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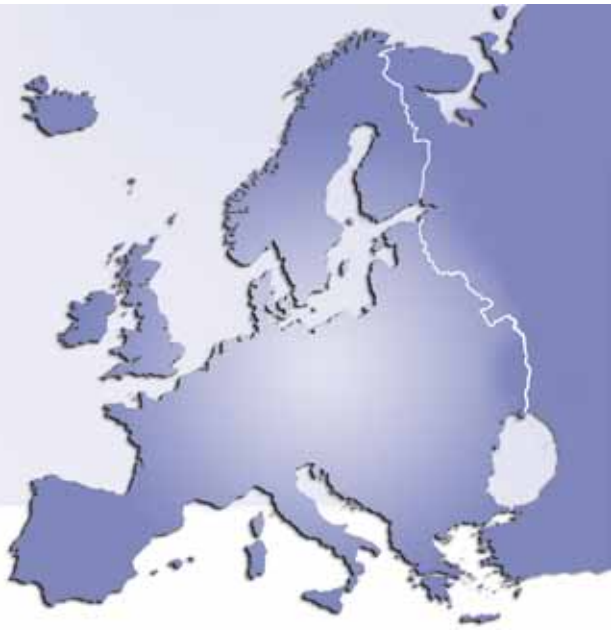
HPCB
Healthcare Professionals Crossing Borders

Crossing Borders Update



This update includes articles on EU negotiations on the proposal amending the recognition of professional qualifications Directive; an update on the European data protection reforms and the European Working Time Regulation; the newly formed European Network of Psychological Competent Authorities; and news from around the world affecting healthcare professional regulation.

SAVE THE DATE: HPCB 2013 Conference

We are pleased to announce that the Health and Care Professions Council (HCPC) will host the 2013 HPCB conference on 31 October 2013. We will be in touch shortly with further details on the agenda and how to book your place. If you would like to register your interest for the conference, please email: **hpcb@gmc-uk.org**.

CONTENTS

EU institutional developments

Update on the trialogue negotiations on the proposal amending Directive 2005/36/EC

EUROPEAN PARLIAMENT

On 23 January, the Internal Market and Consumer Protection (IMCO) committee adopted its **report** on the Directive. The report covers a number of issues including language assessment, the professional card, the alert mechanism, and partial access.

Language assessment

The report clarifies that competent authorities are explicitly allowed to assess the language skills of all healthcare professionals after recognition but before access to the profession. The report has also acknowledged the separate role of employers in assessing the applicants' language knowledge, while specifying that language assessments must be free of charge for professionals.

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Professional card

The timescales for recognition under the professional card have been increased from two weeks to three weeks. In addition, the report confirms that tacit authorisation does not constitute an automatic right to practise. Any pilot projects before the implementation of the card have been ruled out, but a requirement has been included which obliges the EC to consult stakeholders before the adoption of the implementing act that will introduce the card.

Alert mechanism

The IMCO report endorses the Commission's proposal to introduce a mandatory alert mechanism for regulators to share fitness to practise determinations. The same alert mechanism applies for all healthcare professionals, regardless of whether they are sectoral or general system, and is extended to all restrictions on a professional's registration and the exchange of information about fraudulent applications.

Partial access

Healthcare professionals under automatic recognition are exempt from the provisions on partial access, but any applications received under the general system will need to be assessed on a case-by-case basis.

EUROPEAN COUNCIL

The Council has made significant progress and in some areas has given a limited mandate to the Irish Presidency to enter into negotiations ('trialogue') with the EP and the EC.

Trialogue negotiations

The first trialogue meeting took place on 20 March and dealt with horizontal issues including partial access, the alert mechanism and tacit recognition.

Next steps

The next trialogue meeting on 29 May, is due to cover the sectoral professions including doctors. MEPs are expected to vote on the IMCO report in a plenary session in July. A political agreement on the Directive between the EU institutions is expected to be achieved before the end of June.

EP questions

Details of the alert mechanism outlined

In **response** to a question from Esther de Lange MEP (Netherlands, EPP), Peter Liese MEP (Germany, EPP) and Thomas Ulmer MEP (Germany, EPP), the Commission confirmed that the alert mechanism as proposed in the revised recognition Directive, will be used to exchange information regarding disciplinary actions, criminal sanctions or any other specific circumstances which 'bear consequences for the pursuit of professional activities'.

The EC also said that when action has been taken against a doctor, the competent authority would have to communicate the name of the professional to all Member States within three days of the decision date. The proposal does not envisage the drawing up of a central European blacklist of banned professionals and the mechanism will only apply to cases where a final decision has been made.

Shortage of dentists in the EU

Angelika Werthmann MEP (Austria, ALDE) asked about plans to address the shortage of dentists in Europe. The Commissioner for Health and Consumer Policy, Toni Borg, has **advised** that although Europe is facing a shortage of healthcare personnel, the Commission does not know whether this will affect the dental profession or the provision of dental treatment. He notes that according to WHO data, the number of dentists per capita is highest in Greece, Cyprus and Iceland and lowest in Eastern and Southern European countries. There are no specific measures aimed at increasing the dental workforce, although the EC has adopted an action plan on the EU health workforce, which includes a series of measures to help Member States tackle shortages of health workers.

Advocate General opinion on temporary and occasional provisions

The Advocate General of the European Court of Justice (ECJ) has published his **opinion** on case **C-475/11** regarding the temporary and occasional provisions under Directive 2005/36/EC. It involves a Greek doctor who challenged the decision of the employment tribunal for healthcare professionals in Gießen (Germany) to take action against him under the state medical code of conduct (Berufsordnung für die Ärztinnnen und Ärzte in Hessen).

The doctor argues that, under temporary and occasional mobility, he is not required to pay a registration fee and as such the code would not apply to him.

The Advocate General has ruled that disciplinary rules applying to healthcare professionals working temporarily in the host member state must be proportionate. The opinion is not binding but will inform the ECJ's final judgement which is expected to be published in the coming months.

Call for tender: Continuous Professional Development study

The Directorate General for Health and Consumers (DG SANCO) has published a **call for tender** for a study to review and map the continuous professional development (CPD) approaches of the regulated sectoral health professions in the EU, Croatia, European Free Trade Association (EFTA) and the European Economic Area (EEA) countries.

The objectives of this call for tender are to:

- Provide an accurate, comprehensive and comparative account of CPD models, approaches and practices for health professionals and how these are structured and financed in the EU-27, Croatia and the EFTA/EEA countries.
- Facilitate a discussion with policy-makers, regulatory and professional bodies to share information and practices on the CPD of health professionals and to reflect on the benefits of European cooperation in this area.

The deadline to submit tenders is 7 June 2013.

European Commission unveils a new eHealth Action plan

On 7 December 2012, the EC published a second **action plan** to develop eHealth between 2012 and 2020. The plan has been published in response to a request made by Member States in 2009, and follows a public consultation carried out in 2011.

The objective is twofold:

- to consolidate the actions which have been undertaken under the previous action plan; and
- provide a long-term vision for eHealth in Europe in the context of the EU 2020 Strategy and the Digital Agenda for Europe.

Focus has been placed on cross-border activities, with the aim to encourage cooperation between all relevant stakeholders through involvement in pilot projects, the eHealth Network and exchanging best practice.

The Action plan foresees some actions which may have an impact for healthcare professional regulators. Key initiatives include EU guidelines on eHealth, data processing, and telemedicine services for healthcare professionals. Green Papers are expected to be published on mobile health ('mHealth') and health and wellbeing applications. These actions will be implemented at EU level over the period 2013-2020.

European Parliament publishes draft report on data protection Regulation

In January 2013, the lead committee in the EP for the data protection Regulation, the Civil Liberties, Justice and Home Affairs committee (LIBE), published its **draft report** on the EC's **proposal** to reform the data protection Directive.

In the draft report, Jan Albert Philippe MEP, the Rapporteur for the dossier, calls for a high level of protection for all data processing activities in the EU 'to ensure more legal certainty, clarity and consistency'.

The Rapporteur also agrees with the approach chosen by the Commission that would allow Member States to maintain or adopt specific rules regarding issues such as freedom of expression, professional secrecy, health and employment (articles 81-85). The core principle of data protection by design and by default remains central to the text and the Rapporteur aims to ensure that only data necessary for a specific purpose will actually be processed.

In an attempt to ensure legal certainty, the report reduces the number of delegated and implementing acts. The European Data Protection Board (EDPB), which will replace the current Article 29 working party, has been given responsibility to specify criteria and requirements of particular provisions, rather than these powers being granted to the Commission.

The Rapporteur has retained the exemptions regarding the 'right to be forgotten', which would allow competent authorities to retain information relevant to patient safety.

Opinion from the Committee on Legal Affairs

On 3 April, the EP Committee on Legal Affairs (JURI) published an opinion on the data protection Regulation for the LIBE committee. The opinion focuses on maintaining a broad definition of personal data and the principle of explicit consent as grounds for lawfulness of processing.

The Rapporteur, Marielle Gallo, has reduced the number of delegated and implementing acts, and notes that this might be investigated separately by the JURI committee.

Next steps

The rapporteur has stated that he hopes for a swift agreement in the EP and negotiations with the Council during the Irish Presidency. However, with MEPs tabling 3,133 amendments to the draft report, the vote in the LIBE committee has been postponed until 29 May 2013.

Negotiations on the working time Directive in stalemate

Discussions between European employers – represented by **BusinessEurope**, the **European Association of Craft, Small and Mediumsized Enterprises** (UEAPME) and the **European Centre of Employers and Enterprises providing Public Services** (CEEP) – and the **European Trade Union Confederation** (ETUC) on the **European Working Time Directive** (EWTD) broke down at the end of last year and failed to reach an agreement by the Commission deadline of 31 December 2012.

The major disagreement was over the crucial issue of on-call time, and its link, in some Member States, to the opt-out from the 48-hour weekly working time limit. Employers made the case that on-call time is different from working time, whereas the ETUC maintained that on-call services carried out at the workplace should be considered – in their entirety – as working time. Due to these differences, other issues were put aside including paid leave, compensatory rest and reference periods.

This is the second time that talks on the working time rules have concluded without agreement, which means that the 1993 Directive remains in place.

The EC is now required to bring forward its own legislative proposal for a revised EWTD, which will be considered through co-decision by the EP and the Council. László Andor, EC Commissioner for Employment, Social Affairs and Inclusion, has met recently with trade union and business representatives but social dialogue has not resumed. Given the controversial nature of the issue, it is unlikely that the EC will publish a new proposal before the European elections take place in May 2014.

Adoption of the 2013 health work plan

The EC's annual work plan 2013 for the health programme was adopted on 28 November 2012. The main priorities for 2013 include:

- active and healthy ageing;
- health workforce;
- patients' rights and safety; and
- advice and data, particularly on sustainable health systems.

As part of the action plan for the EU health workforce, the Commission plans to carry out a quantitative and qualitative analysis of education and training for health professionals in the EU and a mapping study of continuous professional development (CPD) of healthcare professionals. An analysis of national recruitment strategies for healthcare professionals is also planned and will feed into the on-going work on workforce planning and forecasting.

In addition, the work plan for 2013 mentions the implementation of the cross-border healthcare Directive 2011/24/EU on the application of patients' rights and Directive 2010/84/EU on pharmacovigilance.

Developments in European regulation

Building European reference networks in health care

Irene A. Glinos and Willy Palm, the European Observatory on Health Systems and Policies

A lesser known aspect of Directive 2011/24/EC on the application of patients' rights in cross-border health care is that it aims "to promote cooperation on healthcare between Member States" (Recital 10). One of six areas of cooperation specified is European reference networks (ERN).

The Directive, which comes into force in October this year, mandates the EC to adopt a list of criteria which ERNs, and the health care providers wishing to join them, must fulfil.

It is in this context that the European Observatory on Health Systems and Policies carried out a review of national and regional practices of reference centres and networks in 21 European countries.* The findings show substantial variation across Europe, particularly in terms of:

- how the concentration of care is organised (either through informal referral practices or formal systems with designated providers for highly specialised care and explicit referral rules);
- the purpose of establishing reference centres and networks (efficiency, cost-efficiency, quality, safety, and/or equity);
- the way they function (patients move to specialised centres, or knowledge and information move within networks);
- the material scope (criteria for concentrating care and networking can be based e.g on disease prevalence or rarity, the seriousness of the condition, costs, or complexity of care); and
- the geographical scope (patients and knowledge can be transferred within regions, between regions, nationally, between countries, and potential at EU level).

Stakes are high for both planners and providers – establishing ERNs is likely to influence referral pathways, levels of specialisation, market positioning, reputation, patient expectations and potentially the flow of funding. The public consultation on the implementation of ERNs closed on 22 Feb 2013.† This is an interesting time to consider what impact the development of ERNs can have for the organisation of health care in EU Member States.

* Palm W, Glinos IA, Rechel B, Garel P, Busse R, Figueras J (Eds.) (2013). Building European reference networks in health care. Exploring concepts and national practices in the European Union. Observatory Studies Series 28, European Observatory on Health Systems and Policies on behalf of the WHO, Copenhagen. Available at: http://www.euro.who.int/__data/assets/pdf_file/0004/184738/e96805-final.pdf

† http://ec.europa.eu/health/cross_border_care/consultations/cons_implementation_ern_en.htm

European University Association, Brussels

Howard Davies, European University Association

EUA represents over 850 universities and national rectors' conferences in 47 countries. It is a member of the Bologna Follow Up Group, which steers the consolidation of the European Higher Education Area.

We work with the EU institutions, the Council of Europe and the Bologna Process signatory countries on a number of policy fronts, including recognition of qualifications, academic mobility, and quality assurance.

Since 2007, when the Directive on the Recognition of Professional Qualifications came into force, we have urged the EC to bring it into line with the Bologna Process.

We therefore welcome the Commission's proposal to use the European Credit Transfer and Accumulation System (ECTS) as a way of specifying course duration in the basic training for the sectoral professions, as well as in the General System. We are currently collaborating in the revision of the ECTS Users' Guide.

Competence-based curricula are a high priority in the Bologna Process. Many regulatory, professional and academic bodies in the regulated professions are moving in this direction. The new inter-operable national qualifications frameworks, referenced to the European Qualifications Framework (EQF), dramatically facilitate outcome-based course design. The Commission's proposal to adopt the EQF for use in the General System and in the new common training frameworks is very positive. In contrast, we regard the IMCO report's retention of the General System's 5-level grid as a retrograde step, particularly as it perpetuates the confusion between the two upper levels.

The alignment of the Directive and Bologna is strategically important – for the European labour market, for recipients of cross-border services and for European higher education. Europe needs professional qualifications that are transparent and easily readable. We hope that the current review – with, in the medium term, delegated acts and full consultation – will bring this about.

European Network of Psychological Competent Authorities (ENPCA)

Mark Potter, The Health and Care Professions Council

On 24 October 2012, the European Network of Psychological Competent Authorities (ENPCA) held their inaugural meeting in Brussels, following the proposal from Edward Van Rosen, coordinator of the Belgian competent authority for psychologists, for a network of psychological competent authorities, following the example of other regulated professions across Europe.

Countries represented included Belgium, Cyprus, Denmark, Iceland, Ireland, the Netherlands, Portugal, Switzerland and the United Kingdom. Expressions of interest were also received from Germany, Italy, Malta and Spain.

At the first meeting, the group discussed a range of issues, including the revision of the Professional Qualifications Directive, the code of conduct for competent authorities, compensation measures, aptitude tests, Internal Market Information (IMI) System, and the EuroPsy qualification. Participants agreed that there was sufficient interest in establishing a network and that it should continue to meet.

The second meeting took place on 13 March 2013 in Nicosia and was hosted by the Cyprus Psychologists Board of Registration. The meeting included presentations from the European Federation of Psychologists' Associations (EFPA) and focused in detail on the EuroPsy qualification.

Delegates also agreed a draft set of objectives and operating principles for ENPCA and identified areas in which members could support each other in the future.

ENCPA's next meeting is currently planned for October 2013 and will be hosted by the HCPC in London.
Competent authorities interested participating should email: policy@hcpc-uk.org.

ENMCA responds to IMCO report

Tanja Schubert, General Medical Council (UK)

The **European Network of Medical Competent Authorities** (ENMCA) has issued a **response** to the IMCO Committee report on the recognition of professional qualifications Directive.

The network welcomes the report which takes into consideration many of the suggestions competent authorities made to the proposal and which will enhance patient safety while promoting professional mobility.

Medical competent authorities support the proposed new power they will have to check the language skills after recognition, but before access to the profession. They also welcome the application of the same alert mechanism to all doctors, regardless of whether they have had their qualifications recognised under automatic recognition or general systems, and its extension to those individuals that try to register with fake diplomas or false identities.

In response to the card proposal, ENMCA agrees that the timescales for the host and home competent authorities to process applications should be increased but believe that greater flexibility is needed for authorities to demand further information, carry out proper checks and ensure that migrant professionals are safe to practise in the host member state.

The Network remains concerned about the legislation which the Commission is proposing to develop through delegated/implementing acts. To ensure transparency, ENMCA strongly supports the proposal to involve competent authorities in the future development of any acts.

Redefining good medical practice

On March 25 2013, the General Medical Council (UK) published the updated edition of ***Good medical practice***, which sets out the standards that are expected of every doctor on the UK register.

General Medical Council

Regulating doctors
Ensuring good medical practice

The latest edition follows an extensive consultation in which more than 2,000 doctors and 4,000 patients gave us feedback on what they would like to see in the updated edition. There was strong support for shorter guidance, so this edition is more concise, and we have moved some of the more detailed advice out of GMP and into **explanatory guidance**.

What has changed in the updated edition?

To help doctors prepare for revalidation, we have restructured the updated GMP under the same four headings used in the annual appraisal.

We have also added some new duties or made existing ones more explicit. These include:

- ensuring continuity of care – for example, checking that a named clinician or team has taken over responsibility when the doctors' role has ended
- taking prompt action if a patient is not receiving basic care to meet their needs
- taking part in structured support, such as mentoring, for doctors new to practice or in a new role and being willing to mentor less experienced medical and other colleagues.

The latest edition of GMP comes into force from 22 April 2013. We will also be publishing learning tools to help doctors apply the guidance in practice.

For the first time we have also produced a **guide** for patients on what they can expect from their doctor. The guide complements *Good medical practice* and underlines the importance of dignity, respect and partnership between doctor and patient.

CORU launches Guide to Registration

Rachel Graham, CORU - Regulating Health and Social Care Professionals

CORU, Ireland's only multi profession health regulator, recently launched the first in a series of guides - a **'Guide to Registration'**.

The publication is aimed at providing all health and social care professionals with the information they need as they begin their journey to regulation.

Speaking about the decision to produce the guide, Ms. Mary Griffin, Head of Corporate Services at CORU, said 'We have a broad and diverse audience of 12 professions, ranging from social workers to radiographers and clinical biochemists. We felt it was very necessary to produce a clear and practical publication relevant to every profession'.

The publication of the Guide is part of CORU's plan to intensify communications activity this year. This has included face to face meetings across the country, a more user-friendly website, including a countdown clock to advise of deadlines and the launch of a quarterly newsletter.

2013 will be a critical year for CORU as the organisation manages the opening of up to four new professional registers. CORU is committed to ensuring all professionals respect the rationale for regulation as well as understanding its benefits. It is a culture shift and a new era for many of the professions and the organisation wants to engage with all stakeholders in a clear and helpful manner.

Results of the GDC's Annual Survey reveal few patients consider complaining

Guy Rubin, General Dental Council

How many patients complain or consider complaining about their dentist? Who do they complain to? What prevents those who consider making a complaint from pursuing it?

The results from the GDC's **Annual Patient and Public Survey 2012**, provides some interesting insights into these important issues.

The GDC is committed to using research to build an evidence base to inform the organisation's policy and practice. Robust evidence about patient and registrant views is key to our regulatory purpose – protecting the patient and regulating the dental team.

The representative survey, interviewed more than 1,600 people across the UK in August-September 2012, has revealed how few patients think about complaining about their dental professionals.

How many patients complain or think about complaining?

Very few (2%) of those who say they have visited a dentist, say they have complained or even considered making a formal complaint about a dental professional during the last 12 months. Specifically, 95% say they had never complained and 93% of these say they have never considered complaining.

Who do people complain to?

When people complain, or consider making a complaint, they tend to complain or want to complain directly to the practice where they had the treatment. More than a third (37%) approached or would approach their dental practice to make a complaint.

What prevents patients from complaining?

However, 32% of those who had complained, or considered making a complaint, weren't sure who to complain to. The survey also asked those who had considered making a complaint, what prevented them from doing so. 29% said they did not know where to start and a further 26% said they didn't know who or where to go to for information on how to complain.*

* Note that the sample size for this question was small (74) so some caution need to taken in interpreting the results.

GMC publishes study on the Impact of the Working Time Regulations on Medical Education and Training

In 2011 the GMC commissioned researchers at the University of Durham to explore the impact of Working Time Regulations, which restrict doctors in training to working no more than 48 hours a week, with the hours averaged over 26 weeks.

The research comprised a series of organisational case studies, seeking the views of trainees, deanery and Trust/ Health Board staff from across the UK, and a supporting literature review.

The case studies, although based on a small number of 82 doctors in training across the UK, found that while the regulations have led to fewer hours, some problems such as stress and fatigue still remain. In addition, the report notes that some doctors in training are working long hours in their busiest shifts increasing the potential for mistakes.

Some working patterns and rotas are particularly fatiguing, with long hours and long periods without days off. Shorter working hours have increased work intensity in some areas which is exacerbated by understaffed rotas.

The majority of doctors in training welcomed the many benefits associated with the Regulations. However, with an increasing tension between service delivery and education and training, a number of individuals reported having to undertake learning activities in their own time.

Doctors in training generally felt unable to challenge bad rotas and working practices and there was a perception that existing quality management processes were not sufficiently sensitive to these issues, with concerns also raised over the accuracy of processes for monitoring hours worked.

The research concludes by noting that the Working Time Regulations were not a simple intervention, but a change to an already complex system (which includes the New Deal for Junior Doctors, 1991). As such, any solutions to on-going concerns will need to be similarly systematic.

Around the world

Nevada reforms nurse supervision

A new Bill proposes to remove the requirement for nurses to work under the supervision of a doctor. If the legislation is adopted, Nevada would join 17 other states in allowing nurses to practice on their own, despite doctors' opposition. Physicians claim that removing their oversight and accountability has the potential to reduce patient safety.

Survey on support for the introduction of revalidation in Australia

Australian Doctor has published the results of a survey on Australia's plans to introduce revalidation. It revealed that only a small percentage of surveyed doctors (21%) supported the introduction of regular competence checks for all doctors and that 30% believed only doctors in a high risk category should go through revalidation. The survey also highlighted concerns about potential administrative burdens and doubts on the accuracy of a revalidation test.

Oklahoma medical board introduces codes for licenses

Oklahoma Medical Board has incorporated QR (quick response) codes on the medical licenses of doctors and other medical professionals. Scanning the code will provide direct, instant access to a physician's information page as it appears on the Board's website, which includes information on the doctor's education, medical specialty and board certification.

Upcoming events

25 April 2013
IMCO meeting on RPQ Directive

29 May 2013
Trialouge meeting on RPQ Directive

29 May 2013
Vote in LIBE committee on data protection Regulation

July 2013
Plenary vote on RPQ Directive

30/31 October 2013
Healthcare Professionals Crossing Borders Conference, London

September 2014
International Association of Medical Regulatory Authorities (IAMRA) Conference, London

Recently published regulators' newsletters

- French Order of Doctors newsletter
- Eurohealth
- IAMRA e-News
- CORU Newsletter
- NMC Review
  Nursing and Midwifery Council
- GDC update
  General Dental Council
- HCPC newsletter
  Health & care profession council
- GMC Student news
  General Medical Council
- GMC News
  General Medical Council

If you would like to contribute a piece to the next Crossing Borders Update please contact the **HPCB secretariat**.