

**Agenda Item 5**

**Enclosure 2**

**Paper ETC 99 / 03**

## **Education and Training Committee**

**MATTERS ARISING**

**from the Secretary**

**for information**

**28 May 2003. Item 5. Standards of Proficiency. (5.6)**

**LOCAL ANALGESIA AND CHIROPODY / PODIATRY STANDARDS OF PROFICIENCY**

**1. Introduction**

At its meeting on 28 May 2003 the Education and Training Committee discussed the concern some members had expressed about not being able to include the administration of local analgesia (LA) – and certification for it – in the (pre-registration) Standards of Proficiency for Chiroprody / Podiatry.

The Committee noted that the Medicines and Healthcare Products Regulatory Agency (MHRA) was due to publish a consultation on extending " Patient Group Directions " more widely among the HPC's registrant professions. The Committee asked that this document be studied carefully to see if it gave any opportunities for progressing LA issues. The Committee also asked if there was an option to link the prospective Continuing Professional Development (CPD) scheme with LA certification. The Committee, lastly, also noted that the Standards of Proficiency would have to be reviewed from summer 2004 onwards in any case because of the prospective opening of new Parts of the Register.

**2. The Legislation**

The Health Professions Order 2001 directs the Council to prepare and publish Standards of Proficiency for safe and effective practice on the advice of the Education and Training Committee (Part III, 5 (2) (a) ). These Standards are explicitly linked to admission to the Register.

Since 1977 the then Chiroprodists Board had required that all approved programmes and institutions include provision for students to be taught the use of local analgesia and be eligible for the Local Analgesia Certificate upon successful completion of the programme. All diplomates / graduates since then have been competent in and certified in LA. This does leave some 400 or so current registrants, and the whole body of grandparent and European applicants, without LA Certificates. (Podiatry programmes delivered outside Europe and currently known to the HPC generally teach and certify LA in the same way as the UK).

The Health Professions Order also goes on to make explicit reference to the Prescription Only Medicines (Human Use) Order 1997 (and as amended) in Schedule 2, Section 24. The Prescription Only Medicines (POMs) Order allows for these LA certificates to be issued under the ultimate authority of the Medicines and Healthcare Products Regulatory Agency. The way the POMs Order is drafted, however, makes LA Certification a discretionary post-registration provision, not a mandatory pre-registration one.

The POMs Order was not an issue under the Professions Supplementary to Medicine Act, 1960, because the Chiropodists Board neither had to prepare statutory Standards linked to admission to the Register nor dealt with grandparent applications after 1997. It could also make its own provision for international applicants lacking LA certification.

The POMs legislation relates to " Patient Group Directions " (PGD) because the registered and LA certified chiropodists/podiatrists in the public sector can gain access to additional medicines via PGDs. (However, the 3,000 registered and LA certified chiropodists/podiatrists in the private sector can only gain access to additional medicines via amendments to the Medicines Act 1968).

### 3. **Current Concern**

The profession of chiropody under the PSM Act (defined as the Chiropodists Board working with the Society of Chiropodists and Podiatrists) had come to see LA Certification as a core basic skill linked for practical purposes to admission to the Register.

The scope of practice of chiropody/podiatry includes surgical procedures. In the main, during undergraduate training, these procedures involve the pain-free treatment of ingrown toenails and the removal of certain skin lesions such as verrucae. The profession's view is that it is not in a patient's interests for a practitioner to offer a surgical procedure without the option of offering LA. This is particularly the case with painful ingrown toenails. Carrying out surgery without LA may expose patients to distress and harm which in turn may expose the registrant to an allegation about their fitness to practise. This is particularly the case in civil law where an allegation of medical negligence (causing undue pain and suffering) may be brought against a practitioner as an unnecessary act if there is an inability to carry out an appropriate treatment in a pain-free environment. This is because a majority of chiropodists / podiatrists on the Register can treat conditions requiring a local anaesthetic and a standard of proof is often dependant upon what standard of care a patient may expect from a majority of practitioners of that profession. It may well be that there will be two different standards, membership of the professional body requiring LA but admission to the HPC Register not doing so. This could create confusion for the public and anomalies within the profession.

Because of the way the POMs Order is drafted, this issue can only be dealt with retrospectively through the HPC's fitness to practise procedures if an allegation is made. The chiropodists/podiatrists advising ETC on the Standards of Proficiency, and the Chiropody/Podiatry member of the Committee, felt that this was an anomaly and recorded their strong concern about it. They also felt that the Standards should not be driven by the interests of 400 uncertificated registrants out of over 8000 who are certified in LA.

The largest obstacle to making LA a universal part of mainstream scope of practice would be a requirement to make all uncertified registrants gain LA Certificates. If the numbers were to be thousands shortly, this might be simply unrealistic to deliver. In reality, it would only be those who would be grandparented in the main who will be in this situation. NB. All researchers, teachers and managers in approved podiatry programmes are currently certified in LA.

#### 4. **Review of Patient Group Directions**

On 31 July 2003 the MHRA published a consultation on the,

##### **"SALE, SUPPLY AND ADMINISTRATION OF MEDICINES BY ALLIED HEALTH PROFESSIONALS UNDER PATIENT GROUP DIRECTIONS**

- (i) Amendments to the Prescription Only Medicines (Human Use) Order 1997**
- (ii) Amendments to Medicines (Pharmacy and General Sale – Exemption) Order 1980**
- (iii) Amendments to Medicines (Sale or Supply) (Miscellaneous Provisions) Regulations 1980 "**

whose provisions were to, " . . . . . enable Dietitians, Occupational Therapists, Prosthetists and Orthotists and Speech and Language Therapists to sell, supply or administer medicines under such directions and ensure that PGDs for such professionals comply with specified legal criteria. This would be achieved by amendments to the Prescription Only Medicines (Human Use) Order 1997 (the POM Order), the Medicines (Pharmacy and General Sale – Exemption) Order 1980 and the Medicines (Sale or Supply) (Miscellaneous Provisions) Regulations 1980. "

This, in effect, would bring these four professions up to the same level in PGDs as is currently enjoyed by Orthoptists, Radiographers, Paramedics, Chiropodists/Podiatrists and Physiotherapists. It did not, however, invite the sort of re-examination of the POMs Order which would be needed to address the issues described in section 2 above. At the same time the DH has amended the POMs Order already as much as is needed to comply with the change from the CPSM to the HPC under the Health Professions Order 2001 (Consequential Amendments) Order 2003, which is reported elsewhere on this agenda in its own right.

#### 5. **LA Certification and the CPD Scheme**

After taking further advice, it can be clarified and confirmed that the CPD scheme could not be used to require those chiropodist/podiatrist registrants lacking LA Certification to obtain it, nor to require registrants with them to keep this part of their practice up to date.

What the CPD scheme (and return to practice provisions) could do, however, is to accept a course run by an appropriate body (and currently this is the Society of Chiropodists and Podiatrists) which included the award of an LA Certificate as meeting the requirements.

This position is understood by the CPD Professional Liaison Group and is consistent with the way it is developing its work.

#### **30 July 2003. Item 14.4. DH Partnership Arrangements**

The four UK Health Departments, or equivalents, have been asked if any are running initiatives similar to DH's in England. None have said they do.