

Help rather than turn away

Legal questions regarding medical care on board by masters and ship's officers

1. Basic principle

Legally, masters or ship's officers that provide medical care to other members or the crew or other people on board have nothing to fear if they act to the best of their knowledge and ability according to their medical training (first and refresher courses).

It is of course always best if the attending master or ship's officer talks to the injured or sick person and asks for their consent to the medical measures. If a person is unresponsive, legally, a presumed consent (*negotiorum gestio*) exists so that there are no legal problems.

2. Civil law: Damages

Only in exceptional circumstances – in cases of gross negligence or misconduct that lead to the death of the patient or their condition worsening – can a treated person claim damages against the master or ship's officer on board who provided treatment. However, if they provide medical care to the best of their ability and act appropriately, they are not liable for damages. Gross negligence occurs if the simplest considerations that are generally clear are not observed. No one can be accused of gross negligence for lack of knowledge. Intentional misconduct occurs when an injury or damage during the medical care is caused consciously and willingly or is at least accepted approvingly.



An unintentionally inflicted injury (e.g. broken ribs from a cardiac massage) or material damage (e.g. cut clothing of the injured person) does not lead to a claim for damages.

Physical injuries of the assisting person during medical care are covered by the responsible accident insurance company and require a formless notification. Material damages can be claimed via the shipping company.

3. Criminal Law

Here the following principle also applies: Acting according to the best of your knowledge and ability will not make you liable to prosecution. On the contrary: Those who do not help may be convicted of failure to render assistance according to section 323 c of the German Criminal Code. The obligation to provide assistance is even bigger for masters and ship's officers on board sea-going ships compared to first aid provided by bystanders because the legislator has assigned the responsibility for medical care on board to the masters and officers (section 109 paragraph 1 of the Maritime Labour Act).

Only if the assistance is unreasonable does the obligation to promptly provide the best possible assistance during an emergency not apply. This is the case, for example, if providing assistance would result in considerable personal risk or violating other important obligations.

Despite providing medical care, the state of health may deteriorate or the injured person may even die. If assistance is provided with the necessary diligence, i.e. according to personal knowledge, abilities and circumstances, this assistance is not punishable.

4. Telemedicine

Doctors usually advise and treat patients face-to-face at a consultation. Here, communications media can play a supportive role. Solely telemedical treatment is only permitted in individual cases if this is justifiable from a medical point of view, the required medical care is guaranteed by the manner of diagnosis, consultation, treatment and documentation and the patient has been informed about the specifics of solely receiving a consultation and treatment via communication media.

In the scope of the Maritime Labour Act, the ship's doctor, captain or appointed ship's officer is responsible for treatment and care on board. Before contacting the radio medical advice service, the responsible ship's officer compiles the individual patient and treatment data and prepares for the contact.

5. Further information

You have more questions? I am happy to receive your message.

Contact person:

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Further information can be found in the reissued brochure of the German Social Accident Insurance (Deutsche Gesetzliche Unfallversicherung, DGUV) about legal questions regarding first aid available for download online:

<https://publikationen.dguv.de/dguv/pdf/10002/10852-ehl.pdf>

The listed principles in the brochure generally also apply to medical care on board by masters and officers.

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