AURE

Alliance of UK Health Regulators on Europe

AURE briefing

25 November 2010

Draft Directive on the application of patients' rights in cross-border healthcare
ENVI second reading recommendation

The Alliance of UK Health Regulators in Europe (AURE) brings together the 10 health and social care regulators in the United Kingdom to work collaboratively on European issues affecting patient and client safety. Our purpose is to protect and promote patient safety through effective regulation and ensuring proper standards in the practice of health and social care.

This briefing paper sets out AURE's position on ENVI's second reading recommendation, adopted on 29 October 2010.

We believe that **amendment 80** concerning the proactive exchange of information between healthcare regulators is essential to ensure patient safety in Europe.

Amendment 80 to Common Position, Article 10 – paragraph 2 c (new)	
Council position	ENVI recommendation
	2c. Member States shall immediately and proactively exchange information about disciplinary and criminal findings against health professionals where they impact upon their registration or their right to provide services.

AURE strongly believes that high-quality and efficient cross-border healthcare depends on accessible information about healthcare professionals. As well as having a right to receive healthcare anywhere in the EU, patients have a right to be confident that they will be treated by safe health professionals who are properly regulated. At present, the extent to which regulators exchange information about healthcare professionals is variable and there is no requirement for EEA competent authorities to proactively inform their counterparts on disciplinary issues.

The mutual recognition of the professional qualifications Directive (2005/36/EC) enables EEA health professionals to move freely around Europe and we understand that facilitating information sharing between healthcare regulators is an issue the Commission will be considering in its evaluation of 2005/36/EC, planned for 2012.

In recent weeks, we have identified two concerning cases in which healthcare professionals have been practising in one EU member state, despite having their registration suspended in another. Details of these cases can be found in Annex A.

Both examples highlight that a legal duty to share disciplinary information is necessary and essential to ensure patient safety. If this information is lacking, professionals may be mistakenly considered safe and suitable to practise by a host member state, when in fact they have a history of poor practice, complaints or disciplinary action that may put patients in Europe at risk.

AURE believes that the patients' rights Directive provides a valuable opportunity to include a legal duty on competent authorities to exchange registration and disciplinary information, and to act on it, in the interests of the public and patient safety. If the amendment is removed during negotiations with the Council, there is no guarantee that a legal duty to share information will be adopted in a revised 2005/36/EC Directive and, even if adopted, it is unlikely to come into force until 2016 at the earliest.[1] The European institutions have the opportunity and a duty to strengthen patient safety in this Directive and we urge them to take this forward in negotiations. It would mean that a legal duty to share disciplinary information could be brought in as early as 2012, better protecting patients going cross-borders for healthcare and giving greater assurances that the professionals treating them are safe and fit to practise.

In addition, we believe **amendments 42 and 79** could be strengthened through negotiations with European institutions to improve the information available to patients wishing to go cross-borders for healthcare.

Amendment 42 to Common Position, Article 4 – paragraph 2 – point a		
Council position	ENVI recommendation	AURE suggested amendments
(a) patients receive upon request relevant information on the standards and guidelines referred to in paragraph 1, including provisions on supervision and assessment of healthcare providers, and information on which healthcare providers are subject to these standards and guidelines;	(a) patients receive from the national contact point upon request relevant information on the standards and guidelines referred to in point (b) of paragraph 1, including provisions on supervision and assessment of healthcare providers, and information on which healthcare providers are subject to these standards and guidelines and clear information on costs in accordance with Article 7(6), on accessibility for persons with disabilities as well as on the healthcare provider's authorisation or registration status and number, and any restrictions on their practice;	(a) patients **have direct access to** ~~receive from the national contact point upon request~~ relevant information on the standards and guidelines referred to in *point (b) of* paragraph 1*,* including provisions on supervision and assessment of healthcare providers, and information on which healthcare providers are subject to these standards and guidelines and clear information on costs in accordance with Article 7(6), on accessibility for persons with disabilities as well as on the healthcare provider's authorisation or registration status and number, and any restrictions on their practice;

[1] The Commission have outlined in the recently adopted Single Market Act that it intends to adopt a revised recognition of professional qualifications Directive in 2012. Negotiations between European institutions could take up to 2 years, with at least another 2 years before the legislation would be implemented. This means that a legal duty to proactively exchange information could not be introduced until 2016.

Amendment 79 to Common Position, Article 10 – paragraph 2 b (new)		
Council position	ENVI recommendation	AURE suggested amendments
	2b. Member States shall guarantee that registers in which health professionals are listed are available to relevant authorities of other Member States.	2b. Member States shall guarantee that registers in which health professionals are listed are available **to the public and** to relevant authorities of other Member States **via electronic and online means.**

As currently drafted amendments 42 and 79 would mean that information about healthcare professionals would be available to the public only on request through the national contact points or relevant authorities. AURE believes that this creates an unnecessary bureaucracy for patients and is inconsistent with the European Parliament's aim to strengthen patients' rights by improving transparency and certainty for members of the public who have a right to know that the healthcare professionals that treat them are appropriately qualified, licensed to work and have not been disqualified from practising their profession.

Patients can only exercise a meaningful choice in seeking healthcare in other Member States if they have good information. In the context of regulation, patients need direct access to information about professional standards, assurance about the professional indemnity of those treating them, and information about complaints and redress if things should go wrong.

AURE member organisations, for example, have publicly accessible and searchable web based lists of registered practitioners. This makes an important contribution to making regulation transparent and provides an easy way for members of the public, patients and health service contractors to check the registration status of practitioners. All health regulators in Europe should be required to make up-to-date information about their registrants available to the public in this or a similar way.

This is important if, for example, a patient obtains medical treatment outside their home state, but requires ongoing care and medication once they return home. When they subsequently request that a pharmacist in their home state dispense a prescription for medication written in another Member State, the pharmacist should check the status of the prescribing physician. That is only possible if basic registration information for the physician is readily accessible from the state where the physician is practising.

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Annex A - Case studies

Dr Marcos Ariel Hourmann
Dr Hourmann had simultaneous medical registration in Spain and the UK. In Spain, in 2005, he was charged with manslaughter and was given a one-year suspended sentence. However, the Spanish authorities did not inform the UK medical regulator, the General Medical Council (GMC). Dr H was allowed to continue to practice until 2010 when informal enquires from the UK press revealed Dr H's history and potential threat to patient safety. Once the GMC was made aware of the facts of the case Dr H was suspended from the register whilst an investigation is taking place. See: http://www.bbc.co.uk/news/uk-wales-11750857

Dentist Ben Verlinden
Dentist Verlinden was stripped of his licence to practice and removed from the Dutch registry in 2001 for serious misconduct. In 2007 he was caught practising in the Netherlands without a licence and was sentenced to 4 months imprisonment. However, in 2010, he was found practising in Spain after one of the officials involved in his case in the Netherlands found his advert in a Spanish newspaper whilst on holiday. See: http://www.ad.nl/ad/nl/1015/Gezondheid-wetenschap/article/detail/524852/2010/10/27/Horrortandarts-boort-vrolijk-verder-in-Spanje.dhtml