

The Danish Patient Insurance Scheme

31 October 2005
Washington

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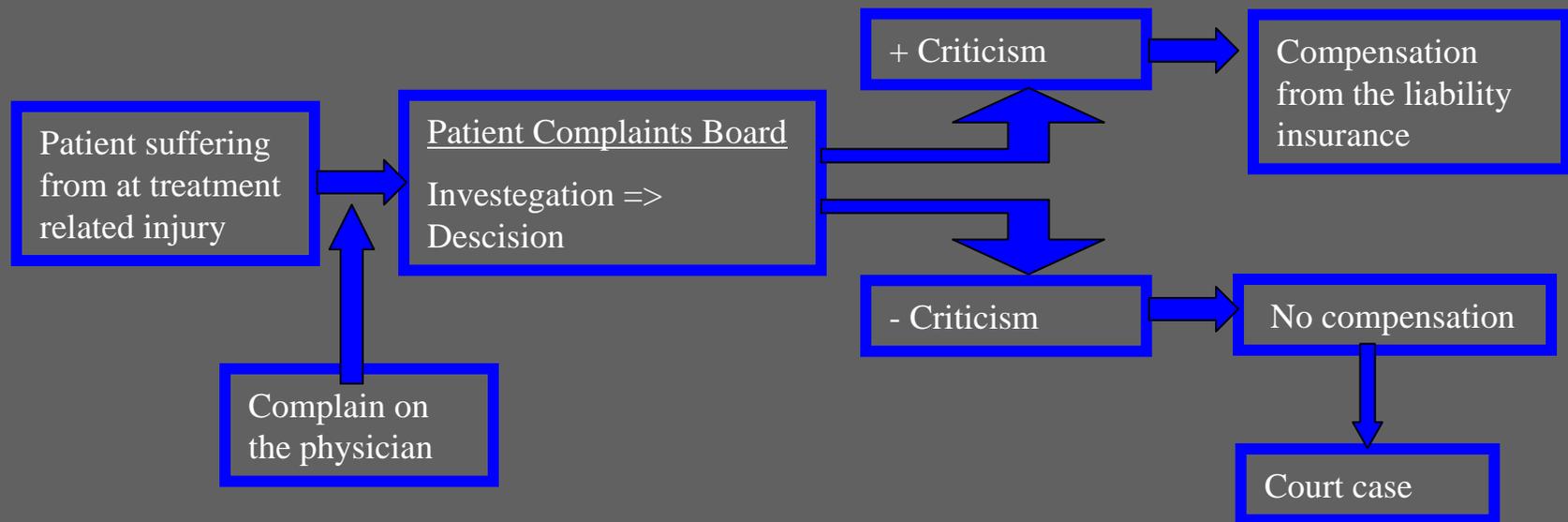


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Background

- General tort law system
 - Redress
 - Prevent
- The onus of proof was on the patient
 - Of the physician's negligence
 - Of the correlation between the negligent act and the injury sustained

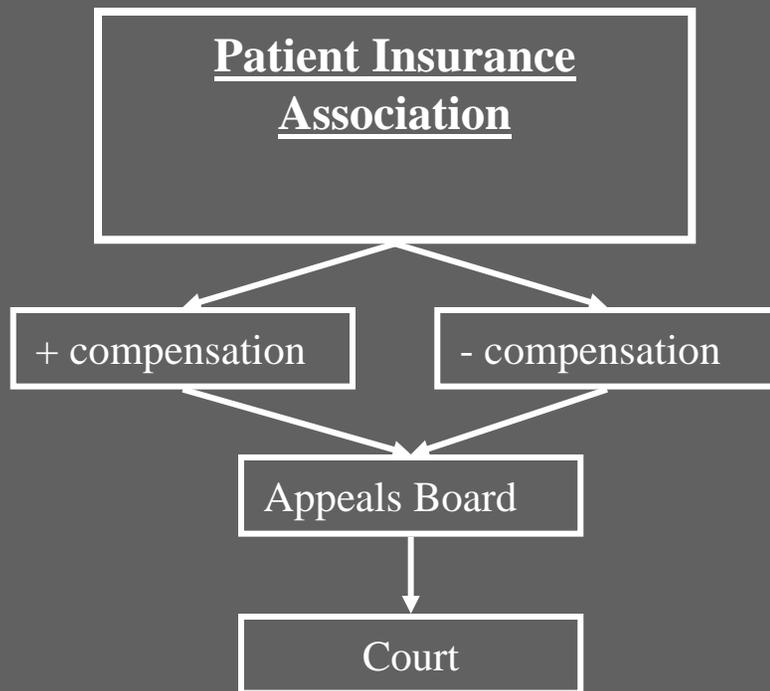
The way to compensation in the tort law system



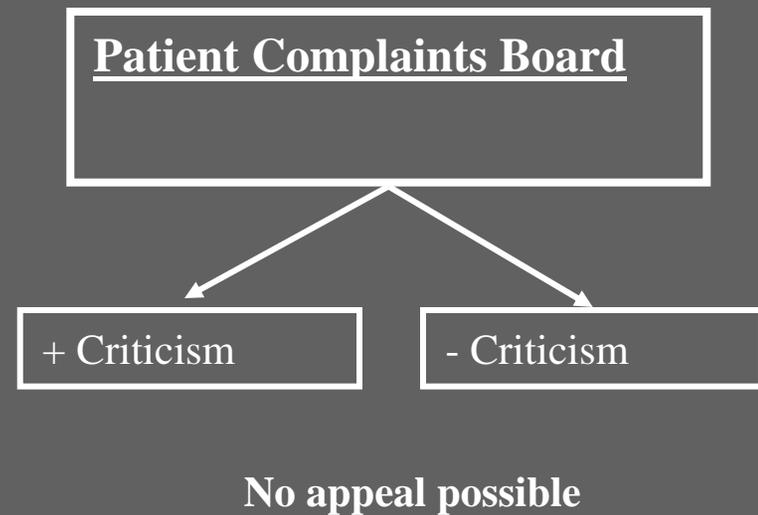
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Two-lined System

Compensation system:



Complaints system:



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The Insurance Scheme in outline

(Technical point of view)

- A tax paid system, where the insurance is taken out by the health care provider (the county)
- The patient does not need legal assistance
- An independent body receives, examines and decides all claims
- A system without expenses for the patient
- Free access to a public appeals board

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The Insurance Scheme in outline

(Legal point of view)

- All avoidable injuries and even some unavoidable injuries are covered
- Fault or negligence is no longer a condition for damages
- The onus of proof is made less stringent

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No fault compensation ?

- The scheme does not provide cover on a purely no fault / strict liability basis
- It is an alternative liability system, that widens the liability compared to general tort law
- It is a “No blame” system

Limitations in the Scope

- Only injuries caused by examination and treatment
- Not a guarantee scheme

Conditions for Damages

- **Avoidable Injuries**
 - The Specialist Rule
 - The Equipment Rule
 - The Alternative Rule

Conditions for Damages

- **Unavoidable Injuries**
 - The Endurability Rule
 - Seriousness
 - Rarity

Decisions 2004

Decision type	%
§ 2 (1), no. 1 (the specialist standard)	18,3
§ 2 (1), no. 2 (equipment failure)	0,5
§ 2 (1), no. 3 (alternative technique/method)	0,4
§ 2 (1), no. 4 (the durability rule)	15,8
§ 3 (2) (accidents)	0,3
§ 4 (1) (donors and subjects)	7,8
Entitled to compensation (total)	43,1
Not entitled	47,3
Outside field and scope	9,6
TOTAL	100,0

The Specialist Rule

- Best practice
- Focus on the treatment performed not on the individual HCP
- Compensation - if deviation from best practice has led to the injury

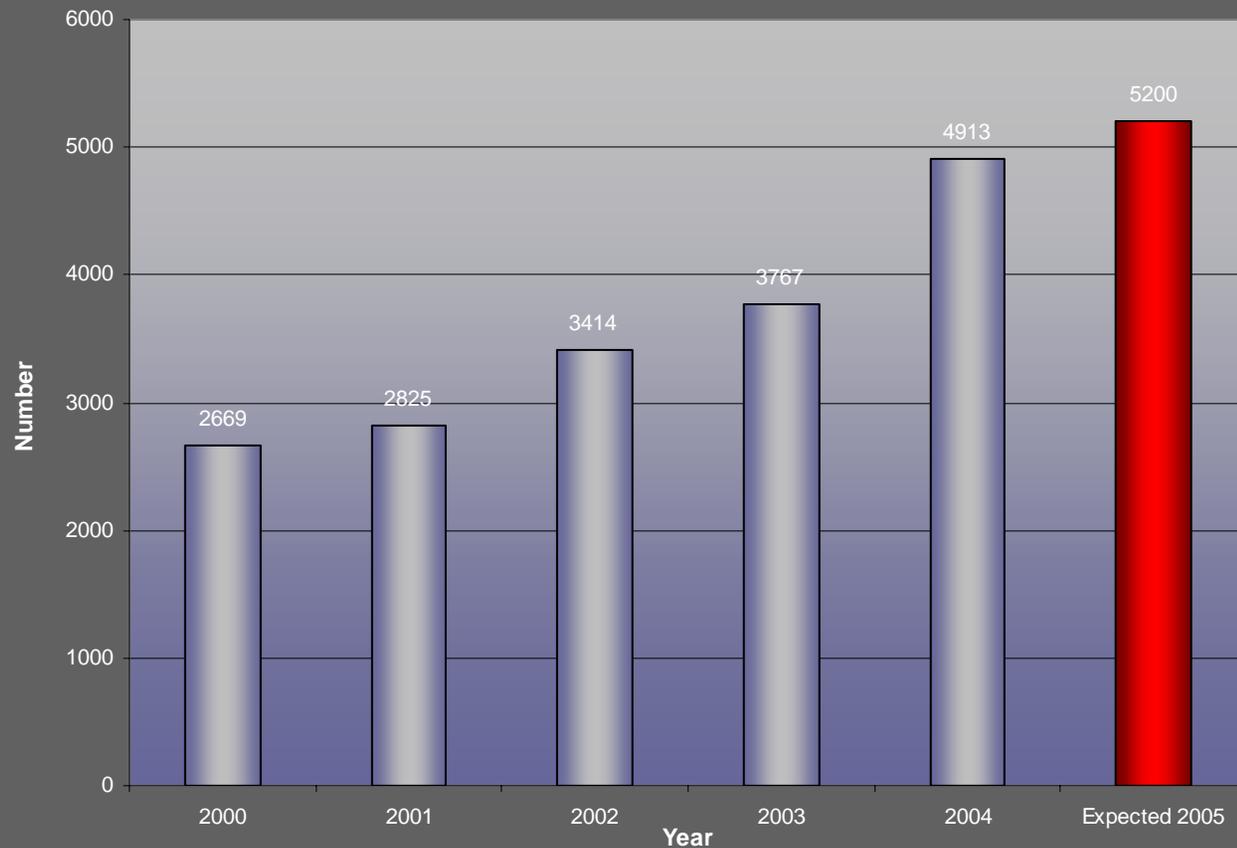
The Endurability Rule

- Unavoidable injuries
- Catch-all rule
- Relatively seriousness
- Rarity – less than 1-2 %

What is compensated

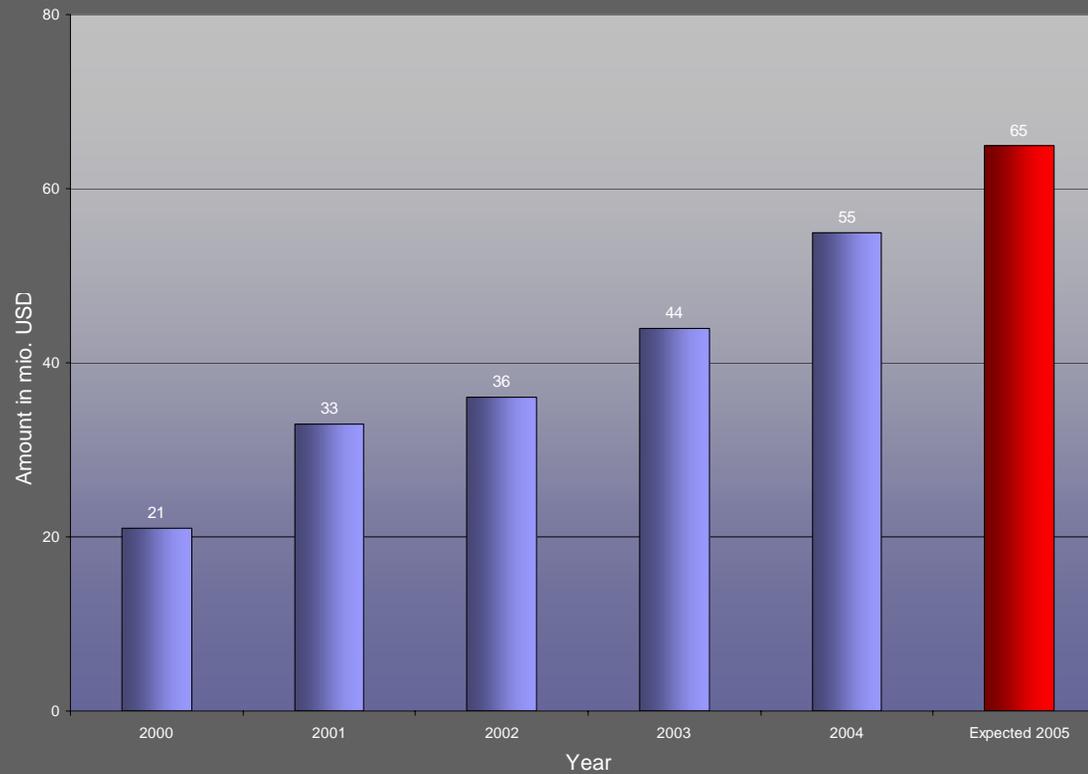
- Medical expenses and other losses
- Lost wages
- Pain and suffering
- Permanent injury
- Loss of ability to work
- Loss of breadwinner
- Burial expenses

Notices of claim in the years 2000-2005



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Compensation 2000-2005 (USD .)



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Strengths of the system

(Patients point of view)

- Extension of injured patients access to damages
- Easier and quicker way to damages
- No expenses for the patient and no need for lawyers
- The patient can relay on the physicians help to file the claim

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Strengths of the system

(Physicians point of view)

- Can help the patient without any risks of sanctions
- Patient is not likely to file a complaint to the complaints system if helped to damages by the physician
- The physicians can concentrate on what they are best at

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Strengths of the system

(From a public point of view)

- Know how is collected and used in the injury prevention process
- Prevents unnecessary criticism of the health care system
- Low administration costs

Weaknesses in the system

- The durability criteria is not transparent enough to the patients
- The system does not handle the frustration and anger that some some patients have
- Court cases are not entirely avoided

Is the system applicable to other countries ?

- Separation of the compensation system and the complaints system
- The amount of compensation must be at the same level as general law of torts
- The amount of compensation must have a maximum, as the system generates a lot of claims

Conclusion

- More patients are compensated
- Cooperativeness is achieved
- Patients are given greater security
- Focus is moved from blame to compensation
- Low-cost solution