Submission to Law Commission

Regulation of Health Professionals

Introduction

1.1 Association for Nutrition (AfN) is the voluntary regulator for qualified nutritionists. We protect and benefit the public by promoting nutrition and public health and championing high standards of practice in the nutrition profession. We maintain a competency-based register of individuals who are qualified and competent in nutritional science and practice and agree to uphold professional and ethical standards through a code of conduct. Only individuals who meet the highest standards in evidence based science and professional practice can join and remain on the Register.

1.2 Registered Nutritionists occupy important positions, often with strategic input, in policy and service functions throughout the NHS, in private healthcare, in animal welfare, academia and the food sectors (retailing, service, manufacturing and aspects of agriculture).

1.3 The Association accredits 50 Bachelors and Masters courses in nutrition and promotes high standards of competence, skill and ethical conduct. Each year approximately 450 students qualified in the science of nutrition with a strong all round skill set and a firm understanding of and commitment to professional responsibility and accountability graduate from AfN accredited courses.

1.4 In addition, the AfN is in the final stages of a major project funded by the Department of Health under the Third Sector Investment Programme entitled Improving Capacity, Confidence and Competence in Nutrition across the Workforce, producing a blueprint for supporting the health workforce below professional level and health professionals, (G.P.’s pharmacists, school nurses, health visitors, etc.), who provide nutrition advice to individuals and populations where nutrition may not be a central part of their role, but an important element of it. A major focus of this project is exploring how to reduce nutrition-related inequalities by improving the capacity, confidence and competence of the frontline nutrition workforce.

1.5 Our strategic aim is to ensure consistent, accurate and evidence based nutrition practice across the healthcare team, from professional to frontline worker, to improve nutrition-related health outcomes for public, patients and service users. We welcome the opportunity to provide comment on the provisional proposals contained in your consultation document on the Regulation of Health Care Professionals.
Voluntary Regulators

2.1 We argue that the prime purpose of a voluntary register is to protect the public, a purpose identical to that of the main duties of the regulators listed in Appendix B. We therefore disagree with your statement in paragraph 5.33, ‘voluntary registers do not necessarily need to be a matter which is left to Government. This is on the basis that professionals will not be required to join, and the registers will be paid for on a self-funding basis. Thus voluntary registers do not extend the definition of a profession nor would they have an economic impact on the Government.’

2.2 As evidence we cite our Articles of Association, which describes the object of the AfN, ‘To promote the health of the public by the promotion and maintenance of high standards of practice among and the regulation of nutritionists.’ Our functions and duties are equal to that of a statutory register; although without the consequent protection of title or function. Registered Nutritionists are subject to a Code of Ethics and Statement of Professional Conduct equivalent to the professional and ethical obligations of a regulated health professional. Registered Nutritionists must demonstrate good character, good health and hold approved qualifications accredited by the AfN to internationally recognized standards of competence; standards of entry common across all regulated professions. The AfN is self-financing through registrant fees, as are most other regulators, however, we would argue the economic impact on Government is not through the direct funding and cost of supervising regulators, but the indirect impact of poor and unsafe advice given by unqualified or unregulated practitioners in professions without statutory protection.

2.3 Voluntary Registers often represent emerging or new areas of practice relevant to the populations changing healthcare needs. Nutrition science as a discipline was established in the 1930’s with the formation of the Nutrition Society. In the past two decades, as nutrition-related ill-health has become a major factor in preventable disease, most clearly marked by the increasing prevalence of obesity and its complications at an ever younger age, there has emerged a need to protect the public from poor nutrition practice. In 2013, with the establishment of Public Health England, and with Local Authorities exercising their new role as commissioners of local programmes to address and prevent obesity and overweight, it is critical, in our opinion, the Government has a coherent strategy for the regulation of nutrition professionals in order to ensure best use of public funds.

2.4 Whilst the UK voluntary register of nutritionists does provide assurance that suitably qualified and competent nutrition professionals are capable of delivering nutritional messages in an evidenced-based, safe and effective manner, the lack of statutory regulation, and any form of protection of title, has potential to harm. The recent ‘Which?’ report into Nutritional Therapists evidenced alarming non-evidence based practices with a focus on detoxification, optimal nutrition and use of supplements, that in many cases cannot be justified by existing scientific evidence. In the subsequent debate in the press and social media, the title ‘Nutritionist’ (highly qualified evidence-based scientists registered with the AfN) was used interchangeably with unregulated complementary ‘Nutritional Therapists,’ with much evidence of public confusion.

2.5 We would also argue that voluntary registers do extend the definition of a profession. The UK Voluntary Register of Nutritionists is the only register for qualified nutritionists in the United Kingdom. There are no other competing or overlapping voluntary or statutory registers for qualified nutritionists. Within the profession of nutrition it is necessary, although not obligatory, to be registered with the AfN. Research (2012) of job descriptions and adverts conducted by the AfN demonstrated the demand by employers for Registration as a pre-condition of employment.

Government Powers

3.1 In relation to provisional proposal 5-32, we agree the Government should be given a regulation-making power to add to or remove any of the protected titles and functions, and we suggest to the Government that a coherent strategy be put in place not to assure voluntary registers under the CHRE, but more towards a greater use of statutory regulation, with a clear path for ‘aspirant’ professions such as Nutrition to achieve protection of title, in the public interest.
Role of the CHRE

4.1 We note in item 10.23 the Law Commission supports the main aim of the CHRE to ‘promote the health, safety and well-being of patients and other members of the public.’ We do not consider this aim to be inconsistent with our view that the CHRE should model a path for voluntary registers to achieve statutory regulation. Initially, we were very interested in the potential of the CHRE’s early plans to provide an alternative to the now closed route of HPC Registration for ‘aspirant groups’ with the creation of assured voluntary registers. However, now the CHRE’s proposals are developed sufficiently to be fully scrutinized, it is our view that the costs and regulatory burden of assured voluntary registers provide little incentive and no public protection.

4.2 We agree with view of the Law Commission that regulators should not be given powers to introduce voluntary registers. Voluntary registration needs to be clearly distinguished from statutory regulation in order to avoid confusing the public and undermining the validity of either model. In order for any voluntary register to be operated with integrity, to protect and benefit the public, its procedures and method of operation must have the same level of public accountability and adherence to the Hampton Principles as those of a statutory register, supported by the fees paid by registrants. It is also our view that there is no gain to the public in terms of protection from unsafe practice through assured voluntary registers, or registers held and operated by other regulators as compared to current voluntary registers. We argue it would be better for Government to recognise the need for a clear path for voluntary registers in high-risk areas such as Nutrition to demonstrate public benefit in statutory regulation and to be helped to achieve protection of title.

Other Comments

5.1 We support the intention through regulators role in education to encourage greater multi-professional leadership in the health-care professions. There must be greater recognition of the skills of all healthcare professionals in achieving better health outcomes; not just the skills of those professionals who have statutory protection through government regulation. Registered Nutritionists, qualified and competent in nutrition science and practice, work as part of a team of healthcare professionals and have an equal commitment to improving health outcomes, often at a strategic or population level, for public, patients and service users.

5.2 Research, (AfN 2012) highlights gaps in the education, training and continuing professional development of current regulated health professions (GP’s, dentists, nurses, pharmacists, health visitors, etc) in terms of their competence to deliver basic nutrition advice. A single point of influence, whereby weaknesses identified in the skill and competence of fellow health professionals can be addressed quickly and cost effectively would be in the public and service users interest.

Ends.

For more information about the work of the AfN, or this response, please contact AfN Chief Executive, Leonie Milliner on 020 7291 8385, email l.milliner@associationfornutrition.org
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