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DRAFT STATUTORY INSTRUMENTS

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**2010 No.**

**The Pharmacy Order 2010**

**PART 6**

**Fitness to practise**

**Consideration by the Fitness to Practise Committee**

**54.**—(1) Where an allegation or matter (referred to in this article as “the allegation”) is referred to the Fitness to Practise Committee by the Registrar—

- (a) under rules made by virtue of article 52(2)(b);
- (b) under article 52(6)(a);
- (c) by the Investigating Committee under article 53; or
- (d) by an individual assessor or an assessment team under rules made under article 55(3)(c),

the Fitness to Practise Committee must determine whether or not the fitness to practise of the person in respect of whom the allegation is made (referred to in this article as “the person concerned”) is impaired.

(2) If the Fitness to Practise Committee determines that the fitness to practise of the person concerned is impaired, it may—

- (a) give a warning to the person concerned in connection with any matter arising out of, or related to, the allegation and give a direction that details of the warning be recorded in the Register;
- (b) give advice to any other person or other body involved in the investigation of the allegation on any issue arising out of, or related to, the allegation;
- (c) give a direction that the entry in the Register of the person concerned be removed;
- (d) give a direction that the entry in the Register of the person concerned be suspended, for such period not exceeding 12 months as may be specified in the direction; or
- (e) give a direction that the entry in the Register of the person concerned be conditional upon that person complying, during such period not exceeding 3 years as may be specified in the direction, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or otherwise in the public interest or in the interests of the person concerned.

(3) Where the Fitness to Practise Committee has given a direction under this article, other than a direction that the entry in the Register of the person concerned be removed, it may, if it thinks fit, following a review—

- (a) where the entry in the Register of the person concerned is suspended, give a direction that—
  - (i) the entry be removed from the Register,

- (ii) the suspension of the entry be extended for such further period not exceeding 12 months as may be specified in the direction, starting from the time when the period of suspension would otherwise expire,
  - (iii) the entry be suspended indefinitely, if the suspension has already been in force throughout a period of at least two years,
  - (iv) in the case of an indefinite suspension, terminate the suspension, provided that the review takes place in the circumstances provided for in paragraph (4), or
  - (v) on expiry or termination of the period of suspension (including a period of suspension that was expressed to be indefinite), the entry be conditional upon that person complying, during such period not exceeding 3 years as may be specified in the direction, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or otherwise in the public interest or in the interests of the person concerned;
- (b) where the entry in the Register of the person concerned is conditional upon that person complying with requirements specified in a direction given under this article, give a direction that—
- (i) the period specified in the direction for complying with the requirements be extended for such further period not exceeding 3 years as may be specified in the direction, starting from the time when the earlier period would otherwise expire,
  - (ii) the requirements be added to, removed or otherwise varied in such manner as may be specified in the direction,
  - (iii) the entry instead be suspended (for example, where that person has failed, whether wholly or partly, to comply with the requirements), for such period not exceeding 12 months as may be specified in the direction, or
  - (iv) the entry be removed from the Register, if that person has failed, whether wholly or partly, to comply with the requirements.
- (4) If the Fitness to Practise Committee gives a direction under paragraph (3)(a)(iii), the Committee must review the direction if—
- (a) the person concerned asks it to do so; and
  - (b) at least two years have elapsed—
    - (i) since the direction took effect, or
    - (ii) if the direction has already been reviewed by the Committee, since the conclusion of the last review by the Committee.
- (5) If the Fitness to Practise Committee determines that the fitness to practise of the person concerned is not impaired—
- (a) the Committee may give—
    - (i) a warning to the person concerned in connection with any matter that the Committee considers necessary or desirable taking into account the Committee's findings and give a direction that details of the warning be recorded in the Register,
    - (ii) advice to the person concerned in connection with any such matter, and
    - (iii) advice to any other person or other body involved in the investigation of the allegation on any issue arising out of, or related to, the allegation;
  - (b) the Registrar must inform the person concerned and the person who made the allegation, if any, of the Committee's decision and any action it is taking under sub-paragraph (a); and

- (c) the Committee must, if the person concerned so requests, publish in such manner as it sees fit a statement summarising its determination, or may publish such a statement if that person consents.
- (6) If the person concerned is entered in more than one part of the Register, the Fitness to Practise Committee—
- (a) must make separate determinations under this article in relation to each part of the Register; and
  - (b) may give a direction under paragraph (2) or (3) in relation to only one part of the Register or different directions in relation to different parts of the Register,
- but may otherwise deal with the matter as a single case.
- (7) If the Fitness to Practise Committee determines under this article that a person's fitness to practise is impaired solely by reason of adverse physical or mental health, it may not give a direction under paragraph (2)(c), (3)(a)(i) or (3)(b)(iv) that the entry in the Register in respect of that person be removed.
- (8) If the Fitness to Practise Committee gives a warning or a direction under this article, the Registrar must on its behalf send to the person concerned at the last known home address of that person a statement in writing giving the person notice of the reasons for the warning or the direction and of any right of appeal under article 58.
- (9) If, having considered the allegation, the Fitness to Practise Committee considers that the Council should consider exercising any of its powers to bring criminal proceedings under any enactment, it must notify the Registrar accordingly.