council for healthcare regulatory excellence

To: European Commission Directorate-General for Health and Consumers

Re: Green Paper on the European Workforce for Health

31 March 2009

1 Introduction

The Council for Healthcare Regulatory Excellence is an independent body accountable to the UK Parliament. Our primary purpose is to promote the health, safety and well-being of patients and other members of the public. We scrutinise and oversee the healthcare professional regulatory bodies[1], work with them to identify and promote good practice in regulation, carry out research, develop policy and give advice.

We welcome the opportunity to respond to the consultation on the Green Paper. We wish to raise a number of concerns we have on the subjects covered by the Paper, where we believe that the safety of patients and other members of the public across the European Union is currently at risk. Our concerns centre on the role of the regulatory bodies of health professionals, often referred to as competent authorities. The core purpose of the regulatory bodies is to protect patients and other members of the public. However, there are a number of ways in which this core purpose is frustrated by the current legal framework for professional mobility. We believe the Green Paper provides a timely and important opportunity for this to be addressed. In this response we have provided comments on some of the particular sections of the Green Paper. The aim of our comments is to highlight key areas in which action by the European Commission could strengthen patient safety and enhance public protection compared to the current situation.

2 Training

The section of the Green Paper on training acknowledges the importance of continuous professional development and notes that updating skills improves

[1] General Chiropractic Council, General Dental Council, General Medical Council, General Optical Council, General Osteopathic Council, Health Professions Council, Nursing and Midwifery Council, Pharmaceutical Society of Northern Ireland, Royal Pharmaceutical Society of Great Britain

outcomes and ensures patient safety. It is because of this fact that many of the healthcare professional regulatory bodies have mandatory requirements for their registrants to undertake CPD. However, regulatory bodies in some member states do not have CPD requirements for their registrants. The current framework governing the mobility of healthcare professionals does not allow a regulatory body to ensure that incoming professionals meet its standards for keeping skills up-to-date. Currently, healthcare professionals must only meet the requirements set by the appropriate regulatory body in their home state, which may be lower than those required by the state to which they are moving. Consequently, these healthcare professionals may be allowed to practise without having such up-to-date skills, thereby jeopardising the safety of patients.

The section on training also highlights 'possibilities for providing language training to assist in potential mobility' as a possible area for action. As we note further below, healthcare professionals must be able to communicate competently with patients and colleagues or else there is a significant risk to their patients' safety. Therefore, communication competence should be ensured before a professional is legally allowed to practise with patients in any one country. The appropriate regulatory body is the only authority which is in a position to ensure this.

3 Managing the mobility of health workers within the EU

The role of the regulatory bodies of healthcare professionals is to ensure that those they register are fit to practise. They protect entry to a profession to those who are fully capable of practising it safely and effectively. This does not simply mean that they have the necessary qualifications or professional knowledge. It means that in their interactions with patients a healthcare professional will not act in ways that may jeopardise a patient's safety. A central part of this is holding appropriate qualifications, but this is not the only part.

A health professional cannot practise safely if they are unable to communicate with their patients effectively. If they lack this communication competence they are unfit to practise because they lack a competence that is essential to being capable of safe and effective practice, therefore any practice they undertake puts the safety of their patients at risk. As the body legally responsible for assuring that those permitted to practise a profession are capable of practising it safely and effectively, it is essential that regulatory bodies are allowed to ensure that all those they register can competently communicate with patients.

Safe and effective practice of a health profession is defined as much by the nature of the relationships professionals have with their patients as having particular clinical skills. Because of their responsibilities to patients, health professionals must adhere to codes of personal behaviour, which emerge from the norms, beliefs and expectations of patients, professionals and a society more widely. Someone who does not adhere to a profession's code of behaviour is not fit to practise as a

member of it. Consequently a regulatory body needs to be able to assess whether a person who seeks to practise in their jurisdiction will adhere to their code of behaviour. The only way to approach making this assessment is to use past behaviour and conduct as a basis to determine whether or not these past actions suggest that they will act in accordance with the expectations of them in their professional relationships and practice. In different countries variations in norms, beliefs and expectations can lead to variations in what is expected of professionals in their relationships and practice with patients and in the evidence regulatory bodies deem necessary to assess whether they will adhere to the relevant codes and standards. This means that regulatory bodies, in order to fulfil their role of protecting patients and the public and upholding public confidence in the profession, may need access to additional information on professionals beyond just their current registration status in their home member state.

4 Data to support decision-making

We agree that robust information on the healthcare workforce across Europe could make an important contribution to the effectiveness with which the structures for the delivery and regulation of healthcare and professionals are organised. It would be very useful for there to be readily available and comparable data on the health workforce – particularly precise data on the mobility of professionals – and member states' associated policies and regulation. We believe that an observatory at the European-level which could help to set standards and a framework for collecting and comparing data on workforce issues would be a significant development, and is something which should be explored further.

We also believe that the availability certain types of data could support patients to take an active role in their healthcare. Providing patients access to information on the fitness to practise status of their healthcare professional can help them to make informed choices about their care and to take action to safeguard themselves. One example is a case in the UK in which a professional was only allowed to see female patients with a chaperone present because of past misconduct. We believe it is important that patients across Europe should have access to this information to support their personal decision-making in their care and to enable them to take personal action to guard against risks to their safety.

5 The impact of new technology

We agree that new technology can bring great benefits to patients and improve care. It is important that different healthcare professionals are able to work closely together and share information where appropriate. As part of ensuring the health workforce in Europe is able to utilise the full potential of new technologies, it may be useful to do work aimed at developing common principles on the appropriate handling patients' data, to ensure patient safety and uphold the confidentiality of

patients' information. It needs to be ensured that data crossing national boundaries contains the necessary information for professionals to practice safely and effectively with the patient and systems should have robust safeguards in place corresponding to potential risks.

6 Conclusions

We welcome the opportunity to contribute to the publication of the Green Paper, and hope our comments prove useful to the Commission. The key area we wish to bring to the Directorate-General's attention is the importance of the regulatory body of a healthcare profession being able to ensure that all those practising the profession within their jurisdiction are able to communicate competently with patients and meet the regulatory body's standards for conduct and behaviour. If these criteria are not met by an incoming healthcare professional, they should not be considered fit to practise in the country to which they are moving, and the safety of patients and the other members of the public is put at risk. More broadly, we believe it could be useful to establish links between this initiative on the health workforce and the Directorate-General's work on patient safety. These are closely linked in practice, and much may be gained towards the goal of promoting the health and safety of patients and other members of the European public from close collaboration.

If you have any questions or would like further information regarding any of the issues we have raised in this submission, please do not hesitate to contact us.

Council for Healthcare Regulatory Excellence
Kierran Cross, 11 Strand
London WC2N 5HR
Tel: 020 7389 8030 Fax: 020 7389 8040