

# Contract 2005: what has changed in the updated regulations for England?

Pharmacists who might be thinking about sitting down for a gentle read of the Regulations that brought in the new pharmacy contract on 1 April might want to think again. **Michael Thompson** finds that, at 130 pages, they are nearly four times as long as before, but contain few surprises

Readers of the NHS (Pharmaceutical Services) Regulations 2005, which introduce the long-awaited new pharmacy contract for England, will be forgiven if they think that they have imagined all the discussions about freeing up pharmacists' time for new contract services by relaxing supervision requirements.

But there is a good reason for the new terms of service continuing the old requirement that NHS prescriptions must be dispensed "by or under the direct supervision of a pharmacist". The pharmacy skill-mix consultation only closed three weeks ago and no decisions have been made about what, if any, changes should be made to the way pharmacists and their staff work.

Apart from this, there are many new features to be found in the detail of the regulations — including the new control of entry rules and exemptions — most of which are likely to be welcomed by pharmacists.

Two significant differences between the new and the old regulations relate to dispensing in rural areas and fitness to practise.

So far as fitness to practise is concerned, the new regulations mean that pharmacists who have been convicted of criminal offences or who have been struck off the professional register can be prevented from holding NHS contracts even after they have been rehabilitated or restored to the register. Pharmacists who have been convicted of murder or who have served a sentence of at least six months for any offence will never be allowed to be contractors. Decisions in other circumstances will be made by primary care trusts on a case-by-case basis.

Steve Lutener, head of regulation for the Pharmaceutical Services Negotiating Committee, said: "These fitness to practise

matters affect only contractors at this stage. Later, we may well see further regulations introducing powers relating to employee pharmacists."

In relation to dispensing in rural areas, the new regulations implement an agreement reached between the PSNC and the General Practitioners Committee some time ago. In essence, existing contractors have given up an absolute right to additional contracts in rural areas in return for which doctors have accepted that they cannot apply for dispensing contracts if their surgeries are within 1.6km of a pharmacy. Pharmacies will also be allowed to seek contracts in areas of sparse population without having to show that their existence will not prejudice medical services. But such pharmacies will have to compete for dispensing business with dispensing doctors.

Another change that will be welcomed by pharmacists is the introduction of a right to refuse to dispense prescriptions in certain circumstances.

Previously, pharmacies were under an obligation to dispense all prescriptions promptly. Now, dispensing and supply can be refused if the pharmacist believes that they are not genuine orders for the person named on the prescription form. Supply can also be refused if the pharmacist believes the prescriber has made a clinical error or that the prescription is clinically inappropriate. Prescriptions can also be refused if the patient or anyone with them behaves, or threatens to behave violently or commits or threatens to commit any criminal offence.

Mr Lutener is pleased that the regulations permit pharmacists to withhold services when threatened with violence or subjected to criminal behaviour.

He said: "This underlines the commitment by ministers of a zero tolerance policy towards violence against those working within the NHS."

A feature in the new regulations that might not be universally welcomed is a requirement to promote a service that might, at the time, only be available from a competitor.

This applies to the planned introduction of electronic transmission of prescriptions (ETP). Any contractor who is asked must explain the ETP service to the patient, regardless of whether or not it is available at that pharmacy. Furthermore, the patient must be told of at least two pharmacies in the area where the ETP service is available, unless the pharmacist has no idea where they are.

Direct health promotion is another new service that pharmacy contractors are required to provide. The new regulations continue the old requirement that contractors take part in up to six primary care trust run campaigns, but introduce a new requirement for action aimed at individual patients.

As a result, anyone who presents a prescription for dispensing and who has diabetes, is at risk of coronary heart disease (especially if they have high blood pressure), smokes or is overweight has to be given advice on the health issues they face.

The new regulations also allow pharmacies to decide their own opening hours, provided that they open for at least 40 hours per week. This increase from 30 hours is accompanied by the removal of a requirement for the hours to be worked during the 9am to 5.30pm period on Monday to Saturday.

Mr Lutener said: "We know that some pharmacies will use the opportunity provided to amend their hours so as to more closely reflect surgery hours, now that many surgeries no longer open on Saturdays or out of normal business hours."

On the regulations as a whole, he added: "Ever since contractors voted for the new pharmacy contractual framework, we have been eagerly awaiting implementation of the new regulations. The new framework recognises the much greater contribution to health care that community pharmacists can make and as well as dispensing, it now includes support for self care, signposting, promotion of healthy lifestyles and so on.

"PSNC published a book on the new contract for community pharmacy in which the service specifications were set out. These, by and large, have been reflected in the Regulations themselves, so there is very little in the terms of service that was unexpected."

## Regulations not published

The National Health Service (Pharmaceutical Services) Regulations 2005, SI 2005 No 641 were laid before Parliament on 10 March and came into force on 1 April. However, they had not been published by HM Stationery Office when *The Journal* went to press. Urgent Parliamentary business arising from the Government's plans to introduce legislation relating to the holding of terrorist suspects without trial meant that the regulations were not laid before Parliament on the date that had been planned and previously printed copies bore an incorrect date.

## Welsh differences

The Welsh Assembly is expected to adopt a modified version of the NHS (Pharmaceutical Services) Regulations 1992. Notable differences between the Welsh and English regulations will be that there will be no changes to the provisions for controls on new contracts nor to the agreement on how contracts are awarded in rural areas. In addition, the Welsh regulations will not include rules on fitness to practise. Guidance on the new Welsh regulations can be accessed via *PJ Online* ([www.pjonline.com/links/pj](http://www.pjonline.com/links/pj)).