

# What's in a name?

**Richard Hough**, a practitioner in pharmacy law, considers the controversy over restrictions on use of the title "pharmacist"

**M**any pharmacists, particularly those working in industry or academia and those who are non-practising or retired, are quite understandably getting hot under the collar about proposed legislation which, if brought into force as currently drafted, could see them facing criminal sanctions for referring to themselves as "pharmacists". This strength of feeling culminated on April 19 in the convening of a special general meeting (SGM) of the Royal Pharmaceutical Society of Great Britain (RPSGB) at which their concerns were aired.

It is generally accepted that restriction of the title "pharmacist" is important for the professional identity of pharmacists in general, for confidence in the pharmacy profession and for the assurance of patients and the public. Restricting the title to those who are registered (and therefore regulated) keeps the public protected from unsuitable people who might otherwise attempt to call themselves "pharmacists" and try to gain public trust and unwarranted status or financial gain as a result. Having a restricted title is an effective way of recognising those who have attained and maintain the requisite standards of academic achievement and behaviour and the commonly accepted method of protecting it is to take action against those who abuse it. Currently, statute law satisfactorily achieves this aim.

### Medicines Act

The use of the title "pharmacist" is at present restricted by section 78(5) of the Medicines Act 1968 (Medicines Act), which makes it a criminal offence for any person who is not included in parts 1 to 3 of the RPSGB's Register of Pharmacists to call himself or herself a "pharmacist", "pharmaceutical chemist", "pharmacist", "member of the Pharmaceutical Society" or "Fellow of the Pharmaceutical Society". Part 1 of the Register lists the personal details of practising pharmacists, part 2 lists those who are non-practising, and part 3 those visiting pharmacists from EEA states. Current RPSGB guidance states that non-practising pharmacists, when using the title "pharmacist", should explain that they are not practising. Further to section 84(2) of the Medicines Act, any person who contravenes section 78 of the Medicines Act commits an offence and shall be liable on conviction to a fine.

The restricted title "pharmacist" is currently defined in section 132(1) of part VIII of the

Medicines Act. This states that "pharmacist" in relation to Great Britain means "a person registered in the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007" (ie, the register currently maintained and regulated solely by the RPSGB). Section 18(a) of part 1 schedule 4 the draft Pharmacy Order 2009 (draft Order), the proposed secondary legislation which seeks to establish a new regulator for pharmacy, namely, the General Pharmaceutical Council (GPhC), would amend section 132(1) of the Medicines Act to substitute the phrase "a person registered as a pharmacist in the register maintained under article 7 of the Pharmacy Order 2009".



“ Pharmacists in industry and academia are hot under the collar about legislation which could see criminal sanctions for calling themselves ‘pharmacists’ ”

This is the proposed, contentious, enabling legislation which would ensure that the title "pharmacist" would be restricted only to those registered, not with the RPSGB, but with the GPhC.

Therefore, under the proposed legislation as currently drafted and in line with governmental policy, upon its inception, the GPhC will assume sole responsibility for the regulation and registration of "pharmacists" and pharmacy technicians. Article 8(2) of the draft Order states: "a person is not entitled to be entered into the Register as a pharmacist or a pharmacy technician if that person does not intend to practice in Great Britain, the Channel Islands or the Isle of Man".

To the understandable consternation of many, the draft Order does not currently make provision for the maintenance of a non-practising register and, therefore, as currently drafted, non-practising pharmacists would not fulfil the requirements of article 8(2), as they would be ineligible for entry on to the Register. Therefore, they would be unable to refer to themselves as "pharmacists" (non-practising) without breaching section 78(5) of the Medicines Act and therefore being liable to criminal sanction.

### DH guidance

However, in a commonsense move to appease the fears of former and retired pharmacists, the Department of Health has subsequently provided guidance that there will be no restriction on individuals who have left the register from referring to themselves as "former" or "retired" pharmacists.

On March 3, 2009 the RPSGB Council issued a clarifying statement that:

- the title "pharmacist" should continue to be restricted to those suitably qualified and registered with the GPhC;
- the broad proposed definition of "practising" (under article 3(2) of the draft Order) would encourage more members of the profession than at present to register as practising pharmacists;
- the GPhC should consider maintaining a non-practising register; and
- the GPhC should also allow those members of the profession who do not wish to be on either the practising or non-practising register to call themselves "retired" or "former" pharmacists.

The position adopted by the RPSGB Council appears on the face of it to be non-contentious but has done little to assuage the concerns of those academic and industrial pharmacists who might not be legally or contractually obliged to register with the GPhC. This has led to alternative legal avenues being explored by supporters of those who have requested the SGM.

### SGM

On April 19, 2009, further to section VI(5) of the RPSGB's byelaws, a special general meeting attended by 137 RPSGB members was convened at which the following motions were carried:

- the rejection of proposed articles 27(2) and 27(4) of the draft Order which would make it a criminal offence for anyone not registered as a pharmacist by the GPhC to use the title or to practice as a "pharmacist";
- the proposition that the title "pharmacist" should be permitted for use only by any person who has successfully completed a degree or other course of education and professional experience accredited by the RPSGB or who in

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future is accepted as a pharmacist member of the new professional body:

- the proposition that the title "registered pharmacist" is a suitable restricted title for use by those suitably qualified and registered with the GPhC;
- the definition of "practice" in article 3(2) of the draft Order to be amended and limited to the activities of those pharmacists engaged in the provision of services, care and advice to patients and the public; and
- the Council to submit further urgent representation to the Department of Health, to Parliament and to Ministers in order to secure the appropriate amendments to the draft Order and/or the Medicines Act.

If the SGM's motions are acted upon and the requested amendments made to the draft Order, the restricted title "pharmacist" would be linked to pharmacist membership of the new professional body and not to registration with the GPhC. All pharmacist members of the new professional body, including those registered with the GPhC, would have the title "pharmacist". A new specific title of "registered pharmacist" would be introduced for those pharmacists registered with the GPhC and the term "practice", in the context of pharmacists required to register with the GPhC, would be defined as practice in a patient-facing role. Although legally viable, this alternative proposal would appear to add an unnecessary element of confusion in the minds of the public, a concern shared by the Royal Pharmaceutical Society.

## Letter

In its response to the SGM, the RPSGB has written an open letter to the Chief Pharmaceutical Officers acknowledging that all the motions proposed were carried and that the matter would be discussed at the next Council meeting.

And yet, despite all the column inches which have been written on the subject in the pharmaceutical press, the feasibility of the legal opinions offered and the time, expense and effort involved in convening an SGM, the key question is: if the Council is sufficiently persuaded to make further, urgent representations to the Government, which has stated its intention to separate the roles of professional leadership and regulation for the pharmacy profession, will it in turn be sufficiently persuaded by the views of the majority of those 137 RPSGB members who attended the SGM (out of a membership of approximately 48,000) to turn its back on its policy of separation of professional powers and accede to their requests for amendment to the proposed legislation? Unlikely perhaps, but stranger things have happened.

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