



In the Literature

NO-FAULT COMPENSATION IN NEW ZEALAND: HARMONIZING INJURY COMPENSATION, PROVIDER ACCOUNTABILITY, AND PATIENT SAFETY

Marie Bismark, M.B.Ch.B., L.L.B.
Ron Paterson, L.L.B.

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For more information about
this study, contact:

Marie Bismark, M.B.Ch.B., L.L.B.
Senior Solicitor
Buddle Findlay
E-MAIL [mariebismark
@gmail.com](mailto:mariebismark@gmail.com)

or

Mary Mahon
Public Information Officer
The Commonwealth Fund
TEL 212-606-3853
E-MAIL mm@cmwf.org

This summary was prepared
by Holly Barkhymer and
Deborah Lorber.

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THE COMMONWEALTH FUND
ONE EAST 75TH STREET
NEW YORK, NY 10021-2692
TEL 212.606.3800
FAX 212.606.3500
E-MAIL cmwf@cmwf.org
<http://www.cmwf.org>

In New Zealand, patients seek compensa-
tion for medical injuries not through mal-
practice suits as in the United States, but
rather through a no-fault compensation
system. Injured patients receive govern-
ment-funded compensation, in turn relin-
quishing the right to sue for damages aris-
ing from personal injury except in rare
cases of reckless conduct.

According to Marie Bismark and Ron
Paterson, the authors of “[No-Fault Com-
pensation in New Zealand: Harmonizing
Injury Compensation, Provider Account-
ability, and Patient Safety](#)” (*Health Affairs*,
Jan./Feb. 2006), the country’s Accident
Compensation Corporation (ACC) offers
distinct advantages over the often maligned
U.S. tort law system. While acknowledg-
ing that New Zealand’s ACC has yet to
demonstrate substantial gains in patient
safety, the study finds that the popular sys-
tem has produced more-timely compensa-
tion to a greater number of patients, as well
as more effective processes for resolving dis-
putes and ensuring provider accountability.

Benefits of New Zealand’s System

“The ACC system is one of the simplest in
the world for patients to navigate,” write
the authors, both former Harkness Fellows.
Straightforward claims are processed in
weeks, with all decisions made within nine
months, and a fixed award structure ensur-
ing that similar injuries receive similar
compensation. Historically, the ACC has
paid out about 40 percent of claims in four
categories: 1) treatment and rehabilitation,
including the cost of disability aids, home

modifications, and vocational retraining;
2) compensation for loss of earnings (up to
80 percent of earnings at the time of injury,
up to a set maximum); 3) one-time lump-
sum compensation of up to US\$70,000;
and 4) support for surviving spouses and
children under 18.

The system, funded through general taxa-
tion and an employer levy, is remarkably
affordable. To date, compensation for
medical injuries has cost just \$29 million—
for a population of about 4 million. Re-
forms enacted in 2005 are expected to in-
cur additional costs of \$5 million per year.

According to the authors, several factors
contribute to the system’s affordability:

- New Zealanders benefit from strong health and welfare systems that cover many of the damages typically at issue in a U.S. claim.
- Compensation awards are generally lower than under a malpractice system.
- Many entitled patients never seek compensation.
- The ACC’s low administrative costs account for only 10 percent of expenditures, compared with a typical 50 to 60 percent under a malpractice system.

In the 1990s, New Zealand addressed concerns that a no-fault system amounted to a “no accountability” system. It did so by establishing the office of the Health and Disability Commissioner, which promotes patients’ rights and provides accountability,

acts as gatekeeper to disciplinary proceedings in serious cases, and ensures that complaints serve to improve health service delivery and lessons learned are widely disseminated.

Remaining Concerns About the ACC

A few other major concerns about New Zealand's no-fault system, however, remain unresolved, the authors say. First, many observers believe the compensation levels are inadequate, particularly for patients who are not employed at the time of their injury and are unable to claim earnings-related compensation. Second, compensating treatment injuries, but not other forms of illness, can produce tensions, since ACC assistance is higher than that available through the health and welfare systems.

Finally, and most importantly, the system has not fully realized potential gains in patient safety. Thirty years after the implementation of the ACC, New Zealand hospitals are no more or less safe than those in other Western countries—falling midway between the levels recorded in Australia and the United Kingdom—two countries with

similar medical practices. While the recent reforms are expected to create a culture of learning, the process of making health care safer cannot be achieved through medical and legal reform alone, say the authors.

Facts and Figures

- In the U.S. medical malpractice system, most injured patients do not qualify for compensation, because their injuries were not negligently caused.
- The most costly claims in New Zealand—as in the United States—involve neurological injury to infants: fewer than 7 percent of claims yet more than 16 percent of spending.
- Per capita health spending was \$1,886 in New Zealand in 2003, compared with \$5,635 in the United States.

Comparison of the United States Medical Malpractice and the New Zealand No-Fault Systems

	United States	New Zealand
Eligibility for compensation	Negligence	Treatment injury
Expert adviser	Appointed by parties	Appointed by ACC
Decision maker	Lay jury	Administrative panel
Time to resolve a claim	Years	Weeks to months
Administrative costs	High (under 50%)	Low (under 10%)
Average payment	High	Low (average payment less than US\$30,000)
Physician indemnity insurance costs	High	Very low (less than \$1,000, regardless of specialty)
Links to quality improvement processes	Theoretical deterrent effect	Claims analysis informs efforts to improve patient safety

Note: ACC is the Accident Compensation Corporation.

Source: M. Bismark and R. Paterson, "No-Fault Compensation in New Zealand: Harmonizing Injury Compensation, Provider Accountability, and Patient Safety," *Health Affairs*, Jan./Feb. 2006 25(1):278–83.