1540-2016

Decision

Diarienr

2019-06-28

143-2017

The Care Board

Uppsala municipality

The care administration

753 75 Uppsala

Supervision under the Data Protection Regulation (EU)

2016/679 - authorization allocation, barriers,

m.m. according to the Patient Data Act

The Data Inspectorate's decision

The Data Inspectorate states that the Care Board in Uppsala municipality

processes personal data in breach of Article 32 of the Data Protection Regulation;

by:

1.

The care board has not limited the users' permissions to

only what is needed for the user to be able to fulfill theirs

tasks in health care. The Care Board in

Uppsala municipality has thus processed personal data in violation of

Chapter 4 § 2 and ch. 6 Section 7 of the Patient Data Act (2008: 355) and Chapter 4 § 2

The National Board of Health and Welfare's regulations and general advice on record keeping and

processing of personal data in health care (HSLF-FS

2016: 40).

2. The care board does not have technical functions for barriers

the journal system Siebel between the Care Board and the Elderly Board

in Uppsala municipality, regarding the care documentation in

"Observandum". The care committee in Uppsala municipality has thus

processed personal data in violation of ch. 4 Section 4 and Chapter 5 § 4

the Patient Data Act.

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The Data Inspectorate instructs the Care Board in Uppsala municipality to:

1.

After a needs and risk analysis, assign each user individually

authorization to access personal data in the Siebel record system

to what is needed for the individual to be able to fulfill his

tasks in health care, in accordance with ch. § 2

and Chapter 6 Section 7 of the Patient Data Act and Chapter 4 2 § HSLF-FS 2016: 40.

Introduce technical functions for locks in the Siebel record system

between Omsorgsnämnden and Äldrenämnden in Uppsala

municipality according to ch. 4 Section 4 of the Patient Data Act.

Information

On 25 May 2018, the EU Data Protection Regulation began to apply. Since

The Data Protection Ordinance is directly applicable in Sweden, as well as in the others
EU Member States, it is therefore the provisions of the Regulation
which is now to be applied in the processing of personal data.
The Patient Data Act and the National Board of Health and Welfare's regulations and general advice on
record keeping and processing of personal data in health care
(HSLF-FS 2016: 40), constitutes supplementary legislation with regard to
personal data processing in health care.
Before the Data Protection Ordinance came into force, the government appointed one
inquiry - the Social Data Protection Inquiry - which has reviewed
the register statutes within the Ministry of Social Affairs' area of activity,
for example, the Patient Data Act and HSLF-FS 2016: 40. The Data Inspectorate
notes that with regard to the current provisions of the Patient Data Act
in this decision, these are essentially unchanged.
The Data Inspectorate's inspection of the Care Board in Uppsala municipality
implemented before the Data Protection Regulation came into force, why
the inspection will not in this decision make use of the corrective
powers with regard to penalty fees.

Report on the supervisory matter
The Data Inspectorate has examined the care committee and the elderly committee
allocation of permissions, log checks and asked questions within the framework of
the coherent record keeping regarding the Siebel record system

(hereinafter the journal system).

An inspection was carried out by the care committee and the elderly committee

on February 3, 2017. The Data Inspectorate examined the municipal health and

the healthcare's processing of personal data attributable to patients within

framework of the medical record system.

The Care Board submitted additional information on 24 February 2017

to the Data Inspectorate and submitted certain comments on

the inspection report.

On 25 October 2018, the Data Inspectorate requested that the care board should

provide additional information, due to the fact that the processing had

taken longer than expected. Above all, the inspectorate wanted to know about

the processing of personal data in the record system had changed in proportion

to when the inspection was performed on February 3, 2017.

Opinion from the care committee was received by the Data Inspectorate on 13 November

2018, and i.a. the following appears. “The personal data processing in

the record system has not changed in relation to when the inspection was made.

On the other hand, it can be mentioned that the municipality has begun a procurement of future

documentation system which will replace Siebel. The idea is thus that

a new record system will be in place in 2019 or at least 2020. "

The Data Inspectorate has delimited its supervision in such a way that the audit concerns

authorization assignment and barriers in the journal system.

The Care Board has mainly stated the following.

General information about municipal health care

Uppsala Municipality has since 1 January 2017 divided the responsibility for it

municipal health care on two different boards - the care board

and the senior citizens' committee.

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The Care Board

The care board is responsible for information regarding the municipal commitment
according to the Health Care Act for persons under 65 years of age covered by
the law on support and service for certain disabled people (LSS) or who have one
physical disability. The care committee's activities are conducted by
The care administration under the leadership of an administrative director.
The administration is primarily responsible for home health care in special housing
disabled and ordinary housing for persons who have received a decision according to
LSS or the Social Services Act (SOL) and is under 65 years of age. The administration has also
employed licensed personnel who are organized in a separate department with
head of department and head of operations according to the Health Care Act (HSL)
and own medically responsible nurse (MAS).

The Elderly Committee

The Elderly Committee is responsible for information regarding municipal commitments according to
HSL for persons over 65 years of age, but not for persons covered by LSS or
who has a mental disability. The activities of the Elderly Committee
is run by the Elderly Administration under the direction of an administrative director.
The elderly administration is responsible for home health care in special housing for the elderly
and home health care in ordinary housing for those over 65 years of age. MAS is organized in one
quality and development unit with a department manager. Area manager as well
operations manager according to HSL is for ordinary housing organized under

head of the home care department. All special accommodation for the elderly has its own operations manager HSL, which is organized under the department manager at Department of Housing. The elderly administration has a staff that is responsible for strategic health issues as well as procurement, agreements and contract follow-up.

Emergency care

In Uppsala municipality, there are several private actors who perform municipal home health care. Their assignments are governed by agreements between the boards and them private providers. During the inspection, it was stated that Uppsala municipality agreement on health care with the private care providers only refers to the time between kl. 07-17. Other times, ie. between 17-07, it is the municipality responsible for patients in the municipal health care and for the patients of the private care providers.

Of the supplementary information received by the Data Inspectorate on 24 February 2017 it emerged that when it comes to health care interventions in

ordinary accommodation (ie for those who remain in their home) has the home care providers are responsible for healthcare interventions between 7-16. When it In the case of special housing, the private actors are responsible between 7-22. Other time, individuals' needs for health care interventions are met by it municipal emergency medical care, ie. part of the municipality's own account.

The elderly administration performs all health and medical care during on-call time, "on-call medical care",

also for users who belong to the care committee's area of responsibility or who

the boards have a principal responsibility for but which is conducted by private individuals

actors.

The personal data responsibility for the processing of personal data in

the medical record system regarding the municipal health care in

Uppsala municipality

The care board states that the boards are responsible for personal data

each board's area of responsibility according to the Patient Data Act. It appears that one

patient can be relevant within both the care committee and the elderly committee.

Personal data processing in the record system

The medical record system has been used in Uppsala municipality since June 2012 and that

is the municipality that handles the operation of the system. The journal system is used both

in health care and in social services. The journal information from

however, the different business areas are separated.

At the top of the patient's medical record is shown if there is specific information about

the patient under the heading "warning or observandum". To “warning or

observandum ”should be visible in the journal, an ordinary journal entry is written and

the line is marked with keyword 1 "observandum" and then with keyword 2

"Warning, infection or observation". Warnings are e.g. allergies and these

marked with a red triangle. Infection and observations are marked with one

exclamation mark. Observandum is always visible in the patient's medical record

patient safety reasons. It is p.g.a. a previous complaint that has been decided

to do this.

Eligibility

The document Siebel - Organizational Tree Patient Journal states the following.

Authorization level 1 - “Records are only available for leg. staff within

municipality (own management). This means that when leg. staff within Uppsala municipality

(own direction) writes a journal entry for a customer so has all the leg. staff

within one's own organization access to it no matter what

business area / business area leg. the staff is located in / works in.

This is because journals are created / written at the highest level (Level 1),

which means that the customer always has a journal, regardless of whether he or she is up to date

several business areas / business areas within Uppsala municipality (own

regi).

□

Licensed staff, regardless of where they are located, writes

always in one and the same journal.

□

If the patient moves to another unit / ward, regardless of where in

organization, the patient record remains intact. Example:

Licensed staff in a special accommodation can continue to work in one

started care plan, created by licensed staff on one

alternating care accommodation.

□

The record is not affected in the event of a reorganization.

□

As long as there is a care relationship, no dialogue needs to take place outside

the business system (fax, mail, telephone, etc.). This leads to a pile

patient safety. "

Authorization level 2 - The private care providers establish / record at the intermediate level (Level 2), ”which means that leg.

staff working with the same customer

but who is located / works in another business area / business area

do not have the opportunity to read the journal entry. It also means that it is

secrecy between the different business areas / business areas as a result

that each business area / business area prepares its own journal for

customer to whom you have a care relationship. In other words, a customer can have several

records within one and the same organization as this takes place at Level 2. "

Authorization level 3 - Means access to records for one or more devices.

During the inspection, a list was submitted to the Data Inspectorate - Order

system role - which describes the different roles that exist in the business system.

This list shows i.a. that certain roles - such as nurses,

occupational therapists and physiotherapists / physiotherapists - have competence level 1.

No needs and risk analysis has been presented by the care committee.

Coherent record keeping according to ch. 6 the Patient Data Act

The care committee states that the municipal health service participates in

system for coherent record keeping through national patient overview

(NPÖ) and through the journal system. Before the unified record keeping

was introduced in the municipality, investigations were made to check that

implementation was correct. The municipality considers that it meets the requirements in

Chapter 6 the Patient Data Act.

There are guidelines for the unified record keeping within it

municipal health care. It is included in the business system

municipal health care together with about 10 private care providers.

The document Guideline for information management and record keeping applies

health care has been submitted to the Swedish Data Inspectorate.

In order for health and medical staff in the municipality to be able to take part

data from and make data available to private care providers, as well

uses the medical record system, the patient's consent must first be obtained.

The municipality states that obtaining consent only means that it is relevant

caregivers are given the opportunity to read other caregivers' notes. To

Documenting consent is mandatory to enable reading by others

caregiver's journal.

The municipality carried out information initiatives aimed at the municipality

citizens in connection with that system for coherent record keeping

was introduced. There is also information about coherent record keeping

the municipality's website.

The staff who obtain the patient's consent to take part in information

through coherent record keeping, provides information to the patient in connection

with the consent obtained.

Bar (coherent record keeping)

The care committee states that the patient can block their medical record so that it is private

caregivers cannot take part in their information through the medical record system.

The patient does not block against a special care provider, but the patient blocks everything

opportunity for all other caregivers to read. The lock can only be lifted off

the care provider by whom the block is established, regardless of whether it is a private one

caregiver or caregiver in Uppsala municipality.

However, there is no possibility for the patient to block their data as

is dealt with by the care committee for the elderly committee and vice versa. One

discussion is underway within the municipality about what measures must be taken

due to the reorganization of the municipal health care.

Documentation of access (logs)

All roles that have access to patient data in the business system

logged, including e.g. technicians who need access to the system.

The care committee's view is that the logs contain all that information

as the Patient Data Act and the National Board of Health and Welfare's regulations (SOSFS 2008: 14) on

record keeping and information management in health care prescribes.

The municipality also performs log checks.

Reason for the decision

Authorization assignment in the journal system

It appears from ch. § 2 and ch. 6 Section 7 of the Patient Data Act, that the care provider shall

determine the conditions for granting access rights to such

data on patients who are fully or partially automated. Such

eligibility shall be limited to what is necessary for the individual to be able to

fulfill their duties in health care.

Of ch. 4 §§ 1-3 HSLF-FS 2016: 40 states that the care provider shall be responsible for that

each user is assigned an individual privilege to access

personal data and before he decides on the allocation of authority, shall

a needs and risk analysis is carried out.

The Data Inspectorate's assessment

The provisions of the Patient Data Act aim to take care of both

privacy protection and patient safety, see chap. Section 2 of the Patient Data Act.

The legislator has thus made a balance in terms of how the information

shall be treated to meet both patient safety and privacy requirements.

The Data Inspectorate can establish that the requirements of the care provider

authorization allocation in ch. 4 § 2 and ch. 6 Section 7 of the Patient Data Act is clear.

Eligibility must be limited to what is needed for the individual to be able to

fulfill their duties in health care, based on a needs and risk analysis in accordance with ch. 2 § HSLF-FS 2016: 40.

The Data Inspectorate can further state that all licensed personnel within

the care board has been assigned competence level 1, which means that they have

access to all journals created / written at this level.

Because different users have different tasks within different

work areas, this is a wider competence than what is permitted under

the Patient Data Act. Limitation of a user's permissions must be made

based on a needs and risk analysis both within the framework of internal confidentiality,

and within the framework of the unified record keeping.

The Data Inspectorate states that the care board has not limited

users' permissions to only what is needed for the user to

be able to fulfill their duties in health care.

The Care Board has thus processed personal data in violation of the article

32 the Data Protection Ordinance and ch. 4 § 2 and ch. 6 Section 7 of the Patient Data Act and

Chapter 4 2 § HSLF-FS 2016: 40.

The Data Inspectorate therefore submits to the care board that after a need and

risk analysis assign each user individual privileges to access

personal data in the journal system Siebel, to what is needed to it

individuals must be able to fulfill their duties in health care in

in accordance with ch. 4 § 2 and ch. 6 Section 7 of the Patient Data Act and Chapter 4 § 2

HSLF-FS 2016: 40.

The patient's right to block in the medical record system

The rules on the care provider's obligation to provide an opportunity for

the patient to block their care documentation in IT systems can be found in

Chapter 4 Section 4 and Chapter 6 Section 2 of the Patient Data Act. Further supplemented

the provisions of the Patient Data Act of HSLF-FS 2016: 40. See especially ch. 4 § 5 and

Chapter 4 7-8 §§ HSLF-FS 2016: 40.

Of ch. 4 Section 4, first paragraph of the Patient Data Act states that personal data such as

documented for purposes specified in ch. § 4 points 1 and 2 of a

care unit or within a care process, may not be made available through

electronic access for those who work at another care unit or within one

another care process at the same care provider, if the patient objects. IN

in such cases, the task shall be blocked immediately. Guardians of a child have, however not the right to block the child's information. Information that there are blocked information may be available to other care units or care processes.

Of ch. 6 Section 2, fourth paragraph, of the Patient Data Act states that if a patient opposes that information other than that specified in the second paragraph is the same legal space is made available to other care providers through cohesion record keeping, the data must be blocked immediately. The guardian of a child can not, however, block information about the child. The section thus states that the patient's right to object to data being made available in it coherent record keeping includes all information except information on that there are blocked data and which care provider has blocked these.

It further follows from ch. Section 4 of the Patient Data Act that disclosure through direct access to personal data is only permitted to the extent that specified in law or regulation. It follows from the second paragraph that if a county council or a municipality conducts health care through several authorities, receives one authority have direct access to personal data processed by someone another such authority in the same county council or municipality.

“The fact that direct access in a particular case is allowed within a However, the caregiver's organization does not affect the application of those provisions which implies other limitations of the possibilities of in a specific care situation get access to personal data, e.g. the rules on blocking personal data according to chap. 4 ” (See Bill 2007/08: 126, p. 245).

The Care Board has stated that the information in "Observandum" is always visible in the patient's medical record for patient safety reasons, due to

previous complaints.

The Care Board has further stated that there is no possibility for

the patient to block their data processed by the care board for

the senior citizens' committee and vice versa.

However, the care committee has stated that it is technically possible to block the patient

data against all other care providers within the framework of the cohesive

record keeping and that the lock can only be lifted by the care provider who

established the barrier.

The Data Inspectorate's assessment

The patient's right to block applies both in the internal secrecy as well as in

system for coherent record keeping. When the patient requests his

care documentation must be blocked, the care documentation must not be available

electronically available for other care units or care processes

or, via direct access, for other care providers.

There is no legal possibility for the caregiver to exempt certain

care documentation from the patient's barrier option within the framework of the internal

secrecy. This means that if the patient requests it, the care provider must block

all care documentation in the medical record system - which includes

care documentation found in "Observandum".

In the light of the above, the Data Inspectorate states that

the care board does not have technical functions for barriers in the medical record system

Siebel between the care committee and the elderly committee, as far as is concerned

the care documentation in "Observandum". The care board thus has

processed personal data in breach of Article 32 of the Data Protection Regulation and

Chapter 4 Section 4 and Chapter 5 Section 4 of the Patient Data Act.

The Data Inspectorate instructs the care board to introduce technical

functions for barriers in the medical record system between the care board and

the senior citizens' committee according to ch. 4 Section 4 of the Patient Data Act.

This decision was made by the unit manager Katarina Tullstedt after the presentation

by the lawyer Maria Bergdahl.

Katarina Tullstedt

Maria Bergdahl

The Data Inspectorate

2019-06-28

Diarienr

143-2017

Copy to:

Data Protection Officer (via e-mail for information)

The Health and Care Inspectorate

How to appeal

If you want to appeal the decision, you must write to the Data Inspectorate. Enter i

the letter which decision is being appealed and the change you are requesting.

The appeal must have been received by the Data Inspectorate no later than three weeks from

the day the decision was announced. The Data Inspectorate forwards the appeal

to the Administrative Court in Stockholm for review if the inspection is not itself

changes the decision in the way you have requested.