Patients' rights in cross-border healthcare

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The Committee on the Environment, Public Health and Food Safety adopted the report by John BOWIS (EPP-ED, UK) amending, under the first reading of the codecision procedure, the proposal for a directive of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare.

The main amendments are as follows:

Aim: the committee stressed that the aim of the directive should be to clarify patients' rights and not to harmonise the organisation of health care. This is a matter for which Member States bear sole responsibility. The Directive lays down rules for access to safe and high-quality healthcare in another Member State and establishes cooperation mechanisms on healthcare between Member States, whilst fully respecting national competencies in the organisation and delivery of healthcare. In the application of the Directive, Member States shall take into account the principles of good quality care and equity.

Scope: the Directive will apply to provision of cross-border healthcare regardless of how it is organised, delivered and financed or whether it is public or private. It shall be without prejudice to the existing framework on the coordination of social security systems as laid down in Regulation (EEC) No 1408/71 and its successor Regulation (EC) No 883/2004. The Directive shall not apply to health services whose main focus is in the field of long-term care, including services provided over an extended period of time whose purpose is to support people in need of assistance in carrying out routine, everyday tasks.

This Directive shall also **not apply to organ transplantation**.

Relationship with other Community provisions: the committee added certain pieces of legislation to the list of this which apply without prejudice to this directive.

Definitions: Members amended definitions for "healthcare", "cross-border healthcare" "health professional" "healthcare provider" "patient" "insured person" and "Member State of affiliation". It inserted some new terms, including “medical device”, “goods used in connection with health care”, "health technology" "harm" and "Patient's medical records".

Safety and quality: quality and safety standards must be made publicly available in a clear and accessible format for citizens.

The committee inserted a clause stating that nothing in the Directive requires healthcare providers to accept for planned treatment, or to prioritise, patients from other Member States to the detriment of other patients with similar health needs, such as through increasing waiting time for treatment.

Definition of hospital care: the committee states that the definition provided by the Commission does not correspond to the real nature of the services provided in the Member States. It does not, for example, take account of outpatient surgery.

In order to correspond to the real nature of the services provided in practice, the definition of hospital care should refer to the definition in force in the patient's Member State of affiliation. Members deleted references to a specific list.

Prior authorisation: the committee deleted the Commissions proposals on prior authorisation with regard to the financial balance of the Member State's social security system and hospital overcapacity. The committee stipulates that the Member State of affiliation may provide for a system of prior authorisation for reimbursement by its social security system of the cost of hospital care provided in another Member State where it could affect important aspects of its healthcare system, including its scope, cost or financial structure. Such a system shall be without prejudice to Regulation (EEC) No 1408/71 as of its date of application, (EC) No 883/2004. The report notes that the amendment recognises that prior authorisation systems are valuable to patients in terms of providing them with clarity on matters such as what reimbursement they will be eligible for and what costs they will have to meet themselves, arrangements for any after-care needed and what will happen if anything goes wrong. Member States should be able to decide the circumstances in which prior authorisation systems are mandatory for patients seeking healthcare abroad, provided these systems meet criteria such as transparency and proportionality, are simple and straightforward, and provide timely responses to requests. It adds that patients seeking to receive healthcare provided in another Member State shall be guaranteed the right to apply for prior authorisation in the Member State of affiliation.

The Member State of treatment may take appropriate measures to address the inflow of patients and to prevent it from undermining the healthcare system. The Member State of treatment shall **refrain from discriminating** with regard to nationality and shall ensure that the measures restricting free movement shall be limited to what is necessary and proportionate.

Prior notification: a new clause states that Member States may offer patients a voluntary system of prior notification whereby, in return for such notification, the patient shall receive a written confirmation of the maximum amount that will be paid. That written confirmation can then be taken to the hospital of treatment and reimbursement would then be made directly to that hospital by the Member State of affiliation.

European Patients Ombudsman: a further new clause makes provision for the Commission to present a legislative proposal to establish a European Patients Ombudsman within 18 months after the entry into force of the Directive. The European Patients Ombudsman shall consider, and if appropriate, mediate on patient complaints with regard to prior authorisation, reimbursement of costs or harm. The European Patients Ombudsman shall only be engaged once all the complaint options within the relevant Member State have been exhausted.

Information on health professionals: information on health professionals and healthcare providers shall be made easily available via electronic means by the Member State in

which the health professionals and healthcare providers are registered, and shall include the name, registration number and practice address of the healthcare professional, and any restrictions on their practice.