

## Profile

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# The Finnish patient insurance and compensation scheme

All the systems of compensation for patient injury in the Nordic countries are based in essence on that developed and applied for many years in Sweden, but with some differences in their mode of operation. In Finland, statutory patient insurance was introduced in 1987 and later amended. The present provisions date from the Patient Injuries Act which came into force on May 1st 1999. They provide an excellent recent example of such a scheme.

Pursuant to the 1999 Act, patient insurance covers bodily injuries sustained by patients in connection with medical treatment and health care given within Finland, but not to Finnish subjects injured by medical treatment abroad. Donors of blood or organs are also considered as patients, as are persons taking part in investigations for purposes serving medical research. Bodily injury is considered to comprise an illness, injury or other temporary or permanent impairment of health, or alternatively death. On the other hand, patient insurance does not cover all consequences of health care or medical treatment; it only relates to bodily injuries which are likely to have resulted from treatment and which fall into one or more of the seven categories listed below:

- (1) *Treatment injury*: This is an injury resulting from examination, treatment or other similar action taken with respect to a patient, or to wrongful omission of such measures, provided that an experienced health care professional would have examined, treated or taken other similar action in respect of the patient in a different manner and would thereby probably have avoided the injury. Failure to achieve the desired effect of treatment will not be a matter for compensation provided the action taken has conformed to the standard required of an experienced professional. Similarly, consequences of unavoidable examination or treatment results are not covered, unless the outcome is “unreasonable” as defined under point (7) below.
- (2) *Equipment-related injury*: Equipment-related injury comprises injury caused by a defect in medical equipment or instruments used, e.g., surgical instruments, patient monitoring systems and examination tables.
- (3) *Infection*: Infection is an injury for which compensation is payable if it originates from an examination, treatment or similar acts. No compensation is paid, however, if the injury is such that the patient might reasonably be expected to bear with it. Tolerability is assessed according to the predictability of the infection, the severity of the injury sustained, the nature of the disease or injury that was being treated and the patient’s overall health.
- (4) *Accident-related injury*: This is an injury that results from an accident connected with examination, treatment or other similar action, or from an accident that occurred during transport of the patient.
- (5) *Fire and burn injury*: This comprises injury caused by fire or other similar incidents affecting either the premises where the patient was being treated or the equipment used for the treatment.

- (6) *Incorrect supply of pharmaceuticals*: This heading covers an injury caused by a prescription drug delivered from a pharmacy contrary to the prescription or in violation of the applicable regulations. Injuries caused by pharmaceuticals correctly supplied or prescribed are not covered by patient insurance but by a separate scheme for pharmaceutical insurance. Compensation claims for such injuries are handled by the Pharmaceuticals Insurance Pool, which operates from the same address as the Finnish Patient Insurance Pool.
- (7) *Unreasonable injury*: This is considered to comprise an injury caused by examination, treatment or other similar action taken, if the action has caused the patient a permanent illness or injury or death. To qualify for compensation, the consequence must also be considered unreasonable in view of the severity of the injury, the nature of the illness or injury that was being treated, the patient's overall health, the frequency of the injury and the extent of risk in individual cases. An injury or illness is considered severe if it falls under Classes 7, 8 or higher in the Ministry of Social Affairs and Health's classification of disabilities and handicaps (as set out in a decree dated December 10, 1986). Not until this criterion is met and the disability or handicap becomes permanent is it possible to assess whether the injury is unreasonable.

### **Reporting of injuries**

Compensation claims for patient injuries suffered have to be made to the Finnish Patient Insurance Centre, which handles and settles these claims. Compensation must be claimed within three years of the date on which the party entitled to compensation became aware of (or should have become aware of) the injury. If special reasons exist, compensation may also be claimed beyond this deadline. Claim forms and further information are supplied on request by health care personnel, patient representatives, the Finnish Patient Insurance Centre and the Centre's Web site ([www.vakes.fi/pvk](http://www.vakes.fi/pvk)).

### **Compensation**

Patient insurance can cover:

- medical treatment expenses;
- other necessary expenses caused by the injury;
- loss of income or maintenance;
- pain and suffering;
- permanent loss of function; or
- permanent cosmetic injury.

If the patient dies, the insurance covers reasonable funeral expenses and necessary maintenance for the party entitled to this benefit, provided the death has left this party without such maintenance. Those entitled to such benefits include widows, widowers, under-age children and children aged up to 21, who are studying.

Compensation may only be paid for bodily injuries sustained in connection with health care or medical treatment. No expenses or losses that would have been sustained even without the injury are covered. For example, if the diagnosis of an illness is delayed, the insurance will only cover any additional injury that results from such delay and not any expenses or losses that the illness would have caused in any event, regardless of the delay.

Any benefits or compensation payable under other laws are deducted from the amounts payable under patient insurance.

Medical expenses for the treatment of injuries sustained in connection with public health care or medical treatment are compensated for in accordance with the level of charges prevailing in the public health care system, unless specific medical reasons call for consultation with private health care services. Patient insurance does not cover injuries which are "insignificant". In financial terms, insignificant injuries here are considered to be those injuries which result in losses no higher than FM 1.000 (at 1999 values).

### **Unsuccessful claims**

Any claimant who is dissatisfied with the decision of the Patient Insurance Centre may ask the government-appointed Patient Injuries Board to review the case and give a recommendation. The Board processes cases free of charge.

### **Obligation to insure**

The money used for the compensation payments is collected in patient insurance premiums from persons engaging in medical treatment and in the operation of health care.

All persons engaging in medical treatment or health care authorised by law must be covered by patient insurance granted by an insurance company or by the Patient Insurance Centre.

In the context of the Patient Injuries Act, medical treatment and health care are considered to relate, *inter alia*, to hospital care, appointments with doctors and dentists, occupational, school and student health care, the work of opticians, patient transport, sampling, blood donation, vaccination, physiotherapy and other forms of physical treatment.

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