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Pharmacy and the Law

Mandatory registration of pharmacy technicians

Richard Hough, a practitioner in pharmacy law, takes a look at the implications of mandatory registration of pharmacy technicians and finds a situation that is far from clear cut



The “grandparenting” period — the transitional arrangement which had been put in place to allow those individuals with relevant qualifications and work experience to be able to register formally as pharmacy technicians and ease the transition to mandatory regulation — ended on June 30, 2011. From this date forward, registration for practising pharmacy technicians is mandatory.

Those who have not already registered are now required to hold specific qualifications in order to practise as or use the title of a “pharmacy technician”. Any person who has not either registered or applied to be registered before the deadline may not now call themselves or practise as a pharmacy technician. During the grandparenting period, a person could apply to register with the General Pharmaceutical Council (GPhC) as a pharmacy technician if they were:

- A UK qualified person with approved transitional UK qualifications (eg, BTEC National Certificate or NVQ level 3) and had relevant qualifying work experience;
- A European Economic Area (EEA) national with an EEA pharmacy technician qualification;
- A person with a pharmacy technician qualification obtained outside the EEA (equivalent to NVQ level 3); or
- A non-EEA national with an EEA pharmacy qualification (other than a UK pharmacy qualification).

Qualifying period

In order to have registered as a pharmacy technician during the grandparenting period, the qualifying period of work experience included having undertaken the roles and responsibilities of a pharmacy technician following commencement of a pharmacy technician training programme for either not less than 14 hours per week for four out of the eight years or 28 hours per week for two out of the four years prior to submitting an application for registration.

Where a person had a qualification awarded in the UK and had not been able to meet the criteria for either qualifying period of relevant work experience stated above or had a qualification awarded in the UK and had not been able to provide evidence of recent work experience undertaken under the supervision, direction or guidance of a pharmacist, they were required to have provided further information about their professional practice and demonstrate their competence in at least five competencies from a defined list and compliance with the GPhC’s standards of conduct, ethics and performance.

“It would be helpful for the GPhC to issue further guidance so that employers and their staff can feel confident that they are undertaking their roles legally”

From July 1, 2011, a person can now apply to register with the GPhC as a pharmacy technician only if that person:

- Possesses an approved competency based qualification (eg, NVQ level 3), possesses an approved knowledge based qualification (Buttercups or NPA level 3 knowledge programme) and has completed a minimum of two years relevant work-based experience under the supervision, guidance or direction of a pharmacist to whom the applicant was

directly accountable for not less than 14 hours per week. (A minimum of 1,260 hours of supervised work experience must be undertaken within the two year period with a minimum of 315 hours being undertaken in each of the two years); or

- Is an EEA national with an EEA pharmacy technician qualification.

If a pharmacy technician was on the Royal Pharmaceutical Society of Great Britain’s (RPSGB’s) practising register their registration will automatically transfer to the GPhC register. However, a person who is on the RPSGB’s non-practising register will not automatically transfer to the GPhC register and will have to apply to register prior to practising as a pharmacy technician. The GPhC has determined that any former RPSGB registrant will not be required to complete additional education, training or experience if they apply to register with the GPhC by September 26, 2012.

Promoting safety

Compulsory registration of pharmacy technicians was introduced in order to promote and maintain public health and safety and to provide protection for patients by ensuring that only those qualified, competent and under a duty to maintain high standards are able to practise as a pharmacy technician and use the title “pharmacy technician”.

All registered pharmacy technicians must, therefore, comply with the GPhC’s Standards of Conduct, Ethics and Performance. Pharmacy technicians are also required to meet continuing professional development requirements and have in place appropriate indemnity arrangements.

The use of the title “pharmacist” is restricted by section 78(5) of the Medicines Act 1968. However, there is no equivalent provision for restricting the use of the title “pharmacy technician” within the Medicines Act and one needs to look to alternative legislation for guidance on this issue. Under article 19 of the Pharmacy Order 2010, the GPhC’s registrar must establish and maintain a register of pharmacists and pharmacy technicians for the purposes of section 74A of the Medicines Act 1968.

Article 20 of the Order states that a pharmacy technician is entitled to be entered in part 2 of the (GPhC) Register if the registrar is satisfied that the person is appropriately qualified within the meaning of article 21, that the person’s fitness to practise is not impaired and, where necessary, the person meets such additional requirements (if any) relating to education, training or experience as the registrar considers are appropriate, and the person has paid any fee prescribed under article 36(1)(a).

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Article 38 deals with offences relating to the Register. Under article 38(1)(b), a person who makes a false representation after being entered into the Register as a pharmacy technician commits an offence.

Under article 38(2)(b), a person who uses the title "pharmacy technician" without being entered as a pharmacy technician in part 2 or 5 of the Register commits an offence. Under article 38(4)(b), a person who practises as a pharmacy technician whilst not being entered as such in part 2 or 5 of the Register also commits an offence. Under article 38(8), a person who commits an offence under either article 38(2) or (4) is liable on summary (magistrates' court) conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).

As the Pharmacy Order 2010 does not define the term "pharmacy technician", it is difficult to extract from the legislation clear guidance as to what acts would constitute "practising" as a pharmacy technician, which, if unwittingly undertaken by a person whose name was not on the Register, would constitute an offence.

Website

One must therefore look to the GPhC's website for guidance as to which acts might constitute those of a pharmacy technician. The website states that a pharmacy technician undertakes the following (presumably non-exhaustive) roles: supplying medicines whilst acting under the supervision of a pharmacist to patients, whether on prescription or over the counter; assembling medicines for prescriptions; and providing information to patients and other healthcare professionals.

Clearly, a counter assistant provides information to patients, as would a dispensing assistant or a trainee pharmacy technician, but would such persons be deemed to be committing an offence under article 38(4)(b)?

A dispensing assistant or a trainee pharmacy technician would also be involved in supplying medicines under the supervision of a pharmacist and by so doing it could be construed that they were practising as a pharmacy technician further to article 38(4)(b) and, therefore, committing an offence.

In light of this prevailing uncertainty, it would therefore be helpful for the GPhC to issue further guidance on this point so that employers and their staff can feel confident that they are undertaking their roles legally.

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