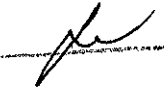


FOURTEENTH CONGRESS OF THE)
 REPUBLIC OF THE PHILIPPINES)
 First Regular Session)

7 JUL -5 1948

SENATE

RECEIVED BY: 

S. No. 1193

INTRODUCED BY THE HONORABLE MAR ROXAS

EXPLANATORY NOTE

This bill seeks to institutionalize a grievance machinery in all health institutions providing medical treatment in the Philippines, be it private or public to protect the interest and welfare of patients and to uphold their right to health and to safe, humane, decent and quality health care.

The Constitution, Article II, Section 15, provides that the State shall protect and promote the right to health of the people and instill health consciousness among them.

With the advances in the practice of medicine and the increasing consciousness of people on the value of timely, efficient and appropriate health care, complaints of patients with regard to the way they are treated are increasing in number. Some complaints arise from violations of the fiduciary relationship between the patient and his or her physician, while some arise from the violations on the amount of care that a physician must observe in the treatment of his or her patient, which unfortunately, causes irreparable harm to the latter.

In the Philippines, a patient has the option to file a civil action, a criminal action or an administrative complaint against an erring physician. The basis for filing a civil action is Article 2176 of the Civil Code, when the act or omission causes damage to another, there being fault or negligence, obliges the wrongdoer to pay for the damage done. Damages that may be recovered are actual or compensatory, moral, nominal, temperate or moderate, liquidated, or exemplary or corrective damages. A patient may also avail of provisions under the Revised Penal Code, particularly on physical injuries and other crimes against a person, which are punishable with imprisonment and/or a fine. Finally, a patient may also seek the redress of his or her grievances administratively under the Medical Act of 1959, which reprimands erring physicians or suspends or revokes the registration of physicians found guilty of gross negligence, ignorance or incompetence in the practice of his or her profession resulting in an injury to or death of the patient.

Through the grievance machinery, 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. His or her complaint, which must contain the cause of action, the particular act or omission complained of, and the remedy being sought, will go to a committee 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 committee will not bar the patient

from filing any other action, which is allowed under present laws. Ultimately, the grievance mechanism must seek to arrive at a settlement mutually acceptable to the parties.

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

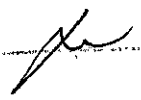


MAR ROXAS
Senator

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
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SENATE
S. No. 1193

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INTRODUCED BY THE HONORABLE MAR ROXAS

AN ACT
UPHOLDING THE RIGHT OF PATIENTS TO THE REDRESS OF THEIR TREATMENT-
RELATED GRIEVANCES BY MANDATING THE CREATION OF GRIEVANCE BOARDS
IN ALL PUBLIC AND PRIVATE HOSPITALS TO BE SUPERVISED BY DEPARTMENT OF
HEALTH, AND FOR OTHER PURPOSES

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

1 SECTION 1. *Title.* - This Act shall be known as "*Patients' Grievance Machinery Act*
2 *of 2007.*"

3 SEC. 2. *Declaration of Policy.* It shall be the policy of the State to protect and
4 promote the right to health of the people and instill health consciousness among them.
5 Likewise, the State values the dignity of every human person and guarantees full respect for
6 human rights. To this end, an efficient, effective and just grievance mechanism must be
7 created to protect the rights of patients to decent, humane and quality health care. This Act
8 aims to establish a reasonable mechanism for resolving problems and complaints in
9 connection with their treatment.

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

- 1 (1) Grievance – any complaint arising from injury or death by a patient in relation
2 to his or her diagnosis, prognosis and treatment by a physician and/or his or
3 her assistant due to, but not limited to, the following:
- 4 a. Gross negligence or gross incompetence in the practice of his or her
5 profession;
- 6 b. Aiding or acting as a dummy of an unqualified or unregistered person
7 to practice medicine;
- 8 c. Violation of the doctor-patient privilege:
- 9 (2) Gross negligence - pursuit of a course of conduct which would naturally and
10 reasonably result in injury. It is characterized by want of even slight care,
11 acting or omitting to act in a situation where there is a duty to act, not
12 inadvertently but willfully and intentionally with a conscious indifference to
13 consequences insofar as other persons may be affected. The existence of
14 negligence in a given case is not determined by reference to the personal
15 judgment of a person involved in the complaint, but what would be reckless,
16 blameworthy or negligent in the man of ordinary intelligence and prudence.
- 17 (3) Grievance Board – the grievance machinery instituted by a hospital that will
18 receive, examine, investigate and resolve all grievances that may fall under its
19 jurisdiction.
- 20 (4) Legal Representative – the members of the patient’s immediate family or his or
21 her guardian or counsel chosen by the patient to represent him or her.
- 22 (5) Health Care Provider- all medical and health personnel involved in the
23 diagnosis, prognosis and treatment of a patient.
- 24 (6) Hospital – those health institutions defined as such under Republic Act 4226
25 or the Hospital Licensure Act of 1965.

1 (7) Consumer Arbitration Officer - persons appointed for the effective and
2 efficient protection of consumer rights under Republic Act No. 7394 of the
3 Consumer Act of the Philippines.

4 **SEC. 5. *Establishment of a Grievance Machinery in all Public and Private Hospitals –***

5 All hospitals are hereby mandated to create a grievance board that will receive, investigate,
6 adjudicate, and recommend actions to arrive at settlement of complaints related to the
7 diagnosis, prognosis and treatment of patients who sought the services of such health
8 institution.

9 The Hospital-based grievance machinery shall be composed of at least five (5)
10 members:

- 11 1. One (1) grievance officer appointed and permanently designated by the
12 hospital with a rank of supervisory or managerial, and who must not be a
13 doctor or a physician, who shall act as the Chairperson;
- 14 2. Three (3) doctor from the hospital's pool of physicians, provided that, none of
15 them were part of the team who treated the patient-complainant and,
16 provided finally, that they are recognized experts in the field of medicine
17 which is the subject matter of the grievance
- 18 3. One representative from the Philippine Medical Association
- 19 4. The local health officer or his duly authorized representative, provided, that
20 the latter ate least be a full-time staff of the local health unit, and at least a
21 college graduate;
- 22 5. One (1) consumer arbitration officer exercising jurisdiction over the area
23 where the hospital is located;

1 Each hospital shall prepare a list of experts for each filed who are authorized to sit in
2 the Board.

3 The Department of Health shall ensure the establishment of and oversee the
4 grievance committees created under this Act.

5 The successive steps in the procedure, the method of presenting grievances, and the
6 method of taking an appeal should be clearly stated and integrated in the hospital's rules and
7 regulations .

8 **SEC. 5. *How grievance is taken; time for filing.***— A patient desiring to file a grievance
9 under this Act may file a complaint in writing, signed and sworn to by the patient himself or
10 herself, or his or her legal representative with the hospital's grievance board within thirty
11 (30) days from the happening of the event which forms basis of the complaint. The
12 complaint must state the act or omission complained of, the parties against whom the
13 complaint is directed at, the conduct or duty violated, other allegations that the complainant
14 may deem necessary to include.

15 **SEC. 6. *Action on the grievance.*** - Upon receipt of the grievance, the grievance
16 officer shall examine the allegations of the complaint and determine if falls within the
17 jurisdiction of the Grievance Board. The officer shall give due notice of the respondents. For
18 purposes of determining whether the complaint is actionable or not, the grievance officer
19 may require or allow the parties to submit affidavits, briefs or other documents as it may
20 deem necessary within such periods and under such conditions as it may consider
21 appropriate.

22 The grievance officer shall have fifteen (15) days from the receipt of the complaint to
23 act on the same. If the complaint is considered not actionable for a valid cause, the grievance

1 officer shall inform the patient, or his or her legal representative, in writing, of the basis of
2 the said dismissal. Should the officer find that the complaint is actionable, he or she shall
3 submit a report to and recommend the case for mediation before the Board.

4 The Board shall resolve the grievance within thirty (30) days from receipt of the
5 officer's report.

6 Nothing in this Act shall deprive the patient the right to seek other remedies allowed
7 under the laws, provided that he or she shall not be allowed to recover twice for the same
8 remedy.

9 **SEC. 7. Remedies to be Awarded.** Upon finding that the physician and/or his or her
10 assistants are guilty of any of the acts identified herein as grievances, the Board, though a
11 majority vote of all the members of the Board, except the Grievance Officer who endorsed
12 the grievance, may grant the relief prayed for by the complainant, provided, it shall be
13 limited to compensation for actual monetary loss and will not cover "pain and suffering" or
14 other explicitly non-monetary losses. The Committee may likewise recommend the
15 respondent for disciplinary action under the civil service rules and regulations in case of
16 public hospitals, and the physician's medical association.

17 **SEC. 8. Rules of Procedure.** The hospital shall promulgate rules of procedures
18 governing the resolution of grievances, Provided, it shall not be inconsistent with any of the
19 provisions of this Act, and Provided, Further, that prior to the implementation, the rules of
20 procedure shall be submitted to the Department of Health for the latter's approval. The
21 procedure should be adaptable to the handling of various types of grievances which may be
22 adjudicated under the hospital's grievance machinery and facilitate the settlement of

1 complaints as soon as possible after they arise. It shall also include the rules on taking
2 appeal.

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

5 **SEC. 9. *Appeal.*** Any party adversely affected by a decision, ruling or inaction by the
6 hospital-based grievance machinery on a patient's grievance, may file an appeal before the
7 Secretary of the Department of Health, who shall act on the appeal within thirty (30) days
8 from the receipt of the appeal.

9 **SEC. 10. *Prescriptive Period.*** The time during which the case is submitted for
10 mediation shall toll the running of the prescriptive period for the filing of a civil or criminal
11 case under the Revised Penal Code or any administrative case under existing laws.

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

17 **SEC. 11. *Separability Clause*** – If any provision or part hereof, is held invalid or
18 unconstitutional, the remainder of the law or the provision not otherwise affected shall
19 remain valid and subsisting.

1 SEC. 12. *Repealing Clause.* – All laws, decrees, orders, rules and regulations or parts
2 therefore, inconsistent with this Act are hereby amended or modified accordingly.

3 SEC 13. *Effectivity Clause* – This act shall take effect fifteen (15) days following its
4 publication in a newspaper of general circulation.

Approved,