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International recruitment of health personnel: a draft code of practice

Summary of the public hearing

1. The Secretariat held a global, web-based public hearing between 1 September and 3 October 2008. The aim was to obtain inputs on the first draft of the WHO code of practice from as wide a group of stakeholders as possible. Member States, national institutions, health professional organizations, nongovernmental organizations, academic institutions, international organizations and other stakeholders submitted more than 90 contributions to the public hearings.

2. Contributors that provided submissions made several general comments on the draft code as a whole and gave their views on specific sections of the instrument. This document summarizes the main issues and suggestions that appeared in those submissions.[1]

GENERAL COMMENTS

3. Many contributions expressed the view that the document should, in general, provide greater emphasis on the need for national action and multilateral cooperation to determine the impact of health-personnel recruitment on countries experiencing a health workforce crisis, particularly developing States. Towards this end, the contributors suggested several key areas for revision of the text. Several contributors also commented on the balance struck between the rights of health workers, destination States and source States in the draft code. It was suggested that the document paid insufficient attention to the needs of health systems of source States in this balance.

4. A number of contributors mentioned the non-binding nature of the instrument. Some expressed the view that the draft code should consistently use language that reflects its voluntary nature and avoid language that may suggest that the provisions are mandatory. It was noted that the document was inconsistent in this regard. However, other comments expressed the view that the word "voluntary" should be deleted from the draft code.

5. Some comments expressed the view that the data gathering, information exchange, and monitoring and institutional mechanisms recommended under Articles 7, 8 and 10 are important components of the draft code that may strengthen health systems. Some comments provided specific suggestions for improving and expanding these mechanisms. However, one comment recommended that Articles 8.2, 10.1 and 10.2 should be deleted. Another recommended that, as the code would be a

[1] Full-length submissions and summaries are available on the WHO web site.

non-binding instrument, the document should be careful to avoid the use of the word "implementation" in the legal sense.

Article 1 – Objectives

6. Many comments expressed the view that the draft code should emphasize the need for immediate collaborative action to address the negative impact of international health personnel recruitment on the health systems of States facing a health workforce crisis and that this objective be included in Article 1. Some also emphasized that the draft code should be modified to include as an objective that all countries should work towards national health workforce self-sufficiency.

Article 2 – Nature and scope

7. Some comments expressed the view that the draft code should include an expanded section on definitions. In addition to a definition for health personnel, it was suggested that there should be definitions for developing countries, recruitment and recruiters. A number of comments expressed the view that Article 2.4 did not strike an appropriate balance between the interests of source States, destination States and health workers.

Article 3 – Guiding principles

8. Some comments expressed the view that Article 3 should include a new principle recommending that destination States should provide financial and technical support to compensate source States for the education and training of health personnel who are recruited to destination States. This proposed principle is also reflected in comments to Article 11. In addition, the view was expressed that the code should include a new principle of solidarity. Other comments recommended that national health workforce self-sufficiency could be included as a principle in Article 3.

9. Some comments expressed the view that Article 3.5 should provide further detail on scope of the recommendation on the principle of equality of treatment of migrant health personnel, including, but not limited to, the same legal rights and responsibilities as the domestically trained health workforce with respect to freedom of association, occupational health and safety, hours of work, weekly rest, paid annual leave and maternity protection.

Article 4 – Recruitment practices and treatment of health personnel

10. Some comments expressed the view that Article 4 should be revised to provide greater emphasis on the legal responsibilities of health personnel to source and destination countries, such as obligations to protect patient safety, comply with laws and contractual obligations, and protect the public health interest.

11. A number of comments expressed the view that Article 4 should include a new provision recommending that States prohibit all active recruitment of health personnel from countries experiencing a health workforce crisis. Some other comments suggested that the code should recommend that Member States prohibit active recruitment except in cases where bilateral, regional or multilateral agreements exist between source and destination States.

Article 5 – Mutuality of benefits

12. Some comments suggested that providing concrete recommendations on how source and destination States can work together to advance mutual benefits could strengthen Article 5. For example, it was recommended that Article 5 should include a new provision recommending that regional and international organizations should, upon the request of Member States and within their areas of mandate and expertise, facilitate the development and implementation of bilateral agreements. However, one comment expressed the view that the draft text placed too much emphasis on the development of multiple bilateral agreements and alternatives should be considered.

Article 6 – National health workforce sustainability

13. A number of comments expressed the view that the document should be revised to place greater emphasis on national health workforce self-sufficiency. For example, one suggested that the draft code should include recommendations that Member States should establish comprehensive national strategies to promote self-sufficiency of the health workforce, including the employment of existing immigrants. For the latter, opportunities for additional education and training, including for language, are also recommended in order to facilitate their employment.

Article 7 – Data gathering

14. A number of comments expressed the view that the data gathering and information exchange mechanisms recommended under Articles 7 and 8 are important components of the draft code and recommended ways to strengthen these provisions. One comment suggested that lead responsibility for research under Article 7.3 of the code should rest with WHO and should be carefully coordinated with existing research programmes to avoid duplication and overlap. In addition, some comments expressed the view that developing countries would need support to build their capacity to meet the data-gathering and information-exchange recommendations under Articles 7 and 8.

Article 8 – Information exchange

15. Some comments suggested that the voluntary information exchange recommended under Article 8 should be expanded to include such information as the national regulatory requirements for health personnel, the contractual obligations of recruited health personnel to their source States and efforts undertaken by Member States to establish effective health workforce planning. The view was expressed that the scope of data exchange needed greater precision in the text. However, other comments suggested that the development of WHO guidelines under Article 10 could provide a minimum data set for information exchange under Article 8. In addition, the view was expressed that WHO should publish a compilation of data collected under Article 8.

Article 9 – Implementation

16. A number of comments recommended that the draft code should include a new provision recommending that Member States should, to the extent possible, monitor and regulate public and private recruiters and employers to promote adherence with the code. It was also suggested that Member States should strive to use only those recruiting agencies that abide by the provisions of the code.

17. Some comments reflected the view that the draft code should make recommendations addressing the role of accreditation and regulatory agencies in the implementation of the instrument. Some

suggested that the draft code should incorporate a new provision recommending the licensing of health personnel. Others expressed the view that a new provision recommending that Member States require accreditation of recruiters and employers should be included. It was also suggested that the draft code should include a provision recommending that Member States consider revoking accreditation of recruiters and employers that fail to comply with the code.

Article 10 – Monitoring and institutional arrangements

18. A number of comments expressed the view that the monitoring arrangements recommended by Article 10 were an important component of the draft code. Several comments called for strengthening the mechanisms by, inter alia, recommending biannual reporting instead of periodic reporting in Article 10.2. Other comments expressed the view that the development of WHO guidelines and recommendations under this Article could make an important contribution to implementing the code. For example, it was suggested that the Secretariat could gather and share best practices on partnerships recommended by Article 11 or minimum data sets recommended for information exchange under Article 8. One comment recommended that Articles 10.1 and 10.2 be deleted.

Article 11 – Partnerships, technical collaboration and financial support

19. A number of comments expressed the view that Article 11 should be strengthened to include new provisions recommending that Member States should provide predictable technical and financial assistance to source States to compensate for the education and training of recruited health personnel or to assist in improving public service remuneration of health personnel.

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