

# **MEMORANDUM OF AGREEMENT ON THE RIGHTS AND OBLIGATIONS OF PATIENT**

**Among**

**XXX**

WHEREAS, it is declared policy of the state to ensure and protect the rights of patients to decent, humane and quality healthcare.

WHEREAS, the time honored relationship between Filipino physicians, their patients and the community has undergone significant changes in recent times.

WHEREAS, the physician should always act according to his conscience, for the best interest of the patient must exert equal effort to guarantee patient autonomy, justice and participation in the decision making.

WHEREAS, the physician and other persons involved in the provision of health care have a joint responsibility to recognize and uphold these rights.

WHEREAS, whenever legislation, government action or any other administration or institution denies patients these rights, physicians, and the community should pursue appropriate means to assure or restore them.

WHEREAS, XXX recognize the importance of a concerted effort to ensure that the rights of the patients to decent, humane and quality healthcare is upheld.

WHEREAS, XXX believe that a formal memorandum will provide the structure and basis implementing the efforts to uphold patients rights for the good of the community.

## **I. PARTIES**

This document constitutes an agreement among XXX to collaborate and coordinate to ensure that patients' right for a decent, humane and quality healthcare is upheld. Each agency's contributions will be acknowledged as appropriate in all publications and press releases resulting from joint undertakings.

## **II. AUTHORITIES**

## **III. PURPOSE**

This MOA seeks to develop and recognize patient's rights, achieve decent, humane and quality healthcare through the collaboration of leading institutions in the medical industry, and provide promising opportunities for future joint efforts by XXX.

Consequently, the parties shall hereby adopt and enforce the following patient's rights and obligations:

## **A. INDIVIDUAL RIGHTS**

### **1. Right to Good Quality Health Care and Humane Treatment**

- a. Every person has a right to good quality health care without any discrimination and within the limits of the resources available for health and medical care
- b. In the course of such care, his human dignity, culture, convictions and integrity shall be respected
- c. If the patient has to wait for care, he shall be informed by the health professionals of the reason to delay
- d. The patient shall always be treated in accordance with his interests. The treatment applied shall be in accordance with generally accepted medical principles.
- e. The patient has the right of continuity of health care within the limits of resources available for health and medical care.
- f. An emergency patient who is in immediate threat of dying or losing of life or limb shall be extended immediate medical care and treatment without any pecuniary consideration until the emergency situation is over.

### **2. Right to Dignity**

The patients' dignity, culture and value shall be respected at all times in medical care.

### **3. Right 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 DOH, PMA and PHW, in coordination with care providers, professionals and civic groups, the medical peoples' organizations, local government units and other agencies and non-governmental organizations shall conduct a nationwide information and education to make known to people their rights as patients as provided in this Memorandum of Agreement. The health care institutions shall inform patients of their rights as well as the institution's rules and regulations that apply to the conduct of the patients while in the care of such institution. The PMA shall inform its members, component societies, specialty divisions, sub-specialty divisions and affiliates about the rights and obligations as patients as contained in this Memorandum of Agreement.

#### **4. Right to Choose the Physician**

- a. The patient is free to avail the services of a physician or health institution of his choice except when he chooses to be confined in service ward. In this case, his attending physician shall be the one on duty and who made the admitting orders at the time of admission as appearing in the Doctors Order Sheet of the Medical Record.
- b. The patient has the right to seek a second opinion.
- c. The patient has the right to change his physician or other health care provider.

#### **5. Right be Informed Consent**

- a. The patient has the right to self determination, to make free decisions regarding himself. The physician shall inform the patient of the consequences of his decisions.
- b. The patient who is mentally competent and of legal age or in his incapacity or age of minority his legal representative has a right to a clear explanation, in laypersons' terms on all proposed or contemplated procedures whether diagnostic or therapeutic, including the identity and professional circumstances of the 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 which may include but may not be limited to the benefits, risk and 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 of the proposed procedure or procedures, 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, the use of anatomic sketch, or otherwise the use of those 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 legal representative has given his consent seeing to it that the patient or his legal representative was allowed to ask questions or that he is given the chance to consult his kin or seek another expert opinion.
- c. The unconscious patient-
  1. If the patient is unconscious or unable to express his will, informed consent must be obtained whenever possible from a legal representative.
  2. When medical intervention is urgently needed, consent of the patient may be presumed.
  3. Physicians should always try to save the life of the patient unconscious due to suicide attempt.

d. The legally incompetent patient-

1. If a patient is a minor or legally incompetent, the consent of a legal representative is required. Nevertheless, the patient must be involved in the decision making to the fullest extent allowed by his mental capacity. A patient who is eighteen years of age and above shall be considered for purposes of his declaration to be old legal age.
  2. If the legally incompetent patient can make rational decision, his decisions , must be respected and he has the right to forbid the disclosure of information to his legal representative.
  3. If a patients legal representative forbid treatment, but in the opinion of the physician, contrary to the patient's best interest, the physician may challenge his decision in court.
- e. In case of emergency when there is no one can give consent on his behalf, the physician can perform any emergency diagnostic or treatment procedure in the best interest of the patient.

## **6. Right be to Refuse Diagnostic and Medical Treatment**

- a. The patient has the right to refuse diagnostic and medical treatment procedures, provided that the following conditions are satisfied:
  1. He is age twenty-one and above, and mentally competent;
  2. He is informed of the medical consequences of his refusal;
  3. His refusal will not jeopardize public health and safety.
- b. An adult with a sound mind may execute an advance directive, for physicians, not to put him on prolonged life support if in the future, his condition is such that there is little or no hope of reasonable recovery and the physician shall therefore allow the natural course to happen.

## **7. Right be to Refuse Participation in Medical Research**

The patient has the right to be advised of plans to involve him in medical research that may affect the care or treatment of his condition. The proposed research shall be performed only upon the written informed consent of the patient.

## **8. Right to Religious Belief and Assistance**

The patient has the right to receive spiritual and moral comfort including the help of a minister of his chosen religion.

## **9. Right to Privacy and Confidentiality**

The patient has the right to privacy and protection from unwarranted publicity. This right to privacy shall include the patients' rights not to be subjected to exposure, private or public either by photography, publications, video taping discussion, medical teaching or by any 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 treatment

- a. 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 except in cases when descendants may have a right to access to their information that would inform them of their health risks.
- b. All identifiable patient data must be protected. The protection of the data must be appropriate as to the manner of storage. A physician should keep the medical records of a patient for three (3) years from the time he last sees the patient for treatment, consultant or diagnosis. Human substance from which identifiable data can be derived must be likewise protected.
- c. Confidential information can be disclosed in the following cases:
  1. When his mental or physical condition is in controversy in court litigation and the court in its discretion orders him to submit to physical or mental examination by a physician
  2. When the public health and safety so demand.
  3. When the patient or in his capacity his legal representative, expressly gives the consent.
  4. When the medical and his surgical condition without revealing his identity is discussed in a medical or scientific forum or expert discussion for his benefit or for the advancement of science and medicine.
  5. When it is otherwise required by law.

## **10. Right to Disclosure of and Access to Information**

- a. In the course of his treatment and hospital care, the patients has the right to be informed of the result of the evaluation of the nature and the extent of his disease or any other additional or further contemplated medical treatment and surgical procedures..
- b. Disclosure of information may be withheld if the information to the patient will cause mental suffering or further impair his health. Such disclosure may be withheld or deferred at some future opportune time upon due consultation with the patients' immediate family.

- c. Information must be given in a way appropriate to the local culture and in a way the patient can understand.
- d. The patient has the right not to be informed on his explicit request, unless required for the protection of another person's life.
- e. The patient has the right to choose who, if anyone should be informed on his behalf.
- f. The patient has the right to examine and be given an itemized bill on the hospital and medical services rendered.
- g. The patient or his legal representative has the right to be informed by the physician or his delegate of his continuing health care requirements following discharge, including instructions about home medications, diet, physical activity and all other pertinent information.

#### **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 Medical Records**

- a. The health care institution and the physician shall ensure and safeguard the integrity and authenticity of the medical records
- b. Upon the request of the patient, the physician shall issue a medical certificate or a clinical abstract to the patient upon discharge from the institution. Any relevant document that the patient may require for insurance claims shall also be made available to him within a reasonable period of time.
- c. The patient has the right to view the contents of his medical records with the attending physician explaining the contents thereof and at his expense.
- d. The patient may obtain from the health care institution a reproduction of his medical record at his expense.

### **13. 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 the available health services. The education should 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. Physicians should have an obligation to participate actively in educational efforts.

### **14. Right to Express Grievance**

The patient has the right to express valid complaints and grievances about the care and services received. Patients may express their complaints and grievances with the Ethics Committee of the Philippine Medical Association through its component societies which shall afford all parties concerned with the opportunity to settle amicably all grievances.

## **B. SOCIETAL RIGHTS**

### **1. Right to Health**

The patient has the right to access quality health care and to physicians who are free to render clinical and ethical judgment without interference or outside pressure. 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 Quality Public Healthcare**

The patient has a right from the national and local government to a comprehensive and integrated health care delivery system, providing the necessary manpower and facility resources. The patient has the right to functioning public health and healthcare facilities, goods and services. They shall likewise be provided with health facilities and services with adequate provision or essential drugs, regular screening program, and appropriate treatment of prevalent diseases, illnesses, injuries and disabilities, including provision of public health insurance. Towards this end, the government shall approximate the international standard allocation for the health sector as set by the World Health Organization.

### **3. 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 use, drug use and other harmful substances

### **4. Right to a Medical and Education Information and Programs**

The patient has the right to prevention, 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 government shall endeavor to provide information through lectures, symposia, tri-media and the like.

### **5. Right to Participate in Policy Decisions**

The patient has right to participate in policy decisions relating to patients' right to health at the community and national levels.

### **6. Right to Access to Health Facilities**

The patient has the right to admitted to any primary, secondary and tertiary and other specialty hospitals when appropriate and necessary.

### **7. Right to Equitable and Economic Use of Resources**

The patient has the right to demand that government health facility resources must be equitably distributed in all regions of the country.

### **8. Right to Continuing Health Care**

The patient has the right from the national and local government programs to ensure continuity of care in the form of hospice care, rehabilitation chemotherapy and radiotherapy and similar modalities.

### **9. Right to be Provided Quality Healthcare in times of Insolvency**

The patients who are paupers have the right from the national and local government provisions for quality medical care in spite of insolvency. The national and local government must provide for a system of payment to health care facilities and providers for all the valid and necessary medical expenses of their poor and marginalized citizens.

## **C. OBLIGATIONS OF PATIENTS**

### **1. Obligation to Know Rights**

The patient shall ensure that he knows and understands what the patients' rights are and shall exercise those rights responsibly and reasonably.

### **2. Obligation to Provide Adequate, Accurate and Complete Information**

The patient shall provide to the best of his knowledge, adequate, accurate and complete information about all matters pertaining to his health including medications and past or present medical problems, ailments, medical history consultations with other physicians, results of diagnostic work up and treatment to his healthcare provider.

### **3. Obligation to Report Unexpected Health Changes**

It shall be the duty of every patient to report unexpected changes to his condition or symptoms including pain to a member of the healthcare team.

### **4. Obligation to Understand Purpose and Cost of Treatment**

The patient shall ensure that he understands the purpose and cost of any proposed treatment or procedure before deciding to accept it. The patient shall notify the health care provider or practitioner if he does not understand any information about his care or treatment. The patient shall insist upon explanations until adequately informed and consult with all relevant persons before reaching a decision.

### **5. Obligation to Accept Consequences of Own Informed Consent**

The patient shall accept all the consequences of his own informed consent. If he refuses treatment or does not follow the instructions or advice of the healthcare provider or practitioner, he must accept the consequences of his decision. He is obligated to forever free the physician of liability in his exercise of his right to self-determination.

### **6. Obligation to settle Financial Obligations**

The patient shall ensure that financial obligations of his health care fulfilled as promptly as possible, otherwise he shall make appropriate arrangements to settle unpaid bills in the hospitals and or professional fees of the healthcare provider. Patients must seek support from the national and local governments to provide a system of payment to health workers and facilities.

## **7. Obligation to Respect the Rights of Health Care Providers**

Patients are required to give due respect to the rights of health care providers most especially their human rights. Patients shall at all times be considerate, cooperative and must never infringe on the rights and property of the health care provider.

## **8. Obligation to Respect the Rights of Health Institutions**

The patients are required to give due respect to rights of health care provider and must never infringe upon their rights. This includes the obligation to know and to follow the health institutions policies, rules and regulations.

## **9. Obligation to Respect the Rights of Other Patients**

The patient is obligated to conduct himself in harmony with, respect to and must not interfere with the rights and property of other patients.

## **10. Obligation to Self**

The patient is obligated to maintain a state of wellness.

## **11. Obligation to Have Adequate Health Information and Actively Participate in His Treatment**

The patient is obligated to know the basic health information. This adequate knowledge is subsumed when a patient signs as informed consent. Patients are obligated to actively obtain the necessary information to enable him to actively participate in the formulation of his diagnostic and treatment plans.

## **12. Obligation to Respect the Right to Privacy of health Workers and Institutions.**

Patients have the obligation to address grievances to the proper authorities or venue and not resort to unwarranted publicity in the media.

## **13. Obligation to Exercise Fidelity of Privileged Communication**

A patient-physician relationship is a fiduciary one where mutual trust, respect and confidence is executed. All communications are privileged and the patient is obligated not to breach this privileged communication especially if it involves a third party.

## **14. Obligation Not to Force Physicians to Treat Patients**

While patients have the right to choose physicians, patients are likewise obligated to respect the physician's decision to choose whom he is going to serve or treat.

### **15. Obligation to Respect the Physician's Decision on Medical Reasons on His Right to Religious Beliefs**

Patients are obligated to respect and obey the healthcare providers' decision on matters of medical reasons on his children not of legal age, but whose lives and health care are affected by the parents' right to religious belief. Parents are obligated to respect the physicians' religious beliefs as well.

### **16. Obligation to Medical Records**

Patients are obligated to ensure the integrity and authenticity of his medical records. Any attempt to alter his records is a criminal offense subject to the provisions of the Revised Penal Code.

### **17. Obligation to Participate in the Training of Competent Future Physicians**

Training of competent future physicians is a necessary development in the health care delivery system of the country. Patients are therefore obligated to participate in the training of these future health workers provided the necessary information are provided him and the necessary ethical considerations employed.

### **18. Obligation to Inform**

Patients are obligated to inform the health worker of any perceived or alleged infraction of his rights by the health worker or institution through proper channels. This is to provide a system of immediate rectification to promote mutual trust, respect and confidence between the health care provider and the patients.

### **19. Obligation to Use Due Process and Exhaust Grievance Mechanism**

All grievances of patients must be coursed through proper channels. The patients shall exhaust the grievance mechanism provided in this MOA before filing any administrative or legal action.

## **IV. GRIEVANCE MECHANISM**

**a. Mediation.** Any written complaint arising from violation of any right and obligation of patients shall first be submitted to mediation with the Ethics Committee of the PMA, through its component societies which shall afford all parties concerned with the opportunity to settle all grievances amicably. The hearing procedure shall not be adversarial in nature.

The patient and the healthcare provider or practitioner shall be given an opportunity to discuss the course of complaint and efforts shall be made for its amicable settlement. No

monetary compensation shall be involved during this stage and neither shall a legal counsel be present.

The Ethics Committee of the local component societies shall be constituted by three (3) members of the said society, three (3) members of the specialty society corresponding to the case, one (1) representative from the PHW and one representative from the public or private or religious sector.

The aggrieved party shall be given 60 days from occurrence of incident to file his or her written complaint to the appropriate grievance mechanism level.

Upon receipt of the written complaint, the chairperson shall give notice to the respondent. Upon receipt of the written complaint, due notice to the respondent and conciliation meeting, the Mediation Committee shall be given thirty (30) days to resolve the said complaint. Otherwise the complainant shall have the option to proceed to the next level of the grievance system. The committee shall now constitute themselves into an Arbitration Committee to hear and resolve the complaint.

**b. Arbitration** – If and when the complaint is not resolved through mediation within the prescribed period, the complainant shall file a case for arbitration. Only complaints with physical injuries shall proceed to the arbitration process. The Committee shall base its decision on documentary evidence including depositions. The Committee shall render a decision within thirty (30) days from receipt of the position papers of both parties. The decision shall be binding to all parties.

**c. Process** - - The XXX shall ensure the establishment of this grievance mechanism. The DOH, in consultation with the PMA and the PHW shall issue the necessary rules and regulations for its proper operation and implementation. These grievance mechanisms shall be sine qua non before filing any complaint with the juridical body. All parties to the complaint shall be bound by the rules on confidentiality on all levels of the grievance mechanism. All minutes of the Committee shall not be disclosed to any party unless authorized by the Court of Law.

**d. 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 care.

## **V. MISCELLANEOUS PROVISIONS**

The XXX shall:

- a. Meet thrice a year to review progress under this MOA and to update the joint houses of Congress regarding its implementation. The DOH, PMA and PHW will

alternately take the lead in setting up these meetings and will involve the appropriate parties across organizations.

- b. Jointly explore broadening their collaboration to include other partners.

NOW THEREFORE for and in consideration of the foregoing premises, the parties here to hereby agree and bind themselves as follows:

1. This agreement constitutes the legal, valid and binding obligation of the parties, enforceable in accordance with its terms;
2. This agreement may be amended at any time by the mutual written consent of the parties. The parties will review this agreement at least once every two years to determine whether it should be revised, renewed or cancelled. Either party may terminate this agreement by providing 90 days written notice to the other party.

**IN WITNESS WHEREOF**, the parties, through their respective authorized representatives, have signed this instrument this \_\_\_\_\_ day of May 2008 at \_\_\_\_\_.