



PATIENT MOBILITY AND OPTIONS FOR LEGAL CHANGES

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Patient mobility: starting point

- Two ways of cross-border medical care
 - Reg. 1408/71: social insured
 - Art. 49 ECT: client
- Two ways co-exist: case for complexity and need for information

Patient mobility: Need for codification

-lot of advantages:

- clear picture

- allowing flanking measures

- but which instrument: soft or hard law

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-less disadvantages:

- stop to dynamic effect

- overinterpretation

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Patient mobility: Codification attempts

-article 23 Bolkestein Directive:

Result: taking out of health care

-”not taking into account the specificity of the health sector”

-Co-ordination framework

Result: proposal with limited codification

Patient mobility: The way forward

- everything is open
- ambit?
- take care of EC case law
- free movement of services:
Question: which legislation will apply? Home or host state?
- free movement of establishment:
Question: may any legislation apply? “grey-list” requirements

Patient mobility: Coherent Framework?

-*The objective*: legal certainty but also legal single procedure

-*How* : -answer to two questions

-authorisation? Which legislation will assume?

-installation of some parameters:

-not detract from current rights

-no unrestricted right to assumption of costs

Patient mobility:Rationalisation

-I. Intramural Care

- complementarity of both methods
 - Poblem of scope of medical providers

- extending conditions for granting authorisation?
 - medical effectiveness
 - litigation problems
 - European Action

Patient mobility:Rationalisation

-II. Extramural Care

- confining both procedures
 - Regulation for intramural care
 - step backwards for patient
 - aligning circle of medical providers

Patient mobility: Rationalisation

The choice of legal instrument

- Article 42 and 308 ECT:
one instrument but limits
- Article 95 ECT:
allows for flanking measures