

FIFTEENTH CONGRESS
OF THE REPUBLIC OF THE PHILIPPINES
First Regular Session

HOUSE OF REPRESENTATIVES

0000 888
House Bill No. _____

Introduced by Representative Susan A. Yap

EXPLANATORY NOTE

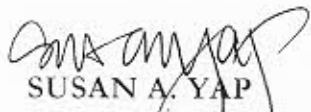
Article XIII, Section 11 of the Constitution states that,

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

Corollary to the endeavor of the State to make health services available to all is its provision in quality and proper disposition of service through public or private health care institutions.

For years, countless bills have been filed on to develop an anti- "Medical Malpractice" law, but this has been met with constant, and often, acrimonious debate from various medical or doctors' associations. The balance between the responsibility, liability of the medical practitioner must be met equally such that practitioners are equally prohibited from doing abuse because of their inherent authority over the patient and that they, too are not too constrained so as to limit their functions and services. A proper policy should also look into its viability on the implementation side so as not to add additional costs to the patients.

Hence, this bill stands at the balance by providing internal grievance mechanisms in every hospital, private or public, under the supervision of the Department of Health. A grievance board shall be set up in every hospital whose members include a representative from the Philippine Medical Association and the DOH. This will ensure that the patient who filed a duly signed grievance report will receive fair handling of the case.


SUSAN A. YAP
Representative, 2nd District of Tarlac

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

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

21 SECTION 1. *Short Title.* - This Act shall be known as the "Patient Grievance Mechanism
22 Act of 2010".
23

24 SEC. 2. *Declaration of Policy.* - The State values the dignity of every person and upholds full
25 respect for human rights. It shall then maintain the policy of protecting and promoting the citizen's
26 right to health and instilling health awareness among them. Thus, it is imperative for the State to
27 establish an effective, efficient and just grievance mechanism that will ensure the protection of a
28 person's right to a decent, humane and adequate health care. This Act intends to create a functional
29 mechanism that will address the problems and complaints of medical patients in relation to their
30 treatment.
31

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

33 (a) "Patients" persons requiring medical attention from any medical practitioner.

34 (b) "Medical Grievance" a grievance or complaint specific to the provision or non-provision
35 of medical care or 'services. It can be any complaint arising from injury or death of a patient in
36 relation to his or her diagnosis, prognosis, or treatment by a physician or any medical practitioner
37 and/or his or her assistant due, but not limited to, the following:

38 (1) Gross incompetence or negligence in the practice of his or her profession;

39 (2) Aiding or acting as a dummy of a person unqualified or unregistered to practice
40 medicine; and

41 (3) Violation of the doctor-patient privilege.

42 (c) "Grievance Board" the grievance mechanism instituted by the hospital which will receive,
43 investigate, examine and resolve all medical grievances that may fall under its jurisdiction.

44 (d) "Gross negligence" is a pursuit of a course or conduct, which would naturally and
45 reasonably result in injury and/or death. It is characterized by a lack of care and an intentional
46 neglect to act in the call of duty while maintaining a conscious indifference to consequences it will
47 have on other people. The existence of negligence in a given case is not determined by reference to
48 the specific judgment of a person involved in a complaint, but by what would be reckless,
49 blameworthy and negligent in a person of average intelligence and prudence.

50 (e) "Health Care Provider" all medical and health personnel involved in the diagnosis,
51 prognosis and treatment of a patient.

(f) "Hospital" health institution defined as such under Republic Act No. 4226 or the Hospital Licensure Act of 1965.

(g) "Consumer Arbitration Officer" person appointed for the effective and efficient protection of consumer rights under Republic Act No. 7394 or the Consumer Act of the Philippines.

(h) "Legal Representative" the members of the patient's immediate family or his or her guardian or counsel chosen by the patient to represent him or her.

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

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

(a) One (1) grievance officer appointed and permanently designated by the hospital who shall act as the chairperson. He or she must hold a supervisory or managerial position and must not be a medical doctor.

(b) Two (2) doctors from the hospital's pool of physicians: *Provided*, That they were not involved in the treatment of the patient-complainant: *Provided, further*, That they have the necessary expertise in the branch of medicine that is the subject matter of a given case: *Provided, finally* That they are not related up to the third degree of consanguinity to any party involved in the complaint or grievance;

(c) The local health officer or his/her duly authorized representative: *Provided*, That the representative is a full-time staff of the local health unit and must be a college graduate;

(d) One (1) representative from the Philippine Medical Association (PMA) or any recognized national or nongovernmental health organization;

(e) One (1) representative from the Department of Health (DOH) Regional Office and implementing arm in every region - Center for Health Development (CHD); and

(f) One (1) consumer arbitration officer who has jurisdiction over the area where the hospital is located.

Each hospital shall draft a list of experts for each field who are authorized to sit in the Board. The DOH shall have the duty of ensuring the establishment of the Grievance Boards and acting as their overseer.

SEC. 5. *Patient Grievance Procedure.* - A patient desiring to file a grievance under this Act shall submit a complaint in writing to the Hospital Grievance Board, a copy of which shall also be sent to the respective Center for Health Development (CHD). The document must be signed and sworn to by the patient himself or herself or his or her legal representative and must be filed within thirty (30) days from the occurrence of the event on which the complaint is based. It must state the act or failure complained of, the parties to whom the complaint is directed against, the conduct or duty violated, and other allegations which the complainant deems necessary to include.

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

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

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

1 This Act shall not deprive the patient the right to seek other remedies allowed under other
2 existing laws: *Provided*, That, he or she shall not be allowed to recover twice for the same remedy.
3

4 SEC. 7. *Remedies to be Awarded*. - If the physician and his or her assistants are found guilty of
5 any of the acts listed on the complaint, the Grievance Board, through majority vote of all members
6 except the grievance officer who endorsed the case, may grant relief prayed for by the complainant.
7 Remedies shall be limited to compensation for actual monetary loss and will not cover psychological
8 damages or other explicitly non-monetary losses. Likewise, the Board may recommend disciplinary
9 action on the respondent under the civil service rules and regulations, in case of public hospitals, to
10 the Professional Regulation Commission, and the concerned medical association.
11

12 SEC. 8. *Rules of Procedure*. - The hospital shall promulgate its rules and regulations which must
13 clearly state the procedures and methods of filing and addressing grievances. The rules must be
14 consistent with the provisions of this Act and shall require the approval of the DOH before
15 implementation. The procedure must be broad enough to apply to the handling of various types of
16 complaints and must effectively facilitate the settlement of grievances at the soonest possible time. It
17 shall include the rules on taking appeal.
18

19 All records received from the parties and the proceedings of the Board shall be kept strictly
20 confidential and shall not be disclosed, except upon lawful order of a competent court.
21

22 SEC. 9. *Appeal*. - Any party adversely affected by a decision, ruling or inaction by the
23 Grievance Board on a patient's complaint may file an appeal before the Secretary of the DOH
24 within thirty (30) days upon receipt of the resolution of the Grievance Board; The Secretary of
25 Health shall act on it within thirty (30) days upon receipt of the appeal.
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27 SEC. 10. *Implementing Rules and Regulations*. - The DOH, in coordination with the Department
28 of Justice, the Professional Regulation Commission, the Professional Regulation Commission, Board
29 of Medicine, the Philippine Medical Association (PMA), the Philippine Hospital Association, the
30 Philippine Health Insurance Corporation and concerned private agencies, nongovernmental
31 organizations and people's organizations shall issue the implementing rules and regulations necessary
32 to carry out the provisions of this Act within one hundred eighty (180) days after its approval.
33

34 SEC. 11. *Prescriptive Period*. - The time during which the case is submitted for mediation shall
35 toll the running of the prescriptive period for the filing of a civil or criminal case under the Revised
36 Penal Code or any administrative case under existing laws.
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38 SEC. 12. *Separability Clause*. - If any part, section or provision of this Act is held invalid or
39 unconstitutional, other provisions not affected thereby shall remain in force and effect.
40

41 SEC. 13. *Repealing Clause*. - All laws, presidential decrees, executive orders, rules and
42 regulations or parts thereof which are inconsistent with the provisions of this Act are hereby
43 repealed or modified
44 accordingly.
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46 SEC. 14. *Effectivity Clause*. - This Act shall take effect fifteen (15) days after its publication in
47 the *Official Gazette* or in any newspaper of general circulation.
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Approved,