

EDITORIAL

PATIENTS' BILL OF RIGHTS: A WAKE UP CALL FOR THE PRACTICING PHYSICIAN

Our Patients are no longer timid. What some patients would ordinarily accept a few years ago and probably say is the will of God can be subject of litigation today. As Healthcare Providers, we must move with the trend and improve on the way we practice our profession while respecting the rights of the patients. Once we protect those rights, the patient will invariably be satisfied and there may not be litigations.

Patients' Bill of Right in Nigeria as presented recently is essentially a document developed by the Consumer Protection Council (CPC), the Federal Ministry of Health in Nigeria and other stakeholders. It was launched by the Federal Government on the 1st of August, 2018. Even though the document was launched only recently, it is actually an aggregation of existing rights of all persons in Nigeria (Patients inclusive) as found in the 1999 Constitution of the Federal Republic of Nigeria (as amended), the Consumer Protection Act, Child Right Act, Freedom of Information Act, National Health Act, other regulations and several other professional ethical codes such as the Hippocratic oath and sundry regulations.

Even though the Patients' Bill of Right is designed principally to protect the rights of the patients, the document equally identified responsibilities of the patients. Furthermore, the patients' Bill of Right most robustly specified the health providers' responsibilities towards ensuring that the rights of the patients are well protected. Sadly however, the document was essentially quiet on the rights of the healthcare providers. With respect, I most humbly submit that the document should be amended urgently so that the rights of the healthcare providers are clearly defined in the same manner that of the patient was clearly stated.

Certain aspects covered by the Patients' Bill of Rights include right to relevant information and reasonable access to medical records. The patient has right to dignity, to be treated with respect and right to privacy. The patient has right to confidentiality. The patient has right to receive quality care in a clean healthcare environment and has right to receive prioritized emergency care even without payment. While on admission, a patient has right to receive visitors provided they respect facility rules and not constitute nuisance to other patients or staff. It is the patient's right to have a channel to ventilate his dissatisfaction where he is not satisfied with the quality of care received.

The patient has right to refuse any form of treatment including participation in research, teaching or clinical trials, provided adequate information has been given to the patient.¹ The issue of informed consent juxtaposed against autonomy was properly captured by Justice Benjamin Cardozo in a lawsuit involving the Society of NY Hospital when he said "*Every human being of adult years and sound mind has a right to determine what shall be done with his own body, and a surgeon who performs an operation without his patient's consent commits an assault for which he is liable in damages*".² Even if the actions of the patient appear unreasonable, the healthcare

provider must respect the wishes of the patient. This position obviously extends to issues like discharge against medical advice. The patient has the right to request for a discontinuation of treatment that has already commenced. However, the patient must be sufficiently informed about the consequences of such decision. It is to be noted that such a patient that has requested for discharge against advice still reserves the right to return back to the same facility. It is important to note however that in obtaining consent for a procedure (or in signing documents for discharge against advice), the process ought to be coordinated by the responsible doctor. This is an aspect that is often neglected by senior medical practitioners. In a study done by Osime *et al.* regarding obtaining informed consent for procedures, they observed that it was only in 4% that the Consultants personally supervised the process of obtaining informed consent from the patient.³ Where a House Officer, for example coordinates the process of obtaining consent for thyroidectomy (or signs the document for refusal of the procedure), strictosensu, that process is not valid. This is because the house officer is not expected to have the knowledge about the details of thyroidectomy and the complications thereof. The process for obtaining consent (or signing the discharge against medical advice form) should be undertaken by a senior member of the team, preferably the Consultant who understands the proposed procedure and can reasonably discuss same with the patient. Decisions regarding minors' health require special considerations and the physician must be familiar with such aspects of medical practice and the challenges associated with them.

The patient has responsibilities to seek information and clarifications on any aspect of care he or she is receiving. The patient must give adequate and correct information to the caregivers. The patients are expected to obey facility rules. The patient is expected to pay his bills. But the billing process must be transparent.

The balance between the rights and responsibilities of the patients, and rights and responsibilities of the medical practitioner was succinctly presented by the case of Nigerian Medical and Dental Disciplinary Tribunal Vs. Okonkwo.⁵ In this case, the Supreme Court reversed the suspension placed on Okonkwo because the Court observed correctly that Okonkwo had only treated the patient according to the wishes of the patient; the feelings of the Medical and Dental Council wouldn't overrule the wishes of the patient. One can safely surmise therefore that once the medical practitioner practices the profession according to standard principles of medical ethics, the law will assist in protecting the rights of the medical practitioner.

Sadly however, most practicing physicians do not have a good knowledge of the principles of medical ethics. In a study carried out by Fadare *et al.*, of the 250 medical doctors they interviewed, only few had a good grasp of what medical ethics is.⁶ Consequently, while the physician may think he is doing the correct thing, he may actually be infringing on the rights of the patient. For example, the physician should not under any circumstance transfuse a patient who is a member of the Jehovah's Witnesses' sect who has clearly indicated that he does not

receive blood transfusion.⁷One sure way to avoid litigation is to understand that various rules guiding medical practice.

Once a patient is under the care of a medical practitioner, the law expects that the medical practitioner should offer the patient good quality of care which must be according to best practices. Once that duty of care is established, the patient is entitled to claim damages if the physician breaches that duty of care. The patient only needs to prove that there was a duty of care which was breached by the physician and that breach led to injury. Damages will then be awarded. Note that the injury must not only be physical. The injury may be emotional, loss of hours at work, etc.⁸

In conclusion therefore, the implication of the Patients' Bill of Right for the Practicing Physician is that the Physician must as matter of necessity practice the profession of Medicine according to best practices. We must never underestimate what our patients can do with regard to litigation. Remember that "if it can happen at all, it can happen at any time and it will most likely happen when you least expect it".

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Prof. Clement Odigie OSIME FMCS, FWACS, FACS, LLB, BL

Department of Surgery, University of Benin/University of Benin Teaching Hospital, Benin City, Nigeria
Email: clementosime@yahoo.com. Phone: +234 0703 167 7858, +234 0802 333 2674.