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BMA SCOTLAND

Control of Entry Arrangements
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General Practitioners

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Control of entry arrangements

Thank you for seeking the views of the Scottish GP Committee of BMA Scotland on the *Applications to provide NHS Pharmaceutical Services: A consultation on the Control of Entry Arrangements and Dispensing GP Practices*.

Control of entry arrangements for community pharmacy have a considerable and direct impact on dispensing GP practices. As you know, NHS boards can instruct GP practices to dispense medicines in areas where there would otherwise be significant difficulty for patients to receive their prescribed medicines. Therefore, dispensing practices operate in remote and rural communities where there are substantial challenges in providing the range of primary medical services. There are numerous difficulties for remote and rural GP practices but the recruitment and retention of doctors and practice staff, which has always been challenging, is an area of immediate and growing concern.

BMA Scotland has consistently maintained that dispensing income is essential for stability and sustainability of dispensing practices and by extension the services they provide to their communities. Dispensing income helps to maintain the ability of remote and rural practices to retain and attract general practitioners. It is also well established that dispensing income: often supports additional/enhanced services for patients, funds increased levels of practice staff, and in many areas has allowed dispensing practices to operate from multiple sites.

Consistent with our position and very unfortunately, there are many examples where the loss of dispensing has destabilised the provision of medical services in remote and rural areas. This has resulted in the loss of general practitioners and/or practice staff, loss of branch surgeries, and has recently led to the loss of a GP contract in Ayrshire and Arran, which has resulted in the NHS board having to operate an ad hoc locum arrangement to ensure the continued delivery of GMS services to the patient population. It is our understanding that replacing these services can be complex and extremely costly for NHS boards and NHS Scotland.

The announcement of this consultation has prompted pharmacy applications in areas where they might not otherwise have been submitted. This is consistent with an increase in pharmacy applications immediately preceding the introduction of revised control of entry arrangements in 2010. BMA Scotland is deeply concerned that pharmacy applications submitted following the announcement of this consultation:

- are causing considerable distress and anxiety for affected dispensing practices
- will be found adequate and be granted under the existing arrangements
- will damage dispensing practices and the service they provide to their patients

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INVESTORS IN PEOPLE

In anticipation of an influx of pharmacy applications in response to this consultation, BMA Scotland requested a moratorium on pharmacy applications following the announcement of this consultation. We understand that the Government believed it was not possible to limit applications during this interim period. However, in order to avoid further damage to delivery of primary medical services in remote and rural areas we ask again that careful consideration is given to the processing of ongoing pharmacy applications in areas served by dispensing practices. Also, we ask that the legislative changes required following this consultation are implemented as quickly as possible to avoid any additional potential damage to general practice services in remote communities in Scotland.

BMA Scotland has repeatedly raised concerns regarding the adequacy of the community pharmacy control of entry arrangements in response to previous consultations, during the Wilson/Barber review, and in discussion with Scottish Government officials, ministers and members of the Scottish Parliament. We believe this is a critically important consultation that presents a genuine opportunity to improve the existing arrangements to benefit NHS service delivery in Scotland.

Please find below our responses on each of the specific consultation questions:

Proposal 1: The Scottish Government proposes introducing 'controlled remote, rural and island localities' and a 'Prejudice Test'.

We agree that, depending on the implementation, this proposal could lead to a considerable improvement over the current position. In our view, the existing process places excessive weight on securing pharmacy provision for patients. While we agree this is an important aim, it should not be pursued where the loss of dispensing for a practice would disadvantage primary medical service provision for patients and/or risks considerable additional costs for the NHS board.

We strongly believe that there are areas of Scotland where dispensing practices will necessarily, and for the foreseeable future, be the only viable option for the provision of primary medical and dispensing services to patients. Given the loss of numerous dispensing practices over the last decade we would expect that the designation of 'controlled remote, rural and island localities' should apply to the overwhelming majority of remaining dispensing practices in Scotland.

As outlined in the consultation document, we believe that the designation of 'controlled remote, rural and island localities' should be heavily dependent on the Scottish Government's Urban/Rural Classifications as "remote small towns, accessible rural, remote rural, very remote small towns, and very remote rural". We would not wish to see the criteria used for designating 'controlled remote, rural, and island localities' to be restricted to smaller/less remote towns than currently proposed. Additionally, the criteria for establishing controlled localities should be defined by Government to ensure consistency across Scotland and the Scottish Government's Urban/Rural Classifications should be central to this process.

The Prejudice Test, if implemented appropriately, should limit pharmacy applications in areas where the services provided by a dispensing practice would be negatively impacted. The process for the Prejudice Test would need to be carefully considered and we would welcome the opportunity to be involved.

It will be important that interested parties have the right of appeal against decisions made - has the Scottish Government considered how this would be addressed?

Proposal 2: Areas defined as 'controlled remote, rural and island locality' should be reviewed on a three-year basis by NHS boards.

As mentioned above, we would hope that the process for establishing controlled localities will be as straightforward as possible to eliminate arbitrary decision making.

One of our concerns regarding the current dispensing arrangements is that the right to dispense can be removed by the NHS board with little forewarning. Dispensing practices must be able to business plan for the future and stability of income is necessary for long-term planning. Stable income streams are also enormously important for recruitment and retention of staff to these practices.

In our view, designation as a controlled locality should be reviewed on a five year basis with the option of a shorter period where there has been a meaningful demographic or service delivery change.

Proposal 3: Where the dispensing by a GP practice is necessary, it should be supplemented with pharmaceutical care provided by a qualified clinical pharmacist sourced by the NHS board.

In our view, all GP practices (not only dispensing practices) benefit from pharmacist input and agree that this is a positive proposal. We would like reassurances that the NHS board would both source and fund qualified clinical pharmacists for this purpose. We suggest it would worth exploring whether NHS board pharmaceutical advisor roles could be expanded to include this proposed area.

We believe that there is another aspect to consider for ensuring that services in areas with dispensing practices are no less adequate than in other parts of Scotland. We have proposed previously that dispensing practices should be enabled to provide their patients, as far as possible, with pharmaceutical care equivalent to the service currently provided by community pharmacists. Certainly dispensing practices already provide many of the same services and we believe this should be expanded to include additional services currently only offered under the community pharmacy contract. Furthermore, the services provided by dispensing practices should be included in NHS board pharmaceutical planning so there would be no need to designate areas served by dispensing practices as lacking pharmacy services.

Proposal 4: The Scottish Government proposes that the regulatory framework going forward will look to include a community representative among those who should be notified as an ‘interested party’.

To ensure that the views of the public are integral to the decision making process we agree that this is an important proposal and should be a considerable step forward. While the current Regulations require public consultation they do not specify how this should be conducted or how the views of the public will feed into the process.

Revised regulations or statutory guidance should include a detailed process that outlines the scope of adequate public consultation. In some areas this might necessarily include funded public meetings or similar to allow the appointment of a community representative that will represent the consensus view.

Proposal 5: The Scottish Government is of the view that in future PPC hearings should be handled in such a way so that no one person or organisation is able to dominate the entire hearing.

We strongly agree with this proposal, although, understand that this will be challenging to achieve in practice. We ask that interested parties such as the BMA should be involved and consulted on the framework for future PPC hearings.

In our view it is absolutely essential that dispensing practices are able to represent themselves and provide oral evidence during PPC hearings. Currently, representation can only be provided on behalf of the dispensing practice by the GP subcommittee of the Area Medical Committee. This must be expanded to include direct representations by dispensing practices.

Proposal 6: The Scottish Government proposes that going forward those assisting in oral representations by the applicant, the community and other interested parties in attendance are able to speak on behalf of those they are assisting.

While we agree that this will offer a fuller debate and range of opinion we would be concerned that this would risk presentations being made by legal representatives. We do not believe that legal representatives should normally be involved in the process.

Proposal 7: The Scottish Government proposes that going forward those applying to open a pharmacy, for the purpose of providing NHS pharmaceutical services, should first enter into a pre-application stage with the NHS board to determine whether there is an identified unmet need in the provision of NHS services.

We agree with this proposal. However, this should not be a closed process and other interested parties should be notified and be allowed to participate in the pre-application phase. As stated above, there must be a general recognition of the services already being provided by dispensing practices. The presence of a dispensing practice should not automatically be an indicator of unmet need. As we proposed above, dispensing practices should be allowed, as far as possible, to provide the same services as community pharmacy.

Proposal 8: The Scottish Government proposes that NHS boards should specify to what extent the views of the community have or have not been taken into account in their published decisions on the outcome of a pharmacy application.

It is vital that the view of the community is considered and suggest that the community should have right of appeal if they believe their views were not adequately heard.

Proposal 9: The Scottish Government considers that NHS boards should be able to take into account how NHS pharmaceutical services would be delivered in practice in the long term after an application has been received.

We agree with this proposal. Pharmacy applications should only be granted where it is reasonably assumed that the pharmacy would be viable long-term. Ideally, the viability of pharmacies should be established on an individual basis and not as part of a larger entity.

Proposal 10: The Scottish Government proposes that going forward the regulatory framework would require NHS board PPCs to make a decision within 6 weeks of the end of public consultation process and the NAP to make a decision within 3 months upon receipt of an appeal being lodged.

We agree that timeframes should be specified for the activity of the committees and panels. We accept that flexibility would be necessary under certain circumstances provided this was within the boundaries of specific guidance, but where longer periods were to be required this should be notified to all interested parties as early as possible.

Proposal 11: The Scottish Government proposes that going forward the regulatory framework should make provisions for the appropriate role of an independent legal assessor acting in a supporting and advisory capacity, including provision of advice and guidance an technical and legal aspects of the application process during PPC deliberations.

In principle we believe that this could be a helpful proposal but we would be interested in additional details, especially the appointment process. It might also be helpful for the

Scottish Government to consider whether the National Appeal Panel would benefit from the input of an independent legal assessor. Could you also please be clear on how the independent assessor would be funded?

As stated above, we are optimistic that the proposals outlined in the consultation will improve the control of entry arrangements for all parties involved including patients. We would be happy to meet with you to discuss any of our comments in more detail. We have suggested above several areas where we would wish to be involved in future. We would be grateful if you would consider involving us as this work progresses.

Yours sincerely

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BMA Scotland