
STATUTORY INSTRUMENTS

2010 No. 231

The Pharmacy Order 2010

PART 6

Fitness to practise

Impairment of fitness to practise

51.—(1) A person's fitness to practise is to be regarded as "impaired" for the purposes of this Order only by reason of—

- (a) misconduct;
- (b) deficient professional performance (which includes competence);
- (c) adverse physical or mental health which impairs their ability to practise safely and effectively or which otherwise impairs their ability to carry out the duties of a pharmacist or a pharmacy technician in a safe and effective manner;
- (d) failure to comply with a reasonable requirement imposed by an individual assessor or an assessment team in connection with carrying out a professional performance assessment;
- (e) a conviction in the British Islands for a criminal offence;
- (f) a conviction elsewhere than in the British Islands for an offence which, if committed in England, Wales or Scotland, would constitute a criminal offence;
- (g) an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995⁽¹⁾ discharging the person absolutely (admonition and absolute discharge);
- (h) having accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995⁽²⁾ (fixed penalty: conditional offer by procurator fiscal);
- (i) having agreed to pay a penalty under section 115A of the Social Security Administration Act 1992⁽³⁾ (penalty as alternative to prosecution);
- (j) a police caution in the British Islands;
- (k) having agreed to be bound over to keep the peace by a magistrates' court in England or Wales;
- (l) a determination made by a regulatory body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that the person's fitness to practise as a member of a profession regulated by that body is impaired, or a determination by a regulatory body elsewhere to the same effect;

(1) 1995 c.46.

(2) Section 302 was amended by section 406(1) of and Schedule 17, paragraph 133(1) and (2) to, the Communications Act 2003 (c.21), by paragraph 16 of Schedule 7 to the Wireless Telegraphy Act 2006 (c.36) and by section 50(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6).

(3) 1992 c.5. Section 115A was inserted by section 60 of the Social Security Administration (Fraud) Act 1997 (c.47) and amended by section 14 of the Social Security Fraud Act 2001 (c.11).

- (m) the Independent Barring Board including the person in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006⁽⁴⁾ or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007⁽⁵⁾); or
 - (n) the Scottish Ministers including the person in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007⁽⁶⁾).
- (2) The demonstration towards a patient or customer, or a prospective patient or customer, by a pharmacist or pharmacy technician of attitudes or behaviour from which that person can reasonably expect to be protected may be treated as misconduct for the purposes of paragraph (1)(a).
- (3) References in this article to a conviction include a conviction by court martial.
- (4) A person's fitness to practise may be regarded as impaired because of matters arising—
- (a) outside Great Britain; and
 - (b) at any time.
- (5) The Council may make such provision in rules as it considers appropriate in connection with the information to be provided to the Registrar by a registrant about fitness to practise matters that arise while the registrant is entered in any part of the Register.
- (6) If a registrant fails to comply with rules under paragraph (5), the failure may be treated as misconduct for the purposes of paragraph (1)(a) and the Registrar must consider, in accordance with article 52(1), whether or not to refer the matter to the Investigating Committee or (where rules under article 52(1) so provide) the Fitness to Practise Committee.

⁽⁴⁾ 2006 c.47.

⁽⁵⁾ S.I.2007/1351 (N.I.11).

⁽⁶⁾ 2007 asp14.