Royal College

RCN Policy Unit

Policy Briefing 11/2007

The Regulation of Healthcare Support Workers

September 2007

Royal College of Nursing
Policy Unit – Room 209
20 Cavendish Square
London
W1G 0RN

Telephone 020 7647 3754
Fax 020 7647 3498
Email policycontacts@rcn.org.uk

Executive Summary

There has been an unprecedented increase in the number of health care support workers (HCWSs) in the health care workforce over recent years, numbers having more than doubled since 1997 in England1. However policy makers have paid relatively little attention to how HCSWs should or could contribute to health care and how these roles impact and connect with a range of stakeholders, including patients. Consequently there has been wide spread variation in titles, roles and functions, education and training (or lack of), and associated competencies across the HCSW workforce.

Although there have been calls to regulate the HCSW workforce as far back as 1999, no decision or firm proposal has yet been taken and this workforce remains unregulated. There are a number of practical complexities that surround any implementation of HCSW regulation. These include:

- Identification of HCSWs since they are a mobile workforce, have a range of different employers within and outside the NHS, and unlike health professionals do not have a mandatory and accredited qualification to mark entry to regulation

- The cost of HCSW regulation – how it is funded and by whom

However HCSWs who work in nursing teams alongside registered nurses are fully engaged in the delivery of essential nursing care which brings them into intimate contact with vulnerable patients. This raises significant issues for patient safety and public protection.

In addition there are a range of policy initiatives to increase the numbers of HCSWs at the assistant practitioner level which lies at Agenda for Change band 4. This role is deemed able to independently undertake protocol based care under the supervision of a registered practitioner, and to have attained or be studying for a diploma in higher education[2]. It also sits immediately below the threshold for registered practitioners and will have a supervisory role for HCSWs at bands 3, 2 and 1. The assistant practitioner role is an emergent part of the HCSW workforce and will gain significant expertise and qualification with increased responsibility for delivering patient care yet without to date any form of regulation. The patient safety aspect of this needs urgent policy attention.

[1] Buchan, J. and Seecombe, I. (2006) *From Boom to Bust? The UK Nursing Labour Market Review 2005 to 2006* RCN: London

[2] NHS Knowledge and Skills Framework

The RCN has a clear view that all HCSWs should be regulated in the interests of public protection and patient safety. Further we believe that HCSWs who deliver direct clinical care alongside registered nurses in the nursing team should be regulated by the nursing regulatory body, the NMC[3]. However we acknowledge the complexities that surround implementation of HCSW regulation. Therefore the RCN believes a pragmatic first step forwards in an evolutionary process towards HCSW regulation is the regulation of assistant practitioners in nursing by the NMC. The RCN recommends:

1. The RCN, NMC and other key stakeholders agree a UK - wide shared understanding about the title assistant practitioner and its related role in nursing as a matter of urgency.

2. The RCN, NMC and other key stakeholders map the current and predicted numbers of assistant practitioners in nursing

3. The NMC to establish a register for assistant practitioners in nursing. This would initially need to be a voluntary register until primary legislation could be enacted to establish a statutory register.

4. The RCN, NMC and other key stakeholders agree the detail for implementation of assistant practitioner regulation, including funding arrangements.

[3] RCN (2006) Unpublished

Introduction

There has been an unprecedented increase in the number of health care support workers (HCSWs) in the health care workforce over recent years, numbers having more than doubled since 1997 in England[4]. The impetus behind this increased growth has been attributed to three main factors:

- Changes in the education process for student nurses (Project 2000)
- Increased government investment in the NHS in order to fulfil a policy commitment of greater NHS capacity and reduced waiting times
- Problems in recruitment and retention of registered health professionals

However policy makers have paid relatively little attention to how HCSWs should or could contribute to health care and how these roles impact and connect with a range of stakeholders, including patients. As Kessler et al point out, a range of different policy rationales have been offered for support worker roles:

- "As a *relief* to removing non – core activities from professionals
- As an *apprentice* providing a stepping – stone into qualified work
- As a *substitute* taking on core professional tasks, and
- As a *co – producer* providing complementary and distinctive capabilities"[5]

Consequently there has been wide spread variation in titles, roles and functions, education and training (or lack of), and associated competencies across the HCSW workforce. That said, there *has* been consistency in calls for the regulation of this workforce, predominantly on the grounds of patient safety, from as far back as 1999. Despite this no decision has been taken regarding if, for whom or how such regulation should proceed, with the recent White Paper on professional regulation stating this is still a matter for government consideration[6].

This policy briefing will consider the rationale for HCSW regulation, the options for implementation of this, the RCN view and recommendations.

[4]Buchan, J. and Seecombe, I *Op Cit*

[5] Kessler, I. et al (2006) *Strategic Approaches to Support Workers in the NHS: A Shared Interest* Picker Institute Europe and Said Business School

[6] Department of Health (2007) *Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century* The Stationary Office : London


Royal College
of Nursing

- Acknowledged team work as the means to deliver nursing care now and in the future

- Stated that registered nurses were responsible for standards of nursing care regardless of whether it was delivered by a registered nurse or HCSW[12]

The key point in the above for regulation is that the work of HCSWs brings them into intimate contact with patients who are vulnerable and thus raises significant issues for patient safety and public protection.

The Purpose of Regulation

Health care regulation has several different functions and structures that encompass individuals, care settings, organisations, and employment, within which the professional regulation of individuals is one dimension. The functions of regulation (which are not mutually exclusive) can be categorised as follows:

- Professionally – led regulation

- Public protection

- Education

- Safety of individuals

- Competence

- Performance management

- Quality assurance

- Setting standards[13]

The original motivation to establish professionally – led regulation in health care lay in the securement and preservation of the status of individual professions by:

- Protecting professional boundaries with a register that lists those entitled to practise

- Protecting professional title thereof

- Establishing professional standards for practice

[12] RCN (2004) *The Future Nurse: The RCN Vision Explained* RCN : London
[13] RCN (2004) *The Future Nurse: The Future for Professional Regulation* RCN : London

- Controlling admission and removal from the professional register[14]

As such professionally – led regulation also encompassed public protection, education, competence and standard setting. But more recently several high profile cases and Inquiries in which health professionals have harmed those in their care – for example general practitioner Harold Shipman, nurse Beverly Allitt, and medical consultants Neale, Ayling, Haslam and Kerr - have led to greater emphasis on the public protection role of the current eight regulatory bodies for health professions[15]. And also led directly to proposals to reform professional regulation and strengthen the public protection element with the publication of the White Paper on professional regulation[16].

It is therefore even more critical that a decision and firm proposal is made regarding the regulation of HCSWs given that they too have the potential for harm and equally pose significant issues for patient safety and public protection.

Policy and Regulation

In 2004 the Department of Health in England carried out a public

employed in the NHS regardless of specific employment role[18]. The focus of this pilot is on:

- An employer held non – statutory list of HCSWs
- Standards for safe recruitment and induction
- Standards for HCSWs that relate to general public protection concepts such as confidentiality, dignity and advocacy
- A code of practice for employers

The results of this study will not be known until at least late 2007. The government meanwhile appear undecided on how, or if, to take regulation forward for this group of workers. Although they do comment on assistant practitioners in the White Paper on professional regulation.

“The Government will consider whether there is sufficient demand for the introduction of statuto

level sits immediately below the threshold for registered practitioners and will have a supervisory role for HCSWs at bands 3, 2 and 1.

The policy direction from a range of initiatives is to increase the numbers of HCSWs in the assistant practitioner category (although again the degree to which there is UK - wide shared understanding about the use of this title and its related role is more questionable). Several schemes have begun (in England) which will educate HCSWs who are currently in practice to foundation degree level with the aim of supporting them to become

Yet despite publication of guidance on this issue including that by the RCN[27] confusion still remains.

It is suggested that some of this confusion stems from lack of a common code of professional conduct. Registered nurses have – and know they have – a binding professional code of conduct from the Nursing and Midwifery Council (NMC) whereas HCSWs have no such code (although they will have certain standards set out in their employment contract, for example for patient confidentiality). Therefore even though HCSWs and registered nurses will be working together in a nursing team with the same patients, in the same setting and undertake some common patient care activities, because they do not have a common code of conduct they are unsure about their expectations for each other at the outset, and subsequently how they should relate and work together[28].

A shared common code of conduct for regi

confidentiality. There are some advantages to this model in that, in theory, employers can identify individual HCSWs and hold relevant information on them.

Identification of HCSWs is problematic because:

- Unlike health professionals who become identifiable and regulated at the point of a mandatory and accredited educational qualification, there is no such marker or comparator for HCSWs who may, or may not, posses vocational qualifications[30]

- They are a mobile workforce and move in and out of HCSW employment and also between different health care settings, for example from care homes to the NHS. This is one of the reasons exact numbers of HCSWs are not known

- HCSWs are known by a range of various titles.

However, because HCSWs have multiple employers and can be employed in the NHS, social care or independent sectors, it will be difficult to establish an employer – led model that can cover *all* HCSW employers. Multiplicity of employers also means that even if it were possible to collate data on individual HCSWs from a range of employers in one list, this would necessarily need to hold fairly minimal information, for example listing HCSWs for whom the appropriate police and reference checks had been made. However a single employer held list, as for example in the Scottish pilot study referred to previously which relates only to the NHS, cannot prevent HCSWs whose NHS employment has been terminated because of misconduct being employed as an HCSW in a different sector.

Northern Ireland may have some advantage in this in that it has unitary organisations which carry out both health and social care functions. However the model for HCSW regulation in Northern Ireland is not employer – led but professionally – led in that there is provision for any person engaged in the delivery of personal care to be regulated by the Northern Ireland Social Care Council as social care workers. Consequently some HCSWs in Northern Ireland will be registered by this body.

Although an employer – led model could suggest broad general standards for public protection such as confidentiality, these would be voluntary since there is no suggestion (at this stage) for any compunction on employers and HCSWs to adhere to these. There may well be variation in practice standards between employers that could


Royal College
of Nursing

of HCSWs currently in employment and practice. However it will increasingly be possible to identify a group *within* the HCSW category in terms of skills and qualification at the level of the assistant practitioner.

The advantages for regulating HCSWs at the level of assistant practitioner are:

- An identifiable level of entry to regulation, either at qualification or studying for same
- A common code of conduct for HCSWs at this level who work as assistants to health professionals
- A means of ensuring p

pragmatic first step forwards in an evolutionary process towards HCSW regulation is the regulation of assistant practitioners in nursing by the NMC.

Timing is a critical factor because there are real opportunities to influence the future of nursing given the White Paper proposals on professional regulation and publication of *Modernising Nursing Careers*, both of which will cement the development of the nursing profession and nursing practice over the next twenty years at least. The time is right for a concerted lobby to influence the direction of travel of the nursing profession and ensure public protection and patient safety.

RCN Recommendations: The Regulation of Assistant Practitioner Roles in Nursing

The RCN believes that HCSWs should be regulated in the interests of public protection and that regulation of assistant practitioners in nursing by the NMC is a first pragmatic step in this direction.

We therefore recommend that:

1. The RCN, NMC and other key stakeholders agree a UK - wide shared understanding about the title assistant practitioner and its related role in nursing as a matter of urgency.

2. The RCN, NMC and other key stakeholders map the current and predicted numbers of assistant practitioners in nursing

3. The NMC to establish a register for assistant practitioners in nursing. This would initially need to be a voluntary register until primary legislation could be enacted to establish a statutory register.

4. The RCN, NMC and other key stakeholders agree the detail for implementation of assistant practitioner regulation, including funding arrangements.