New Zealand Offers No-Fault Compensation Model

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ALEXANDRIA, VA. — In New Zealand, all physicians pay $700 a year for indemnity insurance, and it's nearly impossible to sue a physician.

That's because New Zealand has had a no-fault injury compensation system in place for the last 30 years.

The Accident Compensation Corporation (ACC), a state-funded insurer established in 1974, addresses unmet patient expenses from injuries. And since 1994, New Zealand's Health and Disability Commissioner has handled complaint resolution and provider accountability.

"We've made a really good start," Marie Bismark, M.B., a legal advisor to the New Zealand health and disability commissioner, said at a meeting on patient safety and medical liability sponsored by the Joint Commission on Accreditation of Healthcare Organizations.

Compensation is available to patients for medical errors that result from a failure to observe a reasonable standard of care. The ACC also provides compensation for medical mishaps that are defined as rare and severe adverse outcomes of appropriate treatment.

Dr. Bismark gave an example of how the system works: A 22-year-old woman with a history of pelvic pain underwent laparoscopy to confirm the diagnosis of endometriosis. During the surgery, her bowel was perforated, which lead to peritonitis. The woman required further surgery to remove the perforated section of her bowel and form a temporary colostomy. She spent 3 weeks in critical care recovering.

New Zealand's Accident Compensation Corporation accepted the woman's claim as a medical mishap and she was awarded $28,000 to cover treatment costs, pharmaceuticals, transportation, home help, and lost earnings.

In a situation where a person can no longer perform his or her job, the government will pay for retraining in a new career. And in cases of permanent disability, patients can receive a lump sum payment of up to $70,000.

The no-fault system also has an accountability component. In 1994, the government established a code of patients' rights and designated the health and disability commissioner as the independent health ombudsman to enforce those rights.

The experience has shown that patients typically aren't seeking to punish doctors; they want to see systemic changes to keep mistakes from happening again.

Patient complaints are often handled through advocacy or mediation. During the advocacy process, an independent patient advocate works to resolve the complaint directly with the provider.

In the case of mediation, a neutral third party assists the patient, the physician, and a representative of the hospital to come to a formal agreement.

Formal investigations are generally reserved for serious complaints, she said.

Few complaints proceed to a disciplinary hearing. In a typical year, they receive about 531 complaints, which lead to about 151 investigations and 10 disciplinary hearings.

So far, the experience with the no-fault system has shown that patients typically aren't seeking to punish physicians, Dr. Bismark said. Instead, they want to see systemic changes that will keep mistakes from happening again.

But a downside of the system is that there are many adverse events that ACC officials never hear about, Dr. Bismark said.

And complaints can still have toxic effects on the relationship between patients and physicians when they are not handled with care.

"This system is not neutral for doctors," she said.

Dr. Bismark pointed out that her country's system isn't necessarily a model for countries like the United States because of the differences in size and the structure of the health care system. New Zealand is a country of 4 million people, and its per capita health care costs are about $1,857, compared with $5,267 in the United States, she said. And New Zealand's no-fault system exists in the context of universal state-funded health care coverage. ■

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