

# DRAFT FOR DISCUSSION

## The WHO code of practice on the international recruitment of health personnel

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### *Article 1: Objectives of the code*

The objectives of this code are to:

- (a) establish and promote voluntary principles, standards and practices for the international recruitment of health personnel;
- (b) serve as an instrument of reference to help Member States to establish or to improve the legal and institutional framework required for the international recruitment of health personnel and in the formulation and implementation of appropriate measures;
- (c) 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; and
- (d) facilitate and promote international discussion and advance cooperation on matters related to the international recruitment of health personnel.

### *Article 2: Nature and scope of the code*

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, Associate Members of WHO, health workers, recruiters, employers, health professional organizations, relevant sub regional, regional and global organizations, whether governmental or non-governmental, and all persons concerned with the international recruitment of health personnel.

2.3 The code applies to all health workers, 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 workers, source countries and destination countries.

### *Article 3: Guiding principles*

3.1 Addressing present and anticipated shortages in the health workforce is of critical importance to protecting global health. International recruitment can make a legitimate contribution to the development and strengthening of a national health workforce. However, the development of voluntary international standards and the coordination of national policies on international health worker recruitment are desirable in order to maximize the benefits to and mitigate the potential negative impact on countries and to safeguard the rights of health workers.

3.2 All Member States have the sovereign right to develop and 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.

3.3 Nothing in this code should be interpreted as impinging on the rights of health workers 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 work towards establishing effective health workforce planning that will reduce their need to recruit migrant health personnel. Policies and measures to develop 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 national and international data gathering, research and information sharing are essential to achieve the objectives of this code.

3.9 All aspects of the employment and treatment of migrant health workers should be without distinction of any kind, such as to race, color, gender, religion, age, economic position, marital status, nationality, or national, ethnic or social origin.

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

#### ***Article 4: Recruitment practices***

4.1 Member States and other stakeholders should recognize that ethical international recruitment practices provide health workers 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 workers with the domestically trained health workforce by ensuring that migrant health workers are not subjected to improper or fraudulent conduct.

4.2 Member States should ensure that, subject to national laws and relevant international agreements to which they are a party, migrant health workers 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 ensure that recruiters and employers provide migrant health workers with relevant and accurate disclosure about any health worker position that they are offered.

4.4 Member States should ensure that recruiters and employers observe fair contractual practices in the employment of migrant health workers.

4.5 Migrant health workers 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 workers 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 workers 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 by recruiters and employers in connection with the recruitment and placement of migrant health workers are rendered free of charge to health workers.

4.9 All migrant health workers should be offered appropriate induction and orientation programs 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 strongly urged to enter into bilateral and multilateral agreements that comply with this code to promote international cooperation and coordination on migrant health worker recruitment processes. Such agreements should maximize the benefits and mitigate the potential negative impact of international recruitment of health workers through the adoption of appropriate measures. Such measures may include the provision of targeted technical and developmental assistance, 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 workers themselves of professional exchanges between countries and of opportunities to work abroad. Member States in both source and destination countries should encourage and support health workers 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 train, 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 multisectorial approach to addressing these issues in national development programmes.

## ***Article 7: Data gathering and research***

7.1 Member States should recognize that the development of an effective health workforce policy requires a sound evidence-base.

7.2 Member States should establish or strengthen, as appropriate, programmes for national data gathering on health worker migration and its impact on health systems. Member States should collect and analyze 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 worker migration and coordinate such research programmes through partnerships at the regional and international levels. Towards 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 Articles [7.2] and [7.3] for ongoing monitoring, analysis and policy formulation. Towards this end, WHO 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 worker migration and health systems, nationally and internationally, through national institutions, academic and research institutions, health professional organizations, and sub regional, regional and international organizations, whether governmental or non-governmental.

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) of Article [8.2] to WHO 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 worker 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 WHO and other regional and international organizations concerned, and to submit reports and other information to WHO pursuant to Articles [8.2(c)] and [10.1].

8.4 A register of designated national authorities pursuant to Article [8.3] should 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 workers, recruiters, employers, health professional organizations, sub regional, regional, and international organizations, whether governmental or non-governmental, 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, for the code.

9.3 Member States should ensure that representatives of health professional organizations, recruiters, employers, non-governmental 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.

### ***Article 10: Monitoring and institutional arrangements***

10.1 Member States should periodically report, as appropriate, to other Member States, through WHO, on measures taken, on results achieved and on difficulties encountered in implementing this code. The initial report should be made within two years after the adoption of this code by the World Health Assembly and the periodicity of reporting thereafter should be decided by WHA. 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 of WHO should keep under review the implementation of this code, on the basis of periodic reports received from designated national authorities and other competent sources and provide periodic reports to the World Health Assembly on the effectiveness of the code and suggestions for its improvement.

10.3 WHO should:

- (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 non-governmental organizations to support implementation of the code.

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

10.5 The World Health Assembly should periodically review the relevance and effectiveness of the code. The code should be considered a dynamic text that must be brought up to date as required.

### ***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, taking into consideration the needs of developing states and countries with economies in transition that are experiencing health workforce shortages and/or have limited capacity to implement the objectives of this code.