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European Commission

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Comments on the Green Paper on the EU Workforce for Health

In view of the increasing challenges which face the healthcare systems in the EU Member States, we welcome the Commission's efforts to minimise the shortage of qualified staff in the healthcare sector within the EU. However, it is doubtful whether such a strategy will be effective at EU level and whether it will be successful.

The Bavarian Chamber of Dentists, which represents the more than 13 000 dentists in Bavaria, would like to comment as follows on the challenges referred to in the Green Paper and the ways proposed for tackling them:

I. Commission's competence

In the Green Paper, the Commission initially refers only to Article 152 of the EC Treaty as the standard by which the Commission's competence should be determined and infers from it that there is a need to keep the Commission's role distinct from the responsibilities of the individual Member States.

However, it is doubtful whether the legal framework is the right one. The Green Paper deals primarily with the challenges faced by people working in the healthcare sector in the EU. The EU has far greater competence in this area (Article 125 of the EC Treaty) than in the field of health policy. Under Article 125 of the EC Treaty, the Member States and the Community are required to "work towards developing a coordinated strategy for employment and particularly for promoting a skilled, trained and adaptable workforce" in order to react to the demands of economic change. One shortcoming of the Green Paper is that it fails

to differentiate clearly between workers, specialists, employees and the self-employed, although point 4.4. makes explicit reference to Article 43 of the EC Treaty, which governs self-employment in another Member State. The same applies to Article 49 of the EC Treaty, in which the freedom to provide services is enshrined. If they are not clearly demarcated, the limits of the various competences will be unclear. People will assume that the Commission is trying to extend its competence in the field of health policy. There should therefore be a precise delimitation of the areas to which the measures proposed in the Green Paper will apply.

II. Restricted supply of health services

In the Introduction to the Green Paper, the Commission talks about a “restricted supply” of health services. It is questionable whether a generalisation of this kind is actually true. As far as Germany is concerned, at least, we cannot see where the supply is supposed to be restricted. At most, restrictions apply to the list of services provided by the statutory health insurance scheme. The Commission should therefore make it clearer that any restriction in the supply of services is caused by the system itself. Making a distinction of this kind could make it easier to devise appropriate measures, e.g. by using strategies from individual healthcare systems in order to ensure an adequate supply of services.

III. Workforce of the highest quality

The Commission notes that challenges can only be met if health systems “have efficient and effective work forces of the highest quality”. Article 152(1) of the EC Treaty talks about a “high level of human health protection”. Even the Charter of Fundamental Rights, which forms part of the Constitutional Treaty, talks about a “high level of human health protection” (Article 25). It is correctly pointed out in a commentary to this Treaty (von der Groeben/Schwarze, *Kommentar zum EU-/EG-Vertrag*, 6th edition 2003, Article 152(4)), that “the level must not be the highest imaginable but “just” high”. The “highest quality” requirement will reduce the size of the workforce even further. This requirement will lead to an even greater demand for specialist staff who, according to the Commission’s Green Paper, are already in short supply. There is therefore the risk that the existing problems will not be improved but exacerbated. In order to avoid

imposing even more stringent requirements on workers who are already of a high quality, the requirement should be for a "high level of human health protection", as in Article 152(1) of the EC Treaty, rather than for "highest quality". It should also be pointed out that there is a need not only for workers with good training and further training in the health service but also for auxiliary staff.

IV. Figure 1 — Structure of the health professions

The structure shown in Figure 1 in the Introduction is unacceptable in its present form. Therapeutic professions are referred to there as "allied health professions", while the "health management workforce" is put at the top. The model healthcare system thus portrayed by the European Commission is not one based on self-employment and personal responsibility but largely mirrors a State system geared to providing in-patient treatment.

The lack of any differentiation in this regard overlooks the important role played by individual independent practices in the functioning of the healthcare system. The system portrayed in the Figure seems to give only limited consideration to self-employment and independence. There is a considerable need for improvement here.

V. Migration from third countries

In Section 2, entitled "Rationale for the Green Paper", it is pointed out that measures taken by the EU to resolve problems should "not have a negative impact on health systems outside the EU". Although a negative impact on the healthcare systems of developing countries should be avoided, this seems unrealistic. Attractive working conditions will always act as a spur for migration from outside the EU. There is already speculation as to whether the increased demand for nursing staff in particular can be met without a massive influx of workers from non-EU countries. The Commission itself asks this question in Section 4.5 "Global migration of health workers". It is therefore necessary to consider whether a possible solution in the form of migration from third countries should be excluded from the outset.

VI. "Diversity of the health workforce"

In Section 2 "Rationale for the Green Paper", the Green Paper talks about the "diversity of the health workforce". But does this really pose a problem or is it in fact a natural result of the differences which exist with regard to the qualification levels of staff, the levels of health care they provide and their occupational status (employees -v- self-employed persons)? It is unclear what exactly the Commission understands by "homogeneity".

The Commission needs to define this and describe exactly what kind of adverse effects can be caused by the "diversity of the health workforce". This is necessary in order to prevent situations which are different from each other from being handled in the same way and in order to prevent the diverse nature of the healthcare systems — a feature which is desirable — from being ironed out.

VII. Chapter 4

Chapter 4 too deals exclusively with employees in the healthcare sector, although doctors are mentioned as an example. However, action is also needed with regard to self-employed healthcare providers. The Green Paper does not address this. Increasing levels of bureaucracy and regulation have imposed a huge administrative burden on doctors' practices and have made self-employment virtually unprofitable and an unattractive option for young doctors. It means that some graduates in medicine decide against pursuing a career as a doctor. Making self-employment more attractive, in particular by reducing red tape and deregulating the sector, would be one way of reviving the flagging interest of not only young doctors and new recruits to the medical profession in self-employment and a career as a doctor.

VIII. Public health capacity

In Section 4.2 of the Green Paper, the scope of the EC Treaty as it relates to public health is given a wide interpretation. Under Article 152(4), the Community's responsibilities, "excluding any harmonisation of the laws and regulations of the Member States", relate exclusively to measures setting high standards of quality and safety for organs and substances of human origin, blood and blood derivatives, measures in the veterinary and phytosanitary fields and support measures designed to protect and improve human health. If the Green Paper is going to refer not only to health promotion and prevention but also to

health in the workplace, it needs to be specific about the measures which will be taken directly by the EU. Where the Member States agree on joint objectives, such as with regard to safety in the workplace, this is not likely to pose a problem. However, the Commission's assertion in the Green Paper that the achievement of these objectives is dependent on the “availability of the necessary specialised health workers, such as occupational health physicians and nurses and health and safety inspectors” is of direct relevance to the practice of dentistry. The Green Paper should make it clear that a high standard of health and safety in the workplace is not solely dependent on the number and availability of doctors, nurses and health and safety inspectors. It makes no sense to create new demand when existing demand for specialist staff within the healthcare system is difficult to satisfy.

IX. Training

Section 4.3 of the Green Paper states that “more university places or training schools” will need to be created if more staff are needed in future. Just as important, however, is improving the conditions for professional practice. In the case of medical students, for example, the number of people who are studying medicine does not give a clear indication of the number of people who will embark on a career as a doctor, as long as the conditions for that career are not ideal. As mentioned in point VII. above, efforts to make self-employment in the healthcare sector more attractive are therefore of primary importance. If self-employment is once again made an attractive prospect, by breaking down barriers such as red tape, the more likely it is that demand for healthcare personnel can be met, as self-employed health professionals play a significant role in the provision of vocational training for specialist staff.

X. Managing the mobility of workers

In Section 4.4 of the Green Paper, the Commission correctly states that the introduction of legal restrictions on the free movement of students or workers is not the right response when it comes to tackling the effects of the increased

mobility of workers in the healthcare sector. It is therefore significant that the Commission also states that “the increased mobility of the workforce may therefore require workforce managers at local and/or national level to review the adequacy of their recruitment and professional development measures”. It is not clear what this means, particularly since freedom of movement, which is guaranteed by the Treaty, may not be restricted. The Commission needs to explain this more clearly.

XI. Gathering comparable data on an EU-wide basis

In Section 4.6 of the Green Paper, the Commission indicates that one of its objectives is to gather comparable data on an EU-wide basis. It is questionable, however, whether this is the solution to the problems described. The gathering of data in this way implies government control of the labour market. It is also questionable whether the statistics can be used as a basis for determining future action and decisions on how to control the labour market. When one considers the situation of doctors in particular, it is clear that freedom of establishment cannot be restricted. The fact that only 182 out of 344 Estonian doctors who obtained “verifications” actually emigrated does not by any means prove that such data-gathering operations are worthwhile.

It is also questionable whether the harmonisation or standardisation of indicators on the health workforce is likely to be helpful. The healthcare sector is one in which a variety of training courses exist and consistency among them cannot be achieved through harmonisation but through application of the Directive on the recognition of professional qualifications and, even then, only to a certain extent.

XII. Meaning of self-employed persons

We very much welcome the explanatory information in Section 6 on the meaning of the term self-employed persons, when applied to the workforce in the healthcare sector. We also welcome the reference to the Small Business Act (SBA) as a “key element in the EU's Growth and Jobs Strategy”.

The section on “Influencing factors and possible areas for action” should therefore also include a requirement not only to examine existing barriers to entrepreneurial activity in the health sector but to remove them. There should also

be a requirement to introduce tax relief or to eliminate discriminatory rules, such as VAT on medicines or the equal status of partnerships and legal entities in the field of corporate tax. The more attractive it is for a person to be self-employed in the healthcare sector, the smaller the number will be of those who give up self-employment. The earlier healthcare professionals return to a career in the health sector — one of the requirements listed in Section 4.1 of the Green Paper — the greater the number will be of young people who choose a career in that sector, thus helping to meet the demand for staff.

We hope that these comments will be taken into account in future discussions.

Signed:

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The Bavarian Chamber of Dentists is a professional body which represents more than 14 000 dentists in Bavaria. It is a public-law corporation.

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