

# Section 60 Order

## — what does it mean for you?

By Colin Ranshaw, BSc, MRPharmS

**I cannot help** but notice the lack of comment to date about the draft Pharmacists and Pharmacy Technicians Order 2006 from my hospital colleagues in the pages of *Hospital Pharmacist*, *The Pharmaceutical Journal* and from the Guild of Healthcare Pharmacists. Is this because we have been so involved with Agenda for Change that we do not have time for other considerations, or because we do not think that it affects us? Or perhaps we are adopting the “heads down” approach in the hope that it will go away.

With the aim of promoting debate among hospital pharmacists, I put forward my views as to what the effect might be of the main provisions in the draft Order made under Section 60 of the Health Act 1999.

### CPD

There is no doubt that the introduction of continuing professional development has added value over and above the continuing education programmes that have been established in the hospital service. However, several issues are raised if the undertaking of CPD becomes mandatory.

First, as part of Agenda for Change, pharmacists working in the NHS have the Knowledge and Skills Framework, with its annual appraisals and gateways to pass

for incremental pay awards. Are we needlessly keeping two records and duplicating effort? Moreover, if the CPD criteria are not achieved, but those pertaining to the KSF are, will the NHS be responsible for supporting that pharmacist with time and finance to fulfil the criteria?

Second, CPD will be quite rightly directed to an individual pharmacist's career, including to the specialties in which they are working. Will this make it more difficult for pharmacists to move between specialisms and sectors? For example, if a new job requires certain CPD, will it become a condition of employment to complete this in a set period of time? This could restrict pharmacists moving within their careers and hence adversely affect service delivery.

Third, most decisions about a pharmacist's fitness to practise have been fairly clear cut to date, especially if they are concerned with contraventions of the Medicines Act 1968 or the Code of Ethics. This may well change with the introduction of mandatory CPD, because defining the right level of CPD is essentially new territory for all concerned.

### Fitness to practise

Among the new committees the draft Order proposes to establish is a Health Committee, to be charged with, for example, deciding the health-related issues that may prevent a pharmacist from working. Again, much of its deliberations will be new territory. Moreover, how these relate to disability rights law will also need to be considered.

In addition, it is proposed that all complaints about a pharmacist's fitness to practise,

whether they relate to, for example, their competence, inaccurate disclosure about convictions, errors, misconduct or health impairment, be referred in the first instance to the Investigating Committee. Unless they decide to take no further action, this newly-created body will then need to inform a pharmacist's employer of the complaint before they, for example, refer the matter to the Health or Disciplinary Committee. This might result in an employer suspending a pharmacist on full-pay, potentially representing a further drain on NHS resources, if the complaint is minor. Any suspended pharmacist (particularly if they are not receiving full pay) will no doubt seek the help of the GHP. Will this new requirement to inform employers early on in the process mean that the GHP becomes overwhelmed with helping hospital pharmacists through the fitness to practice machinery?

### Insurance

The draft Order stipulates that pharmacists must have indemnity cover, which can take the form of, but is not limited to, insurance. Does what I understand to be the current situation — that my trust accepts vicarious liability for my actions if I am acting within the terms of my contract of employment and the GHP will act on my behalf (as a member) if I am challenged by my trust — accord with this provision? Will the GHP need to revisit its advice about insurance?

### Technicians

Most of what I have so far discussed applies equally to

registered pharmacy technicians as to pharmacists. Moreover, the draft Order brings in new technician-specific issues.

For example, it is a condition of my employment as a hospital pharmacist that I am a registered pharmacist. This has generally not been the case so far for technicians. Given that “pharmacy technician” is set to become a protected title, will all trusts insist on registration as part of employment? Will this extend to those currently in post and, if so, will trusts have to finance such a change of contract (ie, pay registration fees)? What if a person who is currently a technician and is performing their job to a satisfactory standard does not want to register? Does not employment law dictate that they will have to be allowed to continue to carry out their job, even if they cannot call themselves a pharmacy technician? If so, will trusts employ those doing a technician's job, who are not registered, at a lower band under Agenda for change than those who are registered?

### Conclusion

The draft Order is a potentially high level, enabling legislation. It represents the biggest change to how the pharmacy profession operates in over 50 years. Organisations such as the Society's Hospital Pharmacists Group and the GHP, as well as individuals working in the hospital service will need to monitor carefully how it is implemented.

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### Linking the KSF with CPD

This month's Careers article looks at how the KSF and CPD can be interlinked (see p211-4)