

RCN Policy Unit

Policy Briefing 04/2007

Trust, Assurance and Safety - The Regulation of Health Professionals in the 21st Century

February 2007

Introduction

The white paper regarding the professional regulation of all health professions *'Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century'* was published on Wednesday 21st February 2007, along with the Government response to the Shipman and other Inquiries *'Safeguarding Patients'* and *'Learning from Tragedy'*. These are complex documents and the RCN is currently analysing them in more detail. The purpose of this briefing is to outline the headline content of the white paper on professional regulation for nurses and for RCN members.

Overall the RCN cautiously welcomes most of the proposals set out in this white paper. However we need much more detail on some to determine their impact. We also need to work with the government and other stakeholders in their implementation to ensure the process is fair, comparable across all health care settings and in line with professionally – led regulation for nurses. For example, the use of the Knowledge and Skills framework in professional revalidation of registration, and how this relates to both defined nursing competencies and employer involvement in regulation. A government UK-wide implementation group will be established, with the RCN as a member, so we will be able to provide further information in a briefing update in the near future.

Overall the RCN is pleased that:

- The nursing regulatory body (Nursing and Midwifery Council) remains as the professional regulator for nurses.
- Advanced levels of nursing practice will be standardised.

We are disappointed that the white paper does not propose statutory regulation for Health Care Assistants (HCAs) – the RCN strongly believes that HCA regulation is essential for patient safety and public protection. Further it is the RCN view that HCAs who work alongside nurses in direct clinical care should be regulated by the nursing regulatory body.

We need greater detail and clarity on the following:

- Use of the Knowledge and Skills framework in the revalidation of professional registration.
- The degree of employer involvement in professional regulation.
- Use of a sliding scale of a civil standard of proof in fitness-to-practice hearings conducted by the regulatory body.

- Appointment of independent panellists to adjudication panels that hear fitness-to-practice cases for the regulatory body.

A summary and synopsis of proposals that affect nursing regulation are set out below.

Chapter 1: Assuring Independence: The Governance and Accountability of the Professional Regulators

- The Nursing and Midwifery Council (NMC) to have as a minimum parity between professional and lay members.
- NMC Council members to be appointed by the Appointments Commission.
- NMC Council to become smaller and more ‘board like.’
- Members of the Council for Healthcare Regulatory Excellence (CHRE) to be appointed by the Appointments Commission.
- NMC to remain the regulatory body for nursing.

Chapter 2: Revalidation: Ensuring Continuous Fitness to Practice

- Common standards and systems of revalidation to be developed across regulators by CHRE.
- The frequency and intensity of revalidation to depend on proportionate risk to patient safety.
- Revalidation to encompass the development of standards for advanced practice “*The Dept. will discuss with the NMC the outcome of their consultation on advanced nursing practice to agree next steps*” (p37).
- The new national system regulator – yet to be announced which will supersede the Healthcare Commission in its current constitution – will licence health care organisations within and outside the NHS to operate. Part of this licensing procedure will include acceptable standards for the revalidation of registration of all health professional staff.

- Revalidation of professionals will form part of staff appraisal processes in collaboration with the regulator.
- For nurses directly employed by primary care contractors i.e. practice nurses and nurse practitioners employed by GPs, the process of revalidation process will be discussed with the relevant professions and regulators.
- A UK wide revalidation steering group will be established to look at the complexities around streamlining implementation of revalidation for all professional staff.
- An effective system of registration and inspection to be developed for agencies supplying health professionals.

Chapter 3: Tackling Concerns: The Local Role

- CHRE will work with stakeholders to develop common protocols for fitness to practice investigation by regulators with guidance to employers on when cases should be referred to regulator.

Chapter 4: Tackling Concerns: The National Role

- A sliding scale of the civil standard of proof to be used by all regulators – nearer the criminal standard of ‘beyond reasonable doubt’ for cases which could lead to loss of registration and livelihood.
- CHRE to sample cases that regulators have not taken to full fitness to practice hearing.
- The possibility that all health professionals – not just doctors as happens now – can be referred to the National Clinical Assessment Service.
- A national strategy to be developed to ensure appropriate prevention and treatment of health professionals with health problems, for example, addiction problems, and consider the role of health in fitness to practice cases.
- Adjudication: an independent body separate to the General Medical Council (GMC) will be set up to adjudicate on fitness to practice cases that GMC decides to proceed with. This body will establish a central list of vetted and approved people for adjudicatory panels – to include those with the relevant professional background - for all other regulators to conduct independent adjudication within their

own organisations. *“Over time, and in the light of the experiences of the medical profession, other regulators may wish to adopt the independent body to provide further assurance of independence to the public”*(p67).

Chapter 5: Education: The Role of the Regulatory Bodies

- NMC to continue to be responsible for assurance of educational standards working collaboratively with the Sector Skills Council for Health.

Chapter 6: Information about Health Professionals

- CHRE to recommend a single standard definition of good character for all regulators to use in professional registration.
- Closer co-operation between employers and regulator when a health professional enters employment for the first time.
- A possibility of student registration – regulators to report back with proposals 2008.
- Post – registration qualifications to be recorded in the professional register where relevant to patient care, risk management and at a level beyond basic registration, for example, advanced nursing practice, prescribing.

Chapter 7: New Roles and Emerging Professions

- The introduction of statutory regulation for applied psychologists, psychotherapists, counsellors and health care scientists by the Health Professions Council.
- A UK working party to be established to determine which further roles (if any) need to be regulated.
- Distributed regulation for health professionals who wish to remain on their original register when entering a new role.
- No decision on HCA regulation – awaiting results of a Scottish pilot on determining competency – but also further consideration of whether assistant practitioner roles at levels 3 and 4 on the Skills for Health Career Framework need regulation.