ROYAL COLLEGE OF NURSING BRIEFING

FREE MOVEMENT OF HEALTH PROFESSIONALS IN EUROPE – PROPOSED CHANGES TO EU LEGISLATION IN 2012

SUMMARY

The Royal College of Nursing UK (RCN) is seeking the following changes to the European Commission’s proposed directive on the recognition of professional qualifications issued in December 2011:

- There need to be greater safeguards when health professionals move temporarily using the European professional card
- Member States should be able to exempt certain professions, including nursing, from allowing “partial access” to the profession
- There should be systems in place in all member states to ensure that health professionals keep their skills and knowledge updated
- The twelve years or equivalent minimum general education to enter nurse education, outlined in the proposals, must be retained
- Greater clarity is needed on language controls and the ability of regulators and employers to check language ability
- A common alert system for all health professions suspended from practice, rather than different systems for those covered under the automatic recognition system (nurses in general care) and those covered under the general system (specialist nurses).

BACKGROUND

In 2011, the European Commission consulted on the future EU framework for mutual recognition of professional qualifications, which includes harmonised education standards for a number of health professions, including nursing, across Europe. In December 2011 it issued proposed legislative changes to the current 2005 directive. The changes would introduce a European professional card with swifter recognition processes, move to greater use of online resources for migrants and regulators, improve safeguards for patients in relation to health professionals, including language controls, and update minimum education requirements.

ABOUT THE RCN

With a membership of over 410,000 registered nurses, midwives, health visitors, nursing students, health care assistants and nursing cadets, the RCN is the voice of nursing across the UK and the largest professional union of nursing staff in the world. The RCN promotes patient and nursing interests on a wide range of issues by working closely with the Government, the UK parliaments and other national and European institutions, trade unions, professional bodies and voluntary organisations. The RCN is a member of the European Federation of Nurses Associations (EFN), the European Federation of Public Service Unions (EPSU) and the European Public Health Alliance (EPHA) and has worked closely with these organisations on the issue of mobility of health professionals and the review of the European professional qualifications requirements.

The RCN responded to the European Commission’s initial consultation in March 2011\(^2\) and to its Green Paper in September\(^3\). The responses were informed by members’ feedback from two questionnaires. Many of the issues raised by the RCN have been addressed in the proposed legislation, which is now being discussed in the European Parliament and between member state governments with a view to agreeing the legislation by the end of 2012. Member states would have two years after its entry into force to implement the legislation.

Whilst the RCN has generally welcomed the proposals and the European Commission’s consultative approach, a key concern for the RCN in these negotiations remains the need to balance the objective of simplifying arrangements for professional recognition in another EU country with the overriding need to maintain safety and quality.

RCN’S DETAILED COMMENTS ON THE LEGISLATIVE PROPOSALS.

GENERAL PROVISIONS (Articles 1-4)

European Professional Card
The RCN is pleased that this will be voluntary and now takes the form of a virtual card or electronic certificate linked to the Internal Market Information system (IMI). Such a system is more likely to address the RCN’s concerns about security, fraud and topicality of data stored on the initially proposed physical card. The card introduces an alternative system for recognising qualifications with swifter timescales for authorities to grant or reject migrant professionals’ recognition. This is to be welcomed in principle but it is unclear


whether nursing and other health regulators across Europe have the infrastructure and resources to manage these timescales.

The RCN supports the view that any fees charged to health professionals for the card should be “reasonable, proportionate and commensurate with the costs” (Article 4a, 7).

However, the RCN is concerned about relaxation of the rules for health professionals providing services temporarily in another country if they choose to use the European Professional Card route for recognition. In the new proposals, this e-certificate would be both issued and validated by the home member state and the regulator in the host country would no longer be able to require an annual declaration of intention to practise. In the case of health professionals the RCN would want the host regulator to be able to verify the documentation of a migrant seeking to practise temporarily in their country, if they had any concerns (article 4c).

 Partial Access (Article 4f)

The proposals make explicit reference to the principle of partial access to a profession, based on a European Court of Justice (ECJ) ruling relating to engineering. The proposals include a possible exclusion for an individual professional on public interest grounds, such as public health. In its Green Paper response the RCN pushed for an explicit exclusion for regulated health professionals as it is neither practicable nor desirable for someone who does not meet the requirements for being recognised as a nurse to go on the nursing register in the UK. The RCN continues to push for either explicit exclusion of nurses in the directive or clear reference to the ability of member states to exclude specific categories of professionals on public health/patient safety grounds, rather than dealing with each individual health professional on a case-by-case basis.

 FREEDOM OF ESTABLISHMENT (Articles 10-15)

 Qualification levels under the General System (article 11)

The RCN is pleased to see the retention of the five levels of qualification (certificate, diploma, degree etc.), as a guide and benchmark for competent authorities to assess differences between an incoming professional’s qualifications and the requirements in that country.

 RECOGNITION BASED ON COORDINATION OF MINIMUM TRAINING REQUIREMENTS (Articles 21-49)

 Continuing Professional Development (Article 22)

The RCN called in its response to the consultation for mandatory continuing professional development (CPD) across Europe, in recognition of the need for health professionals to keep their knowledge and skills updated. This requirement currently exists in only 18 EU countries. Under the directive, nurses who meet the requirements for automatic recognition of their qualifications in another member state do not need to show continuing
competence when they seek to register in another country and may not have practised for some time, unlike UK-trained nurses\(^4\).

The RCN wants to see an explicit requirement in the directive for member states to have systems in place to ensure health professionals update their skills through some form of CPD.

Disappointingly, the draft directive is very weak on this issue and merely requires competent authorities to submit a report every five years describing their continuing education and training procedure for health professions.

**Provisions Specific to Nurses in General Care (Article 31)**

The RCN strongly supports the move to require a minimum of **12 years of general education or equivalent** to enter nurse education, reflecting the increasing complexity of health care and the trend towards nurse education being part of higher education (article 31, 1). The RCN also supports the similar provision in the draft directive for midwives (article 40, 2). There is evidence linking maturity as well as level of education to better retention rates in the profession and better patient outcomes\(^5\)\(^6\)\(^7\)\(^8\). Raising the length of general education to the level required for access to higher education in a number of EU accession countries, has also impacted on women’s status and access to professional life\(^9\).

The UK experience of introducing degree courses for nursing alongside diploma courses has shown a greater interest from applicants wishing to enter degree-level courses.\(^10\)

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\(^4\) The Nursing and Midwifery Council (the UK competent authority) requires nurses to complete at least 450 hours of registered practice and 35 hours of learning activity in the previous three years to maintain their registration.


\(^7\) Aiken L et al.(2008) "Effects of Hospital Care Environment on Patient Mortality and Nurse Outcomes, Journal of Nursing Administration, 38(5)

\(^8\) Aiken L et al. (2003) "Educational Levels of Hospital Nurses and Surgical Patient Mortality," Journal of the American Medical Association, 290(12)


The RCN’s European nursing body, EFN, has issued an evidence report on 12 years’ minimum general education covering the situation in 15 EU countries. Twenty-four of the 27 member states already have this requirement.

The RCN also agrees with the retention of the 4600 hours minimum length and theory practice split for nurse education (article 31.2) and the opportunity in the directive to review in future the content and future competencies for nurses in general care and the adequacy of clinical experience (article 31.7). This work cannot be carried out effectively, however, without collaboration with the key stakeholders and experts in the member states. The RCN is seeking greater clarity on the way in which the Commission will introduce such changes based on delegated acts.

Article 33 (3) recognises the efforts made in Poland to implement bridging courses for those nurses who qualified prior to Polish accession to the EU with training that did not meet the minimum requirements of the directive. The RCN acknowledges the progress made.

**DETAILED RULES FOR PURSUING THE PROFESSION (Articles 53-55)**

**Language Controls (Article 53)**
The RCN is pleased to see tighter language controls on health professionals and the introduction of a right for regulators to systematically check language knowledge in professions with health and safety implications, if requested by the “national health system”. However, it is unclear in the wording of the new draft article, whether employers would continue to be able to control for language skills, if the regulator was also testing (eg. as part of an interview process or because the migrant needed good knowledge of a further language to carry out a particular role, for example Welsh). The RCN would not wish to see employers prevented from carrying out their own appropriate controls as long as these did not replicate the testing already carried out by the regulator.

There is also a provision in the draft legislation to cover concerns about language controls of self-employed health professionals who are not part of the national health system, and would therefore not be vetted by employers. It is unclear how this provision would work, and how “representative national patient organisations” would identified and involved.

**ADMINISTRATIVE COOPERATION AND RESPONSIBILITY FOR IMPLEMENTATION (Articles 56-59)**

**Alert Mechanisms (Article 56)**

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The RCN is pleased to see a proactive alert mechanism introduced (article 56a) for health professionals covered under the automatic recognition system in the case of temporary or permanent removal of the right to practise in their home country. Health regulators will now be required to inform their counterpart organisations across Europe and the European Commission within three days of such a case.

For those health professionals not covered under the automatic recognition system, including UK trained children’s, mental health and learning disability nurses, member states will be expected to inform “the Member States concerned” about suspensions or removal from practice. This implies that such alerts will only be sent where a health professional has indicated an intention to practise in another member state (article 56a, 2). A safer system would be to introduce a proactive alert mechanism for all health professions covered under the directive.

The RCN is pleased that the migrants concerned will be informed about the alerts at the same time as these are issued and will have appropriate rights of appeal at national level (Article 56a, 4)

Central Online Access to Information (Article 57)
The RCN welcomes proposals to reinforce the role of points of single contact in each member state to provide online information to the public on regulated professions, requirements for recognition, relevant regulators and processes to follow to seek recognition (article 57). It also introduces a new requirement for all member states to establish assistance centres to provide individual advice to migrants seeking recognition of their qualifications. Regulators are expected to work closely with these assistance centres and share information on individual applications if requested (article 57b).

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