

開発途上国における医療安全の取り組みの現状

—フィリピン共和国の事例—

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研究概要

本研究では、フィリピン共和国の医療過誤の実態と医療安全の取り組みの現状を予備的に調査した。フィリピン共和国では医療過誤が広く認識されており、国会も含めた議論が広く行われてきた。医療過誤を起こした医療従事者の処罰が優先されていることが問題ではあるが、これを契機に患者の権利についても議論がされている状況である。

しかしながら、医療過誤がシステムの問題であることはあまり認識されていない。さらに、システムを改善する取り組みについては、これを牽引できる指導者が育っておらず、導入されていない状況である。今後は、引き続き医療過誤の実態を把握するとともに、病院における医療安全の取り組みについて調査する計画である。

A. 目的

フィリピン共和国における医療過誤の実態と医療安全の取り組みの現状を把握することを目的とした。

B. 方法

フィリピン共和国における医療過誤の実態を把握することを目的として、フィリピン共和国最高裁判所の訴訟記録、The Philippine Professional Regulation Commission (PRC)とフィリピン医師会から医療過誤の事例をレビューした。

フィリピン共和国における医療安全（患者安全）の取り組みを把握することを目的として、（1）世界保健機構西太平洋事務局（World Health Organization Western

Pacific Regional Office）、フィリピン総合病院（Philippines General Hospital）、フィリピン大学国立保健研究所（University of Philippines National Institute of Health）の3つの機関を対象としたインタビュー調査と（2）医療安全に関する法律のレビューを行った。

C. 結果と考察

フィリピン共和国では医療過誤が広く認識されており、国会も巻き込んだ幅広い議論を巻き起こしている。

最高裁判所の Supreme Court Reports Annotated (SCRA) の記録によると、1997年から2006年3月現在までの期間に、最高裁判所で医療過誤と関係する判例が3例

みられた。2例が刑事訴訟、1例が民事訴訟となった。刑事訴訟のうち1例は損害賠償を支払うこととなり、もう1例は無罪となった。民事訴訟では損害賠償を支払うこととなった。

1例目は外科医と麻酔医が処置中の不注意から女性を殺したとして刑事訴訟となった。両人とも殺人罪は適用されず1997年11月18日に無罪判決となったが外科医には責任があるとして、故人の相続人に損害賠償を支払うようことになった。

(G.R.No.122445)

2例目は外科医と麻酔医、そして病院の怠慢が患者に昏睡状態を起こしたとして、民事訴訟となった。外科医、麻酔医、病院の全てが責任を負うべきであるとして、患者の家族に損害賠償が支払われた。

(G.R.No.124354)

3例目は主治医の治療が遅れたために患者が死亡したとして、刑事訴訟となった。主治医に殺人罪は適用されなかった。

最高裁判所まで上告されていない判例を含めれば、医療過誤を争点とした判例は相当数みられると思われる。

The Philippine Professional Regulation Commission (PRC)の統計データによると2003年から2005年の間に82例が記録されているが、うち39例は不注意あるいは医療過誤によるものであった。

フィリピン医師会の統計データによると2003年から2005年の機関に61例が記録されており、うち32例は不注意あるいは医療過誤によるものであった。

医療過誤に関する民間団体がある

民間の活動には、People's Health Watchの活動がある。People's Health Watchは、

医療過誤の被害者の団体である。フィリピンの大手ニュース番組のキャスターであるMs.Korina Sanchezが議長を務める。

医療安全に関する法案が提出された

2006年3月現在、医療安全に関する法案が4つ提出されている。そのうち2つは上院で提出され、2つは下院で提出された法案である。

The Medical and Healthcare Liability Act (House Bill 226)は下院で提出された。Magna Carta of Patient's Rights and Obligations (House Bill 261 and Senate Bill 588)は下院と上院の両方に提出された。Medical Malpractice Act (Senate Bill 743)は上院で提出された。

最近では、People's Health Watchがフィリピン医師会と共に House Bill 261 (Patient's Rights and Obligations)を通過させるよう働きかけている。

また上院では、患者の権利と医療過誤についての公聴会を2004年9月28日に開催した。People's Health WatchのMs.Korina Sanchezも招待された。

この他、今回は調査できていないが、地元の新聞、地元の医学雑誌、ニュースからも医療過誤の実態が明らかになると思われる。今後はこれらのメディアについてもレビューを実施する予定である。

このように医療過誤への関心が高まる中で、医療者側の医療安全に関する取り組みはほとんどみられない状況である。

フィリピン総合病院では質管理の取り組みはあるが、医療安全の取り組みはない1500床を有するフィリピン共和国最大の病院であるフィリピン総合病院では、看護サービスの質保証(QA)チームや医療サー

ビスの質保証（QA）委員会、危険薬誤投与防止委員会（Adverse Drug Committee）で、病院で提供されるサービスの質に関する取り組みはなされているが、医療安全の取り組みは行っていない。

Philippines Society for Quality in Health Care (PSQua) は、フィリピン国内で保健医療サービスの質改善のためのトレーニングを実施したり、質改善に関する研究を行う団体である。同団体では、毎年、質改善に関する最も優れた研究の検索を行っている。

また医療安全に関する法案は提出されたものの医学界から猛反発を受けた。

上院と下院へ提出された医療過誤に関する4つの法案に対して医学界（医師会と大学医学部、医学研究機関）は不賛成の意志表明をした

不賛成の医師表明をしたのは、フィリピン医師会（Philippines Medical Association）とフィリピン大学保健科学センター（University of the Philippines-Health Sciences Center）である。

法案に反対する根拠となったのは、これらの法案が医療過誤を起こした医療従事者の罰則規定を定めたものであり、これらの法案が成立することによって医療費の増加と医療職の減少を招く恐れがあること、およびよくない方向で患者に力が与えられてしまうということであった。

保健省では、フィリピン保険公社（PhilHealth）を通じて、保健医療サービスの質改善と患者安全を実現しようと意図している。フィリピン保険公社

（PhilHealth）では〇年に保健医療の標準と質を改善することを意図してベンチブック（Benchbook）を作成した。ベンチブック（Benchbook）では、患者の権利、患者のケアそして患者安全について述べられている。

D. 結論

フィリピン共和国では医療過誤が広く認識されており、国会も含めた議論が広く行われている。まだ、医療過誤を起こした医療従事者の処罰が優先されていることが問題ではあるが、これを契機に患者の権利についても議論が起こっている。

しかしながら、医療過誤がシステムの問題であることはあまり認識されていない。さらに、システムを改善する取り組みについては、これを牽引できる指導者が育っておらず、導入されていない状況である。

今後は、引き続き医療過誤の実態を把握するとともに、病院における医療安全の取り組みについて現状調査を実施する予定である（添付資料参照）。

E. 健康危機管理

特記すべき事項なし

F. 研究発表

1. 論文発表

なし

2. 学会発表

なし

G. 知的財産権の出願・登録状況

1. 特許取得

なし

2. 実用新案登録

なし

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 226



Introduced by Hon. Rozzano Rufino B. Biazon

EXPLANATORY NOTE

While there is no contention that professionals in the field of medicine and healthcare do not have the intention or desire to do harm to their patients, it cannot be denied that just as in any other profession, errors due to incompetence and negligence still occur in the treatment of patients, sometimes leading to fatal consequences.

Stories of miserable and ruined lives due to the errors of medical professionals abound in the media. Although some in the medical field say these comprise just a very small percentage of patients, these are still lives of human beings which should not have been destroyed by an equally small percentage of negligent and incompetent medical professionals.

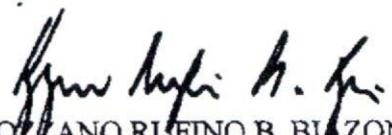
What makes it worse is that these medical professionals are often licensed by the State to perform their jobs, with the educational system for such professionals being highly regulated. With the power to extend or end lives, these professionals should perform and live up to the expectations of the general public. In this field, to err on the right side should be the only choice.

While the present system provides for three avenues that a claimant of medical malpractice may take --- criminal court for penal sanction, civil court for damages and the Professional Regulation Commission to suspend or revoke a license--- this system itself contributes to the delay, if not denial, of justice for the victim. The legal costs, not to mention the time element involved, makes the physical effects of medical incompetence and negligence more intolerable.

In addition, medical professionals are likewise victimized by this present system. A doctor may have his reputation tainted by having cases filed against him in three venues, each one lasting several years before being resolved. In the meantime, anyone is free to do damage to his good name with the mere mention that he has cases filed against him here and there.

This bill seeks to provide the environment where patients will be provided with the best medical care that they deserve by seeking to punish those who perform their jobs with negligence and incompetence and weeding them out of the profession. It also provides a process where justice is attained both by the accuser and the accused in a more reasonable way.

For this, the passage of this bill is earnestly sought.


ROZZANO RUFINO B. BLAZON
Representative
Lone District of Muntinlupa

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 226

Introduced by Hon. Rozzano Rufino B. Biazon

AN ACT
ESTABLISHING A MEDICAL AND HEALTH CARE LIABILITY LAW, PROVIDING
PENALTIES THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. *Title.* – This Act shall be known as the “Medical and Health Care Liability Act of 2002”.

SEC. 2. *Policy and Objectives.* – The State shall protect and promote the right to health of the people and instill health consciousness among them. It shall ensure the safety and well being of patients by creating an environment wherein incompetent and negligent medical practitioners shall not go unpunished.

The State shall provide patients a venue to address their grievances and claims against incompetent and negligent medical practitioners.

SEC. 3. *Definition of Terms.* For the purpose of this Act unless the context otherwise requires, the following terms shall have the following meanings:

- a) *Medical Practitioner* – shall refer to individuals in the medical and health profession, duly certified by the Professional Regulatory Commission where applicable, who have direct responsibility in the treatment, surgery, diagnosis or care of patients such as, but not limited to, physicians, dentists, nurses, pharmacists and paramedics.
- b) *Medical Malpractice* – shall refer to acts of gross negligence or incompetence or omission by a medical practitioner resulting to a new or aggravated injury or illness, deformity or death to the patient. Such negligent or incompetent acts or omission should be a breach of the accepted standards of medical care given by reasonable and prudent medical practitioners under the same circumstances.
- c) *Medical or Healthcare Liability Claim* – shall mean a claim in which the claimant alleges that injury was caused by medical malpractice.
- d) *Patients* – shall refer to persons requiring medical attention from any medical practitioner.
- e) *Illegal Medical Practice* – shall refer to the act of providing patients with medical attention without possessing the required training, education, certification, license or legal authority to perform the functions of medical practitioners and specialists.
- f) *Illegal Medical Practitioner* – shall refer to individuals engaged in illegal medical

practice as defined in this Act.

- g) *Illegal Surgery* – shall refer to surgeries performed to remove healthy human organs without the consent of the patient. It shall also refer to surgeries performed that are not necessary to the recovery of the patient from his injury or illness.

SEC. 5. *The Anti Medical Malpractice Act.* – Any individual who performs an act constituting medical malpractice or illegal surgery as defined in this Act shall be punishable by imprisonment or fine or both and in all instances, the suspension or cancellation of the license as a medical practitioner.

SEC. 6. *Illegal Medical Practice* – Any individual who performs an act constituting illegal medical practice as defined in this Act shall be punishable by imprisonment or fine or both.

SEC. 7. *The Complainant* – The following may file a complaint of medical malpractice against a medical practitioner:

- 1) The patient;
- 2) Parents or legal guardian of the patient;
- 3) Grandparents or collateral relatives;
- 4) The institutional head of a duly licensed child caring institution, orphanage, home for the aged, mental hospital or other similar institutions whose care or custody the patient is committed

SEC. 8. *Statute of Limitation* – Medical or Healthcare liability claims shall be filed not later than two years after the commission of the alleged medical malpractice.

SEC. 9. *Certification of Substantial Basis for Medical or Healthcare Liability Claim* – Claims under this Act shall be filed only after the issuance of a certification from the Board of Medicine of the Professional Regulations Commission that there is substantial basis for a medical and healthcare liability claim to be pursued.

The Board of Medicine shall review the claim and if there is reason to believe that there is a breach of the standard of medical care, shall issue a Certification of Substantial Basis not later than three months after the request for a certification is filed.

SEC. 10. *Penalties.* – Persons who commit medical malpractice shall suffer the penalty of imprisonment from a minimum of six months to a maximum of five years or a fine from a minimum of One Hundred Thousand Pesos (P 100,000.00) to a maximum of Two Hundred Fifty Thousand Pesos (P 250,000.00), or both, in the discretion of the court taking into consideration all attending circumstances.

In cases where the offense results in a new or aggravated injury or illness to the patient, the license of the offender shall be suspended by the Professional Regulations Commission for a period not lower than six months.

In cases where the offense results in the permanent disability, disfigurement or death of the patient, the license of the offender shall be revoked by the Professional Regulations Commission and may only be appealed for reinstatement after two years.

Persons who commit illegal medical practice shall suffer the penalty of prison correccional or a fine not lower than Two Hundred Thousand Pesos (P 200,000.00), or both, in the discretion of the court taking into consideration all attending circumstances.

Any other crime committed by reason or on occasion of malpractice shall be considered as a separate offense and the rules on complex crimes shall not apply.

In no case shall malpractice be considered as a mere aggravating circumstance when it is committed by reason or on occasion of the commission of another crime.

SEC. 11. *Damages* – In addition to the penalties prescribed in this Act, the following circumstances shall warrant the award of damages amounting to not more than One Million Pesos (P 1,000,000.00):

- 1) When the patient becomes insane or suffers any psychological damage by reason of malpractice or illegal medical practice;
- 2) Physical disfigurement or permanent disability or death of the patient by reason of malpractice or illegal medical practice.

SEC. 12. *Aggravating Circumstance*. – A deliberate attempt to withhold information on the circumstances of the treatment, medication, surgery or diagnosis of the patient, shall aggravate the crime of malpractice.

SEC. 13. *Accessory to Medical Malpractice* – Any person who, whether acting alone or in conspiracy with other persons, deliberately withholds information regarding the medical condition, treatment or care of a patient claiming malpractice, or causes delay in the prosecution of a medical malpractice claim, shall be held liable as an accessory to medical malpractice and shall suffer the same penalties prescribed in this Act.

SEC. 14. *Reinstatement* – The following shall govern the reinstatement by the Board of Medicine of a suspended or revoked license:

- 1) *Suspended license*- after the prescribed period, a suspension of the license may be lifted if the offender passes a validation exam to be administered by the appropriate regulatory agency.
- 2) *Revoked license* – After two years, a revoked license may be reinstated if the offender passes a validation exam to be administered by the appropriate regulatory agency.

SEC. 15. *Separability Clause*. – If any part, section or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in force and effect.

SEC.16. *Repealing Clause* - All other laws, decrees, orders, issuances, rules and regulations that are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 17. *Effectivity*. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
1st Regular Session

House Bill No. 261



Introduced by **RODRIGUEZ D. DADIVAS**

Explanatory Note

This bill seeks to stop the common practice of hospital or health care institution owners in detaining their patients on the sole basis of the latter's failure to fully settle its financial obligations. Collection of hospital bills is indeed a legitimate business concern but detaining a patient to ensure his/her payment would only add up the patient's bills even more because of his/her extended stay. This happens always especially to poor patients.

This bill provides a compromise acceptable to both parties. Patients most especially from the low-income sector should be given the right to leave, while the hospitals or health care institutions will be provided a leeway so as not to jeopardize its investments.

Under this bill, patients in emergency shall be extended medical attention without any deposit, pledge, mortgage or any form of advance payment for treatment. The bill also provides a patient's right to be informed of his/her illness in a manner and language understandable to him or her. He/she or his legal guardian has the right to examine and be given itemized bill of the hospital and medical services rendered in the facility of by his/her physician and other health care providers, regardless of the manner and source of payment. The patient is entitled to a thorough explanation of such bills.

This measure also provides for a grievance mechanism wherein patients are entitled to air his/her complaint arising from violation of any of the rights of patients under this bill to be submitted for mediation. However, the hearing procedure is not 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.

There are also other provisions on this bill that promote the right to health of the people. This bill was also filed in the Senate during the last Congress but the death of time averted its approval.

In view thereof, early passage of this bill is earnestly sought.

RODRIGUEZ D. DADIVAS
Representative
1st District, Capiz

Fr.:rey/bill.patientsrights

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
1st Regular Session

House Bill No. 261

Introduced by **RODRIGUEZ D. DADIVAS**

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

Be it enacted by the Senate and the 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.

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 administer terminal care 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 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, order 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 in writing.

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 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.

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 waives this right in writing.

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 forty-five (45) days from request.

9) **Right to Leave.** – The patient has the right to leave 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 loss income by the hospital and health care provider/practitioner and shall be deducted from gross income as income loss only on 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*, 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, further*, 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: *Provided, furthermore*, That the patient involved in the human experimentation shall be made aware of the provisions of the Declaration of Helsinki and its respective guidelines.

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. 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 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 of 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 program, 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 the 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 Obligation 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 Act 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 Act shall first be submitted for mediation. There shall be two (2) forms of mediation, namely: hospital-based mediation and non-hospital-based mediation.

The Hospital-based mediation 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 the Non-Hospital-based Mediation, it 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, and the designated people's organization, as members.

For this purpose, the Department of Health shall ensure the establishment of these grievance mechanisms and issue the necessary rules and regulations for its proper operation.

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. 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 level.

Upon receipt of written complaint, the Chairperson shall give notice to the respondent. Upon receipt of the written complaint and due notice to the respondent, the Mediation 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 file appropriate 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 causing physical injuries shall proceed to this arbitration process.

A No-Fault Arbitration Committee shall be established in every health care institution. The Committee shall be composed of five (5) member-peer review of physicians. The complainant and the health care provider shall each be duly represented in the Committee.

The Committee shall base its decision on documentary evidence including depositions. Within thirty (30) days from receipt of the complaint, the Committee shall render a decision.

Compensation shall be limited to actual monetary loss. It shall not cover for "pain and suffering" or other explicitly non-monetary losses. A no-fault award shall bar the patient from further seeking damages in any judicial or administrative proceedings.

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 and issue the necessary rules and guidelines for its proper operation.

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 included 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, Philippine Health Insurance Corporation and concerned private agencies, the People's Health Watch, other non-governmental organizations and concerned 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. The Implementing Rules and Regulations of this Act shall identify specific conditions under which the individual rights of patients, as stipulated in Subsections 3, 6, 7 and 9 of Section 4 hereof, may be curtained or suspended in the interest of public health and safety.

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,