

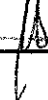
FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

OFFICE OF THE CLERK

10 JUL 20 10 20

SENATE

S. B. NO. 146

RECEIVED BY: 

Introduced by Senator Pia Cayetano

EXPLANATORY NOTE

Section 15 Article II of the Constitution provides that "(t)he State shall protect and promote the right to health of the people and instill health consciousness." In addition, Section 11 of Article 12 states that "(t)he 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."

To give substance and spirit to the above constitutional precepts, the bill seeks to provide a "Magna Carta of Patients Rights and Obligations". Under this proposal, the duties and responsibilities of the government vis-à-vis the people's concomitant rights and obligations are stressed in order to give them decent, humane and quality health care.

The proposed measure provides for individual and societal rights, as well as obligations of patients, health care practitioners and health care institutions.

The bill also proposes a grievance mechanism wherein any complaint arising from violations of any of the rights of patients shall first be submitted for mediation.

Premises considered, immediate passage of this bill is earnestly sought.


SENATOR PIA S. CAYETANO

10 JUL -5 3:20

SENATE

S.B. NO. 146

RECEIVED BY



INTRODUCED BY SENATOR PIA S. CAYETANO

**AN ACT
PROCLAIMING THE RIGHTS AND OBLIGATIONS OF PATIENTS, PROVIDING A
GRIEVANCE MECHANISM THEREOF AND FOR OTHER PURPOSES**

*Be 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 "Magna Carta of
Patient's Rights and Obligations of 2010."

SEC. 2. Declaration of Policy. - It is hereby declared the policy of the State
to promote the right to health of the people and instill health consciousness among
them. It shall likewise protect and enhance the right of all people to human dignity
thereby establishing the Magna Carta of Patient's Rights and Obligations in order to
ensure a decent, humane and quality Health Care for all patients and Health Care
Providers.

SEC. 3. Definition of Terms. - As used in this Act, the following terms shall
be defined as follows:

- a. Emergency Patient - one who is in immediate threat of dying or losing life
or limb;
- b. Health Care - measures taken by a Health Care Provider or in a Health
Care Institution in order to determine a patient's state of health or to
restore or maintain it;
- c. 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;

- d. Health Care Provider – any physician, dentist, nurse, pharmacist or paramedic and other supporting health personnel, including, but not limited to, dental and medical 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 practitioner; and
- e. Patient - a person who avails of the health and medical care services.

SEC. 4. Individual Rights of Patients. – The following individual rights of Patients shall be respected by all those involved in the delivery of Health Care services:

- a. **Right to Good Quality Health Care and Humane Treatment** – Every person has a right to a continuity of good quality Health Care without discrimination and within the limits of the resources, manpower and competence available for health and medical care. In the course of such care, his human dignity, convictions, integrity, individual needs and culture shall be respected.

If a Patient cannot immediately be given treatment that is medically necessary, he shall be informed of the reason for the delay and be treated in accordance with his best interests, *Provided*, that the treatment applied shall be in accordance with generally accepted medical principles.

Emergency Patients shall be extended immediate medical care and treatment without requiring, as a prerequisite thereof, any pecuniary consideration.

- b. **Right to Dignity** - The Patient's dignity, culture and value shall be respected at all times in medical care and teaching. Likewise, terminally ill patients shall be entitled to humane terminal care to make dying as dignified and comfortable as possible.
- c. **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. In line with this, the Department of Health, in coordination with Health Care Providers, professional and civic groups, the media, health insurance corporations, people's organizations and local government organizations, shall launch and sustain a nationwide information and education campaign to make known to the people their rights as Patients, as provided in this Act. It shall also 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. These rights and rules and regulations shall be posted in a bulletin board conspicuously placed in a Health Care Institution.

- d. **Right to Choose His Physician / Health Institution** - The Patient is free to choose the services of a physician or health institution of his choice except when he chooses to be confined in a charity ward. In this case, the attending physician shall be the consultant under whose service the patient was admitted as appearing in the Doctor's Order Sheet of the Medical Record. The Patient shall have the right to seek a second opinion and subsequent opinions, if necessary, from another physician or health institution, and to change his physician or health institution.
- e. **Right to Informed Consent** – The Patient has a right to self-determination and to make free decisions regarding himself/herself. However, the attending physician shall inform the Patient of the consequences of his/her decisions.

A Patient who is mentally competent and is of legal age, or in his incapacity or age of minority, his legal representative, has a right to a clear explanation, in layman's terms, of all proposed or contemplated procedures, whether diagnostic or therapeutic, including the identity and professional circumstances of the person or persons who will perform the said procedure or procedures. The explanation shall include the amount of information necessary and indispensable for him to intelligently give his

consent, including, but not limited to, the benefits, risk, side effects and the probability of success or failure, as a possible consequence of said proposed procedure or procedures, including the implications of withholding consent. In the explanation, the comprehensive ability of the patient shall also be considered, taking into account his level of education, the dialect or language that he speaks and understands, and if possible, with the use of anatomic sketch or any materials or visual aids that may aid the Patient, or his legal representative, in fully understanding the proposed procedure or procedures.

The right to informed consent shall likewise consider the voluntariness in which the Patient or his/her legal representative has given his/her consent, seeing to it that the Patient or his legal representative was allowed to ask questions, or that he/she is given the chance to consult his/her kin, or to seek another expert opinion. If the Patient is unconscious or is unable to express his/her will, informed consent must be obtained whenever possible from a legal representative, *Provided however*, That when medical intervention is urgently needed, the consent of the patient may be presumed, *Provided further*, That a physician should always try to save the life of a Patient who is unconscious due to suicide attempt.

In the case of a Patient who is legally incompetent or is a minor, the consent of a legal representative is required, *Provided however*, That the Patient must be involved in the decision making process to the fullest extent allowed by his mental capacity. If the legally incompetent Patient can make rational decisions, his/her decisions must be respected, and he/she has the right to forbid disclosure of such information to his/her legal representative.

If the patient's legal representative forbids treatment, but, in the opinion of the physician, it is contrary to the patient's best interest, the

physician may challenge this decision in court, *Provided however*, That in emergency cases, the physician shall act in the patient's best interest, *Provided further*, That in emergency cases where there is no one who can give consent on the patient's behalf, the physician can perform any emergency diagnostic or treatment procedure in the best interest of the patient.

- f. **Right to Refuse Diagnostic and Medical Treatment** - The Patient has the right to refuse diagnostic and medical treatment procedures, provided that the following conditions are satisfied;
 - i. The Patient is of legal age and is mentally competent;
 - ii. The Patient is informed of the medical consequences of his/her refusal;
 - iii. The Patient releases those involved in his care from any obligation relative to the consequences of his/her decision; and
 - iv. The Patient's refusal will not jeopardize public health and safety.
- g. **Right to Refuse Participation in Medical Research** – The Patient has the right to be advised of plans to involve him/her in medical research that may affect the care or treatment of his/her condition. Any proposed research shall be performed only upon the written informed consent of the Patient.
- h. **Right to Religious Belief and Assistance** – The Patient has the right to receive spiritual and moral comfort, including the help of a priest or minister of his/her chosen religion. He/she also has the right to refuse medical treatment or procedures which may be contrary to his religious beliefs, subject to the limitations described in paragraph 6 of this Section.
- i. **Right To Privacy and Confidentiality** – The patient has the right to privacy and protection from unwarranted publicity. The right to privacy shall include the patient's right not to be subjected to exposure, private or

public, either by photography, publications, video-taping, discussion, or by any other means that would otherwise tend to reveal his person and identity and the circumstances under which he was, he is, or he will be, under medical or surgical care or treatment.

The Patient and his/her legal representative has the right to be informed by the physician or his/her legal representative of the patient's continuing Health Care requirements following discharge, including instructions about home medications, diet, physical activity and other pertinent information.

All identifiable information about a patient's health status, medical condition, diagnosis, prognosis and treatment, and all other information of a personal kind, must be kept confidential even after death, *Provided*, That descendants may have a right of access to information that will inform them of their health risks.

All identifiable Patient data must also be protected. The protection of the data must be appropriate as to the manner of its storage. Human substance from which identifiable data can be derived must be likewise protected.

Confidential information can be disclosed in the following cases:

- i. When the patient's medical or physical condition is in controversy in a court litigation and the court, in its discretion, orders the patient to submit to physical or mental examination of a physician;
- ii. When public health or safety so demands;
- iii. When the Patient, or in his incapacity, his/her legal representative, expressly gives the consent;
- iv. When the patient's medical or surgical condition is discussed in a medical or scientific forum for expert discussion for his/her benefit or for the advancement of science and

medicine, *Provided however*, That the identity of the Patient should not be revealed; and

v. When it is otherwise required by law.

- j. **Right to Disclosure of, and Access to, Information** – In the course of the patient's treatment and hospital care, the Patient or his/her legal guardian has the 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 or surgical procedure or procedures, shall be disclosed and may only be performed with the written consent of the patient.

The disclosure of information may be withheld if giving the information to the Patient will cause mental suffering or further impair his health, *Provided*, That such disclosure may be withheld or deferred to some future opportune time upon due consultation with the patient's immediate family, *Provided further*, That such information must be given in a way that is appropriate to the local culture and in a manner the Patient can understand.

The Patient has the right to choose who he/she desires should be informed on his behalf, *Provided however*, That the Patient also has the right not to be informed on his explicit request, unless it is required for the protection of another person's life.

The Patient has the right to be given, and examine, an itemized bill for hospital and medical services rendered. He is entitled to a thorough explanation of such bill.

- k. **Right to Correspondence and to Receive Visitors** – The Patient has the right to communicate with his/her relatives and other persons and to receive visitors subject to reasonable limits prescribed by the rules and regulations of the Health Care Institution.

- l. **Right to Medical Records** – The Health Care Institution and the physician shall ensure and safeguard the integrity and authenticity of the medical records.

The Patient, upon his/her request, is entitled to a medical certificate and clinical abstract. He/she has the right to view, and obtain an explanation of, the contents of his/her medical records from the attending physician, except for psychiatric notes and other incriminating information obtained about a third party.

The Patient may also obtain from the Health Care Institution a reproduction, at his/her expense, of his/her medical records, except for the psychiatric notes and incriminating evidence referred to above, *Provided*, That any relevant document that the Patient may require for insurance claims shall be made available to him within a reasonable period of time.

- m. **Right to Health Education** - Every person has the right to health education that will assist him in making informed choices about personal health and about available health services. The education shall include information about healthy lifestyles and about methods of prevention and early detection of illnesses. The personal responsibility of everybody for his own health should be stressed.

- n. **Right to Leave Against Medical Advice** – The Patient has the right to leave a hospital or any other Health Care Institution regardless of his physical condition, *Provided*, That:

- i. He/she is informed of the medical consequences of his/her decision;
- ii. He/she releases those involved in his/her care from any obligation relative to the consequences of his/her decision; and
- iii. His/her decision will not prejudice public health and safety.

- o. **Right to Express Grievances.** – Every Patient has the right to express valid complaints and grievances about the care and services received and to know the disposition of such complaints, in accordance with Sections 7-8 of this Act.

SEC. 5. Societal Rights of Patients. – In addition to the individual rights of Patients, the Patient has likewise the following societal rights:

- a. **Right to Health** – The Patient has the right to access quality Health Care and physicians who are free to render clinical and ethical judgment without interference or external pressure. He has likewise 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 Care Providers must progressively contribute to realize.
- b. **Right to Access to Quality Public Health Care** - The Patient has the right to a comprehensive and integrated Health Care delivery system with the necessary manpower and facility resources. He shall also have the right to a functioning public health and Health Care facilities, needed programs, such as public health insurance, goods and services in sufficient quantity. He shall likewise be provided with health facilities and services with adequate provision for essential drugs, regular screening programs, appropriate treatment of prevalent diseases, illnesses, injuries and disabilities. Towards this end, the government shall approximate the international standard allocation for the health sector as set by the World Health Organization.
- c. **Right to a 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 and drug use, and the use of other harmful substances,
- d. **Right to Medical Information and Education Programs** – The Patient has the right to medical information and education programs on immunization; prevention, treatment and control of diseases; behavior-related concerns; and disaster relief and emergency situations during epidemics and similar health hazards. The State shall endeavor to provide these information through lectures, symposia, tri-media, posters and the like.
 - e. **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.
 - f. **Right to Access to Health Facilities** – The Patient has the right to be admitted to primary, secondary, tertiary and other specialty hospitals when appropriate and necessary.
 - g. **Right to an Equitable and Economical Use of Resources** – The Patient has the right to an equitable and economical use of resources such that health institutions, projects and programs of the State are equitably established and implemented in various regions of the country.
 - h. **Right to Continuing Health Care** - The Patient has the right to avail of, or secure access to, programs that will ensure continuity of care in the form of hospice care, rehabilitation, chemotherapy, radiotherapy and other similar modalities.
 - i. **Right to Be Provided Quality Health Care In Times of Insolvency** – The Patient has the right, at all times, to access quality medical care in spite of insolvency. The State must provide for a system of payment to Health Care Institutions and Providers for all the valid and necessary medical expenses of the poor and marginalized citizens.

SEC. 6. The Obligations of Patients. – The Patient shall fulfill the following obligations and responsibilities regarding his/her medical care and/or personal behavior:

- a. **Know Rights** – The Patient shall ensure that he knows and understands what his/her rights as a Patient are and shall exercise those rights responsibly and reasonably.
- b. **Provide Adequate, Accurate and Complete Information** – The Patient shall provide, to the best of his/her knowledge, adequate, accurate and complete information about all matters pertaining to his/her health, including medications and past or present medical problems, ailments, medical history, consultation with other physicians, results of diagnostic work-up and treatment, to his/her Health Care Provider.
- c. **Report Unexpected Health Changes** – The Patient shall report unexpected changes to his/her condition or symptoms, including pain, to his/her Health Care Provider.
- d. **Understand the 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 his/her Health Care Provider if he/she does not understand any information about the proposed care or treatment. The Patient shall insist upon explanations until adequately informed and shall endeavor to make all the necessary consultations before reaching a decision.
- e. **Accept the Consequences of Own Informed Consent** – The Patient shall accept all the consequences of his/her own informed consent. If he/she refuses treatment or does not follow the instructions or advice of the Health Care Provider, he/she must accept the consequences of such decision and relieve the Health Care Provider of any liability as a result of the exercise of his/her right to self-determination.

- f. **Settle Financial Obligations.** – The Patient shall ensure that the financial obligations as a result of his/her Health Care are fulfilled as promptly as possible. Otherwise, he/she shall make the appropriate arrangements to settle unpaid hospital bills and/or professional fees in accordance with Republic Act No. 9439. The patient must seek support from the State in order to establish a system of payment to Health Care Institutions and Providers.
- g. **Respect the Rights of Health Care Providers, Health Care Institutions and Other Patients** – The Patient is obligated to give due respect to the rights and well-being of Health Care Providers, Health Care Institutions and other Patients. He shall act in a considerate and/or cooperative manner and shall give respect to the rights and properties of others. He shall follow the policies, rules and regulations, and procedures of Health Care Institutions.
- h. **Obligation to Self** – The Patient shall refrain from indulging in unhealthy food consumption; addiction forming substance foods such as tobacco, alcohol and drugs; lifestyles that have an adverse impact on health, such as sexual promiscuity and reckless activities; and contamination of the environment. The Patient is obligated to maintain a state of wellness.
- i. **Provide Adequate Health Information and Actively Participate in His/Her Treatment.** – The Patient shall ensure that he/she has adequate health information that will allow him/her to actively participate in the formulation of his/her diagnostic and treatment plans. When he/she signs an informed consent, it is assumed that he has the necessary information.
- j. **Respect the Right to Privacy of Health Care Providers and Institutions.** – The Patient has the obligation to submit grievances to the proper authorities or venue and not resort to unwarranted publicity in the media. He/she shall not disclose to the public any alleged complaint

against Health Care Providers and/or Institutions if it has not been fully decided by a court or administrative tribunal of proper jurisdiction.

- k. **Exercise Fidelity on Privileged Communication** – A patient-physician relationship is a fiduciary one where mutual trust, respect and confidence are expected. All communications are privileged and the patient is obliged not to breach this privileged communication especially if it involves a third party.
- l. **Respect a Physician's Refusal to Treat Him** – While the Patient has the right to choose his/her physician, he/she is also obligated to respect the physician's decision to choose whom he/she will treat.
- m. **Respect the Physician's Decision on Medical Reasons based on His/Her Religious Beliefs** – The Patient is obliged to respect the physician's religious beliefs. If the Patient is a minor or is legally incapacitated, his/her parents or legal representatives are obliged to likewise respect the physician's decision on matters relating to medical reasons despite their religious beliefs.
- n. **Ensure Integrity and Authenticity of Medical Records** – The Patient is obliged to ensure the integrity and authenticity of his/her medical records. Any manner of alteration of his/her records is a criminal offense subject to the provisions of the Revised Penal Code.
- o. **Participate in the Training of Competent Future Physicians** – The Patient is obligated to participate in the training of future physicians provided that necessary information is provided to him/her and the appropriate ethical considerations are observed.
- p. **Report Infractions and Exhaust Grievance Mechanism.** – The Patient shall immediately inform his/her Health Care Provider of any perceived or alleged infraction of his/her rights as set forth in this Act through proper channels in order to promote mutual trust, respect and confidence between the Provider and the Patient. The Patient shall exhaust the

grievance mechanism mediation provided in Sections 7-8 of this Act before filing any administrative or legal action.

SEC. 7. Grievance Mechanism. – Any written complaint arising from violation of any of the rights of patients shall first be submitted for mediation. There shall be two (2) forms of mediation: the hospital-based mediation and the barangay-based mediation.

The hospital-based mediation committee shall be composed of a physician who shall be appointed by the hospital and shall act as chairperson and two other (2) physicians recommended by the Philippine Medical Association local component society and acceptable to both parties as members. The chairperson and the members of the committee must be in good standing of the PMA and its local component society.

The barangay-based mediation committee shall be composed of the local health officer as chairperson, one from the religious or duly accredited people's organization, and one from the PMA local component society who is a member in good standing.

The mediation procedure shall not be adversarial in nature. The Patient and the Health Care Provider shall be given the opportunity to discuss the complaint and efforts shall be made for its amicable settlement. No monetary compensation nor legal counsels shall be involved at this stage.

The aggrieved party shall be given thirty (30) days from occurrence of the incident to file his/her written complaint for mediation. Upon receipt of the written complaint, the concerned mediation committee shall have ninety (90) days to resolve the complaint.

A successful mediation shall bar the filing of any judicial or administrative actions.

SEC. 8. Second-Tier Mediation. – When mediation fails or no agreement is reached after the lapse of the ninety (90) day period, the mediation committee

shall refer the complaint to the PMA through its local component society for appropriate administrative action.

The PMA local component society shall serve as the second tier mediation. It shall be composed of the president of the local society as the presiding officer and one representative from each of the following: component medical society, specialty society corresponding to the case, the People's Health Watch or other civic organizations, and a representative from the local religious organization. The PMA component society shall render its decision within sixty (60) days from receipt of the complaint.

In the event that the second tier medication fails, the case shall be automatically referred to the PMA Commission on Ethics which shall likewise render its decision within sixty (60) days from receipt of the complaint.

Resort to mediation and referral to the PMA Commission on Ethics shall be a condition precedent to the filing of a legal action in court.

All parties to the complaint shall be bound by the rules on confidentiality on all levels of the mediation.

All minutes of the mediation proceedings shall not be disclosed to any party unless authorized by the court of law. Any discussion held or admissions made therein shall not be used for or against any party in subsequent or other proceedings.

In the event there is compensation, it shall be limited to actual monetary loss due to treatment related to physical injuries. It shall not cover for "pain and suffering" or other explicit non-monetary loss. An award shall bar the patient from filing any other legal actions.

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.

SEC.10. Inclusion In School Curriculum, Licensure Examinations and Training. – *The provisions of this Act shall be considered in the 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 and other concerned private agencies, non-governmental organization 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,