



## Statutory Committee clarification on meaning of “personal control”

The Medicines Act 1968 requirement that a retail pharmacy business should be under the personal control of a pharmacist does not mean that a pharmacy needs to be closed to the public whenever there is no pharmacist present, the Royal Pharmaceutical Society's Statutory Committee has decided.

In a decision given on 19 July, and intended to clarify the meaning of “personal control”, the committee's chairman, Lord Fraser of Carmyllie, QC, said that pharmacy premises may be opened, or remain open, without a pharmacist being present provided that nothing takes place that requires the presence or approval of a pharmacist.

The chairman made his statement to clarify an earlier decision of the committee in a case arising from the absence of a pharmacist in a City of London pharmacy that had been open on a quiet date between Christmas and New Year 2000 (*PJ*, 2 November 2002, p660). He said that, in his view, the superintendent pharmacist involved in that case had been correct in his understanding that the pharmacy premises could be opened for the sale of retail items not requiring the presence or approval of a pharmacist provided nothing was done that did require that presence or approval. And, said the chairman, the Society had been correct to withdraw that part of the allegation against the superintendent that related to failure to have a pharmacist in personal control on the date concerned.

The chairman pointed out that it was now a regular feature of retailing that a section of a superstore is given over to the dispensing and sale of items that require the presence of a pharmacist. In the absence of a pharmacist

the dispensing section is closed, but assistants who previously worked with the pharmacist do not become instantly unemployable. Instead, they remain free to sell perfumes, sun tan lotions and other items normally found in pharmacies. “I cannot see why in principle the situation is any different in a small retail pharmacy,” the chairman said.

Pharmacists might be well advised to have their premises arranged so that they could close off the dispensary and pharmacy medicines, said the chairman, but he would be reluctant to rule that the whole premises should close when no pharmacist is present.

The chairman added that the Statutory Committee had in the past dealt with cases involving temporary absence of personal control — for example, when the pharmacist had been delayed by traffic on the way to work or had gone out to buy a lunchtime sandwich. However, it was difficult to rely on a vague rule whereby absence of personal control was normally a breach but was not if it was unexpected or temporary. A pharmacy should either close whenever no pharmacist was present or it should be allowed to be open for business that does not require a pharmacist's presence. He understood that the latter was what Parliament had intended.

The chairman went on to say that nothing in his statement affected, or was intended to affect, the contractual arrangement a pharmacist might have under an NHS contract.

He also made it clear that pharmacists should not rely on what he had said unless there were clear, unequivocal instructions to the staff on the limitations on their ability to sell items in the absence of a pharmacist.

### This week

- **Meaning of “personal control”**  
The Statutory Committee has clarified the interpretation of “personal control” (p203).
- **Charter ballot**  
The officers of the Society's Scottish Executive are urging pharmacists in Scotland to vote “yes” in the Charter ballot (p203); the President answers more questions about the ballot (p204).

## Devolution review group's first meeting

The first meeting of the Royal Pharmaceutical Society's devolution review group was due to take place on 6 August at the Society's Scottish Department in Edinburgh.

The review group, chaired by Lord Fraser of Carmyllie, is to evaluate the function, structure and ways of working of the Society to ensure that it can fully meet the challenges and opportunities presented by devolution.

Issues covered by the review will include: a framework for the devolution of functions within a Britain-wide organisation; requirements for governance and accountability; the scope, role of and the structures and processes for policy-making; and the structure and function of the Scottish Executive and Welsh Executive and their relationships with the Council and the Society's directorates.

Ann Lewis, Secretary and Registrar, said: “The Society has already had good deal of success with the devolved administrations to ensure that pharmacy's voice is heard in both Scotland and Wales. I am looking forward to this first meeting of the review group, which will help us plan for the long-term future. The August meeting will agree the terms of reference and ways of working of the group and consider how best to consult with members in both Scotland and Wales.”

The review has also been welcomed by Angela Timoney, chairman of the Scottish Executive, and Mair Davies, chairman of the Welsh Executive.

The review group includes the current and former chairmen of the Scottish and Welsh Executives, members of Council, the Secretary and Registrar and Paul Jervis, a constitutional specialist with expertise in devolution.

The group will complete its report in late 2004. It will form part of the Society's strategy and business planning programme.

## Members in Scotland urged to vote “yes” on revised Charter

The chairman, vice-chairman and immediate past chairman of the Royal Pharmaceutical Society's Scottish Executive support the revised draft Charter agreed by the Council on 30 June 2004 and are urging members in Scotland to vote “Yes” in the current ballot.

The chairman, Angela Timoney, said: “The Society is about to embark on the Fraser review, which will identify the support required to enable the opportunities provided by devolution to be fully realised. The Charter is an enabling document, which includes a

commitment to establish structures in Scotland and Wales to reflect devolved powers and responsibilities for health and other relevant matters. We believe pharmacists should vote ‘Yes’ so that we can concentrate on delivering real benefits for Scotland through the Fraser Review”.

The three Scottish Executive officers said that they continue to support the Council's decision to ensure that the revised draft Charter will support the Society's work with a devolved government.

# Charter ballot: more questions and answers

The President of the Royal Pharmaceutical Society, Nicholas Wood, answers some further questions posed by members as a result of the ballot on the Society's revised draft Charter (see also *PJ*, 24 July, p128)

**What exactly is the Privy Council?** The Privy Council is that part of government that advises on the exercise of prerogative powers and certain functions assigned to the Queen and itself by Act of Parliament. The position of President of the Privy Council is usually combined with that of Leader of the House of Commons. Appointment to the Privy Council is normally for life but only ministers of the government of the day participate in its policy and operational work. Therefore, it is government ministers, advised by civil servants, who take Privy Council decisions. You can read more about the Privy Council on the Privy Council Office website ([www.privy-council.org.uk](http://www.privy-council.org.uk)).

The Privy Council nominees on the Society's Council are not usually Privy Council members. They are appointed through a process that follows guidance issued by the Commissioner for Public Appointments. The overriding principle of selection is based on merit. It resembles a job application process, including open advertisement.

**What will happen to the Society's Byelaws? Do they come under the Charter, the legislation or both?** At the moment, the Byelaws are made under powers provided by either the Charter or legislation. It is not always evident which Byelaws derive from which source. In future, this should be clearer. The terminology would be different: instead of Byelaws, the Council would make *regulations* under the Charter and *rules* under the new legislation. All new regulations, being Charter-derived, would need to be published to the membership and approved by the Privy Council. The method of approval of the various sets of rules would be determined through the Section 60 Order under the Health Act 1999, in common with other similar Government legislation.

**Will the Society be undertaking professional leadership and development for**

**technicians as well as regulating them?** No. Draft Article 2(3) makes it clear that the Society does not involve itself directly in the professional leadership and development of persons other than pharmacists. The article reads "to promote and protect the health and well-being of the public through the regulation and professional leadership and development of the pharmacy profession and the regulation of other persons engaged in related activities." While the Society will be the regulatory body for pharmacy technicians, it will not be directly involved in their professional leadership and development. The Society will, however, be involved in such matters as mandatory continuing professional development, which will form part of regulation.

**Under the new draft, who would decide what happens to the Society's assets in the event of a dissolution?** In short, the members would decide. As shown in Article 13 of the new draft, the initiative is with the members, as the process can only be set in train by special resolution. The destination of residual assets would be covered in the special resolution, which would have to be confirmed by the members in general meeting or by ballot of the membership. The Council's powers in relation to winding up are subordinate to this and are there so that orderly dissolution is not impeded by any inadequacies in the resolution (for example, it would probably be impractical to list all assets and liabilities). This provision is in the normal form for a chartered body.

If, in the future, legislation were enacted to remove the Society's regulatory powers and confer them on some other body, the Society could continue as a professional body under its Charter and apply all its assets to the other elements of its objects. It should be borne in mind, however, that the Society's assets belong to the Society as a corporate body. The draft Charter would not change this position. The assets could not be distributed among the

members unless this was specified in the Charter, and it could not be envisaged that the Privy Council would grant such a provision.

The dissolution of the Society is, of course, not envisaged, but the latest draft of the Charter gives greater protection to the assets than does the current Charter. It is now normal practice for charters to include provision for winding up procedures. Without this, the Society or its creditors would be in the position of having to approach the court for directions on winding up, and could conceivably find its assets treated as *bona vacantia*, ie, passing to the Crown. This is because the current Charter is silent on this point, and any distribution has to be expressly authorised under the governing instrument. The new article, unlike the current Charter, would actually safeguard any residual assets, on winding up, for purposes similar to those in the objects. The new Charter would allow such assets to be transferred to one or more other bodies.

**What is the meaning of the various sets of brackets in the first paragraph of Article 8? Are they misprints?** The Privy Council's advisers have considered how and when the reformed Council of the Society should be brought into being. We need to avoid a situation where, if the new Charter were granted, the current Council composition would be at odds with that stated in the Charter. A transitional provision is therefore required to permit the existing Council to continue until the newly constituted Council comes into office on a specific day. It is proposed that this should be the day after the Society's annual general meeting in 2005, and draft Article 8 has been altered to reflect this. The square brackets denote alternative words to be used for this purpose. The exact wording would be determined if the membership approves the draft Charter and it goes on to be considered by Her Majesty in Council.

## 'Medicines, ethics and practice': August list of amendments

In the first issue of each month, *The Journal* updates the guidance on the legal status of medicines published in the 28th edition (July 2004) of 'Medicines, ethics and practice: A guide

for pharmacists'. The amendments are given in **bold** type when added to the list and repeated each month in light type. A product's legal status can be obtained by consulting first the latest

amendment list and then the guide. The abbreviations used in the list are explained in the key to annotations in the body of the guide (p29 and p75).

### Human medicines

Abilify tablets POM  
Amlodipine maleate POM  
Co-diovan tablets POM  
Dandrazol dandruff shampoo GSL

Erbix POM  
Gyno-pevaryl preps entry should read: Gyno-Pevaryl preparations POM  
Imigran Radis tablets POM

Ketoconazole entry: "(see Nizoral products)" should read "(see Dandrazol and Nizoral products)"  
Levemir preparations POM

Lyrica capsules POM  
Numark heartburn relief tablets POM  
Strattera capsules POM  
Striant tablets POM  
Subgam POM

Telzir tablets POM  
UniChem heartburn relief tablets P  
Vaniqa cream POM  
Vfend powder for oral suspension POM  
Zocor Heart-Pro tablets P

## OFFICIAL NOTICES

Communications to the Royal Pharmaceutical Society should be addressed, unless otherwise stated, to: The Secretary and Registrar, Royal Pharmaceutical Society of Great Britain, 1 Lambeth High Street, London SE1 7JN (tel 020 7735 9141; fax 020 7735 7629). Official Notices also appear in the Notice-Board section of PJ Online ([www.pjonline.com/notices](http://www.pjonline.com/notices)).

### Statutory Committee inquiries

The Statutory Committee will meet at the Royal Pharmaceutical Society of Great Britain, 1 Lambeth High Street, London SE1, at 9.45am on Monday 9 August, Tuesday 10 August, Wednesday 11 August and Thursday 12 August 2004 to hear the following inquiries:

#### Monday 9 August

1. The Committee will deliver its decision, together with reasons, in an inquiry into a pharmacist alleging: failure to take out professional indemnity insurance cover; failure to provide documentary evidence of professional indemnity insurance cover; and failure to co-operate with the Society's inspector during the course of an investigation.
2. An inquiry into the case of a pharmacist convicted of 11 counts of furnishing false information and the corporate body on whose board the pharmacist sat as a member.
3. The Committee will resume consideration of an inquiry adjourned from 19 May 2004 into the case of a pharmacist alleging: supply of prescription-only medicines in the absence of a pharmacist; failure to ensure that a pharmacist was in control of a pharmacy; and failure to correct misinformation provided to the Society's inspector regarding the presence of a pharmacist at a pharmacy.

#### Tuesday 10 August

4. An inquiry into the case of a pharmacist alleging: supply of a Class C Controlled Drug other than in accordance with the directions on an instalment prescription; failure to comply with the provisions of Regulation 16(2) of the Misuse of Drugs Regulations 2001; and the submission of erroneously endorsed prescriptions to the Prescription Pricing Authority, for payment.
5. The Committee will resume consideration of an inquiry

adjourned from 13 August 2003 into the case of a pharmacist alleging the taking of a prescription-only medicine, for personal use, without the authority of a prescription.

6. An inquiry into the case of a pharmacist convicted of supplying a prescription-only medicine other than in accordance with a prescription given by an appropriate practitioner, contrary to Sections 58 and 67(2) of the Medicines Act 1968.

#### Wednesday 11 August

7. An inquiry into the case of a pharmacist alleging: theft of medicines from a pharmacy; consumption of stolen medicines while on duty at a pharmacy; the commission of a dispensing error; and inappropriate behaviour while on duty at a pharmacy.
8. An inquiry into the case of a pharmacist alleging: the commission of a dispensing error; denial to a patient that a dispensing error had been made; making misrepresentations to the patient in respect of conversations with the prescriber; and giving incorrect advice to the patient.

#### Thursday 12 August

9. The Committee will consider an application for restoration by a person whose name has been removed from the register.
10. An inquiry into the case of a pharmacist convicted of: two counts of unlawful supply of a medicinal product, otherwise than in accordance with a prescription given by an appropriate practitioner, contrary to Sections 58 and 67 of the Medicines Act 1968; and being knowingly concerned in the fraudulent evasion of prohibition or restriction of a Class A Controlled Drug, contrary to section 170(2)(b) of the Customs and Excise Management Act 1979.
11. An inquiry into the case of a pharmacist alleging the operation of a repeat medication service which failed to comply with the service specifications set out in the Society's Code of Ethics and Standards; failure to obtain patient medication records; and the submission of inaccurately endorsed prescriptions to the Prescription Pricing Authority.

#### David Gomez

Secretary to the Statutory Committee

## DEATHS

**Court** On 26 July, William Edward Court, FRPharmS, of 1 Maes yr Haul, Mold, Clwyd CH7 1NS. Dr Court, who registered in 1948, was a former reader in pharmacognosy at the University of Bradford.

"Bill" Court was born in 1921 and served an apprenticeship in community pharmacy before war service in the Royal Navy. After graduating BPharm in 1949, he gained experience in industrial and hospital pharmacy before joining the teaching staff of the Liverpool school of pharmacy in 1951. He was appointed senior lecturer in 1955 and principal lecturer in 1965. He moved to Bradford as reader in 1969 and retired in the early 1980s.

Dr Court was awarded a PhD of the University of London in 1966 for research into *Rauwolfia*. He was also awarded a fellowship of the Linnean Society.

He was a former president of the British Society for the History of Pharmacy. He was a former chairman of the Pharmaceutical Society's Bradford and Clwyd branches and a past member of the Yorkshire regional committee.

Dr Court served on the the Committee on Safety of Medicines herbal products subcommittee and the British Pharmaceutical Codex subcommittee on crude drugs. He was a former member of the senate and of the court of Bradford university and a past chairman of Bradford Drug Liaison Committee.

**Payne** On 10 June, William Francis Payne, MRPharmS, of Mountain Ash, St John's Road, Petts Wood, Orpington, Kent BR5 1HS. Mr Payne registered in 1962. He retired as manager of Boots in Beckenham, Kent, in 1995.

**Wardle** On 27 June, Doris Wardle (formerly Mrs McCarthy, née Morgan), of 16 Matheson Gardens, Morpeth, Northumberland NE61 1ET, aged 100. Mrs Wardle registered in 1925 and retired from the register in 1999. She spent her first years after registration as a locum pharmacist in north-west Kent. During the 1939–45 war she moved to Wellington, Shropshire, where she managed a community pharmacy. After the war she returned to Kent, working for two years at Jaques Pharmacy in New Eltham. She then worked as a locum for Roadnights Pharmacy in Sidcup before buying the business, where she remained until 1962, when she decided to retire.

She was one of five founder members of UniChem, formed shortly after the 1939–45 war.

## TRIBUTES

**Dobbin** In a tribute to the late Thomas Coates Dobbin (*PJ*, 31 July, p171), G.W. HERDMAN writes: Tom Dobbin died on 17 July after a short spell in hospital at the age of 83. I saw him last, as did most of his friends, on 20 June when he gave his daughter away at her wedding.

Tom leaves a widow, two sons and a daughter, two of whom are pharmacists.

Tom was well known in the north-east, but those who did not know him should at least be reminded of their debt to him.

I first knew Tom in the late 1950s when he was secretary of the Durham County branch of the Chemists Federation. The CF was an agreement between manufacturers and retail pharmacy whereby the manufacturers would only allow their products to be sold in pharmacies. I remember Tom being told that a well known CF manufacturer was taking him to court because no pharmacy in County Durham would buy its products after Tom discovered it had sold one product to a grocery group. Tom believed in direct action — illegal today and questionable then. he was not taken to court, and the supply situation was corrected.

Later, when a local pharmacy wholesaler supplied a brand of indigestion tablets to a grocery group, Tom moved again. He closed his account with that wholesaler and persuaded five friends to do likewise.

In 1960 this band of six formed their own buying group, which operated from above Tom's pharmacy in Ferryhill. In May of that year they formed a limited company, and rapidly inspired like-minded pharmacists to join them. Norchem Ltd was born. It was soon realised that more space was needed and Norchem bought Howlish Hall in Coundon, Durham, for £5,000. By this time Tom had sold his pharmacy and was working full time running Norchem. By 1973 Norchem had outgrown Howlish Hall and it moved into a custom built warehouse at Chilton. This site is still its home but it now occupies three times the area and is twice the height of the 1973 building. The leading independent pharmacy wholesaler in the north-east, it is owned by pharmacists and run by pharmacists for the benefit of pharmacists. What a legacy! Tom made Norchem his life's work.

As a past chairman of Norchem, I am pleased to say it goes from strength to strength, built on what Tom started. What greater epitaph could a man wish for?

Our sympathy and thoughts go

to his widow Doreen, his children and grandchildren.

**Jenkins** In a tribute to the late Peter Jenkins (*PJ*, 31 July, p171), JOHN D'ARCY, chief executive, National Pharmaceutical Association, writes: During his long career, Peter did a great deal for pharmacy, both at local and national level. At local level he provided a first class service to patients and was the epitome of the local community pharmacist. At national level, he was an outstanding politician who at all times did business in a robust, professional, gentlemanly and effective manner.

Peter made an outstanding contribution to the NPA board of management. He was elected in 1990 and was chairman between 1996 and 1997. He was treasurer from 1998 until he retired from the board in 2001. Peter's year as chairman coincided with the untimely death of Tim Astill. Peter kept a steady hand on the tiller during this unsettling period and I was particularly grateful for his support and wise counsel in my early days as chief executive.

Peter was a great advocate for NPA members in Wales and always ensured that the NPA best served their interests. His good work as a pillar of the local community and as a pharmacy politician was justifiably rewarded with his MBE. He was always polite, helpful and courteous to all the staff at Mallinson House and consequently was held in high regard by all who worked with him. He was particularly popular with the public relations team because he was always able to sell in to the media in Wales the NPA's Ask Your Pharmacist messages and thus contribute to raising the profile of pharmacy in his country.

Peter's passing is a great loss to the pharmacy profession and he will be missed, particularly in Wales. Our thoughts are with Mary and his family at this difficult time.

**Owen** In a tribute to the late Stanley Thomas Owen (*PJ*, 8 May, p591), J. F. McWILLIAM writes: I met Stan Owen 32 years ago when he employed me as a manager in Cardiff. Our professional relationship over seven years was enjoyable, relaxed and fulfilling. A scrupulously fair man, he was respected by both staff and customers. He was a quiet, kind man who nevertheless held strong views on many issues and retained a keen interest in Society affairs, current and future.

After I returned to Scotland 25 years ago, and he retired, we corresponded regularly, exchanging

gifts at Christmas. His letters, in a firm hand to the end, were masterpieces of clarity, faultlessly constructed and always topical, interesting and entertaining.

As a young man he travelled extensively in the Scottish Highlands and retained his interest in things Scottish throughout his life. He remained in touch with the remnants of his Cardiff staff, reacting instantly to our illnesses, misfortunes and bereavements. We will miss him.

**Parker** In a tribute to the late Joyce Parker (*PJ*, 31 July, p171), MIKE BEAMAN, chief pharmacist, North Hertfordshire and Stevenage Primary Care Trust, writes: I was saddened to learn that Joyce Parker had passed away on 17 July. I had known her for nearly 30 years. We first met in 1976, shortly after I was appointed manager of the pharmacy department at the Towers Hospital, Leicester. In those days Joyce worked for Sandoz and, because of their product range, had a particular interest in supporting the development of pharmacy in mental health. Many pharmacists in that field in the 1970s were professionally isolated (although this was not the case at Leicester). Joyce was instrumental in the formation of the UK Psychiatric Pharmacy Association, of which I was a founder member and first secretary. In subsequent years she enabled the association to receive sponsorship and promotion of its annual autumn meeting, which she regularly attended each year, affectionately calling it the last engagement of her "conference season"!

On moving to London in 1983 my links with Joyce continued, aided by the fact that we now lived near each other and had mutual friends in Barnet in connection with an army regiment association to which her partner Jack belonged. Like Ed Mallinson, I too was sorry not to meet her this year at the annual general meeting of the Royal Society of Health, although I had been in touch with her earlier in the year. Her funeral at Golders Green Crematorium was uncharacteristically short and simple, although the solemnity of the service was broken by a recording of Frank Sinatra singing "I am what I am" was played — a favourite song of hers which reflected her character and wide range of friends and colleagues who identified with her.

Pharmacy has lost a great character and a well-loved one. Our thoughts and prayers go out to her family and friends, not least to Jack, her partner of many years.

**Roberts** In a tribute to the late Tegwyn Glyn Roberts (*PJ*, 31 July, p171), NICHOLAS L. WOOD writes: It was with both shock and sadness that I learnt of the sudden death of my old friend Tegwyn Roberts. We had studied at "the Square" together from 1969 to 1972. While we both came from a family background in pharmacy, Tegwyn was never to be comfortable with the responsibility of owning his own business. Although he worked with his father Ivor for a while at the family's pharmacy at Leigh on Sea, Tegwyn preferred globetrotting and the freedom of working as a locum in his home area of Essex. Quiet and reserved, he nevertheless had a ready wit and was popular with the staff with whom he worked.

It was a little later in life that, while working as a locum, he met and married Pauline. With his unexpected death while still in his early 50s, tragically he leaves behind a young family of three girls. Our thoughts are with them and with Pauline, as well as with his parents.

## DIARY

### Headquarters meetings

The following meetings take place at the Royal Pharmaceutical Society's London headquarters

#### Monday 9 August

Statutory Committee. 9.45am.

#### Tuesday 10 August

Statutory Committee. 9.45am.

#### Wednesday 11 August

Statutory Committee. 9.45am.

#### Thursday 12 August

Statutory Committee. 9.45am.

## PERSONAL

This column is intended for announcements of births, engagements, marriages, anniversaries, etc. The charge for an insertion is £20 for up to 25 words, and £8 for every additional 10 or fewer words. Personal cheques only (payable to The Pharmaceutical Journal) should be sent with the notice to the Editor, The Pharmaceutical Journal, 1 Lambeth High Street, London SE1 7JN. The sender's address and membership number, if applicable, should be on the reverse of the cheque.

## Marriages

**Lamb-Haslam** Catherine Lamb (ex-Manchester University 1990-93) and Mark Haslam are delighted to announce their marriage on 7 August 2004. Now at 29 Grangeover Way, Derby DE22 3QD.