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Dear Registrant

As we approach the transfer to the Health Professions Council (HPC), we are being asked more and more questions. In response we are devoting extra resources to communicating with you. This letter is the first of a number we will send, sometimes in partnership with the HPC, before the hand over. Of course if there is any more information you would like then please check our website, write to us or approach us at one of the many events we attend.

There are four important issues I would like to address: the transfer to HPC; the enclosed letter from BSHAA inviting you to register your interest in a consumer code for which they are seeking Office of Fair Trading approval; the latest news on complaints; and the upcoming CPD audit.

The transfer to the HPC

We are very pleased that the first of the two pieces of legislation needed to transfer our register to the HPC was given royal assent in July. Work has already begun on the second piece of legislation and during this stage Parliament will fix the exact time of the transfer. As with all proposed legislation, there is a risk that Parliament could reject it or that some unforeseen event could shift the Government's priorities elsewhere. That said, there is every indication that it will succeed and that the HPC will take over the register sometime between March and October 2009. There will be no gap between the end of the HAC and the HPC taking over.

We are ready to transfer the register as soon as the Government asks us to and we are pushing for as early a transfer as possible. We expect to be able to tell you the exact date it will happen before our next Council meeting in November.

Have your say on the Standards you will have to meet at the HPC

Neither our Code of Practice nor Standards of Competence will apply once you transfer to the HPC. Instead you will have to meet the HPC's Standards of Proficiency (which relate to the clinical aspects of your work) and the Standards of Conduct, Performance and Ethics (which focus on how you should act and behave).

I would encourage you to participate in deciding what the Standards of Proficiency should be. A working group made up of professional bodies, consumer groups, the HPC and the HAC drew up draft Standards and we are consulting on them now. To read the draft Standards and contribute your thoughts please see the HAC or HPC websites' consultation pages.

We are also consulting on the draft Standards of Education that new registrants will have to meet to join you on the HPC register. You can take part through our website or the HPC's.

Dispensers on the register at the point of transfer

If you are on our register at the point of transfer you will move to the HPC register automatically. The HPC will assume that if you were fit to practise on the HAC register then you are fit to practise on theirs. So, unlike new HPC registrants, you will not need a certificate from your GP to demonstrate that you are of good health.

From the point of transfer onwards, you must adhere to the HPC's Standards of Proficiency, its Standards of Conduct, Performance and Ethics and its CPD requirements. You will also need to pay the HPC retention fee, currently £72 a year.

Dispensers with an open complaint at transfer

There has been some concern that if a dispenser has a complaint open against them at the time of transfer then they will not be able to move to the HPC. However, we have worked with the HPC to close this gap. If you are on the HAC register at the time of transfer, you will be moved to the HPC irrespective of whether there is an open complaint against you or not.

We will work with the HPC to minimise the number of complaints open at transfer. If there is an ongoing complaint against you then the HPC will assume responsibility for resolving it from the point of transfer and treat it as they would any other complaint against one of their registrants. The HPC will pick up the investigation and consider whether you have breached the HPC Standards rather than the HAC Code. If your case is extremely serious, the HPC could apply to suspend you from their register until it is resolved.

Dispensers who are voluntarily suspended from the HAC register at transfer

If you joined our register in the past then you should be eligible to join the HPC register in the future. Exceptions will be if you were struck off from our register or you do not meet any

additional HPC criteria, such as those relating to good health and character. If you have been out of practice for some time, the HPC may ask you to complete additional testing or training. The HPC will have a historical record of voluntarily removed dispensers.

Dispensers who have been struck off from the HAC register

All dispensers ever struck off by the HAC will be detailed on a Watch List held by the HPC. These applicants will be referred to an HPC Registration Panel who will decide whether or not they can register.

Pre-registered dispensers who have not completed their training by the transfer date

The HAC and HPC will write to these trainees and their supervisors so they understand how the transfer process affects them. Once they have completed their training they will contact the HPC. The HPC will employ the HAC Registrar to certify their logbooks as needed. As long as the trainee meets the HPC registration criteria she will be eligible to join the HPC register, just like students from approved degrees.

New dispensers who wish to register for the first time after the transfer

New dispensers will apply to the HPC to join the register. UK based applicants will need to meet the minimum standards of education, complete an application form and meet the minimum standards of health and character. International registrants apply via a separate route and should see the HPC website for further details. The HPC can also register European applicants on a temporary and occasional basis.

Public sector dispensers looking to register to dispense privately for the first time

It is expected that public sector dispensers will register with the HPC from 2011. Until then, public sector dispensers who wish to begin dispensing privately will need to apply to the HPC beforehand. They will be treated as any other new registrant above. UK based dispensers will need to meet the minimum education requirements.

What action will HPC take against unregistered dispensers?

In common with most regulatory legislation, the HPC protects title rather than function. This means that only a person who is on the HPC register may use a protected title and the misuse of protected titles by others is a criminal offence, which HPC can prosecute in the criminal courts under Article 39 of the Health Professions Order 2001.

The scope of the offences under Article 39 are quite broad and, as well as encompassing misuse of a title expressly or by implication, also include any other actions which improperly

suggest that a person is on the HPC register or holds qualifications in one of the HPC professions.

HPC policy is to protect the public by a two-pronged approach of enforcing Article 39 to secure long term compliance with the law and, at the same time, educating consumers about the need to use only registered health professionals.

HPC has a statutory duty to inform the public about its work and takes that duty very seriously. HPC regularly runs advertising campaigns and other promotions to raise public awareness, including operating a dedicated website, www.hpcheck.org, which enables members of the public to access the HPC register in real time and verify that a health professional is registered.

One of HPC's case investigation teams has specific responsibility for handling bogus practitioner cases and will always follow up on information which suggests that a person may be misusing a protected title, falsely claiming to be HPC-registered or otherwise misleading the public. The HPC case team also works closely with other agencies, including trading standards, the NHS Counter Fraud Service, the police and Crown Prosecution Service.

HPC's experience is that active investigation secures a high degree of compliance and often action short of prosecution, such as serving a "cease and desist" notice on the alleged offender, is sufficient to solve the problem and enable the case to be closed. However, in cases where compliance cannot be secured by other means and the necessary evidence can be secured, HPC will not hesitate to prosecute.

These powers are reinforced by broader consumer protection legislation. They include protections set out in the Sale of Goods Act, the Supply of Goods and Services Act and the Unfair Commercial Practices regulations. Such protection provides a range of civil and criminal sanctions where, for example:

- a person or company falsely claim they are registered with the HPC or with the OFT code being developed by BSHAA;
- falsely claim they are qualified to test someone's hearing, programme a hearing aid or fit a hearing aid;
- omit to state that a hearing aid may not be of benefit to the user unless it is appropriately programmed and fitted; or
- omit to state that they are not qualified to test someone's hearing, programme a hearing aid or fit a hearing aid.

Our view is that there are significant benefits to dispensers in being registered with the HPC and significant legal risks if individuals and their employers decide not to register.

Will public sector audiologists be able to dispense privately without registering with the HPC?

The Government has yet to decide whether it will be a criminal offence to dispense privately unless you are HPC registered. If it becomes a criminal offence to dispense privately unless HPC registered then all dispensers will need to register to work in the private sector. If it does not become a criminal offence then we are confident that consumers will be more than adequately protected. The Registration Council for Clinical Physiologists (RCCP) is a voluntary register which includes a great number of people involved in public sector dispensing. The RCCP is in discussion with the HPC about transferring its register to the HPC. Until this happens, RCCP registrants could dispense privately provided they do not use the protected title, do not purport to be HPC registered or regulated and do not exceed their scope of practice. The same would apply to NHS dispensers who are not HPC or RCCP registered.

Dispensing companies

The HPC does not register employers. The Government and the Council is confident that there is sufficient protection in general law to regulate companies to an acceptable level. Over and above that, the Council is supporting the industry's work to develop a voluntary OFT approved Consumer Code for that will offer those covered still more protection.

BSHHA sponsored Office of Fair Trading Consumer Code

We support the industry's move to develop a voluntary consumer code. If successful this code will offer consumers a level of protection over and above the legal minimum enforced by the HAC, HPC and other bodies. Winning and keeping OFT approval is a challenging process and should benefit everyone involved so we hope employers take an active interest in this. Enclosed is a letter from BSHAA explaining the scheme and how you can get involved.

Latest news on complaints

The number and seriousness of complaints were a serious concern last year. I would urge you to read the Investigating Committee's excellent annual review of those complaints on our website. Consumers have usually tried to solve a problem with their dispensing company three times before complaining to us. The review should help you not only to minimise complaints but to tackle any that do arise without our involvement. You could also use the annual review to help you decide where to focus some of your CPD activity.

So far in 2008-9, we are receiving fewer complaints than we did last year but still more than during 2006-7. Our annual complaints review highlights the main reasons people complain and our Statement of Regulatory Intent, also published on our website, explains where we focus our resulting enforcement activity and why.

CPD audit

To register with the Council each year you must meet your CPD requirements. We will carry out two CPD compliance audits this year. First, we will ask a sample of dispensers who said they met their target for 2006-8 to prove that they did so. Then later in the year we will audit dispensers who submitted action plans during retention to make up their points for 2006-8. We will also ask all dispensers to affirm that they will meet their CPD target for the period up until the transfer to the HPC.

Lastly, I would emphasise that until the HAC is abolished our regulations stand and we have a legal duty to protect consumers by enforcing them. If you have any questions about our work or how it affects you then please do contact our office. We will be writing to you several times before the transfer, attending as many events as we can as well as working closely with professional bodies and other groups. Once again, I would encourage you keep a close eye on our revamped website.

Yours sincerely



Chris Hughes
Chairman