

International recruitment of health personnel: draft global code of practice

Report by the Secretariat

1. This report summarizes the work undertaken to implement resolutions WHA57.19 and WHA58.17, both entitled “International migration of health personnel: a challenge for health systems in developing countries.”
2. The numbers of migrating health workers have significantly increased in the past few decades, with patterns of migration becoming more complicated and involving more countries. Such migration from those countries that are already experiencing a crisis in their health workforce, particularly in sub-Saharan Africa, is further weakening already fragile health systems, and represents a serious impediment to achieving the health-related Millennium Development Goals.
3. In 2004, the Health Assembly noted with concern that highly trained and skilled health personnel from the developing countries continue to emigrate at an increasing rate to certain countries, weakening health systems in the countries of origin, and, in resolution WHA57.19, it requested the Director-General to develop a code of practice on the international recruitment of health personnel, in consultation with Member States and all relevant partners. In response, the Secretariat took a comprehensive approach and initiated a global consultation process in order to produce a draft code as a priority activity and part of its agenda to strengthen health systems based on primary health care.

THE GLOBAL CONSULTATION PROCESS TO DEVELOP THE WHO CODE OF PRACTICE

4. The Health Worker Migration Policy Initiative, a multi-stakeholder process comprising a Migration Global Policy Advisory Council and a WHO-led technical working group, was established to support WHO in drafting the code. The Council is led by the Global Health Workforce Alliance and nongovernmental organization Realizing Rights: the Ethical Global Initiative. In May 2008, meetings of the Advisory Council and the technical working group were held in Geneva to discuss the outline for the code, prior to its submission to the governing bodies in 2009.
5. At its 122nd session in January 2008, the Board noted the Secretariat’s report describing work on drafting code and the global consultation process. The Secretariat proposed submitting the draft code, through the Board, to the Sixty-second World Health Assembly.¹

¹ Document EB122/2008/REC/2, summary record of the seventh meeting, section 1.

6. Subsequently, the Secretariat outlined the draft code at the First Global Forum on Human Resources (Kampala, 2–7 March 2008), organized jointly with the Global Health Workforce Alliance. The Kampala Declaration, which called on WHO to accelerate negotiations for a code of practice, was adopted. Later in March 2008, a virtual global dialogue on migration was launched, and more than 600 organizations and individuals from 70 countries participated in the three-week event. The Regional Office for Europe organized a conference on health systems and services (Tallin, June 2008), attended by 53 Member States, at which the code's drafting process was considered. In addition, the G8 Heads of State at the Hokkaido Toyako Summit on 9 July 2008 issued a statement encouraging WHO to finalize the voluntary code.

THE DRAFT WHO CODE OF PRACTICE

7. The Secretariat finalized the first draft at the end of August 2008. The text builds on existing regional and bilateral agreements, memoranda of understanding and national and regional codes of practice, as well as on the collaborative work of the Health Worker Migration Policy Initiative and the First Global Forum on Human Resources for Health.

8. The draft code is voluntary, global in scope and applies to all health personnel. It sets forth principles and encourages the setting of voluntary standards in a manner meant to promote an equitable balance of interests among health personnel, source countries and destination countries, with a particular emphasis on the negative effects of health-worker migration on countries experiencing a health-workforce crisis. It also covers the need for effective health-workforce planning, gathering of national and international data, and research as well as for strengthening Member States' capacity to implement its objectives. In line with the current international practice for non-binding instruments, the draft code also recommends a transparent framework to promote voluntary national and international compliance, including voluntary mechanisms for effective information sharing and monitoring. It also aims to create a platform for substantive international discussions.

9. The draft code does not aim to cover comprehensively all the substantive issues raised by the global challenge of the international recruitment of health personnel. Member States, however, may wish to include more detailed provisions in the final code or in future instruments.

10. On 1 September 2008, the Secretariat launched a global, web-based, five-week public hearing on the first draft. More than 90 contributions were received from Member States, national institutions, health professional organizations, international and nongovernmental organizations, academic institutions and individuals. The submissions were positive and supportive, although there were some areas of divergence and suggestions for revision.¹ The Secretariat consequently revised the first draft, in the light of comments received.

11. Subject to any decision by the Board, the Secretariat will hold further consultations with Member States and other stakeholders, with a view to submitting a draft code to the Sixty-second World Health Assembly for its consideration in May 2009.

¹ For a summary of the submissions to the public hearing, see document EB124/INF.DOC./2.

ACTION BY THE EXECUTIVE BOARD

12. The Executive Board is invited to consider the following resolution:

The Executive Board,

Having considered the report on international recruitment of health personnel: draft code of practice;¹

Recognizing the urgent need to take a global coordinated approach to mitigating the impact of international health worker migration on, in particular, the health systems of countries experiencing a crisis in their health workforce,

RECOMMENDS to the Sixty-second World Health Assembly the adoption of the following resolution:

The Sixty-second World Health Assembly,

Having considered the report on international recruitment of health personnel: draft code of practice;

Recalling United Nations General Assembly resolution 2417 (XXIII) on the outflow of trained professional and technical personnel at all levels from developing to the developed countries, its causes, its consequences and practical remedies for the problems resulting from it;

Further recalling resolutions WHA57.19 and WHA58.17 in which the Health Assembly requested the Director-General to develop a WHO code of practice on the international recruitment of health personnel in consultation with all relevant partners;

Considering *The world health report 2006*² and its assessment of current shortages and imbalances in the global health workforce;

Noting the call in the Kampala Declaration adopted at the First Global Forum on Human Resources for Health (Kampala, 2–7 March 2008) for WHO to accelerate negotiations on the WHO code of practice;

Recognizing the work undertaken in United Nations and other international organizations on strengthening the capacity of governments to manage migration flows at national and regional levels and the need for further action, at both national and global levels, on international recruitment of health personnel;

Conscious of the global shortage of health workers;

¹ Document EB124/13.

² *The world health report 2006: Working together for health*. Geneva: World Health Organization, 2006.

Deeply concerned that the migration of highly educated and trained health personnel from countries with health systems in crisis is increasing, further weakening the health systems of the countries of origin;

Alarmed that the severe shortage of health workers in many Member States constitutes a major threat to the performance of health systems and undermines the ability of these countries to achieve the Millennium Development Goals and other internationally agreed goals;

Recognizing the urgent need to formulate national and international policy instruments for promoting global coordination and national action in order to maximize the benefits, and mitigate the negative impact, of international migration of health personnel;

Recognizing the rights of health personnel to leave their countries and to migrate to countries that wish to admit and employ them;

Mindful of the historic and continuing relevance of the role of international exchange in ideas, values and people to human well-being;

Appreciative of the steps taken by the Director-General to draft the WHO code of practice on the international recruitment of health personnel in close consultation with Member States and with all other stakeholders;

Underscoring the importance of establishing a schedule to review the implementation of the WHO code of practice;

Stressing that adoption of, and adherence to, the WHO code of practice on the international recruitment of health personnel will be core components of national and global responses to the challenges of health worker migration,

1. ADOPTS the WHO code of practice on the international recruitment of health personnel annexed to this resolution;
2. URGES all Member States:
 - (1) to give full support to the comprehensive implementation of the provisions of the WHO code of practice on the international recruitment of health personnel;
 - (2) to designate a national authority for exchange of information regarding health-worker migration and the code in accordance with Article 8.3 of the WHO code of practice and ensure that the contact details for the national authority are complete and up-to-date;
 - (3) each to submit every two years to the Director-General a single report, including data pursuant to Article 8.2(c) of the code and information on implementation pursuant to Article 10.1, beginning in 2010;

3. REQUESTS the Director-General:

- (1) to provide full support to Member States, upon request, in implementing the WHO code of practice on the international recruitment of health personnel, including technical cooperation or its facilitation;
- (2) to draw up, in consultation with Member States, guidelines for information exchange and periodic reporting on implementation, pursuant to Article 10.3(b) of the code;
- (3) to report, through the Executive Board, on the implementation of this resolution to the Sixty-third World Health Assembly;
- (4) to submit every two years a report, including information provided by Member States and other relevant stakeholders and about the Secretariat's activities, to the Health Assembly, as requested in Articles 8.2 and 10.2 of the code, beginning with the first report to the Sixty-fifth World Health Assembly.

ANNEX

DRAFT WHO CODE OF PRACTICE ON THE INTERNATIONAL RECRUITMENT OF HEALTH PERSONNEL***Article 1 – Objectives***

The objectives of this code are:

- (a) to establish and promote voluntary principles, standards and practices for the international recruitment of health personnel;
- (b) to serve as an instrument of reference for Member States in establishing or to improving the legal and institutional framework required for the international recruitment of health personnel and in formulating and implementing appropriate measures;
- (c) to provide guidance that may be used where appropriate in the formulation and implementation of bilateral agreements and other international legal instruments, both binding and voluntary;
- (d) to facilitate and promote international discussion and advance cooperation on matters related to the international recruitment of health personnel, with a particular focus on the situation of Member States facing a critical health personnel shortage.

Article 2 – Nature and scope

- 2.1 The code is voluntary. Member States and other stakeholders are strongly encouraged to comply with the code.
- 2.2 The code is global in scope and is directed toward Member States and Associate Members of WHO, health personnel, recruiters, employers, health-professional organizations, relevant subregional, regional and global organizations, whether governmental or nongovernmental, and all persons concerned with the international recruitment of health personnel.
- 2.3 The code applies to all health personnel, including all people engaged in actions in the public and private sectors whose primary intent is to enhance health, and covers those working on a temporary, locum or permanent basis.
- 2.4 The code provides principles applicable to the international recruitment of health personnel in a manner that promotes an equitable balance of interests among health personnel, source countries and destination countries.

Article 3 – Guiding principles

- 3.1 Addressing present and expected shortages in the health workforce is crucial to protecting global health. International recruitment can make a legitimate contribution to the development and strengthening of a national health workforce. However, the setting of voluntary international standards and the coordination of national policies on international health personnel recruitment are desirable in

order to maximize the benefits to, and mitigate the potential negative effects on, health systems, particularly in those countries facing a critical shortage of health personnel, and to safeguard the rights of health personnel.

3.2 All Member States have the sovereign right to strengthen their health systems in order to progressively achieve full realization of the right of everyone to the enjoyment of the highest attainable standard of health. Member States should take the code into account when developing their national health policies and cooperate with each other, as appropriate.

3.3 Nothing in this code should be interpreted as impinging on the rights of health personnel to migrate to countries that wish to admit and employ them.

3.4 International recruitment of health personnel should be conducted in accordance with the principles of transparency, fairness and mutuality of benefits.

3.5 Member States, in conformity with national legislation and applicable international legal instruments to which they are a party, should promote and respect fair labour practices for all health personnel. In all terms of employment and conditions of work migrant health personnel should enjoy the same legal rights and responsibilities as the domestically trained health workforce, without discrimination.

3.6 Member States should strive to create a self-sufficient health workforce and work towards establishing effective health workforce planning that will reduce their need to recruit migrant health personnel. Policies and measures to strengthen the health workforce should be appropriate for the specific conditions of each country and should be integrated with national development programmes.

3.7 The specific needs and special circumstances of countries, especially those developing countries and countries with economies in transition that are particularly vulnerable to health workforce shortages and/or have limited capacity to implement the recommendations of this code, should be considered.

3.8 Effective gathering of national and international data, research, and sharing of information on the international recruitment of health personnel are essential to achieve the objectives of this code.

3.9 All aspects of the employment and treatment of migrant health personnel should be without distinction of any kind, such as to race, colour, gender, religion, national or social origin, birth or other status.

3.10 Member States, health personnel, recruiters, employers, health-professional organizations, relevant subregional, regional and international organizations, whether governmental or nongovernmental, and all persons concerned with the international recruitment of health personnel should collaborate in the fulfilment and implementation of the objectives contained in this code for the benefit of present and future generations in all countries.

Article 4 – Recruitment practices and treatment of health personnel

4.1 Member States and other stakeholders should recognize that ethical international recruitment practices provide health personnel with the opportunity to assess the benefits and risks associated with employment positions and to make timely and informed decisions. In accordance with the principle of fairness, ethical recruitment practices should also promote equality of treatment of migrant health

personnel with the domestically trained health workforce and ensure that migrant health personnel are not subjected to improper or fraudulent conduct.

4.2 Member States should ensure that, subject to national laws and relevant international legal instruments to which they are a party, migrant health personnel enjoy the same legal rights and responsibilities as the domestically trained health workforce in all terms of employment and conditions of work.

4.3 Member States should, to the extent possible, ensure that recruiters and employers provide migrant health personnel with relevant and accurate information about any health personnel position that they are offered.

4.4 Member States should, to the extent possible, ensure that recruiters and employers observe fair and just contractual practices in the employment of migrant health personnel.

4.5 Migrant health personnel should enjoy opportunities for employment commensurate with their level of education, experience and competence on the basis of equality of treatment with the domestically trained health workforce.

4.6 Migrant health personnel should be hired, promoted and remunerated based on objective criteria such as levels of qualification, years of experience and degrees of professional responsibility on the basis of equality of treatment with the domestically trained health workforce.

4.7 Measures should be taken to ensure that migrant health personnel enjoy opportunities and incentives to improve their professional education, qualifications and status on the basis of equality of treatment with the domestically trained health workforce.

4.8 Member States should, to the extent possible, regulate and monitor recruiters and employers to ensure that the services performed in connection with the recruitment and placement of migrant health personnel are rendered free of charge to health personnel.

4.9 All migrant health personnel should be offered appropriate induction and orientation programmes that enable them to operate safely and effectively within the health system of the destination country.

Article 5 – Mutuality of benefits

5.1 In accordance with the principle of mutuality of benefits, both source and destination countries should derive benefits from international recruitment of health personnel.

5.2 Member States are urged to enter into bilateral and multilateral arrangements that comply with this code to promote international cooperation and coordination on migrant health personnel recruitment processes. Such arrangements should maximize the benefits and mitigate the potential negative impact of international recruitment of health personnel through the adoption of appropriate measures. Such measures may include the provision of targeted technical and developmental assistance, support for health personnel retention, support for training in source countries that is appropriate for the disease profile of such countries, twinning of health facilities, support for capacity building in the development of appropriate regulatory frameworks, access to specialized training, technology and skills transfers, and the support of return migration, whether temporary or permanent.

5.3 Member States should recognize the value both to their health systems and to health personnel themselves of professional exchanges between countries and of opportunities to work and train abroad. Member States in both source and destination countries should encourage and support health personnel to utilize work experience gained abroad for the benefit of their home country.

Article 6 – National health workforce sustainability

6.1 As the health workforce is central to sustainable health systems, Member States should take effective measures to educate, retain and sustain a health workforce that is appropriate for the specific conditions of each country, including areas of greatest need, and is built upon an evidence-based health workforce plan.

6.2 Member States should recognize that improving the social and economic status of health personnel, their living and working conditions, their opportunities for employment and their career prospects is an important means of overcoming existing shortages and improving retention of a skilled health workforce. Member States should adopt a multisectoral approach to addressing these issues in national development programmes.

Article 7 – Data gathering and research

7.1 Member States should recognize that the formulation of effective policies on the health workforce requires a sound evidence base.

7.2 Member States should establish or strengthen, as appropriate, programmes for national data gathering on health personnel migration and its impact on health systems. Member States should collect and analyse data that are required to support effective health workforce human resource policies and planning.

7.3 Member States should establish or strengthen, as appropriate, national research programmes in the field of health personnel migration and coordinate such research programmes through partnerships at the regional and international levels. To this end, Member States should ensure that appropriate research is conducted into all aspects of international recruitment of health personnel.

7.4 Member States should ensure that comparable data are generated, collected and reported pursuant to paragraphs 7.2 and 7.3 above for ongoing monitoring, analysis and policy formulation. To this end, the Secretariat should develop appropriate guidelines to support implementation of this Article.

Article 8 – Information exchange

8.1 Member States should, as appropriate and subject to national law, promote the establishment or strengthening of information exchange on international health personnel migration and health systems, nationally and internationally, through national institutions, academic and research institutions, health professional organizations, and subregional, regional and international organizations, whether governmental or nongovernmental.

8.2 In order to promote and facilitate the exchange of information that is relevant to this code, each Member State should:

- (a) progressively establish and maintain an updated database of laws and regulations related to health personnel recruitment and migration and, as appropriate, information about their implementation;
- (b) progressively establish and maintain updated data from national data gathering programmes in accordance with Article 7.2; and
- (c) provide data collected pursuant to paragraphs (a) and (b) above to the WHO Secretariat on a biennial basis.

8.3 For purposes of international communication, each Member State should designate a national authority responsible for the exchange of information regarding health personnel migration and the code. The designated national authority should be authorized to communicate directly or, as provided by national law or regulation, with designated national authorities of other Member States and with the WHO Secretariat and other regional and international organizations concerned, and to submit reports and other information to the WHO Secretariat pursuant to paragraph 8.2(c) above and Article 10.1.

8.4 A register of designated national authorities pursuant to paragraph 8.3 above shall be established, maintained and published by WHO.

Article 9 – Implementation of the code

9.1 The code should be published and implemented by Member States in collaboration with health personnel, recruiters, employers, health professional organizations, subregional, regional, and international organizations, whether governmental or nongovernmental, and other interested stakeholders.

9.2 Member States should establish and maintain an effective legal and administrative framework at the local and national level, as appropriate, to give effect to the code.

9.3 Member States should ensure that representatives of health-professional organizations, recruiters, employers, nongovernmental organizations and other stakeholders are consulted in decision-making processes and involved in other activities related to the international recruitment of health personnel.

9.4 All stakeholders should understand their shared responsibilities to work individually and collectively to ensure that the objectives of this code are achieved. All stakeholders should observe this code, irrespective of the capacity of others to observe the code. Recruiters and employers should cooperate fully in the observance of the code and promote the principles expressed by the code, irrespective of a Member State's ability to implement the code.

9.5 Member States should, to the extent possible, maintain a record, updated at regular intervals, of all recruiters authorized by competent authorities to operate within their jurisdiction.

9.6 Member States should, to the extent possible, monitor and regulate public and private recruiters and employers to promote adherence with this code.

Article 10 – Monitoring and institutional arrangements

10.1 Member States should periodically report, as appropriate, to the WHO Secretariat on measures taken, results achieved and difficulties encountered in implementing this code. The initial report should be made within two years after the adoption of this code by the Health Assembly and the periodicity of reporting thereafter should be decided by the Health Assembly. The purpose of the monitoring process is to identify challenges and successes in implementing the code and to assist countries in building capacity to implement the code.

10.2 The Director-General shall keep under review the implementation of this code, on the basis of periodic reports received from designated national authorities, pursuant to Article 8.3, and other competent sources and report periodically to the Health Assembly [at a frequency to be decided by that body] on the effectiveness of the code in achieving its stated objectives and suggestions for its improvement.

10.3 WHO shall:

(a) coordinate the information exchange system and the network of designated national authorities specified in Article 8;

(b) develop guidelines and make recommendations on practices and procedures and such joint programmes and measures as specified by the code or as may be required to make the code effective; and

(c) maintain liaison with the United Nations, the International Labour Organization, the International Organization for Migration, and other competent regional and international organizations as well as concerned nongovernmental organizations to support implementation of the code.

10.4 Nongovernmental organizations and other interested stakeholders are invited to report their observations on activities related to the implementation of the code to the WHO Secretariat.

10.5 The Health Assembly should periodically review the relevance and effectiveness of the code.

Article 11 – Partnerships, technical collaboration and financial support

11.1 Member States and other stakeholders should collaborate directly or through competent international bodies to strengthen their capacity to implement the objectives of the code, taking into account the needs of developing countries and countries with economies in transition.

11.2 International donor agencies and financial institutions should increase their technical and financial support to assist the implementation of this code and support health system strengthening in developing countries and countries with economies in transition that are experiencing health workforce shortages and/or have limited capacity to implement the objectives of this code.

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