



## THE INTRODUCTION OF PATIENT'S BILL OF RIGHTS BY THE CONSUMER PROTECTION COUNCIL: IMPACT ON THE ENFORCEMENT OF PATIENT'S RIGHTS UNDER THE NIGERIAN HEALTHCARE SYSTEM

The recent launch by the Consumer Protection Council ("CPC"), in conjunction with the Federal Ministry of Health, of a Patient's Bill of Right ("PBoR") has received lots of encomiums, particularly amongst health sector enthusiasts. Any initiative with a prospect of enhancing value in the healthcare industry is always a welcome development in Nigeria. The sector remains one of the most critical for the country's economic and social development, despite being one of the most neglected, mismanaged, and abused; just in the same manner as majority of Nigerian consumers. By putting together a Patient's Bill of Rights, the CPC seeks to improve the quality of services delivered to consumers of healthcare and by extension contribute to the development of the healthcare sector.

From a legal perspective, the PBoR, *stricto sensu* is not entirely a novel intervention - although from consumer protection perspective it appears so - as the rights of patients in Nigeria are exhaustively covered within the provisions of the prevailing statutes including the 1999 Constitution of the Federal Republic of Nigeria, the National Health Act, 2012 and various codes of ethics for healthcare practitioners which make copious provisions on the rights available to users of healthcare services. Moreso, the protection of these rights has been the focal point of the age-long principle of law on medical negligence which places a standard of care upon which patients should be protected from unreasonable risks of harm.

## WHAT IS PATIENT'S BILL OF RIGHTS?

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A bill of right is the compilation rights of citizens of a country. The purpose of bill of rights is to protect those rights against infringement. Black's Law Dictionary defines bill of rights as "a section or addendum usually in a constitution, defining the situations in which a politically organised society will permit free, spontaneous, and individual activity, guaranteeing that governmental powers will not be used in certain ways". The evolution of concept of fundamental rights is derived from the institution of bill of rights which has gained pre-eminence in the constitutions and statutory instruments of different countries. The Nigerian Constitution contains a set of these universal rights which guarantees the fundamental rights and freedom of the citizens. These are listed in Chapter IV of the Constitution which include right to life, right to dignity of human person and right to personal liberty, amongst others.

Essentially, Patient's Bill of Rights is a declaration of the various rights which are bestowed on patients or users of healthcare services to prevent them from wrongful treatment while receiving medical care. With the introduction of the PBoR, which is in line with its statutory mandate of protecting the rights of consumers, the CPC reinforces the rights of patients as recognized in the extant statutes, codes and principles of common law.

The patient's rights as outlined in the PBoR include the following:

- Right to relevant information in a language and manner the patient understands, including diagnosis, treatment, other procedures and possible outcomes.
- Right to timely access to detailed and accurate medical records and available services.
- Right to transparent billing and full disclosure of any cost, including recommended treatment plans.
- Right to privacy, confidentiality of medical records.
- Right to clean, safe and secure healthcare environment.

# WHAT IS PATIENT'S BILL OF RIGHTS? CONT'D

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- Right to be treated with respect, regardless of gender, race, religion, ethnicity, allegations of crime, disability or economic circumstance.
- Right to receive urgent, immediate and sufficient intervention and care, in the event of emergency.
- Right to reasonable visitation in accordance with prevailing rules and regulations.
- Right to decline care, subject to prevailing law and upon full disclosure of the consequences of such a decision.
- Right to decline or consent to participation in medical research, experimental procedures or clinical trials.
- Right to quality care in accordance to prevailing standards.
- Right to complain and express dissatisfaction regarding services rendered.

## ENFORCEMENT OF PBoR

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The PBoR is not a statutory instrument, hence it can only be enforced within the existing legal framework. The rights listed in the PBoR may be enforced pursuant to the provisions of extant laws which create similar rights and in certain circumstances, have stipulated penalties for breach of patient's rights, empowering the courts, disciplinary tribunals and relevant agencies of government to take actions with respect to the enforcement of patient's rights. The legal frameworks under which the enforcement of the PBoR are applicable include legislations (such as the Nigerian Constitution, the National Health Act, Medical and Dental Practitioners Act and the Consumer Protection Council Act); and common law principle on medical negligence.



A patient who has suffered harm or injury as result of breach of any of the rights in the PBoR may seek to enforce same through the mechanisms provided by the CPC pursuant to the Consumer Protection Act, or by instituting an action in court pursuant to the provisions of the Constitution, the National Health Act and under common law tort for medical negligence. In addition, a disciplinary proceeding may be instituted under the Medical and Dental Practitioners Act against the medical practitioner or healthcare provider in breach of the patient's rights.

Thus, the enforcement of these rights can be categorised as rights exercised or enjoyed under legislations and common law.

### **i. Legislation**

Sections 33, 34 and 35 of the Constitution of the Federal Republic of Nigeria 1999, as amended, provides for fundamental rights to life, dignity of human person, and personal liberty respectively. These rights are inalienable rights which as the Nigerian Supreme Court declared in the case of *Mustpha v. Governor of Lagos State (1987) LPELR - 1931 (SC)*, are rights which encompass all humanity, and attach to a man because of his humanity. The ability to enforce human rights has been settled in a plethora of cases.

The National Health Act sets standards for rendering healthcare services in Nigeria and provides for the establishment of the national health system applicable to both public and private providers of healthcare services. The law specifically provides for the various rights of users of healthcare services.

The rights of patients are listed in Part III. These include the patient's right to be given relevant information pertaining to his state of health and necessary treatment relating thereto, right of access to health records, right to confidentiality of information relating to his health status, treatment or stay in a health facility. The Act also provides that every healthcare establishment is required to have a mechanism through which users may channel complaint on the services received. The minister or commissioner of health or relevant local health authorities are also required to provide procedures for laying complaint.

The Consumer Protection Council Act provides the general legal mechanism for the protection of consumer rights in Nigeria. This includes the rights of patients to quality services and treatment in line with existing laws and practices. The functions of the CPC are clearly spelt out in the Act and these include amongst others: to organise and undertake campaigns and other forms of activities as will lead to increased public consumer awareness; encourage trade, industry and professional associations to develop and enforce in their various fields, quality standards designed to safeguard the interest of consumers. It is in furtherance of this mandates and conjunction with the stakeholders in the healthcare sector, that the CPC introduced the PBoR. Pursuant to the Act, a consumer that has suffered a loss, injury or damage as a result of the service may make a complaint in writing to or seek redress through the CPC. The Consumer may also seek redress through civil action for compensation or restitution in any competent court.

## **ii. Common Law**

The common law principle of negligence also extends to the conduct of healthcare providers when discharging their professional duties toward their patients. Negligence as defined by the Black's Law Dictionary is the "*failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation*". In the famous case of *Bolam v. Friern Hospital Management Committee*, the court noted that a doctor will not be liable for medical negligence if he has acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art. In other words, he would be held liable if he acts otherwise. A patient may institute a civil action under tort of medical negligence for harm or injury incurred in the course of receiving medical care.

## **CONCLUSION**

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There is no doubt that the development of the healthcare sector in Nigeria depends on delivery of quality and affordable healthcare services. More importantly, the protection of rights of patients is crucial to the growth of the sector. The PBoR is indeed a step in the right direction.

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