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2016

The Personal Injury Council

The Dutch Personal Injury Council aims to make personal injury settlement clearer and more harmonious. That is why the parties involved are working together towards improved, more personalised handling of people who have suffered personal injury, and enhanced technical aspects of claim settlement. How to respond to medical incidents is one of the Personal Injury Council's primary concerns in the years to come.

Participating organisations

The following professional, interest and umbrella organisations are represented in the Personal Injury Council's Consultation Platform:

- ANWB (Royal Dutch Touring Club ANWB)
- Dutch Association of Insurers
- Slachtofferhulp Nederland (Victim Support the Netherlands)
- NIVRE (register experts)
- NIS (personal injury experts)
- GAV (medical advisers)
- NVvA (occupational consultants)

Observers at the Consultation Platform include:

- the Ministry of Security and Justice
- the association of personal injury attorneys LSA

The effectiveness of the collaboration within the Personal Injury Council is borne out by research. Over the last few years, the prevailing attitude in the sector has become increasingly geared towards treating victims and patients with the utmost care. Conduct that does not conform with this is identified and discussed among the parties.

Activities

In close collaboration with all interested parties, **the Bureau** of the Personal Injury Council initiates, coordinates and supports:

- the **Consultation Platform** of professional, interest and umbrella organisations involved, focused on achieving improvements in the handling of personal injury cases, in the interests of people with personal injury
- development and management of the **Code of Conduct for Handling Personal Injury Claims (GBL)**, the **Code of Conduct for Disclosure of Medical Incidents; Better Settlement of Medical Liability (GOMA)** and the **Personal Injury Guidelines** with standard amounts for loss items, definitions or calculation methods
- management of a **Public GBL Register** and a **Public GOMA Register** for organisations that commit themselves to compliance with these codes of conduct. The registers offer clarity to people with personal injury. The Council assesses whether the parties entered in the GBL Register comply with the Code of Conduct and meet the standards for professional conduct. A quality system for the parties entered in the GOMA Register is under development
- **information for people with personal injury and professionals** via, for example, the website and symposia
- **information service** for people with personal injury and professionals. The Personal Injury Council's lawyers give neutral information and advice in order to restore contact between those involved and to ensure that the case is handled smoothly
- **identification of misconduct** based on notifications received by the Personal Injury Council
- **information and training for professionals** from the personal injury sector and the healthcare sector

Projects

To achieve their objectives, various project groups are active under the auspices of the Personal Injury Council. The participating organisations nominate the members of the various project groups. Victims of personal injury, united in the **Federatie Slachtoffer Organisaties** (federation of victim organisations, FSO), are invited to represent their specific interests within projects.

This approach results in products with sector-wide support that are tested in practice.

Decision-making on proposals and results takes place in the Consultation Platform, which commissions the project groups.

The Personal Injury Guidelines

- Loss of Maintenance for Dependents Calculation Model
- Definition of Economic Vulnerability (2011)
- The Personal Injury Guideline on Slight Injury including General Damages (2010)
- Self-sufficiency (2006)
- Delay in Studies (2006)
- Household Help (2004)
- Reimbursement of Hospital and Revalidation Day Fees (2000)
- Kilometre Allowance (2000)

Funding of the Personal Injury Council

The Personal Injury Council is funded partly by the government and partly by the market. The Ministry of Security and Justice and the Ministry of Health, Welfare and Sport contribute by means of subsidies. The members of the Consultation Platform pay a members' contribution. The **Fonds Slachtofferhulp** (victim support fund) and the Dutch Association of Insurers support the Personal Injury Council's activities with subsidies. Parties entered in the GBL and GOMA Registers pay a registration contribution. Finally, the Personal Injury Council supplements its income through paid activities such as symposia and conventions.

Thanks to contributions in kind from many professionals from personal injury practice, the Council's expenditure is limited.





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GOMA CODE OF CONDUCT

The GOMA Code of Conduct

The Code of Conduct for Disclosure of Medical Incidents; Better Settlement of Medical Liability (GOMA) contains recommendations for responding to medical incidents correctly and with due care. Part A deals with the response desired from the care provider upon discovery of a medical incident. Part B concerns the adequate settlement of requests for damages resulting from a medical incident.

The following organisations were involved in the development of the GOMA:

- The Dutch Association of Medical Advisers in Private Insurance Affairs (GAV)
- The Royal Dutch Medical Association (KNMG)
- The Federation of Patients and Consumer Organisations in the Netherlands (NPCF)
- CentraMed
- MediRisk
- The Dutch Association of Insurers (Legal Expenses Insurers)
- VU University
- Erasmus University

The Ministry of Justice and the associations of personal injury attorneys LSA and ASP were involved as advisers.

The Netherlands Federation of University Medical Centres (NFU) and the Dutch Hospital Association (NVZ) embraced the GOMA in March 2012. They advise their members to comply with the Code of Conduct.

Work is being conducted with all parties in the healthcare sector to review the GOMA. This is to culminate in the GOMA 2.0 in 2017.

Part A: response desired from the care provider

- **Provision of information:** the care provider informs the patient, clearly and with due care, about the examinations and treatments he is undergoing.
- **File maintenance:** the care provider keeps the patient file adequately up-to-date. In the event of a medical incident, the care provider records information about the nature and cause of the incident as well as information on the possible consequences for the patient.
- **Rapid response:** the care provider contacts the patient within 24 hours of the discovery of a medical incident.
- **Limitation of consequences:** the care provider takes the necessary steps to remove or limit the adverse consequences of an incident.
- **Investigation:** the care provider investigates the circumstances of the incident to prevent it happening again.
- **Disclosure:** the care provider supplies information about the cause of the incident. The communication aligns as closely as possible with the patient's needs and wishes.
- **Collection of data and statements:** the care provider endeavours to collect as much data as possible.

“What the GOMA formulates in very clear words is that, if there has been a mistake, or in any case an incident, it is totally okay for that to be mentioned. I think that, until recently, that was not that clear to a lot of doctors, and a lot of us were even under the impression that we were not allowed to mention it at all.”

Dr. Gerda Zeeman, gynaecologist

- **Acknowledgement and apology:** if an error has occurred, the care provider acknowledges it and apologises to the patient.
- **Provision of information on complaint or request for damages:** the care provider informs the patient about the options for submitting a complaint or request for damages.

“All parties tell each other that they are working according to a certain step-by-step plan, the GOMA, which obviously starts with properly informing the patient and providing adequate support, and being fully open about the incident that has occurred.”

Gerda de Groot, complaints officer

“The GOMA contains a lot of good things about how you should actually behave in respect of each other. Rather than saying what you should not do, it actually says what you should do. That is obviously a very positive focus, and I believe that it gives you some sort of support as a professional.”

Prof. Dr. Jaap Hamming, surgeon

Part B: adequate settlement of requests for damages

- **Representative informs** the patient of the procedure in medical liability cases.
- If the patient himself holds the care provider directly liable, the **care provider informs** him in broad terms of the subsequent steps and procedure to be expected. The care provider also states whether he is transferring the request for damages to his insurer.
- The representative explains and substantiates the **notice of liability** and describes the medical and factual consequences of the error.
- The liability insurer makes itself known as an involved party by providing a **confirmation of receipt** to the sender of the notice of liability immediately (within fourteen days at the latest).
- **Information exchange:** the parties make relevant data available to each other.
- The insurer takes a **position on liability** within three months. If this deadline is not feasible, he explains this and indicates when the patient may expect a response.
- The insurer **clearly indicates** what he acknowledges, what he rejects, and what he feels requires further investigation. In addition, he states his position on the **reimbursement of the costs** of legal assistance and any expert investigation.
- If a liability insurer considers **additional investigation** necessary in order to respond to a well-substantiated notice of liability, he will bear the costs of this investigation.
- In the event of a continuing **difference of opinion on medical aspects**, a medical expert report will be requested in joint consultation. In principle, the costs will be shared between the parties.
- The parties **communicate openly and expeditiously** regarding the arrangements for a medical expert investigation.