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Ref: FTP/DG

4 June 2005

Dear Sir,

Re: Consultation On Guidance to the Professional Conduct Committee and Impact of Criminal Convictions/Proven Misconduct on Applications for Professional Registration/Restoration

I am pleased to enclose the response of the Royal Pharmaceutical Society of Great Britain ("the Society") to your recent consultation documents, and a document setting out the context in which the Society's response is made.

The Society welcomes the opportunity to comment on these documents, and is content for this response to be published.

I look forward to receiving the results of the consultation in due course. In the meantime, please do not hesitate to contact me should you require any further information.

Yours faithfully

David Gomez

Legal Advisor

Royal Pharmaceutical Society of Great Britain

ANNEX 1

Context in which the response of the Royal Pharmaceutical Society of Great Britain (“the Society”) is made:

The Society performs various roles on behalf of both the public and its members. First and foremost, it is the regulatory and professional body for pharmacists in all aspects of practice. It has a statutory duty to maintain the register of pharmacists and pharmacy premises; there are approximately 12,500 pharmacy premises in Great Britain, and around 47,000 member pharmacists working in all sectors of the profession in Britain and overseas. Of these, around 22,000 work in community pharmacy, 5,500 in hospitals and 1,600 in the pharmaceutical industry. Others work in research, teaching, in health authorities and related activities.

Key duties of the Society include safeguarding the public with respect to the dispensing and distribution of medicines, and enforcing the laws controlling the conduct of pharmacies and the sale of medicines and poisons. The Society also has responsibility for maintaining the standards of the profession through its disciplinary procedure. An Infringement Committee acts as a screening committee dealing with allegations of breaches of the ethical code and other cases of professional misconduct. Upon the recommendation of the Infringement Committee, cases can be referred on to the Statutory Committee which has the power to remove a pharmacist or premises from the statutory register.

As well as fulfilling its statutory roles in public health, the Society operates widely to promote the development of the science and practice of pharmacy. It oversees and regulates the training and professional accreditation of pharmacists, set standards for and regulates the inspection of pharmacy premises, and promotes the contribution made by the profession to government, the media and other stakeholders. It also advocates the career attractions of pharmacy to potential new members of the profession. It has a significant publishing division, producing both reference volumes and journals; possesses a unique library and museum; and organises conferences and other events of international interest.

The Structure and Operation

The Society is governed by a Council comprising members of the profession and a smaller number of Privy Council nominees. In 1843, Queen Victoria granted the Society its Royal Charter, giving it a corporate framework that was refined by supplemental charters in 1901, 1948 and 1953. In March 1937, King George

VI became the Society's patron and the monarch has been patron of the Society ever since. In May 1988, the Queen agreed that the title "Royal" should be granted to the Pharmaceutical Society of Great Britain.

Elected members serve on the Council for three years and elect their own President, Vice-President and Treasurer. The immediate Past-President also serves as an Officer. The Council meets six times every year to discuss key issues affecting pharmacy and to decide on policies and practice. The Council is advised on particular areas of pharmacy policy by a number of committees and sub-committees as well as by a number of membership and special interest groups. There are 130 branches of the Society, organised through 11 regions, which provide a local focus for members.

The Royal Pharmaceutical Society is working to modernise and reform its role, constitution and ways of working. The aim is to create a modern, effective, and efficient regulatory and professional body for pharmacy, committed to quality and improvement and to meet its responsibilities to the public and the profession. The Society's Council is working on proposals to inform new legislation (an order under Section 60 of the Health Act 1999) and has consulted on the content of a new Royal Charter for the Society.

RESPONSE OF THE ROYAL PHARMACEUTICAL SOCIETY OF GREAT BRITAIN TO THE CONSULTATION QUESTIONS

- 1. Should the GDC develop and publish guidance on the use of powers?**
- 5. Should the GDC develop and publish guidance on impact of criminal convictions/proven misconduct on applications for professional registration/restoration?**

The Society's view is that the use of such guidance is a valuable means of ensuring transparency and consistency in the decision making process. Consideration does need to be given, however, to the question of ownership of such guidance. Are these the criteria adopted by the Committee/decision maker itself? If not, there is a danger that the Council might be perceived as seeking to ring fence the discretion given to the Committee/decision maker.

The Guidance must not be seen as a stand alone tool. Rather, it should be used in conjunction with the GDC's Code of Conduct; case law from the Administrative Court and Judicial Committee of the Privy Council; and any case summaries prepared by the Council.

The CHRE has recently produced a "Risk Factors" document, which is to be used by members of its "S29 Panels" when considering cases. In practical terms, any guidance issued to the GDC's Fitness to Practise Committees should incorporate concerns identified in the "Risk Factors" document, to minimise the likelihood of a referral to a S29 Panel.

2. Comments on the list of categories in paragraph 6 of the Consultation Document

Other areas of possible policy guidance might include procedures relating to the new lack of competence/performance jurisdiction, and in particular the methods of assessment of poor performance/lack of competence.

The Interim Suspension document might usefully include criteria to be considered in relation to immediate orders pending the outcome of any appeal.

- 3. Comments on the draft guidance to the Professional Conduct Committee**
- 4. Comments on the decision not to use the "tariff approach"**

The Society congratulates the GDC for the readability and clarity of the document. Whilst avoiding a strict tariff approach, the Guidance might usefully incorporate a list of generic "aggravating and mitigating" features for all offences.

The Guidance might also usefully contain some reference as to how the Committee is to approach the question of sanction – "top down" (i.e. in descending order of severity of sanction) or some other approach.

6. Comments on the draft guidance on the impact of convictions/proven misconduct

The Society considers that specific reference needs to be made to the degree of insight shown by the applicant into the gravity/consequences of wrongdoing.

7. Comments on the use of case studies

The Society considers that the use of case studies is a valuable tool in training decision makers, and hence, in ensuring consistency and transparency in decision making.

However, the Society does not fully agree with the analysis outlined in case 1. The continued maintenance by A, that he intended to pay for the clothes, indicates that A still disputes the conviction, and therefore has very limited insight (if any) into the seriousness of his offending.

In case 2, the fact that B pleaded not guilty is an indication of a lack of insight, and failure to appreciate the purpose and significance of the system of registration.