



**Royal Cymdeithas
Pharmaceutical Fferyllol
Society Frenhinol
of Great Britain Prydain Fawr**

Ffôn Tel: 029 2073 0310
Ffacs Fax: 029 2073 0311
e-bost e-mail: wales@rpsgb.org

Ms Sian Wilkins
Committee Clerk
Legislation Office
National Assembly for Wales
Cardiff Bay
CF99 1NA

12 September 2007

Dear Ms Wilkins

**Re: Consultation Proposed NHS Redress (Wales) Measure Committee
Reference: NHSR Committee letter dated 20 July 2007**

The Royal Pharmaceutical Society of Great Britain (RPSGB) is the professional and regulatory body for pharmacists in England, Scotland and Wales. It also regulates pharmacy technicians on a voluntary basis, a role that is expected to become statutory under new legislation soon. The primary objectives of the RPSGB are to lead, regulate, develop and represent the profession of pharmacy.

Thank you for inviting RPSGB to submit evidence to the above Committee which is looking at the proposed NHS Redress (Wales) Measure.

This response reflects the impact of the proposed Measure on pharmacists who work across healthcare sectors and in a range of primary and secondary care settings.

The RPSGB supports the underpinning principles of the proposed Measure and it considers the aims and objectives to be consistent with the public interest. However in ensuring adequate and appropriate redress for patients and the public it is also important to recognize the position of the healthcare practitioner. The majority of healthcare practitioners are registered with a recognised regulator and although there are material differences in the nature of the regulatory context and scope, there is a framework of professional accountability. In addition, employers have local frameworks of clinical governance and quality which ensure sound risk management and patient safety. In Wales there has been a close collaboration with bodies such as the RPSGB to ensure these arrangements work effectively. Healthcare regulators have the statutory powers and processes to guide the profession and also to adjudicate on cases where there have been error and failures in conduct, performance and health impairment. In the case of the RPSGB the relevant legislation is the Pharmacists and Pharmacy Technicians Order 2007. This is supplemented by Rules made under the Order which set out detailed Registration, Advisory and Fitness to Practise arrangements. Many of our comments and concerns about these proposals are about the interface between the regulatory process of the RPSGB and the measure as outlined. The RPSGB also recognize that the detail of these arrangements will be contained in Regulations which are yet to be issued. At the appropriate time the RPSGB would like to have the opportunity to comment on the Regulations.



**Royal Cymdeithas
Pharmaceutical Fferyllol
Society Frenhinol
of Great Britain Prydain Fawr**

Ffôn Tel: 029 2073 0310
Ffacs Fax: 029 2073 0311
e-bost e-mail: wales@rpsgb.org

It appears that the focus of the Measure is to resolve issues arising in secondary care settings. The experience of implementing this in secondary care should be carefully evaluated prior to any further strategy of extending the scope of the Measure. Pharmacists also work as contractors in primary care. There are professional requirements set by the RPSGB which make indemnity insurance a requirement for practice. This is to ensure adequate redress for the public in the event of harm as a result of diagnosis, care and treatment. More recently the RPSGB has also issued guidance about internet pharmacy arrangements and the requirement to ensure that the insurance cover extends to the entirety of professional practice being undertaken. In addition the RPSGB now has statutory powers to make Rules in this area. The RPSGB would welcome the opportunity to engage in further discussion and debate to explore how these Rules could be drafted to address the matters of public concern that has led to the Measure being proposed.

The RPSGB is unique amongst healthcare regulators in having an Inspectorate, the inspectors work across Great Britain and they carry out both routine and targeted visits to registered pharmacies. This gives an additional level of assurance alongside local monitoring arrangements.

The RPSGB would advise that there should be careful dialogue with the main insurers in pharmacy about this issue. The Chemists Defence Association (CDA) which is part of the National Pharmacy Association and the Pharmacists Defence Association are two of the main providers.

In conclusion, the RPSGB would propose that primary care contractors are excluded from these arrangements. The fiscal impact of this Measure being extended to primary care contractors should also be carefully modeled as in effect a further avenue of redress is being created, albeit for lower level claims. Many of these may not be pursued at the current time or resolved through ex gratia arrangements at local level.

CONSULTATION QUESTIONS

1. Why is a Redress Scheme required?

The RPSGB have a similar view to other pharmacy bodies such as CPW, that a Redress Scheme for community pharmacists contracted within primary care is not required. Adequate professional indemnity arrangements and inspectorate arrangements exist which provide adequate safeguards. The insurance arrangements and the NHS complaints procedures do deliver explanations as well as redress. Claims currently met by the insurance provider without recourse to NHS funding would, in the event that the Measure is introduced for primary care contractors, transfer to the NHS Wales. This could have serious implications for funding of NHS services to patients.

2. Does the proposed Measure achieve the policy objective?

The achievement of the policy objective can only be evaluated through careful piloting and analysis. There are questions about what might fall outside the Measure and these matters will only be identified when the Regulations are drafted.



**Royal Cymdeithas
Pharmaceutical Fferyllol
Society Frenhinol
of Great Britain Prydain Fawr**

Ffôn Tel: 029 2073 0310
Ffacs Fax: 029 2073 0311
e-bost e-mail: wales@rpsgb.org

3. What are the views of stakeholders who will have to work with a redress system?

The Measure causes the RPSGB serious concern and the impact on Primary Care contractors moving from professional indemnity insurance arrangement which work well, to an untried redress process are difficult to determine. There is a real risk that claims will be settled without proper identification of practitioners whose license to practise should be called into question. This would then leave the public in a vulnerable position and there would be a failure to manage the risk arising, these matters will need to be addressed in the Regulations.

4. What will be the practicalities of making the system work and does the proposed Measure make provision for these?

This is difficult to respond to and the details of the Regulations will set out the more detailed arrangements.

5. Is it appropriate that so much be done by regulations, i.e. the details of any scheme or schemes will be decided by Welsh Ministers?

The RPSGB are content that detailed Regulations should proceed in this way and the Measure is widely drafted to allow flexibility. The RPSGB would wish to engage closely with the process.

6. The Measure related to redress in relation to liability in tort, i.e. where some fault is established without recourse to the courts. Would it be better for the Assembly to seek the power from Westminster to introduce a "no-fault scheme"?

The experience of no-fault schemes in other jurisdictions, e.g. New Zealand, should be examined closely. Regulatory thinking has progressed beyond these and the public often feel that such schemes lack transparency and accountability.

SUMMARY

The RPSGB reiterate the concerns as outlined in this response and would like to play a proactive part in assisting the Welsh Assembly in delivering public confidence and appropriate redress systems at the same time as preserving sound regulation of the profession.

Yours sincerely

**Catherine Savage
Director for Wales**