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EUROPEAN ASSOCIATION OF SENIOR HOSPITAL PHYSICIANS
EUROPÄISCHE VEREINIGUNG DER LEITENDEN KRANKENHAUSÄRZTE
EUROPESE VERENIGING VAN STAFARTSEN
DEN EUROPÆISKE OVERLÆGEFORENING
ΕΥΡΩΠΑΪΚΟΣ ΣΥΛΛΟΓΟΣ ΝΟΣΟΚΟΜΕΙΑΚΩΝ ΙΑΤΡΩΝ ΔΙΕΥΘΥΝΤΩΝ
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DEN EUROPEISKE OVERLEGEFORENING
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ASOCIATIA EUROPEANA A MEDICILOR DIN SPITALE**

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European Junior Doctors statement on the 21.12.2010 Communication from the European Commission regarding the revision of the WTD [COM(2010) 801 final]

March 14, 2011

The European Junior Doctors Permanent Working Group (EJD) supports the European Working Time Directive (2003/88/EC) in its current format, with the exception of our continued opposition to the inclusion of the opt out clause.

The EJD very much welcome the decision of the Commission not to end common minimum requirements at the EU level regarding protection of workers. The fact that greater strides have not been made to have the directive implemented is a disappointment to European doctors who in many cases continue to work unsafe hours and unreasonable working patterns. The EWTD (2003/88/EC) was seen by European doctors as a piece of legislation that would make enormous strides towards improving patient safety and the health and safety of doctors also. A wealth of research exists to **demonstrate how long working shifts (especially during night time) and long total working hours can have a detrimental outcome for patients** [1]. Studies in the literature report that the doctor's health also suffers as a direct result of the detrimental work practices that have existed in health care across Europe for generations [2].

Junior Doctors roughly make up one third of the medical workforce in Europe. Importantly, they are often the sole providers of medical care in particular periods of the day (as night shifts), in specific departments (as Accident and Emergency) and locations. Hence, legislation on the protection of the workers' health and safety, such as the WTD has a tremendous impact on the Junior Doctors working and training conditions and, more importantly, on the quality of clinical care to the population and patient safety.

There are serious issues surrounding the recruitment and retention of medical professionals in the EU. A reasonable work-life balance and the ensurance of the delivery of medical education and training are of huge importance to the medical profession as we move further into the 21st Century. The EWTD (2003/88/EC) serves to provide an opportunity to improve the quality of life of doctors in Europe – a change that is long overdue [3, 4]. The EJD would urge the EU establishments to review the working lives of our young medical professionals in this regard, with a view to developing a happier, healthier, more productive and better trained medical workforce in Europe [5-7].

We know that where medical education and training can be incorporated into revised working arrangements better patient outcomes emerge [8]. Reform of working conditions and the reform of training being delivered to medical professionals can be of benefit to patients throughout the EU.

We are not immune to the difficulties being experienced by governments across Europe in implementing this piece of legislation in the Health Sector. However as advocates for both doctors and our patients alike, we must focus the Commission's mind on the crucial issues of safety and wellbeing of both groups.

The Commission has raised the following issues for discussion.

The treatment of on-call time

- The EJD believes that all time spent at the place of employment and at the behest of the employer is working time and should be counted on an hour-per-hour basis. No distinction should be made between time spent in the workplace that is considered active or inactive. We very much welcome the Commission's perspective on this topic.
- It is the strong view of EJD that the rulings made to date by the ECJ be upheld in any further revision of the EWTD. In fact any amendment of EWTD (2003/88/EC) should enshrine this definition of on-call time such that no future confusion should arise.
- In previous attempts at revising EWTD there was no discussion about how 'active' or 'inactive' working time would be defined. Perhaps in some areas of the economy a clear distinction can be made but in healthcare, activity levels can range from telephone advice and consultation to paperwork to surgical procedures. We feel it would cause massive confusion in time recording and administration and lead to an abuse of the good will of medical practitioners and a coercion into working in excess of the hours laid out in the proposal. Further massive confusion regarding rest breaks and compensatory rest will also ensue. Therefore, we also oppose to the Commission's proposal to allow that periods of on-call time are counted differently (i.e. not always on an hour-per-hour basis).

The timing of rest periods and compensatory rest

- Rest periods for doctors are essential in order to be able to maintain concentration levels required for a highly charged working environment. These rest periods should be delivered regularly and in full.
- The EJD believes that compensatory rest should immediately follow the period of work and should be delivered prior to commencement of the next working period.
- This is in the interest of patient safety as failure to deliver compensatory rest will result in exhausted medical staff attending to patients where there is a higher incidence of medical error and a detrimental patient outcome.
- By delivering compensatory rest prior to the next period of work you are ensured of having an alert and productive medical staff.
- This is also imperative from the point of view of maintaining a reasonable work-life balance for the medical practitioners [4]. This is of huge importance when it comes to recruitment and retention of doctors.

Longer average working hours

- The EJD would oppose any increase in the average working hours of doctors in Europe.
- The limits on working time set out in EWTD (2003/88/EC) present a safeguard for patients and doctors alike and any extension in these hours would represent a backwards step for patient safety in Europe.
- It is important for doctors that strides are made to reorganise medical education and training to be accommodated within the average 48 hour working week [8].

Average weekly working time

- The EJD feels that a reference period of no more than 6 months is appropriate.
- The extension of the reference period is not appropriate in health care, especially in a hospital setting where many junior doctors, in particular, work rotating jobs many of whom have contracts for 3-6 months. Therefore attempting to extend the reference period any further will cause major logistical confusion in the health sector.
- If genuine efforts to implement the other aspects of the directive, namely the daily working hours, rest breaks and compensatory rest, are made, then the issue of



averaging the hours over even a 3 month period should not become a significant problem.

Application of the Directive where a worker has a second contract

- The EJD believes that the EWTD should apply per worker and should reflect the total hours worked from all contracts.

The Individual opt-out

- The EJD is opposed to the individual opt-out for workers regardless of any new additional safeguards which may be introduced.
- For junior doctors an undue pressure may exist to accept the 'opt-out' in order to assist employers to fill service needs and simultaneously have their training delivered. This will inevitably lead to unsafe working patterns and endanger patient safety.

Answering the Commission's questions

Question 1

The only revision that should be done to the Directive is the removal of the 'Opt out' clause. For the European Junior Doctors Permanent Working Group a 'comprehensive revision' of the Directive or the maintenance of the 'opt out' in its current format results in a harmful impact in working conditions, doctors work-life balance and, most importantly, patient safety. We have put considerable real evidence for this in the text above.

Question 2

Nothing to add to the reply of question 1 and to the evidence presented above.

Question 3

The European Junior Doctors Permanent Working Group is against a revision of the Directive in any of the formats proposed, as stated above. Nevertheless, we will embrace our responsibility towards the physicians we represent and all our patients. If the Commission decides to enter a revision process we will certainly actively participate in the negotiations.

In Summary

We understand the Commission's need to continually look at the EWTD (2003/88/EC) in light of the difficulties faced by employers and governments, as a major employer in the EU, in particular. However when it comes to health care, any revision of EWTD that does not serve to reinforce the limits introduced in the EWTD (2003/88/EC), is a step backwards for patient safety. We again reiterate our opposition to the 'opt-out' clause as currently contained in the directive and would suggest any change to the directive should remove this. Any extension of working hours or changes in the definitions involved in their calculation will have a detrimental effect on the health and safety of European patients and doctors and will only serve to stir confusion in the workplace. In cases where serious efforts are done by governments and stakeholders, it is proven that the EWTD can be fully implemented in the health sector. Naturally, there is the need to change the way care is delivered and training organized [9]. We strongly suggest that the efforts of the EU institutions would be best invested into enforcing the application of the directive across the EU and providing support to governments and relevant stakeholders for the rapid and adequate adaptation to the EWTD principles (2003/88/EC).

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About the European Junior Doctors Permanent Working Group

The European Junior Doctors Permanent Working Group of (EJD) was formally created in 1976 and represents nearly 300.000 junior doctors of 25 European countries. EJD's members are national medical associations that represent doctors in training. Junior Doctors roughly make up one third of the medical workforce in Europe. Importantly, they are often the sole providers of medical care in particular periods of the day (as night shifts), in specific departments (as Accident and Emergency) and locations.

The EJD is not an official European Social Partner. Nevertheless, we believe that the revision of the Working Time Directive has a tremendous impact on working and training conditions of the Doctors we represent and, most importantly, on the lives of the patients we take into our care. The EJD contributed to the first phase of the consultation process with other European Medical Organizations.