

Patient Insurance



The Swedish Patient Injury Act

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The Swedish Patient Insurance Association

Patient Insurance

Tort Law/Court

The Health and Medical Care Liability Board

- Prove negligence/error or omission
- Time-consuming
- A costly process

Appr. 100 patients per year received compensation

1975

Patient Insurance

- Compensation on objective grounds
- The time for a decision is comparatively quick
- Free of charge

Appr. 5000 patients per year receive compensation

Patient Insurance

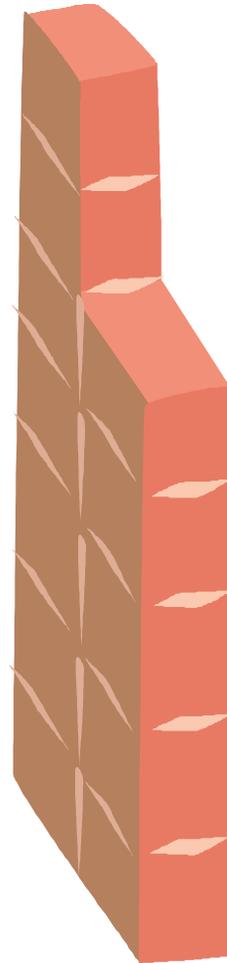
The Health and Medical
Care Liability Board

The National Board of
Health and Welfare

- Disciplinary punishment

Patient Insurance

- Economic compensation



Patient Insurance



- The insurance has created a basis for increased *confidence and openness* between the personnel and the patient
- In an estimated 60-80% of the reported cases, a physician, nurse or social worker has helped the patient report the matter
- Feeling of *redress*

If you are not satisfied with the health care...

- ***Complaints:*** Independent Patient Advisory Committee in every region = solves problems in contacts-attitude 25 000 cases
- ***Economic compensation:*** Patient insurance 10 000 claims, 5 000 accepted
- ***Disciplinary actions*** against staff: The Health and Medical Care Liability Board 3 000 "claims" from patients 300 reprimands

Adm procedure vs court?

- Low cost per case for claims handling
- Short time for claims handling
- No economic risk for the patient

Sweden adm/legal costs

- 900 Euro (1 100 \$) per claim
 - 1 000 Euro (1 200 \$) per case
- Patient Claims Panel
- 22 000 Euro (27 000 \$) per court case

Time to settle the case

- From claim to decision if accepted or not:
 - 50% within 6 months
 - 70% within 8 months
 - 80% within 12 months

Compensation is subsidiary

The compensation from the patient insurance is *subsidiary* to the general welfare system, sick leave compensation, early retirement etc

The general welfare covers 80% of the salary during sick leave and 64% of the salary during early retirement because of illness for income up to 32 000 Euro (39 000 \$) per year

The Patient Injury Act

Every health care provider is required to purchase patient insurance

Guarantee

- In the absence of patient insurance the Patient Insurance Association will investigate and compensate the injury
- The compensation will be reclaimed from the care giver
- Those insurers who issue patient insurance shall be affiliated to the association

Patient injuries

are both *physical* and *mental* injuries

1. Treatment injury
2. Material-related injury
3. Diagnostic injury
4. Infection injury
5. Accident-related injury
6. Medication injury

Compensation for a treatment injury:

Only if avoidable injury

- **Main rule:** Compensation can be paid if an experienced specialist could have avoided the injury = *the specialist standard*
- For a GP visit the experienced GP is the standard

Patient Insurance

The question of avoidability
– some other method

Compensation if

- some other procedure was available
- which could have satisfied the medical requirements
- in a less risky manner

Patient injury compensation

Economic losses

- Loss of income
- Additional expenses

In the event of death

- Funeral expenses
- Loss of support
- Special contributions to next-of-kin

Non-economic losses

- Pain and suffering
- Permanent disability or disfigurement
- Special disadvantages

Review

- Insurance company
- The Patient Claims Panel – an advisory body
- Court of general jurisdiction

In the voluntary scheme disputes were resolved through arbitration

Sweden-claims

- 9 000 000 inhabitants
- 10 000 claims
- 5 000 accepted
- 1 000 patient claims panel
- 100 accepted
- 10 court cases 1-2 accepted

Sweden 2005

Total cost for patient injuries

- 50 million Euro (60 million \$) for compensation to patients (appr 6 Euro/7 \$ per inhabitant)
+ claims handling

Sectors with a large volume of operations are reported most

Average reports per year 1997-2001

<i>Speciality</i>	<i>% of claims</i>	<i>% of costs</i>
Orthopedic surgery	21%	23%
General surgery	15%	13%
Obs/gyn	8%	25%
District care	9%	7%
Dental clinics	11%	2%

Reported injuries the top of an iceberg?

- The real number of avoidable adverse events is appr 2% of in-patients (Denmark 2001, Canada 2003)
- 0,2% of in-patients make a claim to the Scandinavian patient injury insurances

Weaknesses

- The avoidability criteria is difficult to understand
- Injuries due to insufficient information or failure to obtain consent are not covered by the Patient Injury Act.

Advantages

Easier to get compensation

- more patients are compensated
- compensation on objective grounds
- rule of evidence more liberal
- procedure free of charge/no economic risk for the patient
- short time for claims handling
- low administration costs

Better relation between the personnel and the patient

Material-related injury

- Compensation if caused by a *defect in*, or *defective use* of a medical-technical product or hospital equipment...

Diagnostic injury

- Compensation if the injury was caused because an actual, observable symptom was *ignored* during diagnosis, or was *interpreted in a manner that deviates* from normal standards applicable to an experienced specialist.

Diagnostic injury

1. The diagnostic injury consists of the *patient's basic illness progressing differently* from what had been the case if the illness had been previously diagnosed
2. Diagnostic injury *delays proper treatment*, or results in *inappropriate treatment*
3. This type of injury can be described, as an *added injury* in relation to what would have been had there been an initial diagnosis by an experienced specialist followed by treatment appropriate to that diagnosis

Accident-related injury

- Compensation if patient *falls of a stretcher* while being examined or collapses while being mobilised by health care staff = accident caused by the care
- No compensation for everyday life accidents not depending of the care: *falling from the bed or on the way to look at television* in the day-room

Medication injuries

- Compensation if caused by the prescription or administration of the medication *in conflict with rules or guidelines*
- *A special Pharmaceutical Insurance* can give compensation for *side effects of drugs*

The most common questions in the Claims Panel

1. Avoidable injury? 38%
2. Causal relation? 18%
3. Diagnostic injury? 18%

Infection injury

Prerequisite: transmission of an infectious agent

Reasonableness test:

- a) *Severity of the basic illness*
- b) *The general condition of the patient's health*
- c) *The possibility of predicting the infection*
- d) *Severity of the infection*

Patient Insurance



- The voluntary patient insurance scheme went into force on 1 January 1975
- On 1 January 1997, the voluntary scheme was replaced by the Patient Injury Act

Nordic Patient Injury Acts

1987 Finland

1988 Norway provisional rules – 2003 law

1992 Denmark

Why Legislation?

The voluntary insurance system did not require that all care providers purchase patient insurance

Appr. 5% of all care providers were not insured
– accounted for less than 1% of all health care treatments

Guarantee

- In the absence of patient insurance the Patient Insurance Association will investigate and compensate the injury
- Those insurers who issue patient insurance shall be affiliated to the association

Exceptions to the right to compensation

Necessary procedure for treating an injury or illness, which, if left untreated, can be *life-threatening* or lead to *severe invalidity*

Patient Insurance



Injuries due to *insufficient information* or *failure to obtain consent* are not covered by the Patient Injury Act

Patient Insurance



The compensation from the patient insurance is *subsidiary*

Period of limitation

The patient shall make his claim within three years of learning that a claim could be made, and, in any case, no later than ten years after the injury was caused

Patient Claims Panel

