What are the Doctors’ Rights?

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Reality check!!!

• Some doctors are starting to feel that the public at large has unfairly painted them as “professionals without any rights.”

• More often than not, we always hear about doctors’ duties and responsibilities.
Whenever a doctor is talked about, society tends to refer to them as highly skilled professional incapable of committing mistakes and with absolute expectation from patients to discharge his duty at the expense of his rights.
• A lot has been said about “patients’ rights”.

• How come nobody talks about “doctors’ rights”? 
Why nobody talks about physician’s rights?

• In the physician–patient relationship, the patient is a captive consumer. There is no other profession or business where a member thereof can dictate to a consumer what brand [s]he must buy .... how fast [s]he must consume it and how much [s]he must pay with the further condition to the consumer that any failure to fully comply must be at the risk of [her] own health.

  – Magan Medical Clinic v. California State Board of Medical Examiners 57 Cal. Rptr. 256 (Ct. App. 1967)
“Doctors have rights, too.”

• Today we will talk about doctors’ rights!
Do we find doctors’ rights in the following?

- Medical Act of 1959
- Hippocratic oath
- Philippine College of Physicians
- Philippine Medical Association
Medical act of 1959

- Sec. 25. **Rights of respondents.** The respondent physician shall be:
  1. entitled to be represented by counsel or be heard in person,
  2. to have a speedy and public hearing,
  3. to confront and to cross-examine witnesses against him or her, and
  4. to all other rights guaranteed by the Constitution and provided for in the Rules of Court.
Hippocratic oath

- No mention of any right.
- However, *it did mention a curse* -

“However, should I transgress this Oath and violate it, may the opposite be my fate.”
Code of Ethics of the PMA

ARTICLE II

Duties of Physicians to their Patients

• Section 2. A physician should be free to choose patients.
PCP Code of Ethics

a. The parties may jointly waive their right to a formal hearing in writing by opting to submit their position papers in lieu of a hearing. [2.5.3, Sanctions and Procedure]

c. The parties shall be accorded the right to have counsel present to assist them. [2.5.3, Sanctions and Procedure]
Right to refuse patients

- Primary physician (for walk-in patient)
- On-call physician
- HMO health provider
- Company physician
Right to refuse participation in the treatment

• “[C]onscienious objection implies the physician's right not to participate in what [he] thinks [is] morally wrong, even if the patient demands it.”

What must he do?

- If physicians feel they cannot provide a service for these reasons, physicians are expected to communicate clearly, treat patients with respect and provide information about accessing care.

- A physician must show that he/she acted responsibly in making it clear in a courteous way to the patient what the limits are of his/her medical practice.
Right to be paid for services

- When a physician treats a patient, it has an enforceable claim for full payment for his services.
Right to refuse a patient who has not yet paid your professional fee?

• Yes, provided arrangement is made for another doctor to take over.
Right to withdraw

• The physician has a definite right to withdraw from the case provided he gives the patient reasonable notice so as to enable him to secure other medical attendance. Such a withdrawal does not constitute an abandonment.

• A physician is under a duty to continue attendance upon the patient until the conditions for his rightful withdrawal are complied with.
Right withdraw

- Subjected to verbal abuse
- Patient and family members became hostile
- Disagreement with treatment plan
- Disruptive or difficult patient
- Inability to work with a colleague

- DUTY NOT TO ABANDON
Right to avail of medical futility doctrine

• Refusal to render futile treatment.
Right to refuse to be an expert witness

• Fact witness v. expert witness

• A physician shall assist the government in the administration of justice in accordance with law. He/she maybe accorded a fair and just remuneration when called upon as an expert witness.

—Duties of Physicians to the Community Article III Section (2) Code of Ethics of PMA
As a witness, right to refuse a subpoena

• Rule 21 Section 10 of the Rule of Civil Procedure:

“This Rule shall not apply to a witness who resides more than one hundred (100) kilometers from his residence to the place where he is to testify by the ordinary course of travel.”
Other Rights

1. Doctors and their practices have the right to set up criteria, guidelines and boundaries for accepting and working with their patients.

2. Doctors have the right to ask patients for the information they need to care for them, and request that patients fill out their forms honestly.
3. Doctors have the right to select the kinds of treatments they believe in and it’s up to the patients to decide what treatment they wish to accept, in mutual cooperation.

4. Doctors have the right to set up the practice model they choose, and decide if it is in true healthful service and supports their desires and beliefs about their work.

– Haas
Who will advocate for the rights of doctors?

• In the long run, it is the doctors themselves. A conscious effort to understand these rights is the key to preempt conflicts that might arise in the course of a doctor–patient relationship.