

Royal Pharmaceutical Society of Great Britain

Briefing Note for MPs Second Reading of the Health and Social Care Bill

Background

This document is intended to be used as a source of reference for Members of Parliament who wish to speak in the Second Reading Debate on the Health and Social Care Bill on Monday 26th November 2007. It has been written to provide the views of the Royal Pharmaceutical Society of Great Britain (RPSGB), using the experience of the pharmacy profession, which it represents. This document points to areas of weakness in the Bill, areas where there is a lack of clarity or where, in the RPSGB's view, there is the potential for tension or conflict within the new regulatory environment it aims to create.

The Health and Social Care Bill is an enabling bill that allows secondary legislation to be introduced at a later stage to set up the Care Quality Commission and the General Pharmaceutical Council.

The Bill will remove the authority to regulate pharmacists and pharmacy premises from the RPSGB and place it with the new General Pharmaceutical Council. The RPSGB is currently working with the Government to create a regulatory environment that will protect the public and help make Britain the safest place in the world to take medicines.

The Bill

Care Quality Commission

The Care Quality Commission will be introduced to act as a new regulator, formed from the Commission for Social Care Inspection, Mental Health Commission and Healthcare Commission. Amongst other powers, it will have authority to:

'carry out periodic reviews of care provided by or under arrangements made with Primary Care Trusts (PCTs). It also requires the Commission to review health care provided by PCTs...' (Explanatory Notes)

There is no defined list of what the Government considers to be regulated activities. All healthcare professions await confirmation on whether some or all of their activities will fall under this definition. The Department of Health has indicated that it will consult on what should be included in the list of regulated activities, but this is expected to be after the Bill has completed its passage through Parliament.

- **The extent of those reviews is unclear and we would like guidance from the minister on what the Government's current thoughts are on what will be considered 'regulated activity' i.e. what will be regulated by the Care Quality Commission.**

Registration

The General Pharmaceutical Council is to be established to maintain registers of pharmacists, pharmacy technicians and pharmacy premises within Great Britain, or, if Northern Ireland ministers so decide, UK. It is expected to have the authority to take measures against pharmacists and pharmacy technicians who breach the standards applying to these professions under which pharmacists work. These measures are expected to include suspension and/or removal from the Register as well as the full ambit of fitness to practise procedures.

Primary Care Trusts also maintain a providers' list of local pharmacies, with the power to suspend or remove pharmacies.

The CQC also appears to require a third form of registration of individuals or companies with the potential to intervene in the same manner as the other two regulators.

The details around which regulator will regulate which part of pharmacy practice are not clear.

Multiple registration presents the potential for duplication and additional expense for healthcare professionals if they are expected to pay a fee to remain on these registers.

- **The RPSGB cannot see any benefit to dual or multiple registration or inspection. We seek confirmation from the Minister that the Government will consider a single organisation with which pharmacists and pharmacy technicians will be required to register.**

Inspection

The GPhC will require an inspection function to be undertaken for each registered pharmacy premises on which medicines are dispensed. The Bill suggests the same function for the CQC. There is no clarification on whether there will be:

- a single inspection agency,
 - dual agencies with defined, mutually exclusive roles and individual authorities to intervene
 - dual agencies with one agency maintaining authority to grant permission for intervention.
- **The RPSGB believes there is the potential for confusion, delay and additional cost if two agencies are created, either to work alongside one another or with one agency maintaining authority over the other.**

Global Sum

The Bill devolves budget holding of the Global Sum – the sum currently paid by the Department of Health for the provision of essential pharmacy services in England, and similar services in Scotland and Wales. It will be devolved from the Department of Health to Primary Care Trusts (PCTs) and Local Health Boards in Wales.

The RPSGB is pleased to see an initiative that provides funding to bodies with the ability to respond to specific health care needs at a local level.

The RPSGB is concerned that any such change is likely to result in delay and initial operational problems before a new system is at full operating efficiency. A smooth transition from centrally to locally held budgets must be achieved without any delay in the process of delivering payment to pharmacists. Any delay may have a direct effect on the viability of some pharmacies where the Global Sum is the major source of income.

Devolving authority to PCTs has the potential to generate wide differences in procurement practice.

An example of this would be whether doctors are guided to issue prescriptions for a maximum length of 28 or 56 days. Prescriptions for the shorter time period would result in pharmacists receiving half the sum that their peers receive in areas where the longer timescale is used. This may result in the difference between the success or failure to continue operating for some pharmacies.

- **The RPSGB suggests a set of national payment and procurement guidelines be produced within which PCTs are expected to operate. This would ensure an element of consistency in the terms and conditions for pharmacists.**

Transfer of Functions

The Bill will enable the transfer the RPSGB's regulatory functions to the newly created General Pharmaceutical Council. The RPSGB has been working, both internally and with the Government, to ensure a smooth transition of these functions.

The Bill currently refers to transferring: "all of the RPSGB's functions" to the General Pharmaceutical Council.

- **Throughout all discussions between the RPSGB and Department of Health, it has always been understood that only the regulatory and directly associated functions will be transferred. The RPSGB believes the current wording does not describe what is intended and seeks clarification from the Government on what functions it expects will be transferred away from the RPSGB. The wording should reflect the transfer of regulatory and associated functions only.**

Extension of powers under s60 of the Health Act 1999

The RPSGB welcomes the extension of powers under s60 of the Health Act 1999 in relation to the regulation of healthcare professionals, premises and processes to ensure that a total quality framework exists for pharmacy regulation. The RPSGB believes that the General Pharmaceutical Council should be equipped with adequate tools and expertise to ensure this happens.

- **We seek the views of the Government on the how it understands the new bodies will work and what the extent of the authority for each will be.**

Standard of Proof

The Bill makes consistent the standard of proof in fitness to practise proceedings across all regulatory bodies, using the civil standard of proof.

- **This is welcomed by RPSGB.**

Summary

The Health and Social Care Bill is an enabling Bill that has an inbuilt element of future-proofing via its reliance upon secondary legislation. The Bill that has commenced its passage through Parliament appears to be very much a case of 'work in progress' rather than a vision of healthcare regulation fit for the future.

- **RPSGB believes there is the potential for confusion within the minds of the public in relation to the multiple inspection and regulation of pharmacy, particularly where inspection results from different agencies show marked differences.**
- **It also believes that the delay in providing the details contained in the subsequent secondary legislation affects the ability of all healthcare organisations to effectively scrutinise the Health and Social Care Bill.**
- **The Bill provides the Government with the opportunity to create a UK Primary Healthcare system for the future: safe, efficient and enabling all healthcare professions to work in conjunction to deliver high quality services at a local level.**
- **There is also the potential to create an unwieldy, over-regulated system that concentrates upon system and process rather than desired outcomes for patients.**

For further information on the Health and Social Care Bill, Please contact Charles Willis at the Royal Pharmaceutical Society of Great Britain, on: 0207 572 2670