EUROPE

Towards the development of a code of practice on the international recruitment of health personnel

Satellite session 1

Migration of health personnel: Ethical considerations

Wednesday, 25 June 2008, 17:30–18:30

Venue: Plenary Hall

I. Background[1]

At global level

Fifty-seven countries in the world are experiencing a health workforce crisis. This is most severe in sub-Saharan Africa, where shortages of trained health workers are weakening already fragile health systems and presenting a serious impediment to the achievement of the Millennium Development Goals.

In response, in 2004 and 2005, the Member States of the World Health Organization requested, in World Health Assembly resolutions 57.19 and 58.17, that the Director-General, in consultation with Member States and all relevant partners, lead the development and implementation of a code of practice on the international recruitment of health personnel.

Progress reports on the two resolutions were presented by the Secretariat to the Fifty-eighth and Fifty-ninth World Health Assemblies (documents A58/23 and A 59/18), and to the WHO Executive Board in January 2008 (document EB 122/16Rev1).

The urgent need to address the health workforce crisis is unanimously recognized and was reiterated in the Kampala Declaration of March 2008, in which stakeholders and partners called on the World Health Organization to accelerate negotiations towards the code of practice (*Health Workers for All and All for Health Workers: The Kampala Declaration and Agenda for Global Action*).

In response to this need, the Health Worker Migration Policy Initiative (HWMI) was launched in 2007, with Mary Robinson (President, Realizing Rights: the Ethical Globalization Initiative) and Dr Francis Omaswa (Executive Director, Global Health Workforce Alliance) as its co-chairs. HWMI is a two-tiered group, with a high-level policy and advisory council and a technical working group; it is dedicated to monitoring health worker flows and issuing recommendations to WHO for the code of practice. A first draft outline for a global code of practice was presented by HWMI at the Kampala Forum in March 2008.

At the European regional level

At its fifty-seventh session in September 2007, the WHO Regional Committee for Europe adopted resolution EUR/RC57/R1 on health workforce policies in the European Region. The Regional Committee highlighted the consensus that exists on the prevailing crisis in human resources for health, the responsibility of Member States to develop their national health workforce plans and strategies, and the need for collective efforts to tackle international migration. The resolution gave high priority to the process of developing policy options for managing migration, and requested the Regional Director to facilitate the development of a framework for ethical international recruitment of health personnel.

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[1] Based on recent draft documents of WHO Headquarters' Department of Human Resources for Health: *Towards the development of a Code of Practice on the International Recruitment of Health Personnel, 2008* and *Outline for a Code of Practice on the International Recruitment of Health Personnel, 2008*. The second document was produced through a multi-stakeholder process of the Global Health Workforce Alliance called the Health Workforce Migration Policy Initiative (HWMPI). WHO is part of the HWMPI.

Following up on the resolution, the WHO Regional Office for Europe initiated a dialogue between "source" and "destination" countries and conducted a round-table discussion at the Kampala Forum to explore the latest ideas and evidence on policies related to health worker migration.[2]

A range of codes of practice, bilateral agreements and memoranda of understanding on health worker migration have been developed in recent years in European countries in response to this trend. Currently, the Regional Office is conducting a desk review of various policy approaches to international recruitment of health workers involving Member States in the WHO European Region, including such major policy initiatives in the area as: (i) the Department of Health (England) code of practice for the international recruitment of healthcare workers (2001/2004); (ii) the Commonwealth Secretariat code of practice for the international recruitment of health workers (2003); (iii) the Scottish Executive code of practice for the international recruitment of health professionals in Scotland (2006); and (iv) the Norwegian Government's framework on global solidarity (2007). The objective of the review is to assess the various policy instruments in terms of the lessons that can be learned to support the development of a global code of practice. The outcomes of the reviews add to the evidence by providing an up-to-date assessment and linking explicitly to the draft code of practice.[3]

The WHO Regional Office for Europe takes an active role in the work of the HWMI, in both the Global Policy Advisory Council (GPAC) and the Technical Working Group (TWG). The WHO Regional Director for Europe, Dr Marc Danzon, is a member of the GPAC. The mission of the GPAC is to review, discuss and promote innovative global, regional and national policy action to support the management of health worker migration globally.

The members of the regional expert working group on health worker migration participate in the TWG and provide technical support for and contribute to the process of creating an outline and drafting the code.

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[2] *Recruitment and retention of health workers: Policy options towards global solidarity.* Report of WHO round table, Kampala, Uganda, 6 March 2008. Copenhagen, WHO Regional Office for Europe, 2008.
[3] *Review of European Countries' Policy Approaches to International Recruitment of Health Workers: report for WHO.* April 2008.

II. Purpose and process of developing a code of practice

What is the purpose of the code of practice on international recruitment of health personnel?

The code of practice is a non-legally-binding document that will provide principles and guidelines to inform action, and catalyse and direct international cooperation regarding international recruitment of health personnel. It will also provide a basis for the development of further regional and bilateral codes and agreements.

What is the process for developing the code of practice?

The development and drafting of the code of practice must be an inclusive process, with the full involvement of Member States and stakeholders. A common sense of "ownership" of the code is essential to ensure that its objectives will be implemented in the countries.

Creating a framework/outline for the code

WHO and partner organizations first established a multistakeholder process for developing a framework to outline the code's key elements. Input for the definition of the key elements came from the Health Worker Migration Global Policy Advisory Council and Technical Working Group, and wider consultations with partners and civil society at the first Global Forum on Human Resources for Health in Kampala, Uganda in March 2008. A three-week global virtual dialogue on health worker migration was also held in March 2008. The dialogue linked 749 health professionals, policy-makers and stakeholders from 102 countries, allowing them to share their knowledge, experience and personal insights on health worker migration to inform and improve policy, practice and advocacy. Those global discussions included the following key points:

- political will is considered essential for the adoption of a code of practice;

- the process of developing the code can be a powerful way to educate and inform political leaders and this, in turn, can encourage and strengthen political will;

- as a non-legally-binding document, the code may encounter obstacles to implementation;

- health professional associations (e.g. of nurses, physicians, or pharmacists) are instrumental in driving adherence to the code;

- recruitment companies were frequently mentioned as a topic to be addressed in the code;

- several references were made to the desirability of data collection for monitoring and evaluation of codes generally.

The drafting process

The next stage is a multistakeholder drafting process to articulate the code's content. This will involve extensive country consultations and collaborative action from Member States, as well as active involvement of global, regional and country-level stakeholders.

The content of the code will build on a number of regional and bilateral agreements and memoranda of understanding on health worker migration signed recently by Member States. It will also build on the collaborative work of the Health Worker Migration Policy Initiative, the multistakeholder consultations at the Global Forum on Human Resources for Health in Kampala and the global virtual dialogue mentioned above.

The process of drafting the code will be led by the WHO Secretariat using the mechanism of the World Health Assembly for global policy-making.

The drafting committee will include representatives from the Member States, legal consultants and health worker migration experts. The WHO Secretariat will provide the necessary technical and administrative support.

Proposed schedule for the work of the drafting committee:

16–23 July 2008   Drafting session. Geneva, Switzerland

22–24 October 2008   Drafting session. Geneva, Switzerland (input from regional consultations will be integrated in the revised draft). Document will be presented and discussed at the session of the Executive Board (EB) in January 2009.

16–20 February 2009   Drafting session. Geneva, Switzerland (input from the EB and country stakeholders will be integrated).

Process to develop a code of practice on the international recruitment of health personnel
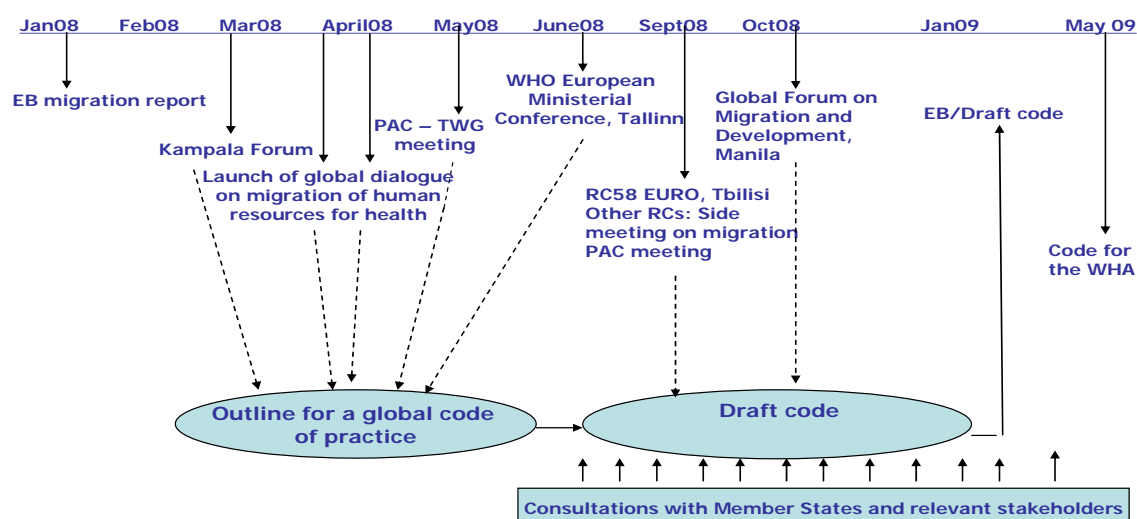
III. Outline for a code of practice on the international recruitment of health personnel (draft)

This framework is intended to serve as a guide, outlining the recommended broad principles and key elements for the development of a code of practice on the international recruitment of health personnel.

The following is a revised version of the framework that includes, in italics, the comments and feedback received from the Kampala Forum, the Global Dialogue on Migration and members of the Health Worker Migration Policy Initiative.

1) Preamble and context

This section provides both the background for the development of a code of practice and information about the nature of such a code.

- There is an international health workforce crisis, illustrated by the workforce shortages in 57 lower-income countries.

- Substantial health workforce needs are forecast in higher-income countries.

- Health worker migration, especially from lower-income countries, has been increasing worldwide over the past decades.

- *It is recognized that, while migration of health personnel can bring mutual benefits, such as professional development and knowledge exchanges to both source and destination countries, it can also raise some challenges, especially for countries experiencing critical shortages and fragile health systems.*

- *Although difficult, it is important to reconcile freedom of movement (article 13 of the Universal Declaration of Human Rights) with the right to a standard of living adequate for the health and well-being of a person and his or her family, including medical care (Article 25 of the same Declaration, and the Preamble of the WHO Constitution.)*

- *There must be recognition of the limitations of national/regional codes of practices, and hence, of the importance of a comprehensive approach through coordinated global action and of the role of a global code of practice.*

- *It is important to raise awareness of health workforce migration.*

- In 2004, the World Health Assembly adopted resolution WHA57.19 calling, among other things, for the development of a global code of practice on the international recruitment of health personnel.

2) Purpose of the code of practice

- The code of practice *provides principles* and sets out guidelines *for promoting* the ethical international recruitment of health workers.

- The aim of the code is to promote high standards of practice in the international recruitment and employment of skilled health workers, *based on the principle that such an instrument should be* beneficial to the workers in both source and destination countries, *by*:

  – *protecting individual migrant workers from unscrupulous recruiters and employers;*

  – *ensuring that individuals are properly prepared and supported for the job they are recruited for (which may mean effective supervision at work, new training and adequate wages and conditions, etc.);*

  – *ensuring that flows of migrant health workers do not unduly disrupt the health services of source countries and, in particular, reducing the negative impact of migrant flows on vulnerable health care systems in developing countries.*

- The objective is to *facilitate* an appropriate, ethical and transparent balance between the rights, expectations and obligations of source countries, destination countries, institutions, recruiting agencies and migrant health workers.

- The code *will* also serve as a tool to catalyse international discussions on issues related to international migration of health personnel. *It will provide a basis for developing regional codes and bilateral agreements*.

3) Status

The code is not a legally-binding document under international law but it is hoped that governments and *the private sector* will subscribe to its application and will use it.

4) Scope

The code applies to the international recruitment and employment of workers across all health *occupations* in the public and private health sectors and *covers* permanent, locum and temporary employment.

5) General principles

The main *ethical and fair principles, and political, practical and technical principles* of the code can be summarized as follows:

Ethical and fair principles

- The right "to leave any country, including [one's] own" (Article 13 of the Universal Declaration of Human Rights).

- Respect of the rights of workers (as set out in the relevant International Labour Organization and United Nations conventions).

- Protection for migrant workers by relevant laws in destination countries.

- Transparency, fairness and mutuality of benefits (to be defined in the glossary).

- The right to health in both source and destination countries (the WHO Constitution states that: "The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition").

- Active recruitment should not be targeted at developing countries suffering from chronic shortages of health workers.

Political, practical and technical principles

- Awareness raising on issues and contexts related to health worker migration.

- Respect for state sovereignty.

- On-going multisectoral dialogue.

- Regular monitoring and *evaluation* of the code.

- Provision of guidance for public and private sector employers and for recruiting agencies.

- Support for bilateral, *regional* and multilateral memoranda of understanding in the context of the code that offer benefits to all participating countries and individuals.

6) *Key elements of the code of practice*

Ethical and fair recruitment

- Registration mechanisms for recruitment agencies.

- Commitment of recruitment agencies to respect the principles of the global code of practice.

- Adequate pre-departure information (job description, remuneration, benefits, etc.) about the post available to all prospective international health worker migrants.

- Recruitment of health workers from *developing* countries to be done with due consideration of health needs and the health workforce situation.

- Recruitment of health workers with an outstanding obligation to their home country should be avoided; however, it is the responsibility of the recruits to disclose such information, right from the outset of indicating their interest in working outside their country of origin.

Partnerships and mutuality of benefits

- Targeted technical and development assistance from destination countries to source countries.

- Support for temporary and permanent return migration to source countries.

- Clear induction procedures in place, including information on local regulatory bodies, labour organizations, equitable provision of professional programmes/training, *and equal access to career development pathways.*

*Safeguarding the health workforce (*instead of "HRH retention policies" and "self-sufficiency"*)*

- Support additional strategies for retaining trained health personnel.

- Encourage both source and destination countries to attain health workforce self-sufficiency.

Monitoring of international health worker migration flows

- Strengthen mechanisms and capacities for monitoring and *evaluating* health worker migration flows in source and destination countries.

Accession to and withdrawal from the code

- Accession and withdrawal in accordance with the established process.

Appendices/companion documents

- Glossary with definitions.

- *A document providing further details on acceptable practice related to equality, transparency, fairness and mutuality of benefits.*

- *A document addressing the operational aspects of implementation of the code, particularly for indicators for monitoring and evaluation.*

- *Guidance for bilateral, regional and multilateral agreements.*

- *Links to useful references and resources, such as existing codes, etc.*

- Frequently asked questions.