



<i>Subject</i>	Contribution to European Commission consultation on future EU Community action in cross-border health services
<i>Date</i>	January 2007

Founded in 1991, the ESCRS is Europe's leading organisation for cataract and refractive surgeons and is at the forefront of developments in anterior segment surgery. The society currently has 4,000 members from over 90 different countries worldwide. The ESCRS offers a unique forum for discussion and learning, which ensures that ophthalmologists all over Europe share international expertise.

General comments

ESCRS welcomes the Communication and agrees with the points made and with the need for legal certainty and the potential for European cooperation. Furthermore, ESCRS would like to express its general support for the consultation process.

Impact cross-border healthcare and relevance Community action

Question 1: What is the current impact (local, regional, national) of cross-border healthcare on accessibility, quality and financial sustainability of healthcare systems, and how might this evolve?

ESCRS agrees that there is a case for Community action to contribute to the wider challenges facing health systems, beyond the specific case of cross-border healthcare itself. The frequency of cross-border healthcare provision and the cost of healthcare systems to public funds have risen significantly over the recent years. ESCRS would like to support efforts to improve efficiency and effectiveness in cross-border cooperation on health services across the internal borders of the European Union. The current incompatible rules between the countries concerned and the lack of a transparent legal framework call for a European structure for cooperation. ESCRS would like to stress that cross-border healthcare provision is not only about patients moving between countries, but also about mobility of health professionals. The increase in mobility of practitioners enables the transfer of knowledge and the sharing of best practices among professionals. This will give a boost to the quality of healthcare and is profitable to patients. Patients

need better information about healthcare possibilities in other Member States first and the lack of a transparent framework now still acts as a deterrent to seeking care abroad. Practitioners would like to profit from better opportunities to refer patients to specialist colleagues cross-border, to collaborate with them and to share best practises. The troubles for practitioners nowadays are still the legal differences in health systems, liability matters and tariffs and reimbursement. Apart from that ESCRS would like to call for an impact assessment addressing further issues such as:

- Advantages, disadvantages and effects of cross-border flow of patients for the healthcare systems of each country.
- Problems related to the movement of trained personnel who move for economic reasons, depriving one country and “flooding” another with doctors or nurses.
- Movement of patients and transferring funding from one country to another.
- Issues related to complications of treatment.
- Healthcare needs of each member state and of regions within each state. ESCRS is afraid these are very different and would make planning difficult if not impossible.

Legal certainty

Question 2: what specific legal clarification and what practical information is required by whom (eg; authorities, purchasers, providers, patients) to enable safe, high-quality and efficient cross-border healthcare?

ESCRS strongly supports the need for legal certainty to facilitate the free movement of healthcare services within the European Union. Citizens as well as health professionals would like to have more clarity concerning these matters. ESCRS welcomes the Commission’s effort to cover all possible types of cross-border healthcare at once. The cross-border provision of services delivery, the use of health services abroad (Patient Mobility / European Health Insurance Card), the permanent establishment of healthcare providers in other member states and the temporary mobility of health professionals to provide health services all in one Framework.

ESCRS believes that the following clarification and information should be required:

- Minimum information and clarification on procedures and conditions to obtain cross-border healthcare, such as clarification regarding the condition on which authorisation for care abroad must be granted if such care cannot be provided domestically without ‘undue delay’ (ECJ ruling).
- Mechanisms through which patients could contest decisions regarding cross-border care.
- Transfer of health-related data between different health systems providing access to key health data for citizens.
- Identifying which Member States’ authority is responsible for supervising health services for each of the different kinds of health service provision and which

- authority is responsible for quality and safety of health services provided to people from other Member States.
- Identifying who is responsible for after-care when a patient is transferred to another Member State to undergo a specific medical intervention and returns to their own Member State and also when health professionals moving temporarily to another country provide care.

Responsibility authorities

Question 3: which issues (eg: clinical oversight, financial responsibility) should be the responsibility of the authorities of which country? Are these different for the different kinds of cross-border healthcare described in the Communication (paragraph 2.2)?

ESCRS believes that healthcare regulation, training etc. should be the responsibility of the recipient state. On the contrary, financial reimbursement responsibility should be with the original state/state of residence citizenship.

Question 4: who should be responsible for ensuring safety in the case of cross-border healthcare? If patients suffer harm, how should redress for patients be ensured?

Although healthcare mostly leads to good results, the responsibility in cases where patients suffer harm through errors or omissions in healthcare should be clarified especially in relation to cross-border healthcare. When harm is caused, there should be a clear mechanism for appropriate compensation and follow-up to avoid repetition of errors. ESCRS believes that the receiving Member State and healthcare system should be responsible for ensuring a balanced healthcare accessible to all. If treatment is carried out in private practice, the clinic should have insurance. However access to litigation may be difficult and compensation would have to reflect country of origin.

Patients' rights

Question 5: what action is needed to ensure that treating patients from other Member States is compatible with the provision of a balanced medical and hospital services accessible to all (for example, by means of financial compensation for their treatment in 'receiving' countries)?

As a general point, healthcare should essentially be delivered by locally based doctors to locally based patients to ensure safety and continuity of care. Mobile doctors and patients do not necessarily make for the best practice of medicine.

Other issues

Question 6: are there further issues to be addressed in the specific context of health services regarding movement of health professionals or establishment of healthcare providers not already addressed by Community legislation?

- Ethical issues
- Incompatibility between national healthcare systems.
- Further issues concerning free movement of health professionals (temporary movement of health professionals or the establishment of healthcare providers in other Member States).

Question 7: are there other issues where legal certainty should also be improved in the context of each specific health or social protection system? In particular, what improvements do stakeholders directly involved in receiving patients from other Member States – such as healthcare providers and social security institutions – suggest in order to facilitate cross-border healthcare?

- Issues linked to specific health or social protection system.
- Improvement to facilitate cross-border healthcare.

Support national health systems

Question 8: in what ways should European action help support the health systems of the Member States and the different actors within them? Are there areas not identified above?

ESCRS believes that a formal framework at the EU level will add value to national health systems. One can think of the concentration of resources or expertise through European networks of centres of reference. Establishing networks will help to provide high-quality and cost-effective care. Both patients and healthcare systems will benefit since this will mean a stimuli to promote the highest possible quality of care.

ESCRS also believes that there is a high potential of health innovation ensuring that treatment is provided on the basis of the best scientific evidence. Collaboration based on common criteria at European level will help to spread best practice and avoid duplication of resources. ESCRS has good experiences with this kind of cooperation and exchange of best practices among ophthalmologists. ESCRS has proposed guidelines with a clear methodology for cataract surgery to be applicable in all EU countries with the aim to increase the level of quality Europe-wide.

Tools and instruments for Community action

Question 9: what tools would be appropriate to tackle the different issues related to health services at EU level? What issues should be addressed through Community legislation and what through non-legislative means?

ESCRS would like to see the outcome of the consultation first but believes that the necessary legal certainty would be best ensured either by a Regulation or a Framework Directive. The Commission's view on patient mobility and healthcare developments as laid down in the 2004 Communication should be further developed. The open method of coordination should be extended to support Member States in the reform and development of their national health care systems and adapt them to the EU internal market reality. Cooperation between Member States should be intensified in order to bridge the competences and to address other issues through non-legislative mechanisms such as recommendations or guidelines.

Conclusion

ESCRS is looking forward to the outcome of this consultation and would like to be available to the Commission services for input in order to support the Commission's effort to propose legislative measures for a clear Framework for cross-border healthcare.

This paper represents the views of its author on the subject. These views have not been adopted or in any way approved by the Commission and should not be relied upon as a statement of the Commission's or Health & Consumer Protection DG's views. The European Commission does not guarantee the accuracy of the data included in this paper, nor does it accept responsibility for any use made thereof.