

Advanced Practice: Report to the four UK Health Departments
Unique ID 17/2008
July 2009

Executive Summary

The underlying purpose of this work has been to examine whether 'advanced practice' is a regulatory issue. We believe that much of what is often called 'advanced practice' across many of the health professions does not make additional statutory regulation necessary. Often what is termed advanced practice reflects career development within a profession and is appropriately governed by mechanisms other than additional statutory regulation. The existing provisions of the regulatory framework mean that, whatever the level or context of a professional's practice, they are always accountable to their regulatory body for their practice. All health professionals have duties from the core Code/Standards documents of their respective regulatory body only to practise where they are capable of doing so safely and effectively. The activities professionals are undertaking do not lie beyond the scope of existing regulation.

The core focus of regulatory bodies is professionals' fitness to practise. Where the nature of a profession's practice changes for some professionals to such a significant extent that their scope of practice is fundamentally different from that at initial registration – rather than more subtly evolving over time – regulatory bodies may need to consider whether action is necessary to assure the professional's fitness to practise in the context of a very different nature of practice where risk to the public is evident. Such cases would be where the standards for practising proficiently in these roles are significantly different to those assessed against at initial registration, going far beyond ordinary progression within a given scope of practice, and where the risks to patients from these roles are of a qualitatively different nature from those ordinarily associated with the practice of the profession. However, much of what is often called advanced practice appears to represent career development within a profession over time and not a fundamental break with a profession's practice such that the risks to patient safety are not adequately captured by the existing standards of proficiency and ethical duties – which set a framework in which a professional can develop and extend their practice within a profession's scope of practice.

Primary responsibility for the governance of new roles designed to meet the needs of the service provision environment should rest with employers and commissioners. Employers and commissioners should ensure there are robust organisational governance arrangements surrounding all types of practice that those they employ undertake. This provides the most effective means of controlling for risks to patient safety from an individual professional's practice and provides a proportionate local response. Additional intervention by regulatory bodies would only contribute to public protection were the arrangements in place inadequately controlling the types of practice professionals were undertaking.

1 Introduction

1.1 The Council for Healthcare Regulatory Excellence was commissioned by the Department of Health, on behalf of all four UK Health Departments, to provide advice on regulatory bodies' handling of developments in professionals' practice after initial registration. The Departments sought to ascertain:

- How individual regulatory bodies define terms such as 'advanced', 'specialist' and 'expanded' practice and whether the use and application of the different terms create opportunities for professionals to undertake activities beyond the range of practices regulated by their regulatory body.
- How the regulatory bodies use post-registration qualification standards, as well as extended scope of practice to protect the public and what commonalities there are across the regulatory bodies.
- Whether there are any additional risks to the safety of patients and other members of the public from health professionals practising in these roles.
- The role of the regulatory body in identifying and controlling risks arising from advanced practice; in particular, regarding the fitness to practise of professionals in these roles, as distinct from the role of the employer in determining a professional's fitness for employment in a particular role.
- Whether there are wider regulatory implications from professionals taking on these roles, such as register annotations or with regard to distributed models of regulation.

1.2 The statutory main objective of CHRE when exercising our functions is to promote the health, safety and well-being of patients and other members of the public. The safety of patients and other members of the public is the underpinning principle throughout this report. To inform our analysis we have met with and brought together information from regulatory bodies, professional bodies, professional officers, employers, patients and the public, and other sources from across the UK. These include the emerging outputs from the Extending Professional Regulation working group set up following the publication of the UK White Paper *Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century*.

2 Current use of terms across the health professions

2.1 Across the health professions there are significant differences in the ways in which the terms 'advanced practice' and 'specialist practice' are used. The term 'expanded practice' is rarely used for any of the health professions, although the job title 'extended scope practitioner' is sometimes used in allied health professions where a professional is in a job involving the application of additional knowledge or skills not generally associated with their primary practice linked to particular job roles.

2.2 There is general consensus that advanced practice is a level of practice along a continuum in which practitioners develop their professional, knowledge, skills and behaviours to a high level, at which they are capable of safe and effective practice in more complex situations and with greater autonomy, responsibility and clinical accountability. It can take place across different domains of practice – in specialist

fields, generalist practice and at varying degrees of specialisation. As a level of practice, what constitutes an advanced level of practice can only be understood in the context of a particular profession at a particular time. The professional roles and responsibilities that are of an advanced level are relative to the ordinary scopes of practice of members of a profession. As the ordinary scopes of practice are themselves dynamic as professions evolve over time, what constitutes an advanced level of practice in comparison to them is also subject to change.

- 2.3 The use of the term 'advanced practice' is often intertwined with Agenda for Change banding in the NHS. It is clear to us that there are different professionally-led discussions taking place amongst professional groups in different professions regarding how far beyond the ordinary scope, practice should be in order to be considered advanced for the purpose of considering whether a need for any additional regulation exists.
- 2.4 This may pose more of a question for leaders of the professions seeking consistency in policies across different professions than for regulatory bodies. Action by regulatory bodies should not be instigated on the basis of job titles being taken on in the professions they regulate or by calls for professional parity or recognition of status. Actions should be based on a thorough assessment of any risks to patient safety from a profession's practice that are otherwise inadequately controlled for. In making this assessment the key concerns for the regulatory body are the roles and responsibilities being taken on by professionals in practice, in the context of other governance arrangements, not the pressure to react to changes in professionals' job titles.
- 2.5 The use of the term 'specialist practice' also varies across different professions. In some professions 'specialist' job titles are used where a professional is specialising in a particular area of practice and develops and applies their professional knowledge and skills in this area, without necessarily denoting that they are practising at any specific level. In other professions the use of the title specialist is directly related to having gained very high level skills in a particular area of practice which go well beyond those associated with the practice of the profession in general.
- 2.6 As with the use of the term advanced practice, regulatory bodies should be more concerned with the risks to patient safety from roles and responsibilities associated with specialist practice rather than with job titles. However, the differences around nomenclature do raise issues for regulatory bodies in terms of the vocabulary they use to describe any regulatory action they might take. In some professions the term specialist is used to denote both level and focus of practice considered together; in other professions the term specialist is used to denote focus and is often considered separately from level. For example, the General Dental Council has 13 specialist lists in different branches of dentistry which control the use of particular specialist titles to those who have gained very high-level specialist knowledge and skills in one focussed area of practice. In other professions, such as nursing, there is established use of the term specialist to describe roles at all levels in which professionals have chosen to specialise in one contextual area of practice which do not relate to the level at which they practice.
- 2.7 We commissioned a piece of qualitative research into the interpretation of the terms 'specialist' and 'advanced' by patients, carers and other members of the public. The term specialist was interpreted as a focus on one area of practice, and was

associated with concentrated training in this area and a better quality of care. The status of being a specialist inspired trust and confidence, because it was viewed as implying the professional had invested time in specialising in one focussed area in which they were expected to have more skill than other professionals. The term advanced was perceived as more vague. It was assumed that it meant more qualified or experienced in some way, but people were unsure in what way and what being 'advanced' actually said about the professional. However, some people found it inspired confidence where they had personal experience of advanced staff. The term was also judged to relate significantly to career stage and progression, rather than being directly tied to progression in clinical skills in the way the term specialist was believed to do.

3 Are professionals practising outwith the range of practices regulated by their regulatory body?

- 3.1 Professionals are accountable to their regulatory body for all of their professional activities, whatever the level and context of their practice, the title they use or the type of activities they undertake. In this sense, they are not practising beyond the scope of regulation, although their regulatory body may not have any specific regulations requiring a professional demonstrate to it their competence in a particular type of practice before undertaking it. The respective core Code/Standards documents of all the regulatory bodies are unambiguous in their requirements to the effect that registrants have a duty only to practise where they are competent to do so and not engage in any activities that may put patients or other members of the public at unwarranted risk of harm. Failure to abide by these requirements may call into question a professional's fitness to practise and lead to action being taken against their registration. Similarly, if asked by their employer to deliver care which they feel could be unsafe, registrants are required to consider their actions carefully and raise concerns – regulatory bodies require that the best interests and safety of those in their care should always be the guiding principle for a professional's action.
- 3.2 In terms of protecting the public through fitness to practise proceedings, regulatory bodies which currently have annotations or entries on specialist registers lack the power to take specific action to remove these separately from a professional's ordinary registration. However, with the exception of the Pharmaceutical Society of Northern Ireland which currently lacks the necessary statutory powers, panels can impose formal conditions to limit the way professionals are allowed to practise. This means that the regulatory bodies are able to limit a professional's practice in any specialty or limit their activities so as to limit the level at which they can practise. Suspension or erasure from the main register will automatically remove any other entries a professional may have.
- 3.3 Many professionals will develop the level of their professional knowledge, skills and behaviours beyond that which they were assessed against for the purpose of initial entry to the register. This is part of professional development and career progression which does not, in itself, necessitate regulatory action. Robust and well-enforced continuing professional development requirements that are targeted so to relate to a professional's current scope of practice provides a further mechanism for regulatory control. An exception to this is the PSNI, which has continuing professional development requirements for registrants, but currently lacks statutory powers regarding the enforcement of these.

4 Current approaches of the regulatory bodies to post-registration qualifications

4.1 The current approaches of the regulatory bodies to professionals' post-registration development can be brought under three broad categories:

(1) *Controlling the use of particular specialist titles*

The General Dental Council's specialist lists include those who have gained very high-level specialist knowledge and skills in one focussed area of practice. This requires a Certificate of Completion of Specialist Training issued by the GDC following successful completion of a Royal College specialist training programme and passing of the exit examination. No functions are restricted solely to dentists on these lists. The Nursing and Midwifery Council uses part of its register to denote those who have met its standards to be called a Specialist Community Public Health Nurse (SCPHN). Although again there is no protection of function, the NMC determined that the nature of SCPHN practice was different from other nursing practice and so needed to be considered separately for regulatory purposes.

(2) *Controlling entry to particular types of practice*

The General Optical Council, the Health Professions Council, the Nursing and Midwifery Council, the Pharmaceutical Society of Northern Ireland and the Royal Pharmaceutical Society of Great Britain all annotate their registers to denote practitioners who have the qualifications entitling them to prescribe medicines. It is a legislative requirement that entry to this type of practice is limited to those with the appropriate qualification on the register. The GOC uses this method to protect entry to contact lens fitting by dispensing opticians. This method is facilitated where there is a discrete extension of practice requiring competences going beyond those required for initial registration that are tied to a particular qualification and a perceived risk.

(3) *Providing information*

The NMC also annotates its register with Specialist Practitioner Qualifications (SPQs) which serve to denote additional learning within one context of a particular field of practice. Whilst the qualification is acknowledged on the register, it does not necessarily signify that a practitioner has a higher level of competence than other nurses in the field as a result of that qualification; rather that they have completed that particular course of preparation, and there are other means by which a nurse can develop their competencies within their field of practice. There is no restriction of practice associated with SPQs or prevention of other nurses using specialist job titles in their area of practice.

4.2 The General Medical Council's specialist and GP registers have a slightly different basis to those detailed above and are tied to the entitlement for appointment to (specialist) or working in (GP) the NHS, rather than being entitlements across the profession as a whole.

4.3 In all the above approaches to post-registration qualifications the respective regulatory bodies have mechanisms in place regarding the quality assurance of the

qualification. This is crucial to the integrity of the register as an authoritative source of the information it provides on a professional, for the public, employers and others, which is an essential part of effective regulation.

5 Are there additional risks to the safety of patients and the public?

5.1 The main sources of risks to the safety of patients and other members of the public from professionals taking on new or higher level practices are the same as the sources of risks from other types of practice. These are that professionals may take on roles and responsibilities which they lack the capability to perform safely and effectively or if professionals/employers do not ensure there are appropriate safeguards in place in their practice.

5.2 The source of the risk may be the same, but because the roles and responsibilities being taken on are different – in terms of activities being undertaken and clinical accountability for them – the nature of the risk to patients and the public may vary accordingly. The crucial challenge in protecting the public is ensuring that there are adequate governance arrangements to mitigate the risks to patients associated with individual professionals practising outside their scope of competence or practising without appropriate safeguards in place.

6 Roles of regulatory bodies and employer in identifying and controlling for risks to patient safety

6.1 Ensuring that there is adequate governance around professionals' practice is a task which requires an active focus on the actual types of roles and responsibilities that professionals are taking on in practice, rather than reacting to job titles or additional qualifications obtained. Professional regulatory bodies, systems regulatory bodies, employers and professionals themselves all have crucial roles in ensuring patient safety through governing practice of the health professions.

6.2 It is the core role of the regulatory body to assure a professional's fitness to practise the profession, through setting and enforcing standards of proficiency and conduct. It is the core role of the employer to ensure that a professional has the specific set of competencies – within the range of those associated with the profession – to be suitable for a particular job. Once employed in a particular job, the employer must ensure that the employee is assigned tasks appropriate to their skills, manage the complexity of their workload and provide appropriate support for them to keep their skills up-to-date. Systems regulation assists through monitoring compliance with the necessary standards of employers in this regard. Overlapping with all this, is the responsibility of the registrant to practise in line with the requirements of the Code/Standards of their regulatory body by ensuring they do not practice where they cannot do so safely and effectively or where a lack of appropriate safeguards may put their patients at unwarranted risk of harm and by keeping their skills up-to-date relevant to their scope of practice.

6.3 The General Medical Council has modelled four tiers on which actions regulating professionals take place, which is useful in considering the governance of professional practice:

- (1) Self-regulation: in which a professional acts in accordance with their sense of professionalism and their wider ethical duties.

- (2) Team regulation: in which a team provides an environment in which members mutually oversee the performance of their fellow professionals and are in a position to identify problems that may be arising.
 - (3) Employment: in which employers – who have their own legal responsibilities for the safety of the care they provide – have controls to identify the initial and ongoing fitness for purpose of employees, and have clinical governance arrangements to oversee employees' performance.
 - (4) Statutory regulation: which can fill gaps in governance arrangements that the other tiers are not in a position to, by setting core standards of ethics and proficiency at a national level and using fitness to practise procedures where these are not met to make sure the public are appropriately protected.
- 6.4 Statutory regulation being furthest away from an individual professional's practice is a far more generic instrument than the other tiers, but by virtue of being at such a level has the capacity to protect patient safety by taking action others are not in a position to take. With regard to any higher level roles and responsibilities professionals may be taking on, employers, teams and professionals themselves are best placed to identify and control for risks emerging from an individual professional's practice. Regulatory bodies are only best placed to act if there is a need for clear national standards for proficient practice to be identified and enforced in order to uphold the safety of patients and to ensure registrants are fit to practise.
- 6.5 On initial employment, employers are in a position to use job descriptions that are tailored to a specific post to ensure that the professional they appoint has the necessary knowledge, skills and other attributes to be fit for the particular purpose. Once employed, clinical governance and administrative controls provide a key mechanism to ensure members of a particular workforce are employed in appropriate roles and their performance properly managed. This is the best way to identify and control risks that might emerge from a professional practising where they lack the necessary competence. It is crucial for patient safety that robust clinical governance and administrative systems are in place and employers should ensure professionals are effectively appraised and receive appropriate support to maintain and develop their professional competence.
- 6.6 Where a professional's primary relationship is with a commissioning organisation, rather than an employer, it is important that the commissioner takes responsibility for ensuring those it contracts to deliver a service are appropriately qualified to do so and will have adequate systems in place to uphold the safety of patients. This may prove particularly challenging in the case of locum practitioners and agencies as proxy employers, but it is an important component in upholding patient safety. Self-employed professionals are under the general requirements of their regulatory body and must only practice where they are capable of doing so safely and effectively, and at all times the best interests and safety of those in their care must guide their actions. Similarly, self-employed professionals have the responsibility to ensure that they practise with appropriate safeguards in place so as not to put their patients at unwarranted risk of harm and must keep their skills up-to-date relative to their scope of practice.

- 6.7 Regulatory bodies, whilst their policies should facilitate professionals developing their practice, should not be providing the materials by which professionals advance their careers. Professional bodies, however, have a different role to play, including a role in governance arrangements. Many professional bodies run schemes to support the professional development of their members which can serve to signal to employers the levels or skills a member has attained. Professional bodies have an important role in issuing additional guidance to their members to assist them with ethical and practice issues which might arise, which is benchmarked against the relevant regulatory body's Code/Standards. This becomes particularly important if professionals are applying their knowledge and skills in new settings and contexts quite different from those they have been used to previously.
- 6.8 Statutory regulation is not as close to a professional as their employer and so is not best placed to identify and control for the specific risks arising from an individual professional's practice. Statutory regulation is better placed to control for generic risks relating to a profession's practice or general types of a profession's practice being undertaken. However, robust and well-enforced requirements for continuing professional development provide a contribution regulatory bodies can make to the governance arrangements over professionals' practice.
- 6.9 As part of the pending introduction of revalidation across the health professions it is expected that regulatory bodies will risk profile both types of registrants' practice and types of practice settings. This will enable them to determine the types of practice being taken on by their registrants that are of highest risk to patients and the types of setting where other institutional controls are weakest. Following this, regulatory bodies should ultimately be in a position to target the breadth and depth of evidence they require for revalidation, and their assessment methods, according to the risks which emerge from different types of practice and setting. Such an approach would enhance the governance of professionals where the existing arrangements are weakest or where practitioners are engaged in the highest risk activities.
- 6.10 In terms of controlling for the general types of risk to patient safety, regulatory bodies can place general requirements on professionals to practise only where competent, to always prioritise patient safety and to keep skills up-to-date relative to their scope of practice. Regulatory bodies can additionally control for risks posed by an individual professional by reacting after an event through their fitness to practise procedures, and can set threshold standards for those entitled to practice in particular ways or use specific titles. There is currently no systematic evidence, from fitness to practise cases or other sources, regarding whether professionals are taking on new roles and responsibilities where they are not competent to do so and thereby putting the safety of patients at risk. Before a regulatory body takes further intervention it should establish that its current regulatory controls, and other existing mechanisms, are not adequately protecting the safety of patients and the public, and determine how best it can work to overcome any such deficiencies within the wider framework of arrangements that govern professionals' practice.
- 6.11 As professionals develop their careers and practice from initial registration it is unfeasible for regulatory bodies to require specific credentials for every area of practice a professional might be working in. Aside from the effect this could have of rigidifying practice and making it less amenable to innovation and developments that could benefit patients, it is not possible for a regulatory body to have sufficient knowledge about a professional for it to be the grounds on which their suitability for a

particular role is determined. Regulatory bodies cannot systematically assume that, unless proven otherwise, their registrants will break their Code/Standards and practice where not competent to do so safely. Where this does occur regulatory bodies can already take action through fitness to practise proceedings. Where registrants knowingly practice beyond their competence or employers are willing to employ them without the person being appropriately qualified, it is unclear whether further regulation protecting a title or function would have the effect of making them unwilling to do so. Additionally, the low levels of public recognition of 'advanced' job title means that alternative titles could be used by those in such roles. There could be an effect where a professional falsely believes they are competent to practice in a particular way. These cases should be picked up by employers, commissioners or colleagues closer to the professional's practice or as part of screening for initial employment or during a contracting process, where a professional has such relationships. There is no systematic evidence from fitness to practise proceedings on the frequency of cases being brought to the regulatory body where a professional has unwittingly practised where they lack the necessary competence to indicate whether this is a significant problem.

7 Wider regulatory implications of professionals in advanced practice roles

- 7.1 Regulatory bodies should only use their power to statutorily restrict a title or function to those with approved credentials where the safety of patients and the public is not adequately upheld by other systems of governance. The analysis of where it may be appropriate for the regulatory body to intervene will need to focus on: the risks to the safety of patients and the public from the roles and responsibilities being taken on by a member of that particular profession; the adequacy with which other mechanisms control for these; and, how these risks would be mitigated effectively by intervening.
- 7.2 We are unconvinced that much of what is often called 'advanced practice' in many professions represents such a significant shift in the nature of practice that it is inadequately controlled for through current arrangements. In many cases the use of the term appears to represent progression in experience and skills that could be expected to take place as professionals develop their practice over the course of their careers or reflects changes in career structures within a profession. It more often represents career progression and developments within a profession over time, than a major shift in the nature of a profession's practice. Risks to patient safety that may not be adequately captured in existing regulation are more likely to occur if the roles and responsibilities a professional is taking on represent a significant shift in the nature of a profession's practice. This is not just a question of the roles and responsibilities that are being taken on, but also the fact that they are being taken on by a member of a particular profession developing from an initial point. This is why the significance of any new risks to patient safety that might arise is likely to be tied to the qualitative shift in the nature of the scopes of practice within a group of regulated professionals.
- 7.3 As the main control available to regulatory bodies is setting and enforcing national standards of proficiency for the practice, they would need to identify clear risks to patient safety and associated standards of proficiency that go far beyond those of the ordinary scope of a profession's practice. This would require there to be credentials clearly necessary to demonstrate competence and which could form a coherent basis for annotating a register to denote the new standards of proficient practice governing the professional. The significance of the shift in the qualitative nature of both the

practice and the risks to patients, in the context of other controls in place, is important in making such judgements. It is only where a practice is so significantly outwith the ordinary scope of profession's practice, such that the level of public protection from its associated standards become inadequate taking into account other controls, that further standards – clearly different from the ordinary ones – would be a coherent basis for controlling professional practice. Where a professional is taking on more activities or responsibilities of a similar nature or using appropriate learning opportunities to make more subtle developments to their practice, there are unlikely to be such qualitatively different risks to patients making the existing regulatory structure inadequate. In the context of the dental professions, the GDC has sought to address this issue by defining professional group's scope of practice to define where the point is where roles and responsibilities are of such a different nature that the risks to patient safety make necessary different types of registration based on distinct standards of proficiency and qualifications.

- 7.4 Regulatory bodies must be forward-looking and have good links with employers and professional bodies to identify where any challenges to public protection may lie and ensuring that any regulatory action is targeted and proportionate so that developments in practice are not unduly stifled. Any regulatory intervention should be where there are clear gaps in the existing mechanisms governing the risks to patient safety which only the regulatory body is appropriately positioned to close. If a regulatory body does intervene it must ensure that it has a satisfactory mechanism for assuring the quality of the qualifications required to demonstrate competence, in order that the integrity of the register is not compromised. If additional standards of proficiency are deemed necessary for the purpose of public protection they should be tied to some form of protection of title or function. Annotations without protection of title or function, and so which serve not to protect the public directly but to denote professional status, add little to the ordinary human resources checks by employers to ensure applicants have the credentials necessary for a particular job or to existing regulatory requirements that professionals only practise where they are competent to do so.
- 7.5 Regulatory bodies cannot provide all the information from which an applicant's fitness for a specific job can be determined. Regulatory bodies would never have sufficient assured information on all the qualifications, courses, continuing professional development and other learning opportunities a registrant had undertaken and the experience they have, which is the basis for making such a decision. Consequently, employers will always have to do their own checks of an applicant's experience and qualifications specific to a given job. Any additional regulation must not be seen by employers or professionals as defining fitness for employment in a specific job. Regulatory bodies do not have the competence to make this determination; it is one an employer must make with the potential employee. It is important that any additional steps taken by regulatory bodies, such as annotating registers, are not seen by employers as providing all the necessary information on a professional's practice. If it were, and employers abdicated their responsibility in determining an applicant's fitness for a particular job, either wholly or in part, statutory regulation would do more to jeopardise than uphold patient safety.
- 7.6 It is important to acknowledge that there would be major difficulties to regulating a level of practice effectively, compared with discrete extensions to practice such as prescribing, even if the practices are of a significantly different nature from those in which members of the profession are ordinarily engaged. Where the competences

required for extensions of practice are associated with particular qualifications, such as with prescribing, and the risks merit regulatory action, it is simpler for the regulatory body to act by linking protection of title or function directly to the qualification and annotating a register entry. It is far more difficult for this to be done effectively where professionals are not making discrete extensions of their practice into new areas, but changing the overall nature of their practice and the responsibilities it encompasses. Across a profession, professionals are likely to have very diverse roles and responsibilities that would make it extremely difficult to draw together a set of standards of proficiency that could form a coherent basis for an annotation across the profession.

- 7.7 Any enabling standards that regulatory bodies were to introduce would need to be generic enough so not to serve to confuse information on the register or divide up practice into discrete areas preventing competent professionals making full use of their abilities at the borders of the different areas. Such standards would also have to be designed so they are relevant to the actual roles and responsibilities being taken on, otherwise the purpose of regulatory action would be fundamentally undermined. However, any bar set too low in order to provide generic standards that would apply in many different situations may not serve to protect patients or the public, but simply unnecessarily stifle those practising at its margins. It would also be a significant challenge to regulatory bodies to ensure that their definitions remain up-to-date as the scope of practice in a profession is dynamic and progresses, often significantly, over time. It would be important that standards set at one moment in time do not curb professionals practising where competent to do so as the profession evolves.
- 7.8 Protection of title may be of limited use in protecting the public because terms such as 'advanced' have little purchase amongst members of the public. Consequently, similar alternative terms could easily be used in job titles by professionals and employers, without the public having any real understanding of the differences between those with the protected title and those using an alternative, but similar sounding, title. Protection of function also has significant potential drawbacks, as outlined above, in terms of fettering professional practice and of being relevant to the diverse roles and responsibilities characterising practice across a profession. In this context, the credentialing of professional practice through robust organisational governance provides a mechanism for targeting the risks to patient safety most specifically to the actual types of practice professionals undertaking without some of the wider effects that may come from a regulatory body intervening to protect title or function.

8 Conclusions

- 8.1 Risks to patient safety come from professionals taking on roles and responsibilities which they lack the competence to carry out safely and effectively or where they practise with inadequate safeguards and thereby put patients at unwarranted risk of harm. Therefore **regulatory bodies should be concerned with the risks to patients and other members of the public from the roles and responsibilities that professionals are taking on in the context of other established governance arrangements involving existing regulation, employers' procedures and any contributions from other parties.** The concern should not be with professionals developing the level or extensions of their practice by its own virtue.

- 8.2 Whatever the nature of practice professionals are to undertake, employers have the most important responsibility for ensuring patient safety. Employers must always assess the fitness for purpose of employees and job applicants with regard to the specific competences required for the given job. Employers – not regulatory bodies – are in a position to determine this by considering the specific roles and responsibilities the professional would be taking on. The importance of employers having appropriate policies in place cannot be stressed highly enough. Regulatory body intervention would only contribute to public protection where employers' arrangements fail to ensure that only those suitable for types of roles practise in them. **Robust organisational governance arrangements provide the most effective means of controlling for risks to patient safety from an individual professional's practice.** Significant measures in this area include moves strengthening the governance arrangements of professionals close to the delivery of care and ensuring that there are robust procedures for assessing the need for different types of role and the necessary credentials for professionals to undertake them. Systems regulation also has an important role in monitoring service providers' compliance with the duties placed upon them in relation to their workforces.
- 8.3 Where a professional's primary relationship is with a commissioning organisation, **it is crucial commissioners ensure that they take appropriate steps in their contracting procedures to be satisfied those carrying out the specified activities are competent to do so and that necessary safeguards will not be lacking.** Self-employed professionals are under duties not to practise in ways they lack the competence to do safely and to ensure that in the service they provide the necessary steps will be taken to ensure patients are not put at unwarranted risk of harm.
- 8.4 Whatever context a professional is practising in, they are accountable to their regulatory body for their practice under the current regulatory framework. **As a registrant, a professional must abide by duties laid out in their regulatory body's core Code/Standards documents which make clear that they must only practise where they are capable of doing so safely and effectively,** and should raise concerns and always act in the best interest of their patients if they feel they are being asked to work without appropriate safeguards. Self-employed professionals must ensure that they do not work without any safeguards necessary to protect the safety of their patients. As registrants all professionals are also under a duty to keep their skills up-to-date relevant to their scope of practice. Regulatory bodies are empowered to act through their fitness to practise proceedings if professionals fail to comply with these requirements, whatever roles and responsibilities characterise their practice.
- 8.5 Where professionals are taking on roles and responsibilities that are associated with another profession of a different regulatory body, it is important that professionals from both groups are regulated to appropriately similar standards. It may be appropriate for a piece of work to be undertaken considering how consistency can best be ensured. This work could examine the current approaches of different regulatory bodies to determine what, if any, issues arise; and explore ways in which the regulatory framework could overcome these, looking at the contribution ideas such as the distributed model of regulation could make.
- 8.6 **Revalidation provides an opportunity for regulatory bodies to enhance governance of professional practice.** By risk profiling the types of practice of their

registrants and targeting checks and assessment requirements to the risks to patient safety from professionals' type of practice and types of settings where other controls are weakest, revalidation would enhance governance of these practices without additional statutory regulation of practice or title.

- 8.7 The power of regulatory bodies to set national standards for practice is a generic, but powerful instrument in upholding public protection. With regard to roles and responsibilities professionals may be taking on, it is only where a practice is so significantly outwith the ordinary scope of profession's practice, such that the level of public protection from its associated standards become inadequate taking into account other controls, that further standards – clearly different from the ordinary ones – would be a coherent basis for controlling professional practice. **Where a professional is taking on more activities or responsibilities of a similar nature or using appropriate learning opportunities to make more subtle developments to their practice over time, there are unlikely to be such qualitatively different risks to patients making the existing regulatory structure inadequate.**
- 8.8 We believe that much of what is often called 'advanced practice' across many of the health professions does not represent a shift in a profession's practice that renders the existing regulatory framework inadequate. **If an area of practice within a profession develops which poses different types of risk to patients and requires new standards of proficiency to be performed safely, which are clearly distinct from the range of those ordinarily associated with the profession, regulatory bodies need to ensure their processes capture this.** Only the relevant regulatory body, in consultation with professionals, employers and other interested parties, has the competence to determine whether action is needed regarding these specific practitioners, but action should not be taken which serves to denote their career progress or professional status. The primary responsibility must be taken by employers to ensure they have robust organisational governance of all types of practice their employees undertake. **Action by regulatory bodies should be based on evidence of gaps in public protection that the types of practice expose the public to, which require additional action at the level of statutory regulation to be mitigated effectively.**