Royal College of Nursing

RCN Policy Unit

Policy Briefing 06/2008

Framework for the Registration of Health and Adult Social Care Providers

RCN response to the consultation by the Department of Health

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Introduction

The Department of Health launched a consultation to seek views on the registration of health and adult social care providers, including the regulation of primary care services to ensure patients continue to receive safe, good quality care closer to home. The document entitled *'A consultation on the framework for the registration of health and adult social care providers'* puts forward proposals on which services will be required to register with the new regulator and the requirements that they will need to meet.

This consultation is the next stage in the development of the future regulation system for health and adult social care. The consultation follows on from the previous consultation on the future regulation of health and adult social care (November 2006), and the response to that consultation, which was published in October 2007.

What does the consultation document propose?

The aim is to develop a coherent system of registration across health *and* adult social care. This will be based on one set of generic 'registration requirements', which all providers will have to meet for any service they offer that comes within the scope of registration. Providers will need to demonstrate that they can meet the essential levels of safety and quality required for registration and will need to continue to meet them to maintain their registration.

The Department of Health proposed that there should be 18 registration requirements, which will cover the *essential* levels of safety and quality of care that people have a right to expect. A full list of the proposed 18 registration requirements is attached at Appendix 1.

They will be independently enforceable by the Care Quality Commission but will not represent the limit of the expectations for the quality of health and adult social care. Improvements above levels of essential safety and quality will be encouraged and secured by other levers in the system – for example, through better commissioning, people exercising choice and the new Commission's review and report functions.

In order to ensure that new regulatory arrangements are proportionate the consultation document asked the following:

- Is the general approach correct (i.e. moving towards a light touch, risk based regulatory framework)?

- How should a new registration system interact with the existing systems for monitoring GP performance, such as monitoring by the Primary Care Trust (PCT) and performance reviews, to minimise the burden of regulation on primary care services?

- Which health and adult social care services should require registration with the Care Quality Commission; and what the requirements for registration should be in place?

- The consultation also seeks views on when providers of regulated services should be required to have a registered manager, and how primary care services should be included in the new registration system?

What will the CQC framework cover?

Services are grouped in 16 proposed regulated activities - chapter 3 (Table 2) of the consultation document set out proposals for the list of health and adult social care services that the Government currently believes should come within the scope of registration. The table below shows the 16 proposed regulated activities.

- Personal Care
- Accommodation together with intensive treatments
- Palliative Care
- Dental Services
- Specialist medical services
- Obstetrics and gynaecology
- Specialist mental health services
- Accommodation together with personal or nursing care
- Nursing Care
- Accommodation together with personal care & further education
- Surgical services
- Diagnostic services
- Emergency and urgent care
- Termination of pregnancy
- Detention or deprivation of liberty for care or treatment
- Primary medical services

There are a further 3 activities identified as not requiring registration as a separate group but only as support to other registered activities

- Prescribing, administration and supply of medicines
- Therapies such as care services provided by AHPs
- Telemedicine and telecare (NHS Direct will not be required to register)

The definition of nursing in the consultation covers nursing care where it is not provided as part of another registered activity e.g. nursing care in nursing homes and nursing services in people's own homes. This includes district nurse services, some primary care trust (PCT) community nursing services and nursing agencies supplying nurses to provide care in people's own homes. Community nursing services not in people's homes, such as school nurse or health visitor services would not have to register.

Annex B of the consultation document covers in more detail the proposed scope of the registration requirements. This includes pages devoted to personal care (page 75), palliative care (page 79) and stand alone nursing care (page 86).

Controversially this consultation also includes the proposal for registration of 'primary medical services' (including those provided by GP and dental practices), which now provide more complex services to a high volume of patients in community settings.

Although GPs and other healthcare professionals are individually registered by their professional governing bodies, the services provided in primary care and community settings are becoming more complex. The proposals would mean that this sector is included within mainstream regulation for the first time. Previously the focus of regulation has been on services provided in hospitals or on care home settings.

What will be the role of the new Care Quality Commission in this framework?

The *Health and Social Care Bill*, currently passing through Parliament, will establish the *Care Quality Commission (CQC)*, a new regulator for health and adult social care services.

From April 2009, the CQC will bring together the experience and expertise of the three existing regulators - the *Healthcare Commission*, the *Commission for Social Care Inspection (CSCI)* and the *Mental Health Act Commission* - meaning a more consistent approach to regulation at a time when more and more services are crossing traditional health and social care boundaries.

Once established the new Commission will develop and consult on its methodology and criteria for assessing compliance with the registration requirements. The new registration system will come into force from April 2010 with the exception of regulations on healthcare associated infections (HCAI), which will come into force during 2009.

Without registering with the Care Quality Commission, it will be illegal for health and adult social care organisations to provide services that come within the scope of registration. The registration requirements will therefore cover essential levels of safety and quality. The scope and requirements for registration will be set in secondary legislation, following a further consultation on regulations later in the year.

The Care Quality Commission will seek to reduce the burden of inspection on the frontline reducing the level of duplication and bureaucracy faced by providers as well as creating a level playing field across the public and private sectors.

When will the CQC come into force?

The document also set out plans for transition to the new registration system: the new registration system will come into force from April 2010 with the exception of regulations on healthcare associated infections, which will come into force during 2009/10. A table illustrating the process can be found at Appendix 2.

RCN response to consultation

The RCN sought views from members about the content, merits and risks of the registration proposals outlined in the consultation paper. A full copy of our response can be downloaded from the RCN Policy pages[1] but in summary our response to the key points is as follows:

Raising the bar – It is essential that the new framework demonstrates that is learning from the best of both health and adult social care. New requirements for registration should raise the bar to the best available rather than lower it to the 'just acceptable' – we are concerned by the use of the phrase 'essential levels of quality and safety'.

The connections between PCTs, Local Government, SHAs and the CQC in this respect remain unclear. More consideration needs to be given as to how we explain to the public and staff how these stakeholders will share responsibility for driving up quality in health and adult social care without replication of effort or gaps in activity occurring.

Regulation that makes sense to everyone – Staff and the public need to have confidence that the new regulatory measures reflect an understanding of the environment in which they work and is useful to them in seeking to measure any improvements in the work they do.

[1] www.rcn.org.uk/aboutus/policy

Future consultations on the role and function of the CQC should offer more detail about how public, clinical and provider experience will be reflected in the developing framework.

The structure of CQC should give the service users, the public and clinicians confidence that they understand the nature of the business of delivering health and social care and should be flexible enough to adapt to new forms of service delivery.

Reducing the burden but increasing consumer confidence – the public will demand that a regulator has real teeth and is able to develop and direct providers to improve where standards slip. The framework needs to be robust and credible and capable of withstanding external scrutiny.

An over reliance on self assessment of performance is unlikely to be accepted by the public in light of concerns around existing regulators such as CSCI and the apparent lack of influence of other similarly commissioned, risk based regulators for e.g. in the public utilities market and train networks.

The profile of health and social care concerns has never been higher, patients and the public will demand a regulator with real teeth who is able to investigate, develop and if necessary, intervene and direct providers not only to 'essentially pass' but to excel in what they do.

Should Primary Medical Services be covered?
We strongly support the proposal that all GP and primary dental services should be within the scope of registration for a number of reasons.

Firstly, the majority of the population access health and some social care services via their GP in the first instance. However the absence of any regulation has meant that there is a lack of consistent and accessible information about 'what happens and how' at the practice level and members of the public are often unable to compare one practice to another when choosing a practice in all but a limited manner.

Secondly, many of our 390,000 members work in practice settings or under the supervision of GPs. Whilst there are many examples of good practice, more action needs to be to taken to ensure that GP services implement good employment practices similar to those described in the proposed topics for registration requirements 15, 16, 17 and 18. The 'Working In Partnership Programme' produced a toolkit for HCAs and Nurses working in general practice which gives all the information required to develop high standards of employment practice.

General Practice Nurses now provide a high proportion of skilled nursing care and are constantly expanding their clinical practice so that more care can be provided in general practice. The RCN is aware of the working currently being carried out by the RCGP on the accreditation of general practice. The CQC should investigate this work as part of considering how it could be meaningfully involved with the regulation of general practice.

Thirdly, Government policy is driving more services toward practice level. As Practice Based Commissioning takes hold and more PCTs shift provider services to the practice level, it is absolutely essential that practice based services, whether commissioned or provided by the GP are covered within the scope of registration.

The CQC would do well to learn lessons from PCTs who have demonstrated successfully that they are able to scrutinise and improve the ways in which its general practices implement the GMS Contract (2004). The Contract, if implemented within a framework of professional standards of practice and behaviour can ensure that the public have access to exemplary general practice.

The RCN believes that currently too few PCTs focus attention on effectively monitoring the standards of care provided in general practice. However there are opportunities within the proposed regulatory framework and with the introduction of 'World Class' commissioning which would, in time, help to improve the capacity of PCTs to drive up standards of care provided in the general practices.

Conclusion

The proposed framework represents a fundamental shift in the regulation of a large part of all health and social care activity.

Whilst the RCN agrees that regulation shouldn't be a burden, we also firmly believe that regulation needs to be meaningful to the public and the staff who serve them.

To do this, the CQC will need to have adequate resources, appropriate expertise and knowledge and proper powers to investigate, develop and intervene where providers fail. The public expect and deserve a regulator up to the task and the RCN will work with Govt and the CQC to support this.

We would welcome your views on this topic which you can send by e mail to the RCN at policycontacts@rcn.org.uk or contact us on 0207 647 3723

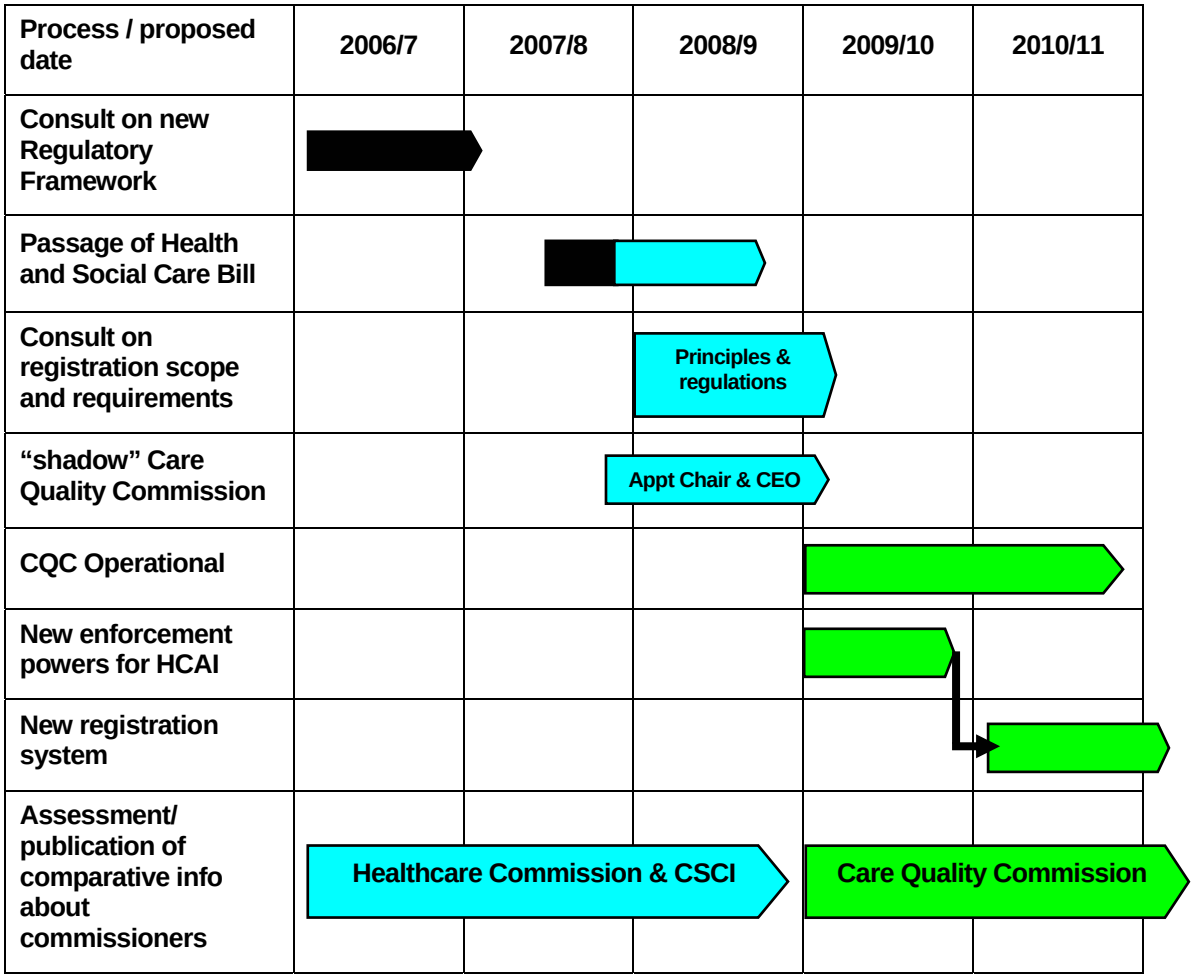
Appendix 1

Proposed 18 registration requirements to be independently enforceable by the Care Quality Commission

1. Making sure people get the care and treatment that meet their needs safely and effectively
2. Safeguarding people when they are vulnerable
3. Managing cleanliness, hygiene and infection control
4. Managing medicines safely
5. Making sure people get the nourishment they need
6. Making sure people get care and treatment in safe, suitable places which support their independence, privacy and personal dignity
7. Using equipment that is safe and suitable for people's care and treatment and supports people's independence, privacy and personal dignity
8. Involving people in making informed decisions about their care and treatment
9. Getting people's ongoing agreement to care and treatment
10. Responding to people's comments and complaints
11. Supporting people to be independent
12. Respecting people and their families and carers
13. Having arrangements for risk management, quality assurance and clinical governance
14. Keeping records of the provision of care and treatment
15. Checking that workers are safe and competent to give people the care and treatment they need
16. Having enough competent staff to give people the care and treatment they need
17. Supporting workers to give people the care and treatment they need
18. Working effectively with other services

Appendix 2

Timetable for implementation of the new framework



(adapted from the DH, 2008)