

Independent Community Pharmacist Magazine

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Pharmacy and the Law

English language testing for all pharmacists

Richard Hough, a practitioner in pharmacy law, wants something to be done about the anomalous situation concerning language testing of health professionals in the European Economic Area. He is not alone in taking this view



inability of healthcare regulatory bodies to ask EEA-qualified applicants to provide proof of high-level fluency in a relevant Member State's official language is considered to be a major loophole in the protection offered to patients.

The position of self-employed professionals is another argument made in favour of healthcare regulators being able to undertake compulsory language

The House of Lords' Social Policies and Consumer Protection EU SubCommittee ("the committee") has recently recommended to the European Commission that certain healthcare regulatory bodies, including the General Pharmaceutical Council (GPhC), be allowed to test the language skills of all non-UK applicants to their professions. Currently, the GPhC is not allowed to test the English language competence of pharmacists who are registered in another European Economic Area (EEA) country.

Somewhat anomalously, especially considering the importance of pharmacists being able to communicate effectively with patients, their carers and other professionals, only those pharmacists from outside of the EEA who wish to practise in the UK are routinely tested by the General Pharmaceutical Council for English language competence.

Notwithstanding the provisions of Article 53 of the EU's Mutual Recognition of Professional Qualifications Directive 2005/36/EC ("the Directive"), which states that "persons benefiting from the recognition of professional qualifications shall have a knowledge of languages necessary for practising the profession in the host Member State", it is commonly accepted by the affected healthcare regulators that migrating EEA-qualified professionals cannot be tested for English language competence due to a cautious interpretation of the directive's provisions, which would be contrary to the aims of the directive, which is to allow the freedom of movement for healthcare professionals within the EEA.

Mobility

The mobility of healthcare professionals can bring significant benefits to patients, professionals and to the professions themselves, but, unfortunately, the directive fails to command the confidence of patients and professionals, not least because healthcare regulators are currently forced to admit EEA-qualified individuals to their professions within the United Kingdom who do not meet standards required of either UK or non-EEA professionals.

An automatic system of qualification recognition currently exists within the EEA, which applies to seven professions, including doctors, dentists and pharmacists. As long as harmonised minimum training requirements are met within these professions, Member States are obliged to recognise automatically those qualifications which meet the directive's criteria, irrespective of the possessor's language competence.

“ The language testing of EEA-qualified healthcare professionals should be permitted at the point of registration if deemed necessary for patient safety by the relevant competent authority ”

Conceptually, the system of automatic recognition works well and is regarded as being responsible for raising the training standards of healthcare professionals in many Member States. However, the committee concluded that the automatic recognition system is currently not fit for its intended purpose and the European Commission has accepted the need for its review.

The General Pharmaceutical Council is, therefore, currently prevented from systematically testing an EEA-registered pharmacist's language ability at the point of registration; primary responsibility for ensuring English language competence is, instead, left to the pharmacist's employer, whose language competence assessment procedures may not be sufficiently robust. This contrasts with procedures applicable to migrants from non-EEA countries. The GPhC is concerned that it is currently unable to satisfy itself that all those it admits to the register are fit to practise with respect to English language competence. The

testing. Concerns have been expressed that giving employers the primary responsibility for ensuring that language competence requirements are met means that no provisions are in place to ensure that self-employed professionals meet the required standards, which is of particular concern in professions such as pharmacy, which has a high proportion of self-employed individuals.

There have been a number of high profile incidents involving language deficiencies which illustrate the dangers of the current system, including that of Dr Daniel Ubani, a German-trained GP who killed David Gray in 2008 during his first shift as an out-of-hours doctor. The committee has stated that its overriding concern must be to ensure patient safety and that the lack of robust language competence requirements in the directive means that the wrong balance is currently being struck between ensuring mobility of healthcare professionals and patient safety.

A further concern highlighted by the committee is whether the administrative bodies which regulate healthcare professionals co-operate with each other sufficiently well. The assurance that individuals are fit and competent persons to practise is essential for both patient safety and confidence in healthcare professionals. In the absence of effective co-operation between regulatory bodies in different Member States, it is possible for an individual who is deemed unfit to practise in one country to circumvent the sanctions imposed on him or her in that country by migrating to another which is unaware of the sanctions.

Sharing information

In order to ensure patient safety, the committee has identified that there has to be both willingness and ability on the part of the competent authorities in each Member State to share relevant information, a trusted mechanism by which this can be done and the confidence that information will be shared in a timely manner at the appropriate stage. The current system is considered to be inadequate in all of these respects and the committee has recommended that it should be amended to address these failings.

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The Internal Market Information System (IMI) is a secure online facility which allows regulatory bodies to communicate quickly and easily with their counterparts abroad using pre-translated sets of questions and answers. The IMI is a valuable resource, the under-utilisation of which raises serious patient safety issues due to fitness to practise information not being effectively disseminated between the regulatory bodies of Member States.

If pharmacy regulatory bodies in each of the Member States do not routinely share fitness to practise information, they cannot be confident that there was not somebody on their registers practising within their jurisdiction who has been removed or suspended from registration elsewhere within the EEA. The committee has recommended that use of the IMI should become mandatory to ensure that healthcare regulators routinely exchange fitness to practise information with each other.

Wrong balance

The committee has said that the directive currently strikes the wrong balance between facilitating mobility and patient safety, which, in turn, undermines public and professional confidence in the mobility of healthcare professionals within the EU. Therefore, the language testing of EEA-qualified healthcare professionals should be permitted at the point of registration if it is deemed to be necessary for patient safety by the relevant competent authority. The directive should be amended to reflect this.

The ability of healthcare regulators to test language competence is particularly important in the case of self-employed healthcare professionals, and the current lack of provision for regulators to assess applicants' language competence represents a serious failure of the current system. Legislative change is necessary to ensure that patient safety concerns are met and the committee has recommended that the European Commission urgently clarifies with the competent authorities their understanding of what the directive currently permits in terms of language testing.

Further review of the directive should also ensure that the anomaly, which currently allows the General Medical Council to test the language skills of European qualified doctors before they practise in the UK but which does not afford the same vetting powers to the General Pharmaceutical Council and other healthcare regulators, is rectified.

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