European Commission
Health and Consumer Protection Directorate-General
Health Services Consultation
B232 8/102
B-1049 Brussels
Belgium

26th January 2007
33-37 Moreland St
London EC1V 8HA

Dear Sir/Madam

European Commission consultation regarding Community Action on health services

Response From Amicus Health Sector

Amicus is the UK's second largest trade union with 1.2 million members across the private and public sectors. Our members work in a range of industries including manufacturing, financial services, print, media, construction and not for profit sectors, local government, education and the health service.

The Health Sector of Amicus is comprised of seven professional associations

- Medical Practitioners' Union, (MPU)
- Society of Sexual Health Advisers, (SSHA)
- Hospital Physicists' Association, (HPA)
- College of Health Care Chaplains, (CHCC)
- Guild of Healthcare Pharmacists, (GHP)
- Mental Health Nurses Association, (MHNA)
- Community Practitioners and Health Visitors' Association, (CPHVA)

- as well as other occupational advisory groups of professional groups such as allied health professions, health care science, nursing, family of psychology, counsellors & psychotherapists, independent practitioners, the family of dental professions, audiology professions, optometrists and opticians.

Below are shown the questions from the consultation document together with our responses.

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?

Our experience is of internal UK "cross border" health provision between the home countries eg Wales to England, as each home country has slightly different health systems. Accessibility to health care for patients in North Wales is improved by use of English facilities in NW England which are somewhat closer than those in Cardiff or Swansea.

The quality of services are assured and are similar in each home country by application of the same or very similar standards of clinical practice such as those of the royal medical colleges, for instance the Royal College of Physicians, which are UK wide. In addition service level agreements between the local purchaser and the cross border provider should assure standards.

As health provision is government funded and provided to a national tariff prices are transparent and closely related to cost.

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?

Legal clarification would be needed for where liability would lie if a procedure went wrong. Would this lie entirely with the provider of services, or would the purchaser have some liability? Under which country's legal system would the patient have to take action? If not their home country this could be a disincentive to seeking treatment in another EU state.

Information for patients would need to be in their home language for example to explain a procedure, obtain consent, and for understanding what the health professionals are explaining to them or instructing them in (for example what to do when they return home).

Health professionals would need adequate clinical information about the patient including personal information, their medical history and a full medication profile, and most of this would be confidential information.

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 section 2.2 above?

These issues should be addressed through a contract for provision of services. The "contracts" may differ according to the type of cross border health service provision. For example there may be no specific contract for provision of emergency or urgent services for citizens temporarily in another member state eg on holiday, whereas for, say, planned surgery, there should some form of contract. The provider should be prepared to guarantee specified quality standards acceptable to the purchaser, and the purchaser should ensure that standards set out in the contract are adequate. The clinical responsibility for delivering the standards would rest with the provider.

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?

Where the provider has been negligent the patient should be able to obtain redress from them. However, if the contract is at fault or the contract has been placed with a provider with

inadequate standards the purchaser may share liability. However, there needs to be a straightforward and transparent system for patients to be able to obtain redress. See also response to question 2 above.

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)?

There should be guiding principles for service provision between member states that:

1. A health provider should not be allowed to take on cross border work at the expense of provision for the local population ie the local population should not be disenfranchised by cross border provision.

2. Where a country is very small and cannot support all the specialist health services needed those citizens should have an equal right to treatment in a neighbouring state as other EU citizens.

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?

Language competence of a health professional is an important issue. The professional must be able to communicate properly with patients in the official language of the country in which services are provided, otherwise the service may be unsafe. Even if providing services for a minority population speaking a language other than the official language of that country the professional is still very likely to need to communicate with other health professionals about such a patient's care in the official language of the country.

All health professionals should be required to register with the registering authority in the countries in which they practice, rather than being able to work without registration for a specified period. This is a matter of public protection.

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?

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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?

We support action listed under 3.2 to improve patient outcomes provided the methods are cost-effective.

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?

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Our reply may be made freely available.

Yours faithfully

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