



# The Newsletter of European Medical Specialists

## Editorial

Burning issues are currently under discussion within the EU institutions. The most famous of them is certainly the draft directive that will regulate patient mobility between EU Member States.

In order to also reflect the importance of professional mobility for the UEMS, it has been decided to dedicate a full thematic issue of the newsletter to the general topic of "Mobility".

The mobility of services should be dealt with in a next thematic issue of the newsletter on e-Health and Telemedicine.

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UEMS News - Thematic issue on Mobility

May 2009

## Patient's rights in cross-border healthcare

*MEPs voting in first reading adopted key amendments proposed by the UEMS!*

*Further to the vote in the European Parliament (EP) Plenary session on the draft directive on patient's rights in cross-border healthcare (Report by Mr John Bowis, EPP-ED, UK), the UEMS is proud to announce that three of its proposed amendments were adopted! The UEMS Executive is delighted about this outcome, especially as this draft directive was high on the UEMS political agenda and at the centre of much attention from all political groups, it being subject to hundreds of proposed amendments. This issue was also a top priority in the UEMS Action Plan for 2009.*

As already mentioned in previous issues of the UEMS Newsletter (see notably UEMS Newsletter 2009/02), the UEMS Executive formulated last year, further to the UEMS Council meeting in Copenhagen, a series of suggestions for further amendments to the Bowis Report which was at that time under preparation. These suggestions were based on the four following key points:

1. Maintaining professional mobility within the scope of the directive;
2. Establishing European-wide standards for healthcare providers;

*Patients will have a right to seek treatment across the European Union if their national health provider has let them down with a poor or delayed service. The current system has too often caused people unnecessary confusion at a particularly vulnerable time in their lives and it is essential that we provide greater clarity and legal certainty.*

*This directive will enable patients to seek treatment across the EU with a greater sense of confidence and certainty. It is particularly important that this system is not exclusive and bases a patient's right to treatment on their needs and not their means.*



John Bowis

3. Guaranteeing quality and safety in the use of e-Health and Telemedicine;
4. Increasing stakeholders' involvement.

On this basis, the UEMS formulated six amendments, three of which were maintained in the final draft report:

- **on Article 15:** The UEMS called for sufficient flexibility to be provided regarding the development of a list of rarer conditions and also advocated for the involvement of relevant experts in this process.
- **on Article 19:** The UEMS expressed its firm opinion that the implementation of such an ambitious piece of legislation can only be achieved through the involvement of all interested parties. This is why, the UEMS advocated ap-

information by communication technologies in healthcare, with associated potential risks to patients. Therefore, the UEMS demanded that the same level of guarantee, in terms of quality and safety, was applied to these services as compared to "standard" medical acts.

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## Professional Mobility – The basics...

### Professional qualifications at the basis of free mobility for professionals

*In the general context of the mobility of healthcare professionals, it is essential to make reference to the Directive 2005/36/EC on the recognition of professional qualifications, which regulates the cross-border recognition of diplomas for different regulated professions, including doctors. In spite of its great achievement, this piece of legislation though has generated a certain number of concerns among professional organizations involved and which have been voiced by the UEMS.*

The right for any EU citizen to establish themselves, or to provide services, anywhere in the EU has for long been considered as one of the fundamental freedoms under the Single Market. These principles seemed though to be constrained by certain national regulations. The EU, and for-

merly the European Economic Community (EEC), overcame these barriers, notably by enforcing rules that guarantee the mutual recognition of professional qualifications between Member States. Some of these rules, directly address issues such as the harmonisation of training requirements which allow for automatic recognition of medical degrees and are in essence of great interest for medical specialists.

For that purpose, the EU adopted the directive 2005/36/EC in 2005 which came into action in October 2007. This text consolidated 15 existing Directives, covering all recognition rules (three on the general system for the recognition of professional qualifications, and twelve sectoral directives covering the professions of doctor, nurse, dental practitioner, veterinary surgeon, midwife, architect and pharmacist,

except for those applicable to lawyers). This Directive was completed by Directive 2006/100/EC, further to the enlargement of the EU to Bulgaria and Romania. These pieces of legislation originally aimed to make labour markets more flexible, further liberalise the provision of services, encourage more automatic recognition of qualifications, and simplify administrative procedures.

This directive applies to all Member States nationals wishing to practice a regulated profession, on either a self-employed or employed basis, in a Member State other than that in which they obtained their professional qualifications. In doing so, a distinction is made between the notions of "freedom to provide services" and "freedom to establishment".

- "Freedom to provide services" is defined as the right whereby any EU

citizen legally established in a given Member State can provide services on a temporary and occasional basis in another Member State under their original professional title without having to apply for recognition of their qualifications.

- "Freedom of establishment" applies when a professional enjoys the effective freedom to become established in another Member State in order to conduct a professional activity on a permanent basis.

#### Revision required to sustain quality in mobility

On the occasion of the public consultation launched by the European Commission under the Green Paper on the European Workforce for Health (COM(2008)725), the UEMS had the opportunity to raise a certain number of concerns in regard to Directives

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*Appropriate mechanisms of consultation to be put in place to assist the "cross-border healthcare committee" which is to be established for the purpose of implementing the Directive.*

Considering the importance of the adoption of such a report for the medical profession and for the objectives of the UEMS in defending the highest quality of health-

care being delivered to EU citizens, this result ought to be acknowledged. The Report drafted by John Bowis was eventually adopted by 297 votes to 120, with 152 Abstentions. It essentially proposed to simplify rules for patients seeking medical treatment abroad and its general aim was to make it easier for the patients to seek healthcare abroad and be properly reimbursed for any cost incurred, as well as to be

properly informed about their rights when treated outside their home Member States.

The approved Report mainly focused on the following points:

- Emphasis on patient mobility: no encroachment on national powers (compliance with "subsidiarity principle" in healthcare)
- Prior authorisation for hospital treatments
- Easier reimbursement of costs

- Exceptions for patients with rare diseases or disabilities
- Better information, redress and complaint system
- Long-term care and organ transplants are excluded.

The draft directive is currently under discussion in the EU Council. The next stage of the legislative procedure is pending common position between the EU Member States. □

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2005/36/EC and 2006/100/EC.

The UEMS repeated that there was a need to revise and update certain provisions, particularly those relating to the length of medical training for a number of specialties, in order to sustain quality in mobility. The UEMS further requested that the necessary steps are undertaken in order to promptly revise and update this

piece of legislation before the revision term of the directive scheduled for 2012. Moreover, the UEMS demanded to go beyond the restricted view of regulating medical training with an approximation of duration and develop the possibility to integrate the concept of competence-based education and training, as well as a system which would guarantee healthcare professionals' continuing fitness and suitability to practice in the receiving country. On the other hand, the UEMS expressed worries about undesired pitfalls of these Directives, such as brain-drain and reduced medical training. The UEMS is indeed worried by the creation of medical deserts within or between Member States and underlines the urgent need to reconcile the imperative needs to comply with the principle of free mobility and to guarantee the fundamental right of access to health-

care for all European citizens. With regard to the threat of reduced medical training, the UEMS demands that all efforts are made in order to ensure the quality of medical training (and ultimately patient care) through the continuous improvement of medical standards.

*For further information, please see the UEMS contribution to the Green Paper on the European Workforce for Health (UEMS 2009/07). □*

### European Council for the Accreditation of Medical Specialist Qualifications (ECAMSQ)

*In the general context of the harmonisation of professional qualifications in the EU, the UEMS is currently launching a new platform, namely "ECAMSQ – European Council for the Accreditation of Medical Specialists Qualifications".*

This initiative aims to complete and go beyond the Directives currently in action. The primary focus of this initiative is to further improve the education and training of European medical doctors, so they may contribute to the various health systems for the benefit of the community, whilst they maintain a satisfactory personal work/lifestyle balance. Faced with the need to achieve concrete outcomes in this regard, the UEMS is keen to initiate and run this project and calls on the Commission



and Member States to support its efforts in getting adherence from all partner organisations and relevant bodies or authorities. □

### Study on the mobility of healthcare professionals

*In the general context of the Directive 2005/36/EC, in January 2009, for a 3-year period, a project on Health Professional Mobility in the EU, funded by the European Commission's 7<sup>th</sup> Framework Programme, was launched.*

The lead on the scientific part is by the European Observatory on Health Systems and Policies, and on the project management part by the European Health Management Association. This consortium aims at understanding the scale, relevance, and directions of health professional mobility, the reasons behind it, its possible implications, and the tools most adequate to respond to it. Scientific evidence will in this way be used to support policy-relevant recommendations. □

### The UEMS contribution to the Green Paper on European Workforce for Health

*As already announced, the UEMS sent in its contribution to the consultation launched by the European Commission on the healthcare workforce in the EU.*

The main issues of relevance to medical specialists were detailed in that document (UEMS 2009/07) and will serve as a basis for future actions in regard to the initiatives to be launched by the European Commission on this issue. □

## Professional Mobility – The future...

### European professional card for service providers

*Charlotte Cederschöld (EPP-ED, SE) for the Committee on the Internal Market and Consumer Protection in the European Parliament adopted an own-initiative report on the creation of a European professional card for service providers. The report stresses that greater mobility of persons and services between Member States and between regions is an essential element in achieving the Lisbon agenda for growth and jobs.*

Directive 2005/36/EC states that the introduction, at the European level, of professional cards by professional associations or organizations could facilitate the mobility of professionals, in particular by speeding up the exchange of information between the host Member State and the Member State of origin. In its resolution on the impact and consequences of the exclusion of health services from the Directive on services in the

internal market, the Parliament called for the setting up of a European card to provide access to information on the skills of health care professionals. In this context, the ECAMSQ (see page 3) could be a major contribution.

Based on these facts, the report encourages all initiatives that aim to facilitate cross-border mobility as a means to the efficient functioning of the services and labour markets. In this context, MEPs call on the Commission to assess the transposition of Directive 2005/36/EC on the recognition of professional qualifications and call on the Member States to strive for a more harmonized approach to the recognition of qualifications and competences, to simplify the administrative processes involved and to reduce the costs incurred by professionals. MEPs stress that a European professional card could be an advantage even for non-regulated and non-harmonized professions, as it would have

an information role particularly for employers and consumers, which would be the case for most liberal professions. They therefore call on the Commission to take stock of different initiatives concerning the development of professional cards and to report to Parliament on a representative inventory.

The report asks the Commission to examine the outcomes of such a card, notably the following:

- the informational role vis-à-vis employers and consumers for most professions,
  - the contribution to security of citizens in contact with a provider of services,
  - administrative simplification and a reduction of costs,
  - the facilitating of the provision of adequate quality in the European Union and third States,
  - the ability to monitor the career of professionals who establish themselves in various Member States.
- If there is sufficient demand to develop one,

MEPs consider that a professional card should be as simple, easy and liberal as possible, avoiding any new bureaucratic burdens, and that it could establish a "common language" in the qualifications of certain professions.

In any event, a European professional card should not have a negative effect on cross-border mobility, and should only be used as proof of the right to move without being a condition for such movement. Information on a European professional card should be reliable, validated and updated by the competent national authorities and should comply with the highest standards of the protection of privacy. Where appropriate, information contained in EUROPASS CVs could also be included on the European professional card. Finally, MEPs consider that the professions themselves should finance the development and implementation of a European professional card, if felt appropriate. □

### HPRO Card project

*The European Card for Health Professionals "HPRO Card" project is funded by the European Commission (Directorate General for employment, Social Affairs & Equal Opportunities).*

Its main aim is to ease the free movement of the health professionals in Europe whilst ensuring patient safety. The European Directive 2005/36/

EC on the recognition of professional qualifications established for the first time the need for a harmonised European card for the health professionals in Europe. This project was selected and began work on March 1<sup>st</sup> 2008 for an 18-month duration. As far as the challenges of this project are concerned, in the general context of the harmonisa-

tion, the main task of the HPRO Card project will be a study on the interoperability issues, on the usages of the card, on the authentication techniques for the health professional along with the building of the list of the competent authorities.



*For more information you can visit the official website of HPRO Card: <http://www.hprocard.eu>*



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**For further information on issues covered in this Newsletter, do not hesitate to contact the UEMS Secretariat.**

## PATIENTS' RIGHTS IN CROSS-BORDER HEALTHCARE AN ELEPHANT'S TALE DIRECTIVE?

Mankind has always been confronted to important philosophical questions. How to describe an elephant? According to the myth, warriors coming back from their first hunting party had each a personal view when describing the animal to their tribe's chief. Answers ranged from "a trunk with big flapping ears" or "four massive grey legs" to "a frenetic hairy tale", the animal being too big and hence too difficult to describe all at once. In many ways, so is difficult to define cross-border healthcare. Whilst this notion is commonly agreed as encompassing the complex issues of mobility of patients, services and professionals, the "warrior" in the European Parliament Mr John Bowis MEP, EP Rapporteur for that text, proposed keeping only the first aspect of it within the scope of the draft directive on patients' rights.

After careful scrutiny of his justifications for doing so, this political choice is understandable as John Bowis' approach on the issue is consistent with the aims of the current and future EU initiatives. Despite all reservations one may have about the exclusion of professional mobility from the scope of this directive, this proposal is justified, but solely under certain conditions.

In the framework of this draft directive on patients' rights in cross-border healthcare, important issues are being dealt with by both the Parliament and Council to guarantee patients moving from one Member State to another to receive healthcare the necessary legal clarity and certainty about their own rights. It is crucial that questions related to quality standards, medical regulation and patient safety are addressed, even in this restricted context. It is to be hoped that these, once all agreed, can be extended and applied to the whole cross-border healthcare spectrum. Further attention will certainly be needed at the time when for instance telemedicine per se is tackled.

Nevertheless, this narrow approach is acceptable at the sole condition that MEPs and the other EU decision-makers remain aware that addressing cross-border healthcare between EU Member States does not stop with patient mobility.

Describing an elephant seems easy when it comes to eat it. Any old wise man in the tribe knows that, whereas this seems impossible, the best way remains to start with the first piece and eat it piece after piece until the whole beast is eventually swallowed no matter the time needed. This justifies why professional organisations, such as the UEMS, albeit they questioned the EP Rapporteur's proposal to remove professional mobility from the scope of the directive, understand the current political needs to do so at this stage.

However, cutting two thirds of the very notion of cross-border healthcare is likely to have unexpected consequences. Indeed, "guaranteeing patients' rights in cross-border healthcare" will lead EU citizens to confusion, since keeping the current title of the directive gives the unfounded assumption that patients are equal in their rights whether they receive healthcare in a context of patient or professional mobility. Confusion and legal ambiguity might even be greater when it comes to the mobility of services.

In the proposed restricted context, moving patients will turn out to be better off as regards their rights as compared to patients receiving care in their home country.

This trend will even be reinforced by the obligation under the draft directive on Member States to provide adequate information to these moving patients, while this information is not always available to their own citizens. Ironically, the directive, once implemented, will lead to situations whereby some Member States will be discriminating their own citizens. This is of course a matter for them to deal with and on which there is hardly anything that can be done at the EU level. This is unfortunately the price to pay to subsidiarity. We can only hope that this unbalance will trigger further action and success from the civil society at the national levels to correct that situation.

In spite of the scale of the achievement in successfully regulating the mobility of patients across EU Member States, patients should not be fooled. MEPs have given up important and controversial components of cross-border healthcare. They can therefore hardly claim patients' rights are safeguarded with the full legal clarity that was needed and called for at the time the proposal was issued.

For that reason and for the sake of intellectual honesty, the title of this legal proposal should be reconsidered. At the same time, MEPs should expressly commit to addressing the remaining issues of professional and services' mobility in the near future. EU Institutions must live up to the citizens' expectations and have the courage and ambition to dare describe elephant in full. They should ensure to get the full picture right and not let patients left with an "elephant's tale directive"...

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