

FEPI – The European Federation of Nursing Regulators

Response to the European Commission Consultation regarding Community action on health services

About FEPI

The European Federation of Nursing Regulators (FEPI) was established in 2004. Its primary aim is to protect, maintain and promote the health and safety of the public by creating and maintaining the highest standards of competence and conduct by nurse professionals.

General comments

FEPI has carefully considered the issues raised in the consultation and although we have comments to make on most of the questions we intend to provide a more detailed response to those questions that specifically fall within our remit as regulators.

We welcome the development of this initiative on health services, which reflects a key recommendation in our position statement on the Proposal for a Directive on Services in the Internal Market that was submitted to the Commission in January 2006. In that position statement we emphasised the importance of patient safety and consumer protection in the efficient provision of health care services. Further that such protection can only be guaranteed if the services provided are of high quality and delivered in a safe and effective manner by competent professionals. Such quality can only be guaranteed through an efficient exchange of information and practice among competent authorities.

We agree that both patients and the public require greater certainty about their rights to funded health care services in another Member State. There is a need for a single point of contact in each Member State that can be readily accessed by patients, the public and healthcare professionals that makes clear the entitlements to healthcare.

In addition to systems that regulate healthcare professionals, some Member States have regulatory systems that are responsible for assuring the quality of care delivered; this good practice could usefully be shared with other Member States. The point of contact will also need to provide information as to how the quality of services is assured. We believe that there are some common standards and principles of health care that patients have a right to expect from regulated healthcare professionals and these should be emphasised within existing national standards, codes and/or guidance.

Finally, any action resulting from the analysis of the consultation responses must be fit for current and future purpose.

Questions

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?

It is likely that mobility of professionals will increase as a result of extending the ability to all professionals to provide temporary services under the Recognition of Professional Qualifications directive 2005/36/EC. We are aware that the Commission would find it useful to have data about the current mobility of healthcare professionals, as a baseline, since there is limited information currently available to it.¹

Number of foreign registered Nurses per EU country – both EU and non EU – in 2004 and 2005²

Competent Authority	2004	2005
AT - Federal Ministry for health and Women	1725	2473
DK - National Board of Health	4502	4613
EE – Estonian Health Care Board	NA	2
ES – Spanish Council for Nursing	514	518
GR – Hellenic Regulatory Body of Nurses	NA	200
IE – An Bord Altranais	5297	8738
IT – Italian Nursing Council	NA	13120
LT – State Health Care Accreditation Agency – Min. Health	23	NA
LU – Ministry of Health	2099	NA
MT – Council for Nurses and Midwives	708	731
PL – Main Chamber of Nurses and Midwives	NA	NA
PT – Portuguese Order of Nurses	1854	1860
RO – The Order of Nurses and Midwives	1	1
SE – The National Board of health and Welfare	3458	3746
UK – Nursing and Midwifery Council	1030	1239

We are concerned, however, that the quality of services could be diluted due to the lower entry requirements for those providing temporary services.

From a regulatory perspective, the continuing development of information technology will have a significant impact on the accessibility of cross border services. Healthcare professionals will need to ensure the secure transfer of information across borders so that patient confidentiality is maintained. Further, the information will need to be translated in either the home or receiving country. This highlights the importance of healthcare professionals being proficient in the language or languages of the country in which they are working and with whom they are communicating. Effective communication is essential to high quality and safe care.

¹ Report on the work of the High Level Group in 2006. 10 October 2006. High Level Group on Health Services and Medical Care. Brussels.

² Please note that for some countries the total number also includes Midwives. To obtain more information on the present figures please consult Annex n°1.

Question 2: what specific legal clarification and what practical information is required by whom to enable safe, high-quality and efficient cross-border health care?

Information sharing between competent authorities

In a European Union of increasing patient and professional mobility, it is vital to identify what information and legal clarity is required for safer and better quality health care. There are two aspects to this:

- the information the regulator needs to be assured that a professional seeking registration from another European Member State is fit and safe to practice – in this sense we strongly support the work being developed on the Internal Market Information System (IMI System) - and;
- the information patients require about the relevant professionals, standards of practice and regulatory redress when they access healthcare in another European Member State.

The Directive on Recognition of Professional Qualifications already sets out that regulatory authorities/competent authorities must co-operate more closely on information exchange. We would like to stress in this context the potential of the IMI System as a model of cooperation between EU Institutions and Health professionals. There are also some relevant initiatives coming from civil society, such as the Healthcare Professionals Crossing Borders project, involving all healthcare regulators in the EEA and accession countries, and aiming to develop information sharing solutions in support of this provision of that Directive.

Legal duty to share information

We would also like the European Commission to explore the establishment of a legal duty upon regulatory/competent authorities to inform and provide information about registration status and disciplinary action being taken to other regulatory/competent authorities. The information needs to be of sufficiently high level to ensure that the public and patients are not put at potential or actual risk from nurses who are not fit to practise. We wish to avoid the situation of a nurse removed from the register in country A, who registers in country B and can therefore exercise rights to free movement as has occurred in at least one high profile case in the UK concerning a medical consultant.

Practical information

The single point of contact will be critical in providing sufficient information about how health services are organised, how quality of care is assured and who may be involved in supplying healthcare services. This is important for patients when making decisions about taking up healthcare services in another Member State and for professionals supporting the referral of patients to another Member State. Patients and purchasers are likely to have expectations of care and professionals based on their experiences of their home Member State. Such information needs to include a glossary of terms since there is no standardisation of terminology used across Europe and familiar words and phrases can have different interpretations in other Member States.

Question 3: which issues (eg: clinical oversight, financial responsibility) should be the responsibility of the authorities of which country?

Clarity over regulatory responsibility of professionals

There is a diverse approach to healthcare regulation of professionals across the European Union. In some Member States regulatory functions are fragmented across different organisations or government departments, and in some case decentralised to the regional level. In others, regulatory responsibilities are integrated within a single organisation. Where there is fragmentation and/or decentralisation it may be difficult for regulators to access full registration and disciplinary information accurately and in a timely manner about individuals who are seeking registration elsewhere.

FEPI set the first steps towards the establishment of a database of competent authorities for nursing across Europe, which can be found on our website. This has been made available to the European Commission and contributes to providing clarity on the correct sources of nursing regulatory information. We believe that the European Commission has a role to play in facilitating easy identification of all healthcare competent authorities for regulators, patients and the public. Our federation is, of course, totally available to cooperate with the European institutions in that sense.

Registration status of healthcare professionals delivering cross-border healthcare

There is an important principle to be adhered to in the interests of patient safety and that is that all healthcare professionals should be registered in the Member State in which they are providing services.

It must be clear to patients and healthcare professionals as to where responsibility lies for care delivery when elements of care are delivered in different Member States. This is important for the safe and effective continuation of care. Therefore any legislation will need to make clear when the regulatory responsibility passes from one Member State to another. Legal certainty is necessary for both patients and healthcare professionals.

In a future that increasingly makes use of telemedicine, it will be important that where healthcare professional A in a Member state is asked to provide advice on care to a professional or a patient in another Member State, whether electronically or via telemedicine, there will be a need for the credentials of A to be determined. FEPI would welcome contributing to a debate with the European Commission and other regulators as to how healthcare professionals who work in this way can be regulated. This will be important if, for example, the advice, care or treatment turns out to be detrimental to patient health, since the right to redress will need to be clear.

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?

FEPI welcomed the removal of the country of origin principle from the proposed Services in the Internal Market Directive and would be concerned if there were moves to introduce it into any legislation around health services. FEPI believes that healthcare professionals must be regulated by the Member State in which they are providing services. In this way patients can be assured that the healthcare professionals are required to meet high standards of care and competence and comply with codes of conduct. In those rare cases where such standards are not met, such clarity will contribute to patients' ability to seek redress.

In the event that the healthcare professional concerned had returned to his/her home Member State, data protection should not preclude exchange of information between healthcare competent authorities, as this would be against the interests of patients and the public. The Recognition of Professional Qualifications Directive places a requirement on all regulators to work co-operatively. Building on this, FEPI would like to see greater regulatory co-operation, not only to ensure patient safety in the country where problems have arisen but also across borders.

It is important for there to be legal clarity for regulatory responsibility for professionals in each of the four categories of cross-border health care provision, to guard against any confusion for patients, the public and healthcare professionals and providers. There should be no disproportionate or unnecessary regulatory burden for competent authorities in fulfilling their regulatory responsibilities.

Question 6: are there further issues to be addressed in the specific context of health services regarding the movement of health professionals or establishment of healthcare providers not already addressed by Community legislation?

Patient and public safety

There are a number of issues related to the effective sharing of information about healthcare professionals amongst competent authorities that require clarification in the interests of patient safety. Currently the different ways of interpreting the data protection act across Member States means that patient safety can be compromised. In many Member States it is not possible for a competent authority to identify to another Member State in which a healthcare professional is practising that the person is under investigation.

In the interests of patient and public safety it must be made possible for such information to be shared and for the host Member State to determine the most appropriate action, consistent with national legislation. Additionally it must be possible for competent authorities to share information about those who have been investigated and where limitations/conditions/sanctions have been put on their practice.

We believe it was for these very reasons of patient safety that the ability to provide temporary services for up to 16 weeks without having to register in the host Member State was removed from the Recognition of Professional Qualifications Directive. A decision that FEPI welcomed.

In order to reduce any confusion we believe that it would be helpful to make a statement in any future legislation and/or communication on health services that the Recognition of Professional Qualifications Directive takes precedence. This was

considered to be particularly helpful when clarifying its relationship with the Services in the Internal Market Directive.

Consequently, we believe that there should be no further expansion of freedom of movement of professionals until the impact of the implementation of the Recognition of Professional Qualifications is known.

Common standards

It is the commitment of professionals to high standards of ethical conduct that provides the most effective public and patient protection. FEPI has contributed to the development of the common values proposed by CEPLIS – the European Council of the Liberal Professions, that provides a common framework within which each country and profession can produce ethical codes. FEPI is currently undertaking work to develop a common code of ethics for nurses - by the means of a Working Group on Ethics gathering representatives from several EU regulatory authorities/competent authorities - which would provide greater certainty for patients, particularly with respect to confidentiality and consent.

Patient safety through effective communication

Safe and effective practice is also dependent on good communication. At present competent authorities are unable to test language competence at the point of registration. Since there are increasing numbers of healthcare professionals, who work independently, there is not always an employer body to undertake an assessment of language competence. This is all the more significant if the professional is providing services on a temporary basis. In a recent and widely publicised case in the UK, a French doctor had insufficient English language skills to enable him to summon an ambulance for a patient who had collapsed in his surgery. The patient died while waiting for emergency help to arrive.

FEPI recommends that any future health services legislation would introduce amend existing legislation to allow healthcare regulators across Europe to establish, at the point of registration, that a healthcare professional has the level of language necessary for safe and effective practice.

In this context FEPI supports the initiative of the Commissioner for Multilingualism Mr. Leonard Orban to put in place a European Language group of stakeholders where the question of competences could be discussed.

Patient and public involvement

The 'Common values and principles' set out by the Health Ministers in May 2003 makes reference to the patient-centred aims of European healthcare. FEPI would welcome working with the European Commission and other healthcare regulators to promote greater public and patient involvement in European healthcare regulation.

Question 8: in what ways should European action help support the health systems of the Member States and the different actors within them?

Again we would wish to make reference to the work of 'Healthcare Professionals Crossing Borders' and the need for information sharing in the interests of patient safety. The Healthcare Professionals Crossing Borders group has developed and is piloting a form to allow such exchange of information entitled "the certificate of current professional status". We believe that such a tool would contribute significantly to patient safety provided that existing barriers to the free exchange of information were removed. Moreover, we believe that this tool would bring considerable added value to information exchange when linked in with the Internal Market Information System.

ANNEX I

The mobility of nursing professionals

Introduction

Following the necessity to have reliable data for the efficient development of nursing regulation across Europe, the European Federation of Nursing Regulators (FEPI) launched a survey among nursing regulation competent authorities. The survey started in November 2005 and was completed in October 2006.

The survey, which has been organised through a series of thematic and targeted questionnaires, covers the Registration and Mobility of Nurses

The survey objectives

The main objectives of the survey follow FEPI objectives, which are:

- The necessity to have a common understanding of nursing regulation and where possible to promote self-regulation for the profession;
- The opportunity for nursing regulators to exchange good practice at the European level, to meet and to collaborate in a more efficient way;
- The need for reliable data in order to engage in a constructive dialogue with national authorities and the European institutions with the view of bringing recommendations to the drafting of relevant legislation on the basis of updated data;
- The possibility to understand the 'state of the art' of the profession both in terms of its education and competences profile and in its relations with other health professions;
- The need to ensure a safer environment for European patients and their families across the Union.

The survey methodology

The survey has been organised in a form of short questionnaires targeted to competent authorities (regulators) in European countries. The questionnaire has been completed mainly online, however in some cases interviews and informal conversations were also part of the survey. The questionnaire was sent to either councils of nursing and federations (where applicable) or to ministries of health where a council did not exist and nursing was being regulated at governmental level.

Due to the lack of a one and sole contact list of European nursing regulators and in order to create a preliminary contact list and database in the field, FEPI secretariat received information from FEPI members on their contacts but also consulted official websites of ministries, European institutions and international networks for nursing. It was made clear in some cases that the authority contacted was not in the position to answer the questionnaire. In those cases a second contact was provided and the questionnaire was resent to the new contact.



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