

Royal Pharmaceutical Society of Great Britain

Briefing to Peers at Grand Committee Stage of the Health Bill

The Royal Pharmaceutical Society of Great Britain (RPSGB) is the regulatory and professional body for Britain's pharmacists. As the only organisation that works with all pharmacists in Great Britain, the RPSGB safeguards the public and promotes the development of the pharmacy profession, whose unique knowledge and skills play a key role in the health of the nation.

Key points to note

- ❖ The RPSGB wants assurances that it will be an active participant in the drafting of regulations on all pharmacy-related sections of the Bill.
- ❖ Part 1 - The RPSGB calls for the House of Lords to support amendments to ensure a full smoking ban in enclosed public places is enacted.
- ❖ Part 3 - The legislation should clearly define those activities that can only be undertaken when the responsible pharmacist is present and should include:
 - Clear lines of accountability;
 - Provisions for the responsible pharmacists to be contactable when absent and in a position to return without undue delay;
 - Provisions for the responsible pharmacist to have to justify any absence from the pharmacy.
- ❖ Clause 19 of the Bill makes reference to “a constable or authorised person” being able to enter premises. Given the preparations for the transfer of this role to the RPSGB inspectorate, we believe the role of the RPSGB in inspecting pharmacies should be cited in the Bill, over and above the role of the constable.
- ❖ Under clause 25 on the control of pharmacy premises, it is vital that the responsible pharmacist is responsible for no more than one pharmacy in other than very exceptional cases, such as in an emergency.
- ❖ In clause 34 the RPSGB proposes **an amendment** to address concerns about the practicability of the requirement for PCTs to take into account the cost of “over the counter” medicines as one of the criteria for determining the award of a new NHS contract when there is competition.

Introduction

The Royal Pharmaceutical Society of Great Britain welcomes the fact that the Health Bill 2005 addresses important provisions that aim to underpin improved delivery of healthcare and to enhance public health. However, the RPSGB has a number of reservations and concerns, which are set out in this briefing. An issue that runs through all the RPSGB's concerns is the fact that so much of the Bill will be enacted by means of regulations, rather than through clearly identified provisions on the face of the Bill.

The RPSGB therefore urges Members of the House of Lords to press the Government to ensure that we are fully consulted during the drafting of these regulations, particularly on the areas outlined in the main body of this briefing.

Part 1

Smoke-free premises, places and vehicles

The pharmacy profession was delighted that the Government eventually allowed a free vote on the issue of smoking and that such a significant majority of MPs backed a full ban. The RPSGB supports the full ban as agreed at Report Stage and we urge Members of the House of Lords to ensure that this section of the Bill proceeds to Royal Assent as amended by the Commons.

The Society takes this view for a number of reasons.

Firstly, community pharmacists are committed to offering a full range of services to members of the public who want to stop smoking. A piecemeal ban which would still enable people to smoke in pubs and bars not serving food would not support smokers who genuinely want to quit. There is good evidence that totally smoke-free public places and workplaces lead to reductions in prevalence of smoking as they create an environment that encourages smokers to cut back or quit. The RPSGB is concerned that if Peers were to revert to the piecemeal ban there would be significant confusion amongst the public and a clouded public health message would be sent. A full ban in enclosed public places would be the best way forward, in terms of clarity of policy, and in terms of public health benefit.

The RPSGB is also concerned at the inconsistency of the policy as presented. A full ban has been successfully agreed in Scotland and Northern Ireland. In Scotland, the ban, agreed unanimously by Scottish Minister will be in force by the spring of 2006. In Northern Ireland a full smoking ban will come into effect in April 2007. The Welsh Assembly Government has stated its intention to implement a comprehensive ban on smoking in public places once the primary legislation is in place.

The RPSGB urges the House of Lords to back the amendments to this section of the Bill and push through the full ban.

Part 3, Chapter 2

Medicines and pharmacies

The RPSGB has long campaigned for changes in working practices in community pharmacies to allow pharmacists to make best use of their skills and expertise for the benefit of the public. The RPSGB welcomes the fact that the Bill addresses many of the issue of concern relating to requirements about supervision and responsibility in a pharmacy.

We are pleased that the Government has listened to our views on developing the concept of the 'responsible' pharmacist, which will enable some aspects of the pharmacist's role to be carried out by other staff members and which will free pharmacists to begin to provide some of the other services set out in the newly negotiated community pharmacy contract.

The Medicines Act currently requires the pharmacist to be in 'personal control' of key pharmacy functions. This effectively prevents the pharmacist from leaving the pharmacy, even for a short period, during the opening hours of the pharmacy. It also deters appropriate delegation and acts as

a barrier to modern working practices. The Bill replaces this requirement with a provision for a 'responsible pharmacist' who will have professional accountability for all processes in the pharmacy.

This allows the pharmacist to be temporarily absent from the pharmacy in order to carry out professional duties such as visiting housebound patients, meeting with local GPs etc. Another provision is for the supervision of certain activities to be delegated to appropriately trained registered pharmacy technicians. Allowing suitably trained and registered staff working in a pharmacy to supervise the preparation, dispensing, sale and supply of medicines without direct supervision of a pharmacist will help ensure that pharmacists can use their skills and training to offer a wider range of services.

The Bill allows for much of the detail of these changes to be written into Regulations. These detailed Regulations will need careful consideration if they are to deliver benefits while maintaining patient safety. While the RPSGB would prefer to see the new measures set down on the face of the Bill, it is seeking to be actively involved in the process of drawing up the regulations through which the obligations of the pharmacist and the framework for responsibility are clarified.

The RPSGB takes the view that the legislation should clearly define those activities that can only be undertaken when the responsible pharmacist is present and should include:

- Clear lines of accountability;
- Provisions for the responsible pharmacists to be contactable when absent and in a position to return without undue delay;
- Provisions for the responsible pharmacist to have to justify any absence from the pharmacy.

The RPSGB has a number of concerns about the wording of this part of the legislation as it stands and will be seeking, at Lords Committee stage, to clarify and amend where necessary. Patient safety is the RPSGB's primary concern and some tightening of the legislation will be required to ensure that proper safeguards are in place.

For example, the RPSGB believes that, under clause 25 on the control of pharmacy premises, it is vital that the responsible pharmacist is responsible for no more than one pharmacy in other than very exceptional cases, such as in an emergency. There could be significant financial incentives that could mean that a loosely-worded or -policed exception could become the rule in practice.

In addition, the RPSGB notes the provisions to allow the responsible pharmacist to remotely supervise in another pharmacy. Again, the RPSGB believes that this level of supervision should only apply in very exceptional circumstances as there is a risk that patient care could be compromised if pharmacists were trying to supervise both the activities in the pharmacy in which they were present and a remote pharmacy.

PART 2

Health care associated infections

Part Two of the Health Bill deals with the management and eradication of health care associated infections. The RPSGB is broadly supportive of the Government's proposals to set out a Ministerial code of practice setting out measures to combat these infections.

In 2003, £12 million was allocated to hospitals to recruit pharmacists to ensure the safe and effective use of antimicrobials. The initiative is being overseen by the specialist advisory committee on antimicrobial resistance (SACAR) and has been highly successful.

The RPSGB is keen to ensure that Government recognises the significant investment made in this project and ensures that SACAR's findings are incorporated into any code of practice drawn up by the Secretary of State. We are concerned that the funding of this initiative is about to come to an end. We are aware that many NHS Trusts have significant financial difficulties and may not choose to continue to fund these posts when the central pump priming money runs out. This runs the risk of undoing the significant work that has been undertaken by pharmacists to manage the use of antimicrobials.

PART 3, CHAPTER 1

Supervision of management and use of controlled drugs

Clauses 19 – Controlled drugs: Power to enter and inspect

The RPSGB has actively been involved in work to address many of the issues raised by Dame Janet Smith in Part Four of the Shipman Inquiry. This section of the Bill relates to the need for legislation based on that inquiry. Following Dame Janet's report, the RPSGB was made to understand that, from April 2006, the routine monitoring and inspection of controlled drugs in community pharmacies was likely to become a role undertaken by the pharmacy inspectorate of the RPSGB.

The key advantage that Dame Janet and the Government had identified about moving the RPSGB's inspectorate into this role was that this field-force largely comprises pharmacists with up-to-date knowledge on the legislation, ethics and good practice guidance that govern the profession of pharmacy. The RPSGB's inspectorate have a wider remit that gives them a unique working knowledge of the environment, and an existing and powerful relationship with pharmacists and pharmacies on the ground.

Pharmacy bodies have been in negotiation with the Department of Health about inspection for controlled drugs in England but this has not yet been taken forward for Wales or Scotland. The RPSGB is therefore surprised to see that, on page 18, line 31, the Bill makes reference to "*a constable or authorised person*" being able to enter premises. Given the preparations for the transfer of this role to the RPSGB inspectorate, the RPSGB is keen to receive urgent clarification on this issue.

PART 3, CHAPTER 2

MEDICINES AND PHARMACIES

Clause 25 – Requirements about supervision

Under clause 25 on the control of pharmacy premises, it is vital that the responsible pharmacist is responsible for no more than one pharmacy in other than very exceptional cases, such as in an emergency.

**PART 4, CHAPTER 1
Pharmaceutical Services**

Clause 34 – Applications for provision of pharmaceutical services

Suggested Amendment: Clause 34, page 30, line 16, delete paragraph 2C

The RPSGB is concerned at this provision which seeks to alter the approach of PCTs in the processes they use to award contracts to provide pharmaceutical services in the community.

In particular the RPSGB notes page 30, line 16 which states that *“in determining which application to grant, to take into account any proposals specified in the applications in relation to the sale or supply at the premises in question”*. In practice this means that the cost of over the counter medicines are to be taken into account as one of the criteria for determining the award of a new NHS contract when there is competition. The RPSGB believes that this will be unworkable in practice as it appears practically impossible under current, let alone future, NHS structures to monitor and implement a practical level as there is no sense of any objective criteria. For example there is little clarity over who would monitor the price and ensure that the prices quoted at the application stage remained at those levels. There is very little to stop an applicant offering low prices to gain the contract then raising them soon after. There is also no provision in the Bill for revoking a contract subsequently found to be in default. We would question how the Government would see this working in practice going forward.

CONCLUSION

This briefing sets out the broad areas of the Health Bill with which the RPSGB has concerns, and hopes will be raised at the Standing Committee stage. Of overall concern is the sheer volume of detailed provision that will be enacted through regulations as we are aware that statutory instruments offer little scope for amendment once they have been made. We hope very much that the Government will want to set out as much detail as it can on the face of the Bill to encourage debate.

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