

Healthcare Professionals Crossing Borders:

**General Memorandum of Understanding Covering the Proactive
and Case-by-Case Exchange of Disciplinary Information
between Competent Authorities and Similar Bodies**

October 2007

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Introduction

This document describes the understanding reached by participating European competent authorities for the exchange of disciplinary¹ and related information about healthcare professionals on a proactive and case-by-case basis.

Justification.

1. Article 56 of Directive 2005/36/EC on the recognition of professional qualifications states² that competent authorities shall work in close collaboration and shall provide mutual assistance in order to facilitate the application of the Directive.
2. Having regard to this legal requirement, this memorandum is based on the agreement made between European healthcare regulators at the European Consensus Conference held in Edinburgh, Scotland, on 13 - 14 October 2005 ('the Edinburgh Agreement'). It also takes account of the statement made by the European healthcare regulators following their meeting in Helsinki on 23 October 2006 that all regulators must exchange information about healthcare professionals that has a bearing on patient safety in Europe and on professional regulation.
3. In this context, the memorandum sets out the practical arrangements for the exchange of information between competent authorities described in agreements 2 - 5 of the Edinburgh Agreement.
4. Nothing in this memorandum shall prevent participating competent authorities from sharing additional information, or sharing it more widely, than is described in this memorandum where that is in the public interest and they are not prohibited from doing so by legislation or other constraints. The memorandum does not replace but should facilitate bilateral agreements between individual member state competent authorities where professional mobility is common.

Purpose

5. As stated in the Edinburgh Agreement, the purpose of sharing the information referred to in this memorandum is to protect patients and the public

¹ In this memorandum, the terms 'disciplinary' and 'fitness to practise' are used to refer to action taken by a competent authority arising from criminal behaviour, professional misconduct, professional incompetence, poor performance or ill-health.

² http://eur-lex.europa.eu/LexUriServ/site/en/oj/2005/l_255/l_25520050930en00220142.pdf

from those healthcare professionals whose practice may put them at risk. By sharing this information, we aim to:

- Ensure a high level of quality in healthcare across the EEA and the security and protection of patients.
- Ensure the public's confidence in healthcare professionals and their regulation.

Scope

6. This memorandum covers the sharing of information about healthcare professionals who have been subject to disciplinary or other sanctions imposed by a competent authority or other relevant body and which might affect the individual's right to practise his profession, either in his member state of establishment or another member state. It covers sanctions and undertakings arising from criminal behaviour, professional misconduct, professional incompetence or poor performance. It also covers sanctions imposed as a result of impaired fitness to practise by reason of ill health.

7. The exchange of information described in this memorandum shall be conducted in accordance with the national laws in the signatories' own member states. Because of the legal constraints that exist in some countries, some of the member state competent authorities that are signatories to this memorandum are currently unable to participate in the proactive aspects of information exchange described in parts of this document. Those competent authorities identified in Section B of paragraph 44, nevertheless undertake to comply with the arrangements for reactive information exchange described in this document. They will work towards achieving proactive information exchange in the interests of patient and public protection as and when this becomes legally possible within their jurisdictions. The competent authorities listed in Section A of paragraph 44 undertake to comply in full with the arrangements described in this memorandum.

The circumstances in which information shall be exchanged

8. For the cases referred to above, the following paragraphs describe the circumstances in which information shall be shared between competent authorities.

Reactive information exchange

9. When a healthcare professional wishes to practise in another member state the application will normally be supported by a number of documents, such as the applicant's passport, relevant educational diplomas and a Certificate of Current Professional Status (CCPS). The host competent authority's

authorisation processes will be designed to facilitate the mobility of professionals, subject to the requirement to ensure a high quality of healthcare and the protection of patients and the public.

10. The host member state competent authority may require further information from another competent authority in the following circumstances [see Edinburgh Agreement 2]:

- Where an individual seeks to register or take up professional practice without a CCPS and the host member state requires information from the member state of establishment in order to be satisfied that patients and the public will not be put at risk [see Edinburgh Agreement 2, paragraph 5.1.1].
- Where a CCPS issued by a competent authority contains information that leads the host member state to question whether the interests of patients and the public may be at risk because of matters relating to the individual's conduct, health or competence [see Edinburgh Agreement 2, paragraph 5.1.1].
- Where a competent authority in one member state has provided information proactively and further information is requested in order to establish whether the individual concerned poses a potential risk to patients or the public [see Edinburgh Agreement 2].

11. The information that may be requested includes, but is not limited to, information to establish the healthcare professional's identity, information to ensure the authenticity of documents, and information about the health professional's education or practice history.

Proactive information exchange

12. It is necessary proactively to share information with other member states in order to protect the interests of patients and the public in those member states:

- Where a healthcare professional's right to practise has been restricted or removed because of serious matters relating to his conduct, health, performance, or matters of a criminal nature; and / or
- Where a competent authority has objective reasons to believe that identity or document fraud has been used, or may be used in the future, by the individual concerned, either to avoid restrictions on his practice or to obtain registration falsely in another member state.

13. Paragraph 22 describes the basis on which the signatories to this memorandum will exchange such information.

What information will be exchanged

14. In deciding what information competent authorities will exchange, the over-riding consideration will be the need to protect the interests of patients and the public, both within their own jurisdictions and in the territories of other member states.

15. Competent authorities will at all times respect the requirements of the relevant privacy and data protection legislation within their member state. This includes taking account of responsibilities in respect of Article 13 of Directive 95/46/EC on the processing of personal data. Competent authorities may share data in the interests of public protection and in order to safeguard *'the prevention, investigation, detection and prosecution...of breaches of ethics for regulated professions...or a...regulatory function connected, even occasionally, with the exercise of official authority'*.

Reactive information exchange

16. In making a request for information under paragraph 10 above, the host member state seeking information will provide details sufficient to enable the member state of establishment to ensure the correct identification of the healthcare professional concerned, including:

- a. The healthcare professional's full name
- b. The registration, reference or licence number in the host member state and in the member state of establishment (if known)
- c. Professional qualifications (including the year they were awarded and the name of the awarding body), if known
- d. Where necessary, confirmation that an authorisation for the release of the information has been obtained from the healthcare professional concerned.

17. In reacting to a request for information under paragraph 16 above, the competent authority receiving the request will, as a minimum, provide the host state competent authority with the following:

- a. Confirmation of the identity of the healthcare professional
- b. Details of any current sanction imposed affecting his right to practise in relation to the matters specified in paragraph 6 above. This will include sanctions covering removal from the relevant professional register or withdrawal of a licence to practise, temporary suspension from the

register or of the licence, conditions imposed on registration or the licence, any warning, admonition, reprimand or equivalent, any financial penalty imposed [Edinburgh Agreement 2]

c. Details of any current criminal conviction relating to patient and public safety, where this is known [Edinburgh Agreement 4].

d. Confirmation of any undertakings given by the healthcare professional voluntarily to restrict, suspend or cease his professional practice as a result of a finding against him in relation to one of the matters specified in paragraph 6 above.

e. The date on which the sanction was imposed and its duration.

18. Member state competent authorities that are requested to provide information will have regard to all relevant privacy and data protection legislation. Taking this into account, they will make every effort to accommodate and respond positively to requests from other competent authorities for additional supporting information, documentation or evidence in relation to the matters referred to in paragraph 17.

19. Where a sanction has been imposed as a result of impaired fitness to practise by reason of ill health, competent authorities shall not be expected to provide additional information about the nature of the impairment unless consent has first been obtained from the healthcare professional concerned [Edinburgh Agreement 2d].

20. Where a member state competent authority receives a request for information that it cannot itself fulfil, it should consider whether there are other organisations that might be able to provide the information and advise the requesting competent authority accordingly.

21. Where individual member state competent authorities are willing, on a bilateral basis, to exchange information over and above the minimum specified in paragraph 17, the scope of that exchange may be detailed in an annex to this general memorandum (see Annex B).

Proactive information exchange

22. Where a competent authority has imposed sanctions on a healthcare professional's right to practise his profession as described in paragraphs 6 or 17 above, it will need to assess the potential risk posed by that individual to patients and the public in other member states. It will, as a minimum, proactively send the details specified in paragraph 17 above to [Edinburgh Agreement 3]:

- a. The competent authority in the individual's member state of establishment, if known.
 - b. If the individual has qualified as a healthcare professional in a member state other than his member state of establishment, the competent authority in the member state where he qualified.
 - c. Any member state where the individual is known to have previously worked or been registered.
 - d. Any member state where the individual is believed to be currently working or registered.
 - e. Any member state where there is objective reason for believing that the individual may be intending to work or obtain registration (for example, because he has indicated an intention to do so or is known to have an address within that jurisdiction).
23. There will be some cases where a wider distribution of information may be necessary, for example where an individual has been found to have used document or identity fraud in order to gain access to a healthcare profession. In such cases, competent authorities may need to inform others even if the fraud has been detected before the individual could obtain access to the profession. In all cases competent authorities must act proportionately having regard to the potential risk to the patients and public confidence in the regulatory systems in other member states.

Changes in professional status

24. Where information has been provided by one competent authority to another competent authority pursuant to paragraphs 8-23 above, and the status of the healthcare professional concerned subsequently changes in a way not previously notified (for example, because a sanction imposed is withdrawn or amended and the duration of the sanction had not been indicated in the original notification), any competent authority notified of the original sanction will be informed of the change of status.

25. Where a CCPS has been sent to another competent authority showing no sanction or other action against the healthcare professional concerned, but a disciplinary sanction is subsequently imposed, the competent authority that issued the original certificate will notify any competent authority to which it has sent such a certificate of the individual's change of status.

When information will be exchanged

26. One of the principles of the Edinburgh Agreement is that healthcare professionals must be presumed innocent until found guilty of a professional or criminal offence. Accordingly, competent authorities providing information in accordance with paragraphs 8-23 agree to provide information in cases where a final decision on the case has been taken.

27. Where information is requested of a competent authority under paragraphs 10-11, that authority shall not be required to provide any information about the case if:

- No final decision has been taken because the case is under investigation, or
- A temporary sanction has been imposed pending a final decision, or
- The healthcare professional has appealed the decision against him.

28. However, in any case where public or patient safety may be at risk, the competent authority shall inform the body that has requested the information that proceedings are underway and that it will be notified of the outcome once a final decision has been taken.

29. Nothing in this memorandum shall prevent competent authorities from sharing additional information, or sharing information prior to the final decision in a case where this is in the public interest and competent authorities are not prevented from doing so by their domestic legislation

With whom information will be exchanged

30. The signatories to this memorandum will designate a named officer(s) within their organisations for the receipt of information. Organisations may wish to consider creating a dedicated email post box for the exchange of information. The designated officer(s) and their contact details are listed in Annex A of this memorandum.

Proactive information exchange

31. Information provided proactively will, as a minimum, be sent to the other signatories to this memorandum in accordance with the requirements set out in paragraphs 22-25 above.

Confidentiality

32. Information received by the designated officer(s) (see paragraph 30) under the arrangements described in this document will be treated in confidence. Unless required to do so by law, or it is necessary to do so in the public interest,

information will not be shared with outside organisations or individuals without first obtaining the agreement of the competent authority that originally provided the information.

How information will be exchanged

33. Information will be provided in electronic or paper format to the designated officer(s) in the relevant competent authorities. Where information is conveyed electronically, it may be provided in password protected or encrypted format if the participating bodies have the necessary facilities.

34. Information will be provided at least in the official language(s) of the member state issuing the information.

Service delivery standards

Reactive information exchange

35. The information exchange described in this memorandum relates to matters of public and patient safety. When an information request is received it should, therefore, be treated as a priority matter.

36. Where information has been requested from a competent authority, that authority shall:

- Acknowledge receipt of the request within five working days.
- Provide the information requested within 15 working days or explain why the information cannot be provided.

Proactive information exchange

37. Where a competent authority is providing information proactively, it shall send details of the cases in which a final decision has been made at least once a month or, if cases are determined less frequently than once a month, on a case-by-case basis.

Supporting processes

38. The signatories agree to work towards putting in place within their organisations any administrative or other procedures necessary to help them comply with the requirements of this memorandum. For example, in order to target the proactive distribution of information in an accurate and proportionate manner in accordance with paragraphs 22-25, competent authorities will need to collect information from health professionals such as their place of qualification,

other member states where they have worked, or member states where they are currently registered to practise.

39. Signatories may also need to put in place processes to advise healthcare professionals that information about their registration status may be shared with other EEA member state competent authorities where that is in the public interest or necessary for the protection of patients.

40. Signatories will be assisted in exchanging information by having access to the comprehensive list of competent authorities located at www.healthregulation.org. Signatories are responsible for ensuring that the information on this website relating to their own organisations is kept up to date. Further information about EU competent authorities can be found at http://ec.europa.eu/internal_market/qualifications/compauth_en.htm

Monitoring the operation of the memorandum of understanding

41. In order to ensure the effective operation of this memorandum of understanding, the signatories will undertake to review its effectiveness after 12 months. That review will include a statistical examination of the number of cases in which information has been exchanged on a case-by-case basis (reactively and proactively) and the competent authorities involved.

42. The review will also include an evaluation of any problems that have arisen in complying with the memorandum.

Resolution of problems

43. In fulfilling the terms of this memorandum, the signatories agree to act in a spirit of practical co-operation at all times, bearing in mind the prime objective of protecting patient and public safety. Where disagreements or problems arise, the designated officers will be initially responsible for attempting to resolve them. If a satisfactory resolution cannot be achieved in this way, the signatories to this memorandum from the relevant member states will be consulted.

Acceptance of the terms of this memorandum

44. The organisations listed below agree to abide by the terms and spirit of this memorandum of understanding.

Section A: Signatories undertaking both reactive and proactive information exchange

**An Bord Altranais
(Nursing Board)**

Signed: 

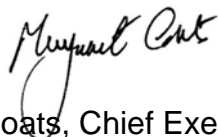
Anne Carrigy, President
14 February 2008

Cyprus Dental Council

Signed: 

Michalis Papadopoulos, Chairman
22 April 2008

General Chiropractic Council (GCC)

Signed: 

Margaret Coats, Chief Executive and Registrar
Date: 14 January 2008

General Medical Council (GMC)

Signed: 

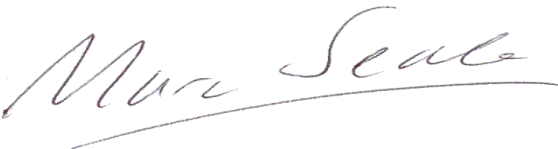
Finlay Scott, Chief Executive and Registrar
15 April 2008

General Osteopathic Council (GOsC)

Signed: 

Chairman
7 March 2008

Health Professions Council (HPC)

Signed: 

Marc Seale, Chief Executive
30 April 2008

Medical Council

Signed: 

John Lamont, Chief Executive
7 May 2008

Nursing and Midwifery Council (NMC)

Signed: 

Nancy Kirkland, President

Signed: 


Sarah Thewlis, Chief Executive and Registrar

Royal Pharmaceutical Society of Great Britain (RPSGB)

Signed: 

Jeremy Holmes, Chief Executive and Registrar
14 January 2008

**Statens autorisasjonskontor for helsepersonell (SAFH)
(Norwegian Registration Authority for Health Personnel)**

Signed: 

Per Haugum, Director General
18 April 2008

Section B: Signatories undertaking reactive information exchange

**Egészségügyi Engedélyezési és Közigazgatási Hivatal (EEKH)
(Office of Health Authorisation and Administrative Procedures)**

Signed:



27 October 2008

Pharmaceutical Society of Ireland

Signed:



Ambrose McLoughlin, Registrar
23 September 2008

**Tervishoiuamet
(Health Care Board)**

Signed:



Üllar Kaljumäe, Director General
8 April 2009

Annex A

[List of designated officers in each of the participating bodies and their contact details]

An Bord Altranais (Nursing Board)

Ursula Byrne, Acting Deputy Chief Executive Officer
An Bord Altranais
18/20 Carysfort Avenue
Blackrock
Co. Dublin
Ireland
Telephone: +353 1 639 8570
Email: ubyrne@nursingboard.ie

Cyprus Dental Council

1. Michalis Papadopoulos, Chairman
2. Persefoni Lambrou-Christodoulou, Member
Email: cdcouncil@dental.org.cy

Egészségügyi Engedélyezési és Közigazgatási Hivatal (EEKH) (Office of Health Authorisation and Administrative Procedures)

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Hungary
Telephone: +361 235 7930
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General Chiropractic Council (GCC)

Mr Paul Ghuman, Registered Data Controller
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Email: p.ghuman@gcc-uk.org

General Medical Council (GMC)

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General Osteopathic Council (GOsC)

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Health Professions Council (HPC)

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Email: mark.potter@hpc-uk.org

Medical Council

John Lamont, Chief Executive Officer
Medical Council
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William Kennedy, Head of Professional Standards and Legal Advisor
Medical Council
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Ireland
Telephone: +353 1 498 3113

Úna O'Rourke, Head of Registration
Medical Council
Kingram House
Kingram Place
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Ireland
Telephone: +353 1 498 3151

Nursing and Midwifery Council (NMC)

Sharon Atkinson, Director of External and Corporate Affairs
Email: sharon.atkinson@nmc-uk.org

Pharmaceutical Society of Ireland (PSI)

Contact to be confirmed

Royal Pharmaceutical Society of Great Britain (RPSGB)

Andrew Gardner, Head of Registration
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1 Lambeth High Street
London
SE1 7JN
United Kingdom
Telephone +44 (0) 20 7572 2322
Email: andrew.gardner@rpsgb.org

**Statens autorisasjonskontor for helsepersonell (SAFH)
(Norwegian Registration Authority for Health Personnel)**

Postbox 805 Dep
0031 Oslo
Norway
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Email: postmottak@safh.no

**Tervishoiuamet
(Health Care Board)**

Evi Lindmäe, Head of the Department of Registers and Licenses

Gonsiori 29

15157 Tallinn

Estonia

Telephone: +372 650 9847

Email: evi.lindmae@tervishoiuamet.ee

Annex B

[To be used by individual member states to give details of any additional bi-lateral agreements that provide variations on, or extension of, the information-sharing template set out in the main text]