

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3078

Introduced by Rep. **KARLO A. B. NOGRALES**

EXPLANATORY NOTE

This bill seeks to establish a patient grievance mechanism in all public and private health care institutions in the Philippines. This mechanism aims to protect the interest and welfare of patients and to uphold their right to health and to safe, humane, decent and quality professional health care.

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

Reported complaints of patients with regard to their treatments, has increased due to the advances in the practice of medicine and the increasing consciousness of people on the importance of timely, efficient and appropriate health care. Medical professionals are often licensed by the State to perform their jobs, and the educational systems for these professionals are highly regulated. These professionals should perform and live up to the expectations of the general public. However, it cannot be denied that just as in any other profession, errors due to negligence and incompetence still occur in the treatment of patients, sometimes resulting in an injury to or even death of a patient. Increasing complaints regarding violations of trust in patient-doctor relationships are also considered because one of the most critical components of the health care delivery process should be the interaction between the care provider and the patient and family.

In our present system, patients are provided with three options for complaints against erring medical professionals. A patient may opt to file a civil action, a criminal action or an administrative complaint against a physician.

Under 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. These damages that may be recovered are actual compensatory, moral, nominal, temperate or moderate, liquidated, or exemplary or corrective damages. The Revised Penal Code provides that physical injuries and other crimes against a person are

punishable with imprisonment and/or a fine. Administrative measures are provided for by the Medical Act of 1959, which reprimands erring physicians by the suspension or revocation of license registration of physicians who are found guilty of gross negligence, ignorance and incompetence in the practice of his/her profession that results in an injury to or death of the patient.

In the proposed grievance mechanism, a patient or persons on their behalf, can express complaints, resolve disputes concerning staff actions or hospital procedures, or bring institutions that may violate patient rights. Patients should be encouraged to use the grievance procedure as a formal and appropriate way to express their concerns or complaints to staff and resolve disputes, instead of relying on inappropriate, acting out behaviors. These complaints will be filed to the grievance committee created for this purpose, which includes hospital officials, doctors, a member of the Philippine Medical Association, representatives from local health units, and the consumer arbitration office in the place where the hospital is located. The use of the Patient Grievance Procedure does not limit the right of a patient to seek remedy for a complaint in the legal system. The grievance mechanism hopes to establish a settlement that will be mutually acceptable to the parties.

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



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AN ACT

ESTABLISHING A PATIENT GRIEVANCE MECHANISM FOR TREATMENT-RELATED GRIEVANCES IN ALL PUBLIC AND PRIVATE HEALTH INSTITUTIONS WITH THE SUPERVISION OF THE DEPARTMENT OF HEALTH, AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known as “Patient Grievance Mechanism Act of 2010.”

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

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

1. Patients – persons requiring medical attention from any medical practitioner;

2. Medical Grievance – a grievance or complaint specific to the provision or nonprovision of medical care or services. It can be any complaint arising from injury or death of a patient in relation to his or her diagnosis, prognosis, or treatment by a Physician or any medical practitioner and/or his or her assistant due, but not limited to the following:

- a) Gross incompetence or negligence in the practice of his or her profession;
- b) Aiding or acting as a dummy of a person unqualified or unregistered to practice medicine;
- c) Violation of the doctor-patient privilege

3) Grievance Board – the grievance mechanism instituted by the hospital which will receive, investigate, examine and resolve all medical grievances that may fall under its jurisdiction;

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

5) Health Care Provider – all medical and health personnel involved in the diagnosis, prognosis and treatment of a patient;

6) Hospital – health institution defined as such under Republic Act No. 4226 or the Hospital Licensure Act of 1965;

7) 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;

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 five (5) members:

1. 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;
2. Three (3) doctors from the hospital's pool of physicians, provided that none of them were involved in the treatment of the patient-complainant and, provided finally, that they have the necessary expertise in the branch of medicine that is the subject matter of a given grievance case;
3. 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;
4. One (1) representative from the Philippine Medical Association (PMA);
5. 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. Its rules and regulations must clearly state the procedures and methods of filing and addressing grievances. The Department of Health shall have the duty of ensuring the establishment and acting as overseer of the grievance committees.

SEC. 5. *Patient Grievance Procedure.* – A patient desiring to file a grievance under this Act may submit a complaint in writing to the hospital's grievance board. 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 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 whom the complaint is directed against, the conduct or duty violated, and other allegations 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 or allow the parties to submit affidavits, briefs or other pertinent documents within reasonable periods and under appropriate conditions so as to help 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 based on a valid cause, the officer shall inform the patient, or his or her legal representative, in writing, of 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 the receipt of the grievance officer's report to resolve the complaint.

This Act shall not deprive the patient the right to seek other remedies allowed under the laws, provided that he or she shall not be allowed under the laws, provided that he or she shall not be allowed to recover twice for the same remedy.

SEC. 7. *Remedies to be Awarded.* – If the physician and/or his or her assistants are found guilty of any of the acts listed on the complaint; the Board, through majority vote of all members except the Grievance Officer who endorsed the case, may grant relief prayed for by the complainant. Remedies shall limited to compensation for actual monetary loss and will not cover psychological damages or other explicitly non-monetary losses. Likewise, the Committee may recommend the respondent for disciplinary action under the civil service rules and regulations in case of public hospitals, and the physician's medical association.

SEC. 8. *Rules of Procedure.* – The hospital shall promulgate rules of procedures governing the resolution of grievances. The rules must be consistent with the provisions of this Act, and shall require the approval of the Department of Health before being implemented. The procedure must be broad enough to apply to the handling of various types of complaints and must be effectively facilitate the settlement of grievances at the soonest possible time. It shall include the rules on taking appeal.

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

SEC. 9. *Appeal.* – Any party adversely affected by a decision, ruling or inaction by the grievance board on a patient's complaint may file an appeal before the Secretary of

the Department of Health, who shall act on it within thirty (30) days from receipt of the appeal.

SEC. 10. *Rules and Regulations.* – The Secretary of Health, in consultation with the Philippine Medical Association, the Philippine Hospital Association, the Philippine Health Insurance Corporation and concerned private agencies, non-governmental organizations and people's organizations shall promulgate such rules and regulations as may be necessary for its implementation within One Hundred Eighty (180) days from the effectivity of this Act.

SEC. 11. *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. 12. *Separability Clause.* – If any of the sections or provisions of this Act is held invalid, all the other provisions not affected thereby shall remain valid.

SEC. 13. *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. 14. *Effectivity.* – This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspapers of general circulation in the Philippines.

Approved,