
DRAFT STATUTORY INSTRUMENTS

2007 No.

The Pharmacists and Pharmacy Technicians Order 2007

PART 5

Fitness to practise

Impairment of fitness to practise

48.—(1) A person's fitness to practise shall 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;
- (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 and Wales, would constitute a criminal offence;
- (g) an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995(1) (admonition and absolute discharge) discharging him absolutely;
- (h) having accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal);
- (i) having agreed to pay a penalty under section 115A of the Social Security Administration Act 1992(2) (penalty as alternative to prosecution);
- (j) a police caution in the British Islands; or
- (k) 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 his 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.

(2) The demonstration towards a patient or customer, or a prospective patient or customer, of 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 the United Kingdom; and
- (b) at any time.

(1) 1995 c.46; section 246 has been amended by the Crime and Punishment (Scotland) Act 1997 (c.48), Schedule 1, paragraph 21(31).

(2) 1992 c.5; section 115A was inserted by the Social Security Administration (Fraud) Act 1997 (c.47), section 15.

(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 he is registered.

(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 shall consider, in accordance with article 49(1), whether to refer the matter to the relevant fitness to practise committee.