primary care pharmacist edition

the magazine of the pharmacists' defence association

insight

Winter 2007

From small acorns...

The PDA union grows

With roots firmly established, the PDA launches a pharmacist union as the next step of its development.

The PDA union special - pages 7-10

inside this issue...

Chairman's letter

by Mark Koziol.

The PDA Union - an update.

Following considerable support from PDA members and a significant amount of consultation (via focus groups, surveys and meetings), since early 2007, the PDA has been working on the process of applying for union status.

By early 2008, this process will be substantially completed. The newly created union will enjoy access to employment disputes in ways that it has never enjoyed before. It will be legally entitled to consultation rights with employers, be they GPs or trusts; it will also be able to influence government and other bodies important to the primary care pharmacist agenda.

From that moment on, primary care pharmacists will not only have their interests supported by a (substantially insured) defence association, they will simultaneously have a union exclusive to pharmacists, which is staffed with a full-time complement of experienced pharmacists and lawyers. The PDA union will not have to compete with the priorities of any large parent union. The sole role of the PDA union will be to look after the interests of its pharmacist members. In addition to this, PDA membership will also provide a very comprehensive and wide range of additional benefits that are truly advantageous to practicing primary care pharmacists.

If you are already a member of the PDA, but have not yet opted to take up union membership at no extra cost, then you should complete your conversion form as soon as possible. This will entitle you to have an important say in the direction of the PDA union because you will either be able to stand for the forthcoming election to the national executive, or you will be able to vote for colleagues who have put themselves forward. If you are not in PDA membership, then we urge you to join now.

A detailed description of how the process of unionisation will be undertaken is contained in the centre-fold section of this magazine.

Developments like this do not come too often in pharmacy. I invite you to take part because together we can improve the lot of the primary care pharmacist.

Mark Koziol, Chairman, The PDA

Inside this issue...

Don't forget!

You can download the Insight online
www.the-pda.org/publications/pub_insight1.html

RISK RESPONSIBILITY REPRESENTATION

Uniting to protect pharmacists and patients

RISK

As the role of pharmacist becomes more wide ranging and demanding, the risk inherently associated with the performance of these new roles increases. Accredited Checking Technicians are supposed to free up pharmacists time, but will a delegation of tasks increase the risks for pharmacists?

RESPONSIBILITY

The Health Act has proposed that there is now to be a responsible pharmacist who will be held legally accountable for what goes on in a pharmacy, whether the pharmacist is present or not. However, who will take responsibility if a registered technician or an Accredited Checking Technician makes an error?

REPRESENTATION

This conference will be the first event following on from the creation of the PDA Union and the election of its first officials. Come and find out first hand what are likely to be the first issues that the new PDA union plans to tackle on behalf of its members. Your views will be sought and your opinions greatly welcomed.

WHY NOT LOG ON AT: WWW.CONFERENCEEVENT.COM

THE ANNUAL PDA CONFERENCE

SUNDAY 27TH APRIL. BIRMINGHAM.

news

Find out what's happening...

Fees; Look after the most disadvantaged PDA tells Society.

"Any civilised society must look after its least advantaged members; in this respect, semi-retired/part-time, newly-qualified pharmacists and those on maternity leave are likely to be under a greater financial burden than established pharmacists. Consequently, any fee increases should reflect this issue."

This is what the PDA stated in its submission to the Society's membership fees consultation, and that "it disagreed with the principle that any fee increases should automatically be applied in similar proportions to all sectors of the membership". In a hard-hitting response, the PDA told the Society that the financial deficit caused by the "pension gap" should be removed from consideration when setting the level of fees, and should be bridged by the sale of some of the Society's assets. The PDA was supportive of the Society view that the costs of separation into two distinct bodies should be borne by the government. However, the PDA went on to urge that before any kind of fee increase requirement was placed upon members, the RPSGB should first look to review critically the largely unnecessary and burdensome processes used by the fitness to practice directorate in its handling of disciplinary cases in order to prevent any further significant waste of members' fees.

Some pharmacists on maternity leave may face a financial burden in paying the increased fees.

The full press release is available on the PDA website.

Backing 'Meth' and Psuedephedrine Awareness Programme

In the light of recent proposals from the Medicines and Healthcare products Regulatory Agency (MHRA) to retain medicines containing pseudoephedrine and ephedrine in the pharmacy-only (P) category, the PDA has been working on its members behalf to source a credible resource for them to use to keep updated on this key public health issue for UK pharmacy.

MethGuard UK is the definitive methylamphetamine-awareness programme for pharmacy teams. It has been developed with input from pharmacy practice experts, and other key stakeholders, including law enforcers, manufacturers of OTC medicines and the MHRA itself to help combat the threat and public health risks posed by the small-scale domestic manufacture of methylamphetamine (meth) from P medicines containing pseudoephedrine and ephedrine.

The challenge of retaining P status for medicines containing pseudoephedrine and ephedrine is significant. Rejection of proposals by pharmacists to the MHRA would have spelled a vote of no confidence in the profession as the custodians of medicines.

Mark Pitt, the PDA membership services manager, said, **"We believe in the principle that pharmacists are the best equipped health professionals to ensure the safe supply of a medicine which, although it could be subject to abuse, is otherwise an efficacious and an important part of the pharmacist's portfolio to recommend for minor ailments. Increased regulation shows lack of respect and trust in the pharmacy profession to ensure both the safe supply of pseudoephedrine and ephedrine as well as restricting its availability. Excessive regulation is not the answer in this particular case"**.

The pharmacy profession now has 24 months to prove that it can reduce the sale of pseudoephedrine and ephedrine to abusers.

The MHRA sees the completion of awareness programmes by pharmacists as a key part of the implementation process.

Pharmacists are being encouraged by many factions to play a part in ensuring they and their support staff are up to date with this key public health challenge for the profession so that the pharmacy sector can demonstrate to regulators and government that it has taken this problem seriously, and is delivering on its promise to raise awareness and to implement fully the non-statutory measures it is proposing.

The PDA believes that pharmacists are the best equipped to ensure the safe upply of this medicine

The MethGuard programme is an informative programme that takes no more than half an hour of self-study to complete. It is available from the PDA online at www.the-pda.org at a cost of just £5.00.

"With access to over 12,000 pharmacist members, many of whom are locums who can easily be overlooked in these initiatives," said Mr Pitt, **"We wholeheartedly support this project which will develop competence and heighten pharmacists' awareness in the supervision of the sale of these products"**.

He urged PDA members to "sign up" today, and show that they are serious in addressing this key pharmacy public health and safety issue head on.

news

PDA rebukes FtP for issuing 'inappropriate' Suspension Orders

Since 1 April 2007, the RPSGB, under new regulations, can now make applications to the various new Statutory Committees for Interim Orders to be made against pharmacists, including Orders suspending their registration with immediate effect. The making of such orders usually follows a hearing for which the pharmacist often has as little as three weeks to prepare; the Society on the other hand can have been planning and preparing to make the application for months or even years, unbeknown to the pharmacist. The sole purpose of the hearing should be to determine whether an interim Order should be made so as to protect the public from a pharmacist at a time when there are very serious allegations being made there are concerns about his or her fitness to practise, which have yet to be determined There could be a need to prevent the pharmacist practising, until such time as these (allegations or concerns) can be properly and fully considered.

In a recent case, a member removed herself from the practising Register on learning that allegations had been made and thereby removed the threat to the public, because she was then unable to practice. The PDA was concerned that the particular Statutory Committee, in making an Interim Suspension Order, despite the PDA's protests had completely misdirected itself, acted beyond its powers and failed to consider the interests of the registrant.

The committee stated in its determination: **"We believed a very firm and clear message needed to be sent to both the profession and the public that circumstances such as these would be treated with the utmost seriousness by the Committee."**

In his letter to the director of fitness to practise (FtP), John Murphy, the PDA director, wrote: **"I believe that the only function of the Committee at a hearing to consider an application for an Interim Order (as against its function at any final hearing about the charges against the registrant) is to take action, if necessary, to separate the public from the risk of the registrant continuing to practice; that could (and should) have been achieved simply by an Interim Order with conditions controlling return to the practicing Register and not by a suspension"**.

Mr Murphy put the FtP on notice that if the Society continues to request Statutory Committees to impose Interim Suspension Orders in circumstances where the PDA believes that they are inappropriate or unnecessary, it will continue to oppose their making, and should these orders nonetheless be made, the PDA will advise its members to appeal through the Courts. He added: **"The PDA is not afraid to advise and support its members in taking such action if it is appropriate and is not and will not be deterred by threats of orders for costs being sought or obtained against it by the Society"**.

EHC; an official complaint is made to OFCOM.

The recent press frenzy regarding pharmacists' right to refuse the supply of emergency hormonal contraception on grounds of conscience took a nasty twist recently and stimulated a complaint to Ofcom [the independent regulator and competition authority for UK communications] by the PDA.

This was following a complaint made by a woman to a local radio station in Nottingham who widely reported it in a news piece. The bulletin stated:

"The 37-year-old, who didn't want to be named, tried to buy the pill in [a supermarket pharmacy] on Tuesday but was told the pharmacist on duty wouldn't prescribe it because he was a Muslim".

The company responded by supporting the pharmacist and his right to do so.

As a result of the news broadcast, a member of the public came into the store and requested that the following message be passed on to the pharmacist: **"We're in England and he should be doing things our way now"**. The pharmacist who was acting as a locum at the time was obviously shocked by this reaction; he denies that his religious background was conveyed to the customer and ensured that another pharmacist due to relieve him from his shift, dealt with her within 10 minutes.

The PDA complained to the station on behalf of the member expressing concerns that the news item had misrepresented the facts of the matter and that the broadcast had generated racial tension and fuelled hostility towards Muslims. It was pointed out to the broadcasters that his faith or ethnic background is irrelevant to the matter and it was never disclosed to the patient by him.

The PDA beleives that the report misrepresented the facts and had generated racial tension towards Muslims.

The PDA is of the belief that the radio station treated the complaint with disdain because it refused to answer any questions put to it; a complaint has since been lodged with the regulator, Ofcom.**The PDA awaits the response.**

PDA offers work experience to its members.

The PDA is offering the opportunity for six members to spend a week each at its headquarters between January and March 2008.

The scheme is designed to give members a unique insight into the workings of PDA and whilst they are learning about the organisation and its activities, they will be an integral member of the 'team'.

Announcing the scheme, John Murphy the Director of PDA said **"When we try to tell our members what we do and some of the cases we deal with on a daily basis they are very interested. We believe that if they experience them first hand they will be absolutely amazed at the diversity and the depth we have to go to help our members. I can guarantee they will have an experience in their working life that they have never had anywhere else and it will raise their awareness of some of the risks pharmacists are exposed to"**.

The scheme will offer six people the chance to spend a full week in the PDA headquarters with travel and accommodation expenses covered.

"We are always on the look out for pharmacists who might want to get involved in PDA activity in the future so now is a good time to give some of those people, a taster. Which ever way you look at it they can't lose. It's a fantastic opportunity to add to their CPD portfolio", John said.

more info:

Pharmacists who are interested should send their CV's to:

Katherine Minchin c/o the PDA,
The Old Fire Station,
Birmingham
B1 3EA

or email **enquiries@the-pda.org**, together with an accompanying letter stating why they are interested and what you think you will gain from the experience.

www.the-pda.org

(Un)Civil Recovery

It's possible that some pharmacists have come across the expression "civil recovery", particularly those who work in the retail sector for the major pharmacy multiples.

For those unfamiliar with the term, it is the use of civil legislation by a company to recover costs and losses directly from a wrongdoer who has caused it to suffer them. The burden of proof in civil law is lower than in criminal cases and it is easier to succeed with a claim under the legal tests applied in civil law. Shoplifting and theft from retailers is a significant problem for retail pharmacy and civil recovery is mainly used against offenders, apprehended by security staff, who have been reported to the police and prosecuted through the criminal courts. Then there can be little argument that the person will be liable under civil proceedings if a criminal case has already been proved. It is hard to argue against the logic of this approach, although its deterrent value on some offenders with limited means to pay such costs is debatable.

In one such case, one large pharmacy multiple is threatening court action to recover security expenses, management and administration costs **running into several thousands of pounds** following the dismissal of a pharmacist…

Alarming developments

Less well known is the extension of this system to ex-employees who have been through disciplinary action and left employment. At least one major pharmacy multiple uses civil recovery procedures against its own ex-employees. This is happening in circumstances where allegations of wrongdoing are vigorously denied and there has been no police involvement or prosecution. Civil recovery companies, acting as agents for the employers, claim that existing case law has established the principles of civil recovery procedures in these circumstances. In one such case, one large pharmacy multiple is threatening court action to recover security expenses, management and administration costs running into several thousands of pounds following the dismissal of a pharmacist. The argument being that this expenditure was incurred as a result of the actions of the pharmacist.

This development is of great concern for a number of reasons:

- Even if the employee subsequently challenges any dismissal through an employment tribunal, the company only needs to demonstrate that it went through a reasonable investigation (among other things) and followed a defined process, rather than prove the conclusion of the investigation was correct, in order to defend the claim. Most pharmacists find it easy to find alternative work and seldom seek redress through employment tribunals. The PDA is dealing with cases where internal company investigations are woefully inadequate and the conclusions reached are questionable or marginal.
- Employers have a statutory duty to operate a disciplinary process and investigate employees where necessary. The cost of doing so is part of operational business expenditure and not something the employer can opt out of doing. Employees also have a right to present their version of events and expect that a thorough investigation will take place. It is alarming that a person exercising his or her legal entitlement during the investigation, can then be pursued through the courts for the costs of doing so.
- If employers are able to recover losses in this manner, the next step can well be to claim back costs from existing employees after disciplining them for minor misdemeanours or even take action to recover the costs of training pharmacists who resign shortly after receiving such training.

Advice to pharmacists

The PDA recommends that:

- Employees should be very cautious before signing documents acknowledging that civil recovery action can be taken against them. Pharmacists should ask for written clarification of the circumstances in which this policy will be applied and PDA members can contact one of our employment lawyers for specialist advice in this area.
- Expert legal advice should be taken if there are any allegations of a criminal nature being made during an internal investigation. This may include theft, fraud or dishonesty. Ill-advised comments or coerced admissions at the early stages of an investigation can be used later in support of a criminal/civil prosecution and as evidence presented during a professional disciplinary hearing into a pharmacist's fitness to practise. It is unwise to rely on company assurances about how the matter will be handled or to take amateur advice from well meaning colleagues.
- PDA members who are subjected to civil recovery procedures should contact the PDA for advice before responding to formal letters sent in pursuit of costs.

Summary

Legal advisors at the PDA are of the opinion that the case law being used against pharmacists by civil recovery companies is open to question. The Association is willing to challenge these companies in order to protect the position of all our members.

The creation of the PDA union

THE PDA union
strength in numbers

Following a number of surveys, six focus group meetings, debates at two successive PDA annual conferences and numerous letters and emails of support, the decision to establish the PDA union was taken in early 2007.

Since then, much preparatory work has been undertaken. Union legislation has been studied and put into effect, consultations with relevant legal and union advisors have been held, and now, the final stages of the process are being put into place.

There are many reasons for this unionisation development, but the four primary ones are:

1. Providing direct support to members in employment disciplinary meetings.

Union status will enable the PDA to have direct access to some of the more serious employment disciplinary matters. This will be hugely advantageous to PDA members because historically, and particularly in the most serious cases, the PDA, being a defence association, has been barred from accompanying its members to disciplinary meetings by employers. The grounds that enable employers to prohibit PDA attendance are that the PDA is neither a work colleague of the member, nor is it a union; soon we will be removing such grounds for objection.

2. Being entitled to full consultation rights with our members employers.

Since the launch of the PDA in 2003, some of the UK's largest pharmacy employers have opted to act as though the PDA does not even exist. Where membership levels are sufficient, unionisation will provide the PDA with a legal basis for consultation and, in certain cases, negotiation rights. This means that employers will need to consult, and where necessary negotiate with the PDA on matters that effect the terms and conditions of employment of PDA members.

3. Unionisation will lead to a significant democratisation of the PDA.

Elections will result in many more committed individuals being involved in the operational affairs of the PDA. This will significantly increase the PDA's capacity to develop its proactive developmental agenda and it will be able to do this simultaneously across all member areas, e.g. community, hospital, locum, primary care pharmacy and also student and pre-reg.

4. Union status will provide the PDA with a more significant platform.

The PDA will be able to consult directly with the government and other bodies directly relevant to the pharmacist agenda. This means that the PDA will be strategically well placed to deal with some of the more fundamental concerns held by a large number of employee and locum pharmacists. It could also enable applications for research grants to provide funding to substantiate the PDA's concerns with a more formal evidence base.

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THE PDA union
strength in numbers

How will it operate?

The success of the union can only be measured over time, but it will largely depend upon both the number and the quality of people that will actively play a part.

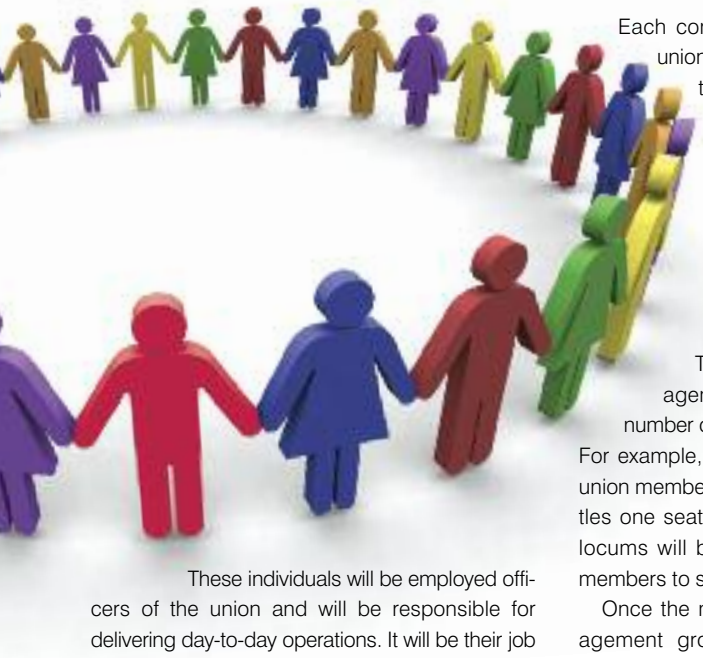
It will be important not only to ensure involvement, but also to make sure that each membership constituency has its interests properly looked after. That is why much attention has been paid to ensuring that the structure of the union will be fit for this purpose. It is felt that the following structure will form a solid foundation on which to build.

The structure of the union

The union will be operated by an 11-person national executive comprising two groups:

1. Six officers

This will be composed of a general secretary, two assistant general secretaries, treasurer, communications officer and one other officer.



These individuals will be employed officers of the union and will be responsible for delivering day-to-day operations. It will be their job to ensure that members are supported if they encounter difficulties with their employment. They will also largely guide the general direction of the union and ensure that it acts within its constitution and also that it is in line with policy as decided by members.

2. Five management group representatives

This will be composed of one representative from each of the following membership groups: community employee, hospital employee, primary care and specialist, locum and student/pre-reg.

These individuals will be national executive members and it will be their role to ensure that matters of particular concern to their constituency will always be dealt with at national executive meetings. Each of the representatives will almost certainly be directly involved in any specific projects relating to their constituency. Additionally, they will also be responsible for feeding back issues to their management groups.

Management group representatives may be involved in specific projects relating to their constituency.

The management groups

Each constituency within the overall PDA union (e.g. community employee, hospital, etc) will be able to elect its own management group to manage its specific concerns. Each management group will be made up specifically of members of that group. So, for example, the management group for locums will only be made up of locum pharmacists. The number of places in each management group will depend on the number of union members within that group. For example, if there are 3,000 locums in PDA union membership and every 250 members entitles one seat on the management group, then locums will be able to elect up to 12 of their members to sit on the management group.

Once the members have elected their management group representatives, then those representatives will select from among themselves the person whom they wish to be their management group representative; it is this person who will take a seat on the national executive.

Management group members will be expected to bring constantly to the fore issues of importance to their constituency. In addition to this, they will also be expected to organise activities for members in their particular constituency such as meetings, newsletters, surveys and consultations.

The election process

Full members of the PDA who have opted to take up their PDA union membership by 7th December will be entitled to both stand for and vote in the election. Those members wishing to stand for election will need to go through a nomination process - this has been relaxed for the first set of elections. In future elections, the executive may recommend that a more comprehensive nomination process is used. The closing date for nominations will be 21st December 2007.

Once the nomination process has closed, a short period will follow to allow all candidates to prepare their election statements and biographies.

In the New Year, all members will be sent the ballot forms and they will be entitled to vote for both their executive officers and also representatives of their management group.

Tenure of office

Elections for executive officers will be held every five years, and those for membership group representatives will be held every three years, apart from the student/ pre-reg post which be held biennially.

Members interested in taking part will find more information on

www.the-pda.org

Details found on the website will include:

» A constitution » A role specification » Where to apply for a nomination form

THE PDA union
strength in numbers

What happens next?

one. Pharmacists may join the PDA union at any time, however, those wanting to either stand in, or vote in the forthcoming elections (to be held early in the New Year) will have until 7th December to become PDA union members.

two. Those PDA union members who are interested in putting themselves forward for any of the posts described can do so by requesting an election pack which is available from the election scrutineers upon request. This will contain a nomination paper and details as to how to become nominated. This needs to be returned to the scrutineers by 21st December 2007. Details of the job descriptions for each of the posts are also available on www.the-pda.org

three. All PDA union members will receive a biography of all candidates and election ballots early in the New Year. The rules for the election will also be available on www.the-pda.org.

four. The election process will last for four weeks and the results will be announced by the independent scrutineers in February 2008.

five. The new national executive and management groups will then have two months to organize themselves in time for the inaugural PDA union conference which will be held in Birmingham on Sunday April 27th.

7th December 2007
Deadline for membership

21st December 2007
Deadline for nominations

14th January 2008
4 week election commences

27th April 2008
PDA Annual conference

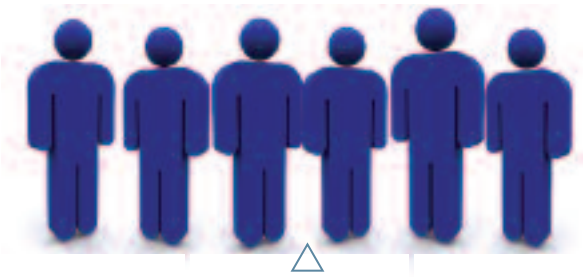
The structure of the Union...

The National Executive

Comprised of:

Six officers

ONE General seceratary
TWO Assistant General seceratories
ONE Treaurer
ONE Communications Officer
ONE Other Officer



The officers will ensure the day to day running of the PDA Union:

and:

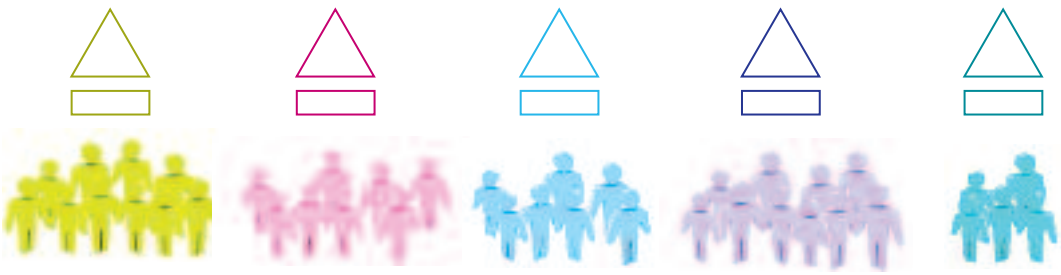
Five management group representatives

Each management group committee selects it group representative and deputy

Each representative ensures that issues important to their membership group are brought forward to the national executive.

Management Group Committees

Responsible for developing policy relvant to their membership group and also participating / organising membership activity.



One committee member per 250 members in PDA Union membership.

Broader PDA Union Membership

Community employee members | Hospital employee members | Primary Care/Specialist pharmacist members | Locum members | Student / Pre-reg members

continues over...

THE PDA union
strength in numbers

Questions and Answers...

We understand that you may have many more questions about the Union, so we hope that these answer at least some of them!

Q1. WILL A PDA REPRESENTATIVE BE PHYSICALLY PRESENT AT EVERY SINGLE EMPLOYMENT DISCIPLINARY MEETING?

ANSWER: No two employment disciplinary meetings are the same, some are of a very serious nature, others are less serious. In many instances, it will be entirely appropriate for the PDA to simply advise a member on how best to prepare for a meeting e.g. when a meeting is called to discuss lateness following a delayed train. It is the more serious incidents that will deserve direct support as often they will not only have job threatening repercussions but can also have further professional disciplinary consequences e.g. the loss of controlled drugs from the dispensary or a serious dispensing error that led to the hospitalisation of a patient. In these more serious cases, the PDA will want to have a direct involvement in these disciplinary meetings alongside the PDA member, as a well reasoned representation can have the effect of exonerating or at least mitigating the level of blame for the PDA member and hence lessening the potential of further consequences to the member.

Q2. WHAT IF I JUST WANT TO BE A MEMBER OF THE PHARMACISTS' DEFENCE ASSOCIATION AND NOT BE A PART OF THE UNION OR VICE VERSA?

ANSWER: The PDA listened very carefully to what the members said during the extensive consultation and focus group meetings. Consequently, we know how important it is to always give the members a choice in this matter. Any pharmacist who joins the PDA will have the option to opt out of the union aspect. In this instance, they will be entitled to all of the current wide ranging benefits provided by the defence association, however, those who do choose to join, will be entitled to the additional benefits of union membership as described. Equally, pharmacists can choose to join the union only and not enjoy any of the defence association benefits.

Q3. HOW MUCH WILL IT COST TO JOIN THE UNION?

ANSWER: PDA has successfully argued with the insurance underwriters that the risks of employment disputes for union members will be lower. Consequently, the risks for claims in this respect will be reduced. As a result, the PDA has persuaded them to lower the insurance premiums for PDA union members. In turn, the PDA will allocate this reduction as a payment of the union fees. Consequently, there will be no additional cost in the overall PDA membership fee for those FULL members who choose the union option.

Q4. WHAT IF MY EMPLOYER FINDS OUT THAT I AM A UNION MEMBER?

ANSWER: It will be illegal for your employer to take action or discriminate against you if he learns that you are a union member. The penalties for such discrimination are significant.

Q5. IF I CHOSE TO STAND FOR ELECTION TO THE EXECUTIVE OF THE PDA UNION, HOW MUCH OF MY TIME WOULD THIS TAKE?

ANSWER: The job of General Secretary and Assistant General Secretary are full time posts. The rest of the Executive committee posts would probably be undertaken on a part-time basis. Membership of the Management Group would be a much more unpredictable affair. Generally, Management Group committee members would be employed in their relevant sector and would undertake any PDA activities on an occassional basis. The amount of time they would devote would depend on what extent they were keen to get involved. For example, they may want to undertake project work important to their constituency, they may want to write a newsletter or even to organise meetings/conferences for members. The Membership Group representative would be expected to manage his/her committee and also to attend national executive meetings which would usually occur at least three times a year.

Q6. IF I AM A SELF-EMPLOYED LOCUM – HOW WILL UNION MEMBERSHIP BENEFIT ME?

ANSWER: There are many ways in which a PDA Union will be able to benefit self employed locums, for example;

- Establishing a more appropriate national tariff for locum fees.
- Establishing a more acceptable national policy for time frames on locum booking cancellations.
- Arguing for proper staffing levels at pharmacies where locums work.
- Establishing a specialist fees arrangement for locums who undertake advanced and enhanced services.
- To resolve anomalies around payment of traveling expenses that currently exist between the various pharmacy multiples.

These benefits are just a start – many more may be possible, but this will largely depend on the quality of the individuals elected to the locum management group,

Members wanting any more information, should contact the pda on 0121 694 7000 or www.the-pda.org

At the BPC...

Hemant Patel, President of the Royal Pharmaceutical Society of Great Britain, praised the PDA for the role it has played in pharmacy in general...

Mark Koziol - PDA Chairman, Hemant Pattel - RPSGB President, John Murphy - PDA Director

He also praised its contribution to the BPC in particular, as a principal sponsor of the event. At the PDA reception Mr Patel acknowledged that the nature of the work of the Society and the PDA meant that the two organisations will often look at issues from different perspectives. He said: **"It [The PDA] stands up for what it believes to be the rights of pharmacists, and that should not be seen as a bad thing for the profession; all of us with open minds should welcome its freshness of ideas and the way it is prepared to question the status quo"**.

Apart from its substantial presence at the exhibition, the PDA hosted two highly topical and important sessions

The PDA had a significant input into the Conference; apart from its substantial presence at the exhibition, the association hosted two highly topical and important sessions. One looked at a "fair blame" culture and risk-managing dispensing errors; the other explored the Department of Health's view on remote supervision, robustly challenged by Mark Koziol of the PDA.

Mr Patel further acknowledged and thanked the PDA for its role at the BPC. **"Its contribution to the conference sessions has been exceptional,"** he said, **"and they have worked closely with the conference organisers, and Society staff to bring more community pharmacists to BPC, something that I hold very dear to my heart"**.

Elizabeth Taylor who won one of the free three-day passes the PDA offered to its members said: **"It was a great experience. I had always wanted to go to the BPC. I was one of the lucky ones; it's a pity more grass-roots' pharmacists cannot afford the time or the money to attend"**.

Dispensing errors could be reduced significantly claims the PDA

John Murphy, director of the PDA, presented delegates at the BPC with statistics showing that as few as six groups of products account for 35% of all dispensing errors categorised as "wrong item dispensed". The most common errors involved atenolol, amitriptyline and allopurinol. **"If we could raise pharmacists' awareness of the products that account for such a large proportion of errors, we could make a significant impact on patient safety,"** he said.

Mr Murphy was speaking at a session hosted by the PDA and chaired by Olivia Timbs, editor of The Pharmaceutical Journal, entitled **"Squaring the circle – protecting pharmacists and patients"**. The topic explored the conundrum of how pharmacists can protect and risk-manage their own vulnerability without compromising the professions' responsibility to patients.

Dr Bruce Warner of the National Patient Safety Agency balanced the advantages and disadvantages of no blame (or fair blame) culture. He concluded that organisations should encourage an open culture of reporting, and that investigations should be geared towards understanding rather than punishing. This is also the strong view the PDA put forward when commenting on the Section 60 Order, submitting that it encouraged the opposite. **"There is a myth,"** said Dr Warner, **"that if we try harder or punish people, they will never make any errors, but if we only blame and focus on the systems, then we are abrogating our professional responsibilities"**.

Professor Joy Wingfield pointed to the vulnerability of a pharmacist in today's practising environment. She informed the conference that a pharmacist can be the victim of 'multiple jeopardy', and that any single error could result in any or possibly all of the following actions being taken against a pharmacist: civil claim, criminal prosecution, professional and employer disciplinary sanctions. **"Despite their employers' vicarious liability, it is wise for employees and essential for the self-employed to have their own protection,"** she said.

David Pruce, director of quality and standards, RPSGB, gave the conference some encouragement in disclosing the Society's plans to help rehabilitate poor performers who should not, for what ever reason, be disciplined by their professional body. "Regulation needs to encourage improvement as well as dealing with problems," Mr Pruce said. **"And poor performance short of disciplinary offences needs fair assessment and help for improvement."**

Commenting afterwards, Mr Murphy said, **"I was pleased with the response to the session. Going forward, the PDA is committed to working more closely with the Society and safety agencies in the interests of our members and their patients"**.Copies of the presentations are available on the PDA web site.

Good to see a full crowd enjoying the hospitatlities at the PDA Stand!

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BPC *continued…*

Remote supervision: a step too far!

Mark Koziol, Chairman of the PDA went head-to-head with Jeanette Howe of the Department of Health and architect of the new Health Bill at a 'Hot Topic' debate staged at the BPC.

Ms Howe, in explaining the rationale behind the introduction of the legislation, which would see the concept of "personal control" be replaced with the "responsible pharmacist", believes that this legislation would bring more clarity to any anomalies and confusion caused by the Medicines Act. The concept would allow staff to sell and dispense medicines under agreed protocols in the pharmacist's absence. She believes that the constraints imposed as a consequence of previous legislation was "not fair to pharmacists".

Mr Koziol, although welcoming the clarification and concept of the responsible pharmacist, believes that there could be unintended consequences of the legislation. In particular, he feels that the legislation has not been thought through with respect to patient safety. **"I can't imagine that any pharmacy without a pharmacist is as safe as a pharmacy with one,"** he said. **"For many years we have been educating the public to 'ask your pharmacist' and through this legislation we are in danger of dismantling all the good work, and by default, allowing pharmacies to open without a pharmacist being accessible."** He went on to state his concern that remote supervision could be adopted as a cost-cutting exercise or to overcome labour shortages.

In demonstrating why allowing a pharmacist to delegate supervision from a remote location would send the wrong message to the public, he asked the audience to imagine they were passengers on an aeroplane. **"Would you be happy to embark,"** he asked, **"if you knew that the pilot was not going with you even though you knew that the rest of the staff were very nice?"**.

Earlier in the week, at a keynote speech, Ben Bradshaw, Minister of State for Health Services, told the conference that he felt that the government has laid the foundations for responsible pharmacists to have their time freed up and so make better use of their training. He said that the Act would allow technicians to supervise certain aspects of dispensing. He also acknowledged that patient safety had to come first and there would be a phased approach to implementation. On hearing Mr Bradshaw's address, Mr Koziol commented: **"The House of Lords has been given assurances in open parliamentary session that there will be full consultation within the whole profession before the regulations governing remote supervision are agreed. I am delighted that he has recognised that safety is paramount and if he is true to his word then I am confident that we will achieve our stated objectives"**.

Registration is about more than fees and discipline says Chief Pharmacist

One of the hot topics at this year's BPC was a discussion on the White Paper Trust, Assurance and Safety - The Regulation of Health Professionals in the 21st Century

The future of pharmacy regulation and representation was under discussion at the British Pharmaceutical Conference in September. During a 'Hot topic' debate, delegates heard about proposals for the future of the profession and what some representatives may want from it.

Keith Ridge, Chief Pharmaceutical Officer, explained that **"pharmacy is changing, as is patient care and the regulatory landscape"**. New rules about regulation and fitness to practice need to be implemented to keep patient care at the forefront of practice. The fact that most healthcare professionals operate safely should be recognised. Any changing system of regulation should respect this quality within the profession, Mr Ridge explained.

Mr Ridge went on to say that the current structure of the Royal Pharmaceutical Society of Great Britain does not fit with the future of the profession. The proposed General Pharmaceutical Council (GPhC) will be established with government support. This profession will need to be supported by pharmacy leadership when it comes to assessment, accreditation and determining professional standards. Mr Ridge continued to explain that minimising risk and optimising patient care are the keys to professionalism. He also highlighted that professional regulation should be about the environment in which pharmacists are working. This is something that the PDA is particularly keen to bring to the forefront of the representation agenda.

> **Regulation should also be about the environment in which pharmacists are working**

The RPSGB is developing its role in the fitness to practice arena and is gaining increased influence over individuals' eligibility to remain on the register, including taking sanctions against failing conduct and health, as well as revalidation and CPD. **"Registration is about more than fees and discipline"**, Mr Ridge explained. He also mentioned that work is ongoing to explore how leadership in the profession could support the GPhC.

A welcomed split

The split in the functions of the Society is welcomed by the PDA, as is the news that the membership should not have to fund it. It is imperative that the representation of the profession is separate from its regulation. The PDA believes that pharmacists have suffered for too long - they have had no-one to represent their interests nor provide something to which they can aspire. This view was echoed during the debate. Leaders from specialist areas of the profession were in agreement that such a body needs to stand for the interests of the "ordinary member" while also acknowledging the different specialities within the profession. Catherine Duggan from the UKCPA explained that there should be recognition of all levels of pharmacists. This is something that is key to the future of the profession and Nigel Clarke, chair of the independent inquiry on the future of the professional body, invited pharmacists to take part in the consultation process.

Future possibilities

Commenting on the possibilities in the future, Mark Koziol, PDA Chairman, said: **"It is reassuring that the Chief Pharmacist is aware that the current regulatory process needs to be revamped in order to recognise that the vast majority of pharmacists are good practitioners. I do hope that the Society's fitness to practise directorate was listening because I believe that some of the methods that they have used in the regulation of pharmacists are seriously demeaning and are not only damaging to the profession, but also to the public interest."**

Half an hour in the Lords

..one frosty January evening

by Graham Southall Edwards

MA (Law), LM, BPharm, MR.PharmS. Barrister / Pharmacist, PDA Advisory Board Member

In less than half an hour, the most dramatic and significant change to, and overhaul of, legislation regulating the practice of pharmacy, and the repeal of the entire Pharmacy Act 1954 was accomplished.

The Pharmacists and Pharmacy Technicians Order 2007 was debated at 6.31pm on Wednesday 24 January 2007 in the House of Lords. Baroness Royall of Blaisdon rose to move, "That the Grand Committee do report to the House that it has considered the Pharmacists and Pharmacy Technicians Order 2007". She added: "This order has been well researched, and has found broad favour and support from those who are most affected by it". Lord McColl of Dulwich said (before 6.45pm): "The Order has been the subject of extensive consultation within the pharmacy profession and outside it". The Committee adjourned at 6.58 pm.

A "straw poll" of 65 pharmacists I have visited in the past year has revealed only two pharmacists who knew anything much about a piece of delegated legislation that will probably affect and control the working and professional lives (and for that matter, increasingly, their personal lives) of most newly qualified pharmacists for the rest of their careers until retirement (and even beyond).

Unlike primary legislation, which is the process of passing Acts of Parliament and which can involve week-long debates, delegated legislation is achieved by writing into Acts clauses such as "The Minister may by Order make regulations for the regulation and control of the profession of pharmacy and the protection of the general public". Powers of this type were included in section 60 of the Health Act 1999, passed in the aftermath of the so-called "Shipman affair" and the numerous and burgeoning number of "Shipman inquiries" that followed it. Then silently the Minister took his pen and signed the Order (known commonly as "the Section 60 Order"), which came into force at the end of March 2007, and more correctly named The Pharmacists and Pharmacy Technicians Order 2007, SI 2007 Nr. 289.

The PDA has been warning of this coming legislation for years and last year it sought to involve as many pharmacists in the relatively short "consultation process" as possible, with a view to getting as much of the Draft Statutory Instrument amended for the benefit of pharmacists as it could; but as usual, most pharmacists were just going about their daily business, oblivious to the draconian powers that the Society was about to acquire and which it immediately started using, come April 2007.

The rise of the machine

In May 2006 I wrote a Broad Spectrum article for The Pharmaceutical Journal [Pharm J, 276;7400:564] in which I warned members of the Society to beware of what I called "the rise of the regulatory machine". The Society, through Mandie Lavin, responded and effectively called me an "alarmist"; but if the alarm bells rang, it seems that almost nobody heard them and if they did, they did not take a blind bit of notice.

The result is that pharmacists are now virtually stuck with the most venomous and potentially dangerous system regulating their profession that they could ever have imagined. One by one, they are becoming the subject of the new powers as the Society increasingly flexes its muscles through its freshly recruited army of lawyers. They have largely replaced the previous pharmacist employees, about whoml have heard it said that they "lacked objectivity because they empathised with the plight of their practicing colleagues".

The rise of the regulatory machine;
They can get a court order against your granny too…

Presently, only a select few, who it seems were on a "hit-list" of those that the Society "knew about, but could not do anything about", prior to the new legislation, have felt the full force of this, as they have become the subject of applications to the Health or Discipline Committees for Interim Orders under Article 54 of SI 2007 Nr. 289 ("the Order"). Readers can now go to the Society's website where the "registrants" (the fashionable new name for the Society's members) concerned are detailed for all to see. It is a bit like "naming and shaming", but of course, I must be politically correct and say that it is not, but rather that it is

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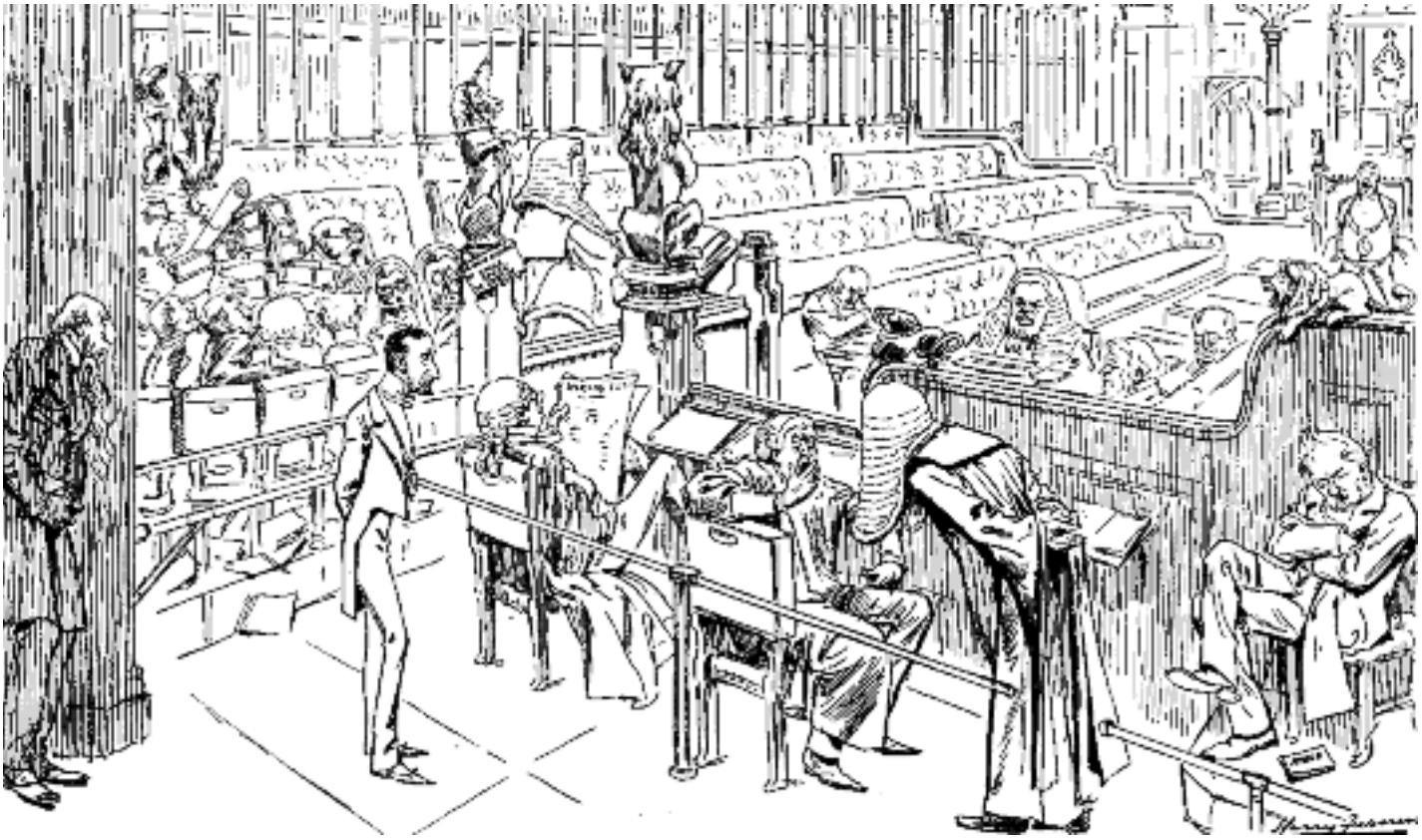

The Pharmacists and Pharmacy Technicians Order 2007 was debated in the House of Lords…

about protecting the public. This is a mission that Britain seems obsessed with, to the disproportionate exclusion of almost all other considerations, including, of course, the financial ones.

Ah yes . . . the financial ones: retention fees. Members will, after all, be learning of the new Order, because next year and for years to come, through their retention fees payable to the RPSGB, they are going to be paying for this disproportionately costly, legalistic and frightening new system. It is a bit like the bank robbers being asked to fund a pay rise for the Sweeney and to add a bit more to double their numbers too.

I mention the Sweeney and you think of the police; you may ask yourself what that has got to do with pharmacy. Well, when you make a dispensing error, upset a customer who complains about your "professional attitude" or utter some "naughty words" in the evening in the local pub and someone knows that you are a pharmacist, and the inspector wants to interview you about it all. He or she will read you your rights under Codes made under PACE, the Police and Criminal Evidence Act 1984; then they tape the interview, just as if you had been nicked red-handed in a bank robbery and very soon, even if you thought you were not a villain, you will be feeling like one. You will not (yet) be able to be arrested by the Society (they just presently get the police to do that before an interview, if necessary) and you will generally be "free to leave the room at any time"; most importantly, you will be "not obliged to say anything". However if you choose not to do so, they will tell you that you are in breach of the Code of Ethics because you are not cooperating. Would not the police just love a power like that? Just imagine if every villain who said "no comment guv," could then be brought before the beak the next day and sent down for being "uncooperative". It would be a copper's charter, which of course, is what the Section 60 Order is for the Society.

So what else can "they" do to you? If they think you could be ill, they can get your medical records without your permission. Once you are subject to investigation by one of the four new Statutory Committees, they will serve you with a Statutory Notice demanding to know who you work for; if you do not "come clean" within 14 days, they will be off to the County Court for an Order against you, plus the costs to boot. If you default, you could even get locked up.

Hand it over!

The Society can even demand that anyone whom they believe has information about you which it thinks is relevant to their inquiries, has to deliver it up. So if your granny has got a photo of you when you were younger holding the hand of the girl next door "inappropriately" and they think it is evidence that shows you may be a "risk to the public", they can demand that she hands it over; and yes, if she does not, they can get a Court Order against your granny too!

There simply is not enough space here to go into all the powers of the new legislation and the inquiries and the associated complex legal processes that pharmacists are now being dragged into and having to pay for in legal fees and costs if they lose.

So where does the PDA come into all this?

The PDA is an organisation that has tried tirelessly to stop this legislation being enacted in its present form. Historically, the Society has nearly always got its own way with pharmacists and the only "people" who have been able to argue successfully with it in the Courts have been the companies or others with sufficient money to spend on lawyers. On appeal, the Society has often been struck down, as with Boots in the House of Lords in 1952. But to get there you need money and backing.

This is why every pharmacist needs the PDA; the Association is a bit like an umbrella: when you have it with you, you often find that you do not need it, but of course it is always there if you do. Funny though, those really heavy thunderstorms always seem to hit you when you left your brolly in the hallway. Many pharmacists who are not members of the PDA have found out only when an "indictment" from the RPSGB of 150 pages or more, (which may even be for something as trivial as a claim that they were overheard laughing in the dispensary) has arrived with their morning post and now they face thousands of pounds of legal costs.

The coming thunderstorm…

Ann Lewis wrote in The Pharmaceutical Journal on 25 August this year that "last year the Society received 821 complaints against members"; I can promise you that many of these will go on to be the subjects of complex and costly inquiries in 2007/8/9.

I urge you to join the PDA before you are out in the thunderstorm without protection. I promise you that you will never regret it!

Avoiding claims against primary care pharmacists

In this article, the PDA explores just some of the factors which have led to claims made against Primary Care Pharmacists

Blanket therapeutic switching

In recent years many commonly used medicines have become available as generics and Drug Tariff prices have been dramatically reduced. The Department of Health and PCTs see switching patients as an opportunity to reduce NHS expenditure. Therapeutic switching of patients' treatments has been encouraged as the most cost effective way of achieving higher use of the less expensive medicines. When it comes to problems encountered with blanket switching, it is usually the process that is used (or lack of a process) that has been the cause of the problem. In the case of blanket switching it is of course a fundamental principle that a switch will not suit all patients. This indicates that each case should be taken on its merits. In some of the cases where primary care pharmacists have encountered liability issues in relation to 'blanket switching' these have occurred because they have not observed the 'each case on its merits' principle.

Conducted well, a programme of switching to generics has the potential to free up millions of pounds for the NHS; done badly it can result in patient harm and litigation. What is the best approach to ensuring patient safety whilst undertaking switch programmes?

Guidance on therapeutic switch programmes

1. Based on evidence

The decision to initiate treatment or change a patient's treatment regime should be based on good quality evidence or guidance e.g. NICE, or the National Patient Safety Agency.

In particular evidence should be sought for therapeutic equivalence, similar tolerance and adverse event rate profile, bioequivalence/ pharmacokinetics, and value for money.

2. Policy approved by PCT and each general practice

Therapeutic switches and policies to stop the prescribing of medicines that carry significant clinical risk should be approved by the PCT. and local consultants. PDA has learned that there is a significant variation between PCTs in their switching policies with some PCTs being very stringent in their policies when it comes to individual patient considerations and others less so. This is a major concern and can only be addressed if PCT's refocus their policies to deal with this point.

3. Written policy/standard operating procedure (SOP)

There should be an SOP or protocol which describes the responsibilities and the procedures, including audit, necessary to safeguard patient safety, consent etc. This should be read and approved by each GP practice in which the switch is occurring. Copies of SOPs should ideally be logged with the PDA.

4. Assess each individual patient

Health professionals should base their prescribing decisions on individual assessment of their patients' clinical circumstances. This has been a specific source of problems for primary care pharmacists. The paradox is that the more each patient is examined, the longer it takes and the likelihood of targets being met comes under pressure. Meanwhile those primary care pharmacists who effect changes quicker are often deemed to be more efficient. The dangers of an overly incentivised process are clear for all to see. One possible solution is that primary care pharmacists must emphasise these issues at the PCT policy creation stage.

5. Review an individual patient's treatment before making any changes

It should never be assumed that an existing prescribed medicine is appropriate for an individual. Check there are no documented ADR's or contraindications to existing drugs before switch .This area specifically has caused liability issues for primary care pharmacists as in some instances the issues immediately surrounding the switch are examined closely, but the wider problems associated with the rest of the patients medication regime have not been. Subsequently, when an adverse event occurs, the primary care pharmacist is implicated through an act of omission.

6. GP to approve list of patient names

After reviewing all the individual patients for suitability to switch the final list should be approved by the patient's GP(s) so that they can eliminate any unsuitable patients e.g., the recently bereaved who may not be able to give informed consent.

7. Change must be explained to the patient

Ideally patients (guardian or carer) should be seen face to face to negotiate the change and to explain arrangements to monitor patients following any switch.

As a minimum patients must be informed in writing of the change and given the option to say no. A letter should state the reason for the change, any cautions, how the change will be made e.g., on next repeat prescription and arrangements for follow-up.

Letters should only be sent to patients who can read English (or in the patient's language) and are not significantly cognitively impaired. A record of the consultation/copy of the letter must be recorded in the patient's record. Any patients who are not suitable for a letter and cannot have the change explained face-to-face should not be switched.

8. Inform local community pharmacists

Informing local pharmacists allows them to support the change and provide information to patients - and allows them to have stock in place.

9. Follow-up review

After having made the change a check should be made that necessary monitoring has occurred.

Summary

PCTs and pharmacists are being put under considerable pressure to meet performance targets. Pharmacists must always consider the appropriateness of medicines for individual patients and avoid management pressure to meet targets.

more info:

1. National Audit Office. Prescribing costs in primary care. http://www.nao.org.uk/publications.
2. Institute for Innovation and Improvement. http://www.institute.nhs.uk/
3. www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_076350

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