directive for physicians to administer terminal care when he/she suffers from the terminal phase of a terminal illness: *Provided*, That a) he is informed of the medical consequences of his choice; b) he releases those involved in his care from any obligation relative to the consequences of his decision; c) his decision will not prejudice public health and safety.

**(7) Right to Religious Belief.** - The patient has the right to refuse medical treatment or procedures which may be contrary to his religious beliefs, subject to the limitations described in the preceding subsection: *Provided*, That such a right shall not be imposed by parents upon their children who have not reached the legal age in a life threatening situation as determined by the attending physician or the medical director of the facility.

**(8) Right to Medical Records.** - The patient is entitled to a summary of his medical history and condition. He has the right to view the contents of his medical records, except psychiatric notes and other incriminatory information obtained about third parties, with the attending physician explaining contents thereof. At his expense and upon discharge of the patient, he may obtain from the health care institution a reproduction of the same record whether or not he has fully settled his financial obligation with the physician or institution concerned.

The health care institution shall safeguard the confidentiality of the medical records and to likewise ensure the integrity and authenticity of the medical records and shall keep the same within a reasonable time as may be determined by the Department of Health.

The health care institution shall issue a medical certificate to the patient upon request. Any other document that the patient may require for insurance claims shall also be made available to him within a reasonable period of time.

**(9) Right to Leave.** - The patient has the right to leave a hospital or any other health care institution regardless of his physical condition: *Provided*, That a) he/she is informed of the medical consequences of his/her decision; b) he/she releases those involved in his/her care from any obligation relative to the consequences of his decision; c) his/her decision will not prejudice public health and safety.

No patient shall be detained against his/her will in any health care institution on the sole basis of his failure to fully settle his financial obligations. However, he/she shall only be allowed to leave the hospital provided appropriate arrangements have been made to settle the unpaid bills: *Provided, further*, that unpaid bills of patients shall be considered

as lost income by the hospital and health care provider/practitioner and shall be deducted from gross income as income loss for that particular year.

**(10) Right to Refuse Participation in Medical Research.** - The patient has the right to be advised if the health care provider plans to involve him in medical research, including but not limited to human experimentation which may be performed only with the written informed consent of the patient. *Provided, further,* That, an institutional review board or ethical review board in accordance with the guidelines set in the Declaration of Helsinki be established for research involving human experimentation: *Provided, finally,* That the Department of Health shall safeguard the continuing training and education of future health care provider/practitioner to ensure the development of the health care delivery in the country.

**(11) Right to Correspondence and to Receive Visitors.** - The patient has the right to communicate with relatives and other persons and to receive visitors subject to reasonable limits prescribed by the rules and regulations of the health care institution.

**(12) Right to Express Grievances.** - The patient has the right to express complaints and grievances about the care and services received without fear of discrimination or reprisal and to know about the disposition of such complaints. The Secretary of Health, in consultation with health care providers, consumer groups and other concerned agencies shall establish a grievance system wherein patients may seek redress of their grievances. Such a system shall afford all parties concerned with the opportunity to settle amicably all grievances.

**(13) Right to be Informed of His Rights and Obligations as a Patient.** - Every person has the right to be informed of his rights and obligations as a patient. The Department of Health, in coordination with health care providers, professional and civic groups, the media, health insurance corporations, people's organizations, local government organizations, shall launch and sustain a nationwide information and education campaign to make known to people their rights as patients, as declared in this Act. Such rights and obligations of patients shall be posted in a bulletin board conspicuously placed in a health care institution.

It shall be the duty of health care institutions to inform patients of their rights as well as of the institution's rules and regulations that apply to the conduct of the patient while in the care of such institution.

**Sec. 5. Societal Rights of Patients.** – In addition to the individual rights of patients, the patient has likewise their societal rights. Following are the societal rights of patients:

- (1) **Right to Health.** - The patient has the right to regain and/or acquire the highest attainable standard of health, in a non-discriminatory, gender sensitive, and equal manner, which health authorities and health practitioner must progressively contribute to realize.
- (2) **Right to Access to Quality Public Health Care.** - The patient has the right to functioning public health and health care facilities, goods and services and programs needed and sufficient quantity. They shall likewise be provided with health facilities and services with adequate provision of essential drugs, regular screening programs, appropriate treatment of prevalent diseases, illnesses, injuries and disabilities, including provision of public health insurance. Towards this end, the government shall, as far as practicable, approximate the international standard allocation for the health sector as set by World Health Organization.
- (3) **Right to Healthy and Safe Workplace.** - The patient has the right to a healthy natural workplace environment with adequate supply of safe and potable water and basic sanitation, industrial hygiene, prevention and reduction of exposure to harmful substances, preventive measures for occupational accidents and diseases, and an environment that discourages abuse of alcohol, tobacco use, drug use and other harmful substances.
- (4) **Right to Prevention and Education Programs .** - The patient has the right to prevention and education programs on immunization, on the prevention, treatment and control of diseases, for behavior-related concerns, for disaster relief and emergency situations during epidemics and similar health hazards.

(5) **Right to Participate in Policy Decisions.** - The patient has the right to participate in policy decisions relating to patient's right to health at the community and national levels.

#### **Title IV: Declaration of Obligations**

**Sec. 6.. *The Obligations of Patients.***- Patients shall at all times fulfill their obligations and responsibilities regarding medical care and their personal behavior.

(1) **Know Rights.** - The patient shall ensure that he/she knows and understands what the patients' rights are and shall exercise those rights responsibly and reasonably.

(2) **Provide Accurate and Complete Information.** - The patient shall provide, to the best of his knowledge, accurate and complete information about all matters pertaining to his/her health, including medications and past or present medical problems to his/her health care provider.

(3) **Report Unexpected Health Changes.** - It shall be the duty of every patient to report unexpected changes to his/her condition or symptoms, including pain, to a member of the health care team.

(4) **Understand Purpose and Cost of Treatment.** - The patient shall ensure that he/she understands the purpose and cost of any proposed treatment or procedure before deciding to accept it. He/she shall notify the health care provider or practitioner if he/she does not understand any information about his/her care or treatment. The patient shall insist upon explanations until adequately informed and consult with all relevant persons before reaching a decision.

(5) **Accept Consequences of Own Informed Consent.** - The patient shall accept all the consequences of the patient's own informed consent. If he/she refuses treatment or do not follow the instructions or advice of the health care provider or practitioner, he/she must accept the consequences of his/her decision and thus relieve the health care provider or practitioner of any liability.

(6) **Settle Financial Obligations.** - The patient shall ensure that financial obligations of his/her health care are fulfilled as promptly as possible, otherwise, he/she shall make appropriate arrangements to settle unpaid bills in the hospital and/or

professional fees of the health care provider through post-dated checks or promissory notes or any similar medium.

(7) **Relation to Others.** - The patient shall so conduct himself or herself so as not to interfere with the well-being or rights of other patients or providers of health care. He/she shall act in a considerate and cooperative manner, respect the rights and property of others and follow the policies and procedures of the health care establishment.

(8) **Exhaust Grievance Mechanism.** - The patient shall first exhaust the grievance mechanism provided in this bill before filing any administrative or legal action.

#### **Title V: Grievance Mechanism**

**Sec. 7. Mediation.** - Any written complaint arising from violation of any of the right of patients under Section 4 of this bill shall first be submitted for mediation. There shall be two (2) types, namely: hospital-based grievance mechanism and out-of-hospital-based grievance mechanism. The Hospital-based Grievance Committee shall be composed of a grievance officer appointed and designated permanently by the hospital who shall act as Chairperson and two (2) physicians agreed upon by both parties, as members. For out-of-hospital grievance mechanism, the Committee shall be composed of the Local Health Officer as Chairperson and the Barangay Human Rights Action Officer and representative each from the Philippine Medical Association, the Council of Health Practitioner Association and the Philippine Institute of Traditional and Alternative Health Care, as members.

For this purpose, the Department of Health shall ensure the establishment of these Grievance Committees.

The hearing procedure shall not be adversarial in nature. The patient and the health care provider or practitioner shall be given the opportunity to discuss the cause of complaint and effort shall be made for its settlement. No monetary compensation shall be involved during this stage and neither shall a legal counsel be present at this stage. The parties to the complaint shall be bound by the rules on confidentiality. The aggrieved party shall be given thirty (30) days from occurrence of incident to file his/her written complaint to the appropriate grievance mechanism. Upon receipt of written complaint,

the Chairperson shall give due notice to the respondent. Upon receipt of the written complaint and due notice to the respondent, the Grievance Committee shall be given thirty (30) days to resolve the said complaint. Otherwise, the complainant shall have the option proceed to the no-fault arbitration process or to file administrative and legal action under existing laws.

**Sec. 8. *No-fault Arbitration Process*** . – If and when the complaint is not resolved through mediation within the prescribed period, the complainant has the option to file a case for settlement at the no-fault arbitration process. However, only complaints arising from treatment-related physical injuries shall proceed to this arbitration process.

The No-Fault Arbitration Committee shall be a five-man peer review team composed of physicians. The claimant and health care provider may choose one physician-member each of the peer review team. The peer review team may come out with a decision based on documentary evidence including depositions. However, hearings may be held to gather testimony. Within thirty (30) days from receipt of the complaint, the Committee shall make a decision. All decisions shall be appealable to the Court of Appeals.

Compensation shall be limited to actual monetary loss only. It will not cover for “pain and suffering” or other explicitly non-monetary losses.

A Health-Provider Compensation Fund shall be established in all health facilities by health provider associations/organizations or when not possible, through the Philippine Health Insurance Corporation. The funding shall come from assessments paid by the health care providers. For this purpose, the Philippine Health Insurance Corporation shall ensure the establishment of this Fund.

**Sec. 9. *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.

## Title VI: Miscellaneous Provisions

**Sec. 10. *Inclusion In School Curriculum, Licensure Examinations and Training.***

– The provisions of this Act shall be considered in medical and medical-related school curriculum and licensure examinations, including trainings and seminars of traditional and alternative health care providers or practitioners.

**Sec. 11. *Rules and Regulations*** – The Secretary of Health, in consultation with the Philippine Medical Association, the Philippine Hospital Association, the Philippine Institute of Traditional and Alternative Health Care, Philippine Health Insurance Corporation and concerned private agencies, non-governmental organizations and people's organizations shall promulgate such rules and regulations as may be necessary for its implementation within One Hundred Eighty (180) days from the effectivity of this Act.

**Sec. 12. *Repealing Clause.*** – All Acts, Executive Orders, Rules and Regulations, or parts thereof that are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

**Sec. 13. *Effectivity.*** – This Act shall take effect fifteen (15) days after the date of its publication in at least two (2) major newspapers of general circulation.

*Approved,*