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2018 Pharmacy Conference - Save the Date

Our 2018 conference [#CRSPharmaConf](#) will take place on 15 March 2018. Last year's venue, the Wellcome Collection, near Euston and King's Cross, was popular, so we have booked it again.

We are already working on an exciting programme and look forward to seeing you. Save the date!

Market Entry Review

The NHS Pharmaceutical Services Regulations require the Secretary of State to review the Regulations and publish a report, setting out:-

- The objectives intended to be achieved by the Regulations
- The extent to which those objectives have been achieved
- Assess whether those objectives remain appropriate
- If still appropriate, assess the extent to which they could be achieved in other ways

There will not be a public consultation by the Department of Health.

The date for publishing the review has been pushed back to 31 March 2018.

Wales Market Entry Decision Contradicts High Court Remuneration Judgment

In our last issue, we reported on how we won a judicial review in Wales without the cost of a Court hearing. Not all judicial review cases are so successful. In another Welsh case (not one of ours) competing applications were made for a new contract at a health centre. One of the applicants was seeking to relocate an existing contract, so the number of pharmacies would not increase. However, the Welsh Ministers decided that there was an increase in demand that should be met by allowing an additional pharmacy to open: so the relocation application was turned down.

The unsuccessful applicant argued that the Ministers' decision was legally flawed because unless the relocation was granted, there would be a cluster of pharmacies in the town centre. In a twist that seems at odds with the views of the Secretary of State for Health and inconsistent with the recent High Court decision in England to reject the PSNC and NPA's applications for judicial review of NHS remuneration cuts, the Welsh Ministers decided that a cluster of pharmacies in a town centre was not of itself evidence of over-provision, but rather a reflection of the fact that town centres are the places where the population tends to go. The High Court in Wales decided that this was a decision the Welsh Ministers were entitled to make.

New Counter Fraud Body for England

On 1 November, the NHS Counter Fraud Authority for England was established. It has taken over from NHS Protect (which was part of the NHS Business Services Authority) the prevention, detection and investigation of fraud and corruption in the NHS.

Season's Greetings!

We wish all our readers a happy, peaceful and prosperous New Year.



Articles

- [Technological Conundrums](#) (Pharmacy Business)
- [PSNC and NPA Appeals against Remuneration Cuts Ruling](#) (Chemist & Druggist)
- [Can Pharmacists or Pharmacies be Convicted of Manslaughter?](#) (Chemist & Druggist)
- [Supervision](#) (Chemist & Druggist)
- [The Medical Costs Act](#) (Pharmaceutical Journal)
- [Sabre Rattling Pensions Regulator](#) (Pharmacy Business)
- [Decriminalisation of Dispensing Errors](#) (Pharmaceutical Journal)
- [Loopholes in the Legal Defence for Dispensing Errors](#) (Chemist & Druggist)
- [When is a Medicinal Product not a Medicinal Product?](#) (Pharmacy Business)

For a free copy of any of the articles mentioned in this Pharmacy Brief, please click on the link or contact Stephanie Palmer on 020 7203 5065 or email stephanie.palmer@crsblaw.com.

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Dispensing Error Crime

The government has re-published a draft defence to section 64 of the Medicines Act. For a history of how we have got here, see David Reissner's article [click here](#); and for a critique of the draft defence, see Noel Wardle's article [click here](#). You'll be able to judge for yourself at our Pharmacy Conference on 15 March next year.

The proposed defence is not being introduced out of sympathy for pharmacists who, unlike other healthcare professionals, face prosecution for making a mistake. It is mainly because the Department of Health estimates that although about 21,000 dispensing errors are reported each year, the real number of errors is around 500,000. The Department believes that the fear of prosecution is deterring fuller reporting of errors – and that reporting will mean pharmacists learn from errors, resulting in greater patient safety.

The proposed defence is in a draft Order that will not come into force until early next year and it still has to pass through several hoops: at the time of going to press, the House of Commons and House of Lords are due to debate the draft defence. The next stage is Privy Council approval. The Order will be 'made 28 days after that, but separately, a date when the defence comes into force will still have to be selected. The Department of Health says the Government and Devolved Administrations will be working to bring the defence into force as soon as practically possible. No one knows yet when that will be.

Our Recent Market Entry Cases

Our recent market entry cases include:

- A successful relocation application in Peterlee, County Durham
- A successful relocation application in Skelton, North Yorkshire
- A successful relocation application in Penge, South East London
- A successful relocation application in Aldershot, Hampshire

All these applications followed oral hearings at which complex issues relating to patient groups were debated.

Professional Regulation

The Department of Health is conducting a consultation entitled *Promoting professionalism, reforming regulation*.

There are currently nine healthcare regulators as a result of what the Department of Health calls "*historical accident*". The consultation paper suggests the number of regulators should be reduced to 3 or 4 super-regulators, and that the optimal number of registrants to make a regulator efficient is between 100,000 and 200,000.

The GPhC has about 89,000 registrants, and the Pharmaceutical Society of Northern Ireland has 2,852.



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The questions posed in the consultation include:

- Do you agree there should be fewer regulatory bodies?
- What do you think would be the advantages and disadvantages of having fewer professional regulators?
- Do you have views on how the regulators could be configured if they are reduced in number?

The consultation will be open until 23 January 2018.

It's a Deal

It has been a busy period for pharmacy sales and purchases by clients of all shapes and sizes and we have a high volume of transactions in progress for completion over the coming months. We were particularly pleased to be instructed by **Juno Health Limited** to handle its acquisition of Ashchem Chemists (a group of 15 pharmacies located in and around Newcastle, Gateshead, Tyneside and Sunderland). The transaction was brokered by Alliance Valuers and BCMS.

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