The New Finnish Law on the Status and Rights of a Patient

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Background

Following a long, almost 20 year debate, the Law on the Status and Rights of a Patient, later the “Law on Patient’s Rights” was finally passed in the Finnish Parliament last year and entered into force March 1, 1993.

In all legislative work the history and cultural traditions of a country, as well as previously existing legislation and administrative systems and structures, have to be taken into consideration. Legislation may be described as a safety-net. If you are going to mend it you first have to see where the holes are. Thus, I do not offer our law as a global solution, applicable to all societies and problems a patient may experience in the field of health care.

When we from the National Board of Health 1979 made a proposal to the Ministry of Social Affairs and Health to draft a compact text on the patient’s rights, it was because of our experience that there remain many unanswered questions, which seem to create constant insecurity, and bring about varying interpretations and nonuniform practice. This of course is against the interests of both patients and health care personnel alike.

A Committee on the Protection of Legal Rights in the Field of Health Care, set up by the Ministry for Social Affairs and Health, proposed a law in 1982. The Committee also considered the need to state clearly what the patient’s responsibilities in general were. Some of the responsibilities proposed were that the patient follow the rules of hospitals and other health care units and for failing to do so pay for health care services ordered but not used where there was no sufficient reason. - There is a universal public health system in Finland. - The responsibilities mentioned above were not felt to be suitable for inclusion in a proposal for a law on patient’s rights.

Legislation on health care in Finland regulates separately the patient’s responsibility to submit him/herself to care in certain situations, regardless of his/her will. This mainly comes into question in cases where there is an exceptionally strong physical intrusion on patient’s person, or a disregard of his right to self-determination, in which case the procedure has traditionally been
regulated under separate, special laws, the Mental Health Law for example. Our legislation has also regulated separately such matters as organ transplantation, induced abortions and sterilisation. Because the Committee had undertaken to review the general principles governing the care of patients and the way in which they should be treated, the questions relating to the above procedures were left out of the scope of the Committee.

Furthermore, because of a number of defects that appeared in the study of the current situation with regard to patient’s rights, the Committee decided unanimously to propose that the most essential rights relating to the patients’ care and the way in which they are treated, be regulated in a separate law.

The Law on Patients’ Rights regulates the principles central to patient care and treatment. An exhaustive law covering all possible patients’ rights was not considered feasible, for example, the patient’s right to economic support during illness is, in Finland, regulated under the Social Security Law. In addition, the position of the patient would still be regulated by other special legislation in the field of health care that would remain in force (law on induced abortions, among other things).

A uniform set of patients’ rights should aim at clarifying and strengthening those rights, and thus improving the safeguarding of those rights in the field of health care.

The content of the Law on Patient’s Rights

The Law regulates inter alia the patient’s right to good health care, to medical care or related treatment when needed, the right to access to treatment to be informed and to self-determination, the status of minor patients, emergency treatment, powers of the representative of the patient in certain situations, a new complaint procedure and it establishes a Patient ombudsman institution.

Right to care (section 3)

(Sections 1, 2 and 14–17 are not presented because they are of a merely technical nature.)

“Every person who stays in Finland permanently, without discrimination, is entitled to the health and medical care required by his state of health within the limits of those resources which are available to health care at the time in question.”

This provision has drawn much attention now that the discussion concerning the division of scarce resources has once again surfaced. It was originally designed with the notion in mind that society has the right to limit how much