Who should test the English language skills of European pharmacists?

The Royal Pharmaceutical Society is currently restricted from testing the language proficiency of pharmacists from the European Economic Area.

Francesca Rivers explores the implications of this restriction for pharmacists, their employers and the public.

Pharmacists have the honour and responsibility of being among the most accessible and trusted healthcare professionals in the UK. Indeed, a Reader's Digest survey revealed pharmacists to be the second most trusted professionals in the UK, after fire-fighters (PJ, 25 April 2009, p472).

For pharmacists in patient-facing roles, the ability to communicate information relating to the dosage and dangers of medicines effectively is crucial to both patient trust and safety. The expanding range of clinical services being offered by community pharmacists adds to the degree of patient interaction and, arguably, the level of communicative ability that the role demands.

Meanwhile, the number of overseas pharmacists joining the British Register and taking on these demanding patient-facing roles has risen over the past few years.

Between the summers of 2006 and 2007 there was an 8.3 per cent rise in the number of registrants from the European Economic Area, with a particular influx of applicants from Poland and Spain. With round 500 EEA applicants now joining the Society’s Register each year, the need to assure pharmacists’ communicative as well as technical abilities is brought into ever sharper focus.

According to regulations set out in the Pharmacists and Pharmacy Technicians Order 2007, the Society is not currently permitted to test the language skills of European nationals applying to join the Register.

A similar restriction was written into the draft Pharmacy Order 2009 — the draft legislation that will underpin the establishment of the General Pharmaceutical Society in 2010.

Despite the Society’s official response to consultation on the draft Order including a call for the restriction to be removed on the grounds that it may compromise patient safety, this was not among the amendments that were made to the Order following the consultation. Thus, subject to parliamentary approval of the draft Order, the restriction will be built into the legal framework of the new regulator for pharmacy, carrying forward an arguably outdated and potentially dangerous restriction on regulatory powers into the era of the new, purpose-built regulator for pharmacy.

Professional obligation

Pharmacists and pharmacy technicians have a professional obligation under the code of ethics to ensure that they, and those they employ, have sufficient language competence to communicate and work effectively with colleagues. Although pharmacists have a personal responsibility to observe this obligation, the onus is on employers to ensure that staff have sufficient technical and linguistic skills to perform their job safely.

With the regulator powerless to guarantee that registered pharmacists have a satisfactory level of English language ability, employers are potentially faced with candidates who, though entitled under the Race Relations Act 1976 not to be excluded from consideration on the basis of nationality, are clearly unable to communicate safely and effectively with patients and colleagues.

The results of a survey carried out by the Society earlier this year revealed this week, suggest that more than half of UK pharmacy employers are not aware of the restriction placed on the Society with regard to testing the language competence of European pharmacists. Even more — over 60 per cent — do not themselves undertake language testing of European job applicants. The survey also revealed that recruitment periods are not consistently provided. Perhaps of greater concern is the finding that more than a third (40 per cent) of employers have encountered problems that were potentially related to the language proficiency of employees.

Paul Bennett, superintendent pharmacist at Boots UK, said: “Very few employers currently ask for evidence of linguistic proficiency. Therefore pharmacists who are not willing to take the University of Bath English Language Test examination [see Panel 1] or attend classes to bring their English to a very high level can still find employment as pharmacists in the UK.”

Mr Bennett argued that if the Society were able to check the language proficiency of applicants then all pharmacists, including those who wish to work as locums, would be treated uniformly, adding: “We believe this will help to secure consistent linguistic standards.”

Lloydspharmacy also believes the responsibility to ensure the language proficiency of pharmacists and pharmacy staff should rest with the regulatory body. Superintendent pharmacist Nick Mortimer told The Journal: “[We] are aware of the legal issues which currently make this difficult. We would, however, support any changes to redress the situation.”

Contained within the 2005 EU Directive is an article relating to the knowledge of language, which states: “Persons benefiting from...”
the recognition of professional qualifications shall have a knowledge of languages necessary for practising the profession in the host member state.

The Society believes that this provision would allow it to language test EEA pharmacists within the authority of the EU Directive, as long as such tests are proportionate and non-discriminatory.

This was the suggestion put forward by the Society in its response to the draft Pharmacy Order 2009, in which it argued that communication is key to building patient-practitioner trust.

“It is difficult to see how any applicant could meet the standard of proficiency which the Council considers necessary for the safe and effective practice of pharmacy without being competent in the English language. Lack of such competence could put patients at obvious risk,” it argued, concluding that, in the interests of patient safety and confidence, the power to test the language competency of applicants should lie with the regulator.

A Department of Health spokeswoman told The Journal that, although English language competency of patient-facing healthcare workers may be essential, it is not a regulatory issue: “Employers should take the responsibility of ensuring that their EEA employees have sufficient knowledge of the English language.”

The Society disagrees with this view and continues to lobby for removal of the restriction before the draft Order is given the parliamentary seal.

“We are continuing to collect evidence to support our case to amend the Order for presentation to the Department of Health. As part of this we are also encouraging the other healthcare regulators to join forces with us as this is not a problem restricted to pharmacy,” a Society spokeswoman told The Journal (see Panel 3).

The General Medical Council and the Nursing and Midwifery Council share the Society’s concerns on this matter, and are in support of changes to the existing restrictions. Each organisation has for some time been campaigning in Europe for regulatory bodies to be given the authority to test language proficiency.

Panel 1: Language proficiency tests

The Royal Pharmaceutical Society, the General Medical Council, the Nursing and Midwifery Council and the Royal College of Veterinary Surgeons are already well versed in assessing and testing the English language competence of non-EEA applicants to the register.

All of these regulators require non-EEA applicants to their registers to achieve at least level 7 in the academic International English Language Testing System (IELTS) examinations. IELTS tests are also used by a number of pharmacy employers, among other standard language tests, including Test of English as a Foreign Language, Language and the University of Bath English Language Test (UBELT).

Boots UK, one of the developers of the UBELT and a pharmacy employer that pays for EEA candidates to take it, said the test has been specifically developed to meet the needs of pharmacy employers in the UK. “The pharmacy context is important so that the actual processes and strategies candidates employ in the test simulate as much as possible typical communication in professional contexts” said Boots UK superintendent pharmacist Paul Bennett.

EEA nationals employed by Boots UK are required to have advanced level English language competency by attainment, within the previous 12 months, of either UBELT level 3, IELTS level 7, Trinity Integrated Skills in English grade III, or Cambridge Certificate in Advanced English.

Lloydspharmacy employs the services of an external company to carry out language proficiency tests for pharmacists. “It is vital that pharmacy staff are able to understand their customers’ needs, and customers, in return, need to feel confident that they have been understood and are being treated by experts,” said superintendent pharmacist Nick Mortimer.

Panel 2: Interpretation of the directive

The 2005 European directive on the recognition of professional qualifications prevents healthcare regulatory bodies across Europe from testing the language competence of applicants for membership who have achieved their professional qualification within the European Economic Area.

The amended Pharmacists and Pharmacy Technicians Order 2007 transposes this and earlier EU directives into national legislation, as applicable to the Royal Pharmaceutical Society.

The restrictions have also been applied to the Pharmaceutical Society of Northern Ireland, along with the General Medical Council, the Nursing and Midwifery Council and the Royal College of Veterinary Surgeons, albeit with slight variations in the way the restrictions are transposed. For example, all prospective RCVS registrants are required to provide a signed declaration to say that they have adequate knowledge of the English language for them to practise in the UK.

Other countries are facing similar issues. In the Republic of Ireland, the Pharmacy Act 2007 requires EEA applicants to the pharmacy register who lack adequate language ability to give an undertaking to acquire necessary language proficiency. However, the Pharmaceutical Society of Ireland pointed out to The Journal that responsibility with respect to ensuring adequate language competence is attained is shared out between the applicant, the PSI (which has the power to mandate that such applicants achieve the necessary linguistic competence before taking on a patient-facing role), and pharmacy owners and superintendent pharmacists, who have a duty under the Regulation of Retail Pharmacy Business Regulations 2008 to ensure all staff have the language skills necessary to undertake their responsibilities.

Panel 3: Campaign for change

The Royal Pharmaceutical Society believes that Article 53 of the 2005 European directive already gives regulators the ability to language test European healthcare professionals before registration in an appropriate and proportionate manner. The Society says legal advice it has received supports this view and it is continuing to collect evidence to support its case to amend the Order for presentation to Department of Health. It is also encouraging other healthcare regulators to join in lobbying the DoH to implement the 2005 directive to enable regulators to ensure language competency.

Additionally, the Society is a member of the Pharmaceutical Group of the European Union (PGEU), the European association representing community pharmacists. PGEU’s members are the national associations and professional bodies of community pharmacists in 30 European countries, including EEA member states and EU candidate countries. The PGEU is administering a questionnaire at the Society’s request to gather information on whether other member states language test for competency and how they have interpreted Article 53 of the 2005 directive.

The NMC told The Journal that it has serious concerns about the public protection implications of the restriction on language testing. “We feel that this restriction places the principle of the free movement of workers within the EU before the interests of those receiving healthcare, many of whom are vulnerable,” it said.

“We have shared our concerns with the European Commission and the UK departments responsible for implementing the directive in the UK. This has been done in part in collaboration with our regulatory colleagues across the European Union, many of whom share our concerns.

“We are also raising awareness of the issues among UK politicians, for instance through events planned for this year’s party conferences. In addition, we are planning awareness-raising campaigns with key members of the newly elected European Parliament, with a view to increasing pressure on the European Commission.”

Veterinary Surgeons have an interest in the issue, too. The Royal College of Veterinary Surgeons told The Journal: “While we are not currently involved in any legal challenge to the present EU directive, we would certainly be interested to see what is happening in other professions and would consider lending our support to any such action.”

The Society will be presenting its case to the Department of Health in due course. The eyes of many health care professionals will then be on the Government. It is to be hoped that it is moved to reconsider the continuation of this regulatory restriction in the face of a rigorous opposition that is ultimately centred around concerns over the safety of the public.

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