

European law puts patients at risk

Separate European directives on the free movement of health professionals, including pharmacists, have been replaced by a new directive applying to all health and social care professionals. UK health regulators are worried that the new rules preclude adequate checks and supervision of visiting practitioners. **Mike Thompson** reports

Pharmacists registered in other European countries will soon be able to register with the Royal Pharmaceutical Society and work in Great Britain as temporary or occasional visitors without being subject to the checks on competence and good conduct that apply to domestic pharmacists.

The Society fears that this will put patients at risk (*PJ*, 16 June, p715).

European Union Directive EC2005/36/EC, which has to be implemented by 20 October, says that pharmacists registered anywhere in the European Economic Area (EEA) can take temporary and occasional work in any other member state without having to register with that country's professional regulator. Alternatively, national legislation can require temporary registration, but it has to be granted automatically and free of charge. This is the approach that the UK Government has chosen to take.

The UK Government has also decided that UK requirements for pharmacists to undertake continuing professional development should not apply to foreign pharmacists taking advantage of the new system even though that is not precluded by the EU directive if it can be objectively justified. In fact, the Directive notes the importance of lifelong learning to professional practice and says that it is for member states to adopt "detailed arrangements under which, through suitable ongoing training, professionals will keep abreast of technical and scientific progress".

Despite this, the UK Government's view is that any CPD requirements would be an "unjustifiable restriction" on European freedom to provide services.

Some checks will be required, but these are limited to matters relating to professional conduct and specifically exclude non-profession-related criminal convictions and disciplinary sanctions and any health-related matters, such as drug addiction, alcoholism or mental illness, that can impinge on professional practice.

Also, it will not be possible to replicate in the UK any practice restrictions imposed on foreign pharmacists in their countries of origin because UK law only allows practice restrictions to be imposed after fitness to practise proceedings. But the Government has said that it might give regulators discretion to consider breach of such conditions as grounds for UK disciplinary action.

All these weakenings of public protection are exacerbated by the fact that the directive provides no indication of what timescales are envisaged by the words "temporary" and "occasional". It says that this should be assessed

on a case by case basis in relation to duration, frequency, regularity and continuity.

There are also concerns that the new rules continue the current prohibition on regulators requiring EEA pharmacists to take a language test to prove that they can communicate sufficiently well to practise safely. This is despite the new EU Directive saying that anyone benefiting from recognition of professional qualifications "shall have a knowledge of languages necessary for practising the profession in the host Member State".

The new rules are to be implemented in the UK by amending the Pharmacists and Pharmacy Technicians Order 2007. Consultation on the proposed amendments is under way and closes on 17 August.

The proposed amendments would add a third section to the Society's Register of Pharmacists to list visiting pharmacists from relevant European states. The same would happen to the Register of Pharmacy Technicians. Registration would be valid for 12 months from the date of application and would be renewable annually. It would automatically cease if the visiting pharmacist or pharmacy technician ceases to be registered in his or her home country or is prohibited from practising there.

Martin Astbury, the Society's Vice-President, said that free movement of health professionals was good for health services in Europe. But he warned that the proposals for visiting EEA practitioners pose a real risk to patient safety and could severely damage public confidence in the profession.

Mr Astbury said: "In draft transposing legislation it appears that this category of practitioner is to be exempt from the Society's CPD requirements. The Society would expect all practising pharmacists to adhere to the same ethical (and soon to be statutory) requirements regarding CPD and be subject to the same fitness to practise procedures as UK registered pharmacists. Ensuring this is adhered to would be difficult to manage if the legislation were to be passed."

The Society's concern that patient safety will be jeopardised is shared by the Patients' Association.



European legislators have placed professionals' rights to work in any European country above patients' rights to be properly protected from deficient practice

European Community 2007

Vanessa Bourne, head of special projects, said: "Patients have to assume that the person in a white coat has the right qualifications, including a language qualification so they can have a safe consultation."

She added: "Patient safety may well be compromised in the cause of European union."

Commenting on the proposed exemption of visiting professionals from CPD requirements, Ms Bourne said: "That's extraordinary. It's bonkers. That's another example of the Alice in Wonderland approach to patient safety in the NHS."

Richard Marchant, head of regulation development at the General Medical Council, said that another area of concern surrounded the inability of regulators to ask for information about what work a practitioner intended to do, where and for how long before granting automatic registration.

"The stance is that you can ask for it after registration," he said. "But if you're not able to ask for it up front someone could be practising for a long period under what is supposed to be a temporary provision. If they're working for a long time, you would want to apply revalidation and CPD. Clearly, that doesn't matter if they're here for a few days or weeks, but if they're here for years that's quite important."

Mr Marchant added that automatic registration could be refused if a practitioner was prohibited from working in his home country, but if his work was subject to restrictions, similar restrictions could not be replicated here.