## 6 The need to define the responsibilities and accountabilities of pharmacy technicians

The terms 'responsibility' and 'accountability' should not be used interchangeably. The following definitions should be considered:

- **Responsibility** (for) can be defined as a set of tasks or functions that an employer, professional body, court of law or some other recognised body can legitimately demand.
- **Accountability** (to) describes the relationship between the practitioner and the organisation in question. Accountability describes the mechanism by which failure to exercise responsibility may incur a sanction such as a warning, suspension, criminal prosecution or removal from a public register and the withdrawal of professional status. It may be called 'answerability'.

**Employee responsibilities** are defined by a contract of employment, which usually includes a job description setting out specific responsibilities in detail. These objectives should be discussed, developed and clarified with the individual's line manager, both informally and formally, as part of the performance appraisal process. It is important that the employee appreciates the link between their work objectives, those of the team and those of the organisation.

**Professional responsibilities** are defined by a duty of care to users, professional codes of conduct and, in some cases, state registration and regulation. For staff in training or recently qualified, this includes formal accountability to a professional line manager in a clinical supervisory role. Professionals are required to recognise and observe the limits of their training and competence and satisfy themselves that anyone else to whom they refer is also appropriately qualified and competent.

• **Legal responsibility** (defined by statute and common law) forms part of professional responsibility and describes the obligation to comply with the law. [1]

It is important to ensure that any skill mix model does not result in a conflict in responsibilities. For example, an employer should not demand that a practitioner assumes responsibilities that they are not qualified or competent to exercise. Similarly, a practitioner should not seek to control the work of another where he or she has no formal accountability for that work.

In the community pharmacy setting, the accountabilities of one person can conflict with the responsibilities of another, particularly so in pharmacies within the large community pharmacy multiples. This is because the line manager for both the pharmacist and the pharmacy technician is often a non-pharmacist and therefore not a person with professional accountabilities or the appropriate qualifications and competence to make professional decisions. This can put great pressure upon pharmacists, as it makes the task of balancing professional and employee responsibilities, let alone professional accountabilities, more difficult to manage. For pharmacy technicians based in community pharmacy, this becomes even more difficult because they are inexperienced at exercising assertiveness – a challenge even for the established professional.

## 6.1 Informing pharmacy technicians' values

The values expected for healthcare roles should be informed by the needs of service users and carers. For example, NHS mental health practitioners have *The Ten Essential Shared Capabilities* to inform their practice. [2] A similar list of shared capabilities for pharmacists and pharmacy technicians would help to create a shared values system which clearly delineates the pharmacy team's responsibilities.

**Panel:** The ten essential shared capabilities for mental health practice

- **Working in Partnership.** Developing and maintaining constructive working relationships with service users, carers, families, colleagues, lay people and wider community networks. Working positively with any tensions created by conflicts of interest or aspirations that may arise between the partners in care.
- **Respecting Diversity.** Working in partnership with service users, carers, families and colleagues to provide care and interventions that not only make a positive difference but also do so in ways that respect and value diversity including age, race, culture, disability, gender, spirituality and sexuality.
- **Practising Ethically.** Recognising the rights and aspirations of service users and their families, acknowledging power differentials and minimising them whenever possible. Providing treatment and care that is accountable to service users and carers within the boundaries prescribed by national (professional), legal and local codes of ethical practice.
- **Challenging Inequality.** Addressing the causes and consequences of stigma, discrimination, social inequality and exclusion on service users, carers and mental health services. Creating, developing or maintaining valued social roles for people in the communities they come from.
- **Promoting Recovery.** Working in partnership to provide care and treatment that enables service users and carers to tackle mental health problems with hope and optimism and to work towards a valued lifestyle within and beyond the limits of any mental health problem.
- **Identifying People's Needs and Strengths.** Working in partnership to gather information to agree health and social care needs in the context of the preferred lifestyle and aspirations of service users, their families, carers and friends.
- **Providing Service User Centred Care.** Negotiating achievable and meaningful goals; primarily from the perspective of service users and their families. Influencing and seeking

the means to achieve these goals and clarifying the responsibilities of the people who will provide any help that is needed, including systematically evaluating outcomes and achievements.

- **Making a Difference.** Facilitating access to and delivering the best quality, evidence-based, values-based health and social care interventions to meet the needs and aspirations of service users and their families and carers.
- **Promoting Safety and Positive Risk Taking.** Empowering the person to decide the level of risk they are prepared to take with their health and safety. This includes working with the tension between promoting safety and positive risk taking, including assessing and dealing with possible risks for service users, carers, family members and the wider public.
- **Personal Development and Learning.** Keeping up-to-date with changes in practice and participating in life-long learning, personal and professional development for one's self and colleagues through supervision, appraisal and reflective practice. [3]

## 6.2 Delegation versus distribution of responsibility

It is important to use these terms accurately. Professional regulators may have their own descriptions, which can add to the difficulty in distinguishing between them.

## 6.3 Delegation

The General Medical Council stated that: *"Delegation involves asking a colleague to provide treatment or care on your behalf. Although you will not be accountable for the decisions and actions of those to whom you delegate, you will still be responsible for the overall management of the patient, and accountable for your decision to delegate. When you delegate care or treatment you must be satisfied that the person to whom you delegate has the qualifications, experience,*

*knowledge and skills to provide the care or treatment involved. You must always pass on enough information about the patient and the treatment they need."* [4]

This issue lies at the very heart of the quandary that many pharmacists encounter when they contemplate the delegation of tasks to pharmacy technicians. Often, pharmacists are required to do so by non-pharmacist line managers, on the grounds of controlling staffing costs. Inevitably, however, many pharmacists find it difficult to do so because they are not satisfied with the qualifications, experience, knowledge and skills of the pharmacy technician and his/her ability to provide the requisite level of care. Ultimately, pharmacists realise that they will be held accountable for the decision to delegate in the event that something goes wrong.

An even greater concern has recently emerged. The law currently permits a pharmacist to be absent from the pharmacy for up to two hours while he or she remains signed in as the Responsible Pharmacist. During this time, certain activities can be undertaken by other pharmacy staff, such as labelling and assembling prescriptions - but not handing them out. Some employers simply require pharmacists to apply this two-hour absence to a period in which they have not yet arrived to start work in the morning, in order to reduce operational costs. This leaves pharmacists accountable for the actions of pharmacy technicians in a situation where they may be dissatisfied with the pharmacy technician's qualifications and experience. Additionally, prior to arriving at the pharmacy, pharmacists have no real way of intervening in the work that the pharmacy technicians do.

*Distribution* is when the responsibility for different components of patient care is split between different members of the team. The members are acting in concert to provide the whole package; they are not necessarily doing this in line management relationships with one another, so they are all taking responsibility for the care they provide. One member of the team, however, would

generally be required to have overall responsibility for co-ordinating the care 'package' or for making final decisions in relation to an individual's care as appropriate.

## 6.4 Accountability

### 6.4.1 Professional / regulatory accountability

No distinction is made between pharmacists and pharmacy technicians in the GPhC standards of conduct, ethics and performance (renamed by the GPhC in 2017 to the Standards for Pharmacy Professionals). Consequently, by virtue of the GPhC's standards, registered pharmacy technicians are required in theory to behave as fully-fledged healthcare professionals and are to be held personally accountable for their actions. Currently, however, if a mistake arises in the dispensing process, there has been no assurance from the regulator that the pharmacist will not be held accountable for the failure, even if it arises in part of the process carried out by a pharmacy technician. [5] Indeed, if anything, the regulator has recently confirmed that it cannot clarify the extent to which pharmacy technicians can be held to account because there is such a wide variation in their qualifications and because such a large proportion of pharmacy technicians were registered under grandparenting arrangements (see section 3.7).

### 6.4.2 Criminal accountability

Criminal case law exists where a dispensing assistant and a pharmacist were both convicted for their involvement in a dispensing error. In "the Prestatyn case", both a pharmacist and a dispensing assistant pleaded guilty to a section 64 Medicines Act offence.

The judge in the judicial review that sought to overturn the dispensing assistant's conviction stated: "*There is an obvious public interest in ensuring that all those whose failings have led to the selling, wrongly, of a product in this way (dispensing), should be held accountable.*" [6] He

discounted a defence argument that the pharmacist, with "*higher qualifications*", should carry the accountability - saying the dispenser "*was plainly part of the system of supply*". Despite the later Crown Prosecution Service guidance on such matters, criminal law still represents a current threat to all participants in the dispensing process. [7]

In July 2017, a GPhC fitness to practise determination was published involving the removal from the register of a Rowlands pharmacy technician who had deliberately replaced medicines dispensed by another person with incorrectly dispensed alternatives, which were awaiting an accuracy check from a pharmacist. This was done to exact "revenge" on the dispensing assistant who had initially prepared them, in the hope that the error would be identified by the pharmacist and recorded as a "near miss" for that person. The pharmacy technician did not attend the hearing. [8] Had one of the incorrectly dispensed medicines reached a patient, this reckless behaviour from the pharmacy technician could have led to criminal charges for both herself and the pharmacist.

In October 2018, the Department of Health (Northern Ireland) reported that a pharmacist pharmacy owner and a pharmacy technician had been convicted for the illegal supply of a range of prescription medicines in the absence of a pharmacist. Peter Moore, Senior Medicines Enforcement Officer with the Department of Health (Northern Ireland) who conducted the investigation said: "*Medicines are not everyday consumer goods - and appropriately, strict legal controls apply to their sale and supply. It is with good reason that the law requires a qualified pharmacist to be present in the pharmacy dispensary when prescription medicines are being supplied to members of the public.*
*When entering a pharmacy the public should have reasonable expectation that their prescription needs will be met by a qualified professional.*
*Pharmacists are there not only to dispense medicines but to advise or assist patients in the use of these medicines and most importantly to ensure the safe and effective running of the pharmacy.*

*Unfortunately this did not happen in this case and members of the public could have been endangered as a result."* [9] The comment was significant in that the government was noting the importance of a pharmacist being physically present on the premises, as it ensured a qualified professional was available to the public and that patients were kept safe.

### 6.4.3 Civil accountability

The position is no better in civil law or in pharmacy fitness to practise processes. Anyone who has a duty of care, who fails to discharge it adequately and who thereby causes harm to a patient, might be the subject of a claim for compensation.

So far, numerous case precedents indicate that action is taken against pharmacists; the cases of claims for compensation due to the negligence of pharmacy technicians are limited to contributory negligence and not that which is primarily attributed to the pharmacy technician.

Professor of Pharmacy Law and Ethics, Joy Wingfield, argues in a paper that was published in The Pharmaceutical Journal that: "*The position taken by both the civil courts and a professional tribunal depends heavily on what the profession itself indicates is a reasonable expectation for the accountability of each team member in a complex operation like dispensing. That said, there is no guarantee that the court or the GPhC will not take a different view in any specific case."* [10]

Perhaps unsurprising with so much confusion surrounding the issue, but particularly worrying from a patient safety perspective, is that many pharmacy technicians do not know the extent to which they are accountable for their own dispensing errors. Anyone who believes he is not accountable for his own actions is unlikely to devote as much attention to them as someone who knows that he is accountable. Survey results show that only 73% of pharmacy technicians working in hospitals and only 70% of those in community think they are responsible to the investigative

authorities for their dispensing errors. 39% of pharmacy technicians surveyed believed that they were no more accountable for their actions post-registration than they were prior to it. [11]

## 6.5 Conclusions

1. There is confusion over exactly what registered pharmacy technicians are accountable for, while some individuals working as ACTs are not registered at all and therefore fall outside of the scope of the regulatory system altogether. As a group which became regulated only relatively recently, there is little or no case law to set precedents about the precise limits of pharmacy technicians' accountabilities. Pharmacy technicians themselves are confused about the limits of their responsibilities and accountabilities and fail to appreciate the significance of working as registered individuals.

2. The lack of clarity as to what pharmacy technicians are accountable for is compounded by employers, particularly large community pharmacy multiples, who seek to cut costs through the staffing structures they create and who require both their pharmacy technicians and pharmacists to work to their corporate requirements. The PDA is aware that some employers have sought to reassure their pharmacists and pharmacy technicians by explaining that they need not worry about any consequences due to civil claims for compensation because they are covering them through their indemnity insurance. This approach may seek to encourage the delegation of tasks, thereby enabling employers to reduce their costs. However, it overlooks the debate relating to the personal exposure to professional and criminal liability and accountability faced by these employees in the event that something goes wrong.

3. The worrying deficiencies in the levels of knowledge and awareness relating to responsibility and accountability among pharmacists and pharmacy technicians, and the demand by employers to continuously reduce their operational costs, creates a situation which presents risks to public safety.

## 6.6 Recommendations

1. Pharmacy policy makers must ensure that there is no confusion caused when using the words 'responsibility' and 'accountability'. They must clearly define roles and responsibilities and identify clear lines of accountability for both pharmacists and pharmacy technicians, through discussions involving coalface practitioners. This will help to foster a symbiotic and complementary skill mix model which works optimally for the public, makes working practices more efficient, extends the practical capability of the pharmacy team and improves patient safety.

2. The profession should, with input from pharmacy technicians, create and publish a list (similar to that used by mental health practitioners), outlining the shared capabilities for pharmacists and pharmacy technicians, alongside a separate list outlining the capabilities of pharmacists. This would help create a shared values system which clearly delineates the pharmacy team's responsibilities, whilst still allowing for discrete responsibilities.

3. A consensus must be reached through a wide-ranging and inclusive debate within the profession and among pharmacy technicians, on exposure to regulatory accountability for pharmacists and pharmacy technicians. This must be publicized and shared with relevant stakeholders.

4. An expert view must be sought on the extent of the exposure to - and apportionment of - both civil and criminal liability for pharmacists and pharmacy technicians. This must be widely discussed and deliberated upon by both pharmacists and pharmacy technicians as part of any developmental process.

5. The pharmacy regulator must ensure that decisions about delegation can be made for patient-centred reasons by pharmacists and not by non-regulated staff driven by commercial imperatives.

# References


[1] Department of Health, "Responsibility and Accountability: Moving on for New Ways of Working to a creative, capable workforce best practice guidance," February 2010. [Online]. Available: http://www.rcpsych.ac.uk/pdf/Responsibility%20and%20Accountability%20Moving%20on%20for%20New%20Ways%20of%20Working%20to%20a%20Creative,%20Capable%20Workforce.pdf.

[2] NHS Education for Scotland, "The 10 Essential Shared Capabilities for Mental Health Practice: Learning Materials (Scotland)," 2011. [Online]. Available: http://www.nes.scot.nhs.uk/media/351385/10_essential_shared_capabilities_2011.pdf.

[3] NHS Education for Scotland, "Mental Health and Learning Disabilities - 10 essential shared capabilties supporting person centred approaches," [Online]. Available: http://www.nes.scot.nhs.uk/education-and-training/by-theme-initiative/mental-health-and-learning-disabilities/publications-and-resources/publications-repository/10-essential-shared-capabilties-supporting-person-centred-approaches.aspx. [Accessed 17 February 2017].

[4] General Medical Council, "Good Medical Practice," 2006. [Online]. Available: http://www.gmc-uk.org/Good_Medical_Practice___Archived.pdf_51772200.pdf.

[5] Howe H, Wilson K., "Review of post-registration career development of pharmacists and pharmacy technicians. Modernising Pharmacy Careers Programme, background paper.," Medical Education England, July 2012. [Online]. Available: https://hee.nhs.uk/sites/default/files/documents/MPC-WSII-Background-Paper-v1.0.pdf.

[6] "Mahoney v Prestatyn Magistrates Court [2009] EWHC 3237 (Admin); 2009 WL 3398625," 23 October 2009. [Online]. Available: https://www.lccsa.org.uk/mahoney-v-prestatyn-magistrates-court-2009/.

[7] Crown Prosecution Service, "CPS publishes guidance on prosecuting Medicines Act offences where a dispensing error has occurred," 21 June 2010. [Online]. Available: http://www.cps.gov.uk/news/latest_news/cps_publishes_guidance_on_prosecuting_medicines_act_offences_where_a_dispensing_error_has_occurred_/.

[8] "GPhC Fitness to Practise Determination - Angela Ruth Veres 5014455," 10 July 2017. [Online]. Available: https://www.pharmacyregulation.org/sites/default/files/determinations/veres_angela_ruth_5014455_11-07-2017.pdf.

[9] Department of Health (Northern Ireland), "County Down Pharmacy owner convicted for illegal supplies of prescription medicines," 17 October 2018. [Online]. Available: https://www.health-ni.gov.uk/news/county-down-pharmacy-owner-convicted-illegal-supplies-prescription-medicines.

[10] J. Wingfield, "Registered technicians are accountable for what exactly?," *The Pharmaceutical Journal,* vol. 287, p. 246, 2011.

[11] JRA Research, "Registered Pharmacy Technicians Research, based on telephone interviews of 150 pharmacy technicians," February 2014.