

Guidance

‘Professional indemnity cover for pharmacists in Northern Ireland’

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About the Pharmaceutical Society of Northern Ireland

The Pharmaceutical Society of Northern Ireland is the regulatory body for pharmacists in Northern Ireland.

Our primary purpose is to ensure that practising pharmacists in Northern Ireland are fit to practise, keep their skills and knowledge up to date and deliver high quality safe care to patients.

It is the organisation's responsibility to protect and maintain public safety in pharmacy by:

- setting and promoting standards for pharmacists' admission to the Register and for remaining on the Register;
- maintaining a publicly accessible Register of pharmacists, and pharmacy premises;
- handling concerns about the fitness to practise of registrants, acting as a complaints portal and taking action to protect the public; and
- ensuring high standards of education and training for pharmacists in Northern Ireland.

About this Guidance

This Guidance outlines how we will implement the statutory requirement for registrants to have appropriate professional indemnity cover as a condition of their registration with the Pharmaceutical Society NI.

The Guidance outlines what this means for registrants and what our requirements are.

It is the personal responsibility of individual registrants to ensure that they have cover and that it is appropriate to their area of practice. If you are unsure and need further guidance, we recommend that registrants speak to their employer, professional body, trade union or insurer (where appropriate).

1. About professional indemnity cover and registration

1.1 Why has a statutory requirement been introduced?

The Department of Health, Social Services and Public Safety Northern Ireland brought into effect the Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2013 (the Amendment Order), to comply with and implement the European Directive 2011/24/EU on the application of patient rights in cross-border healthcare.

The Pharmacy (1976 Order) (Amendment) Order (Northern Ireland) 2013 came into operation on 7 November 2013.¹

The Amendment Order introduced the statutory requirement for practising pharmacists to have appropriate cover under an indemnity arrangement in respect of liabilities which may be incurred in practising as a pharmaceutical chemist.

This means that it is a statutory requirement for pharmacists in Northern Ireland to have appropriate professional indemnity cover as a condition of registration.

Enabling regulations² to support the introduction of this statutory requirement were laid at the Northern Ireland Assembly on 1 May 2014 and came into operation on 1 June 2014.

The Department of Health London in 2013 consulted³ on this requirement on behalf of the four UK Health Departments. The Government put forward proposals to address the inconsistency across the nine healthcare regulators with regard to a statutory requirement for professionals to have indemnity cover in place

The Pharmaceutical Society NI had a professional requirement for registrants to have in place cover but did not have any statutory powers in this area prior to the operation of the Amendment Order.

Individuals should be able to make a compensation claim where they suffer harm through the negligence of a registered pharmacist. There are concerns about pharmacists who practise without any cover or without sufficient cover in place and as to how they would meet the cost of litigation and any successful claim for compensation.

An independent review of this area which reported in 2010⁴ concluded that making professional indemnity cover a condition of registration with a regulator would be the most cost-effective and proportionate way of making sure members of the public could make a compensation claim in cases of negligence.

¹ <http://www.legislation.gov.uk/nisr/2013/258/introduction/made>

² The Council of the Pharmaceutical Society of Northern Ireland (Indemnity Arrangements) Regulations (Northern Ireland) 2014

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/143273/Indemnity-Consultation1.pdf

⁴ Department of Health "Professional insurance and indemnity for regulated healthcare professionals – policy review research" Price Waterhouse Coopers, June 2010.

1.2 What is the commencement date of this statutory requirement?

The primary legislation has been in place since 7 November 2013.

The statutory requirement for registrants to have appropriate professional indemnity arrangements in place applies from 7 November 2013.

1.3 What does the requirement mean for affected registrants?

This statutory requirement means that in order to be registered with the Pharmaceutical Society NI registrants will be expected to have appropriate indemnity arrangements in place. This will mean the following for a registrant:

- They have a personal responsibility to ensure that they have professional indemnity cover in place; or, if they are not practising, they need to ensure that they have appropriate cover in place before they begin to practise.
- They have a personal responsibility to ensure that the professional indemnity cover they have in place is appropriate for their practice.
- The requirement for appropriate professional indemnity can be met via an employer's arrangements for those who are employed; holding personal professional indemnity cover, or a combination of the two.

For most registrants, we anticipate that they already meet this requirement.

Many work in a managed environment where they are indemnified by their employer.

Others, including many who are self-employed or those whose practise comprises a combination of employed and self-employed roles need to have their own professional indemnity arrangement.

Applicants have to confirm that they have/will have appropriate indemnity cover in place before they begin to practise.

1.4 How will we check that appropriate professional indemnity cover is in place?

1. A person seeking to be registered (including an application for restoration) or at the time of annual retention must declare in writing, at the time of application, that:
 - a. they have or will have indemnity cover in place, and
 - b. they can provide evidence of this indemnity cover.

This means that they will be required to sign a declaration and to have available, if requested, evidence of cover. It is the personal responsibility of registrants to ensure that they have cover and that it is appropriate to their area of practice.

INDEMNITY INSURANCE DECLARATION

It is now a statutory legal requirement that pharmacists have in place insurance or indemnity arrangements appropriate to their area of practice.

Please confirm by ticking the box:

I have in place, or will have in place, at the point at which I practise in Northern Ireland, insurance or indemnity arrangements appropriate to the areas of my practice

The Council of the Pharmaceutical Society of Northern Ireland (Indemnity Arrangements) Regulations (Northern Ireland) 2014 state:

“A registered person who practises as a pharmaceutical chemist must promptly inform the registrar if for any reason they cease to have in operation, in accordance with Article 11A (1) of the Order, an indemnity arrangement which provides appropriate cover”.

Please confirm by ticking the box:

I confirm that I will comply with the requirement to inform the registrar if for any reason I cease to have in operation, an indemnity arrangement which provides the appropriate cover.

2. The Registrar may request a copy of the indemnity cover or such other information deemed necessary to determine that appropriate cover is in place within a specified timeframe.

We will not routinely seek evidence of indemnity cover but may ask for evidence of indemnity cover in circumstances where a complaint has been made or there are concerns that appropriate indemnity cover may not be in place.

3. The Registrar may seek confirmation from a third party in relation to a registrant or person seeking to be registered that appropriate indemnity cover is in place.

For example, we may seek confirmation from the employer of appropriate indemnity cover where a registrant has declared that they are relying upon their employer's cover. Equally we may seek confirmation from an insurance or indemnity provider.

4. A registrant must inform the Registrar when appropriate indemnity cover ceases, in accordance with Article 11A (1) of the Amendment Order, as stated in Article 6 of The Council of the Pharmaceutical Society of Northern Ireland (Indemnity Arrangements) Regulations (Northern Ireland) 2014.

To ensure compliance with the regulations registrants will be obliged to inform the regulator if indemnity cover has ceased to be in operation. It is likely that the regulator will seek assurances that the registrant will not practice until appropriate cover is restored.

5. A registrant must be able to provide information on their indemnity cover on request to any person wishing to access their services.

Failure to provide evidence could result in a complaint being made to the regulator. This provision applies to all practitioners including those on the temporary register⁵.

⁵ Pharmacists visiting Northern Ireland from other EEA states are entered onto the 'temporary service Register' of the Pharmaceutical Society of Northern Ireland

1.5 What happens if appropriate indemnity cover is not in place?

The requirement for indemnity cover is linked to registration and in the majority of circumstances a failure to hold appropriate cover can be dealt with by administrative means as set out in Article 11 A (9a) of the Amendment Order.

This means that an individual who is unable to complete the required declarations or in some circumstances provide supporting evidence, as detailed above, would not have their registration renewed or would not be registered by us.

1.6 Indemnity cover and fitness to practise arrangements

A registrant may be referred to our fitness to practise proceedings where we have concerns that indemnity cover is not appropriate.

A registrant who knowingly had inadequate indemnity cover would be subject to Fitness to Practise proceedings.

We will consider taking fitness to practise action if we believe a registrant:

- makes a false declaration that they have professional indemnity cover in place while practising;
- registers or renews their registration with us but cancels their indemnity cover and fails to put alternative cover in place; or
- has professional indemnity cover which is inappropriate for their practice, as set out in Article 11 A (9b) of the Amendment Order.

It is the personal responsibility of registrants to ensure that they have cover and that it is appropriate to their area of practice.

Utmost good faith is a key principle of insurance. This means that in relation to dealings with insurers and insurance providers you must at all times act in good faith, making a full declaration of all material facts in the insurance proposal which would influence an insurer's decision on whether or not to provide you with cover and the terms of that cover.

1.7 Appeals

Where the Registrar intends to refuse an application for registration or retention on the register, or where he plans to remove a name, the registrant will have the right of appeal to the Statutory Committee in accordance with procedures set out in Article 10 of The Council of the Pharmaceutical Society of Northern Ireland (Indemnity Arrangements) Regulations (Northern Ireland) 2014⁶.

Further information

If you have any queries, please contact:

Pharmaceutical Society NI
73 University Street
Belfast
BT7 1 HL

Tel: 028 9032 6927

You can view 'frequently asked questions' about this requirement on our website at www.psn.org.uk

Please note that we cannot offer advice on what type and level of indemnity cover is appropriate.

It is the personal responsibility of registrants to ensure that they have cover and that it is appropriate to their area of practice.

Professional guidance and advice should be sought, where appropriate, from your professional body, trade union or defence organisation, specialist insurers/ advisors on adequacy and appropriateness having regard to all of an individual's circumstances.

⁶ http://www.legislation.gov.uk/nisr/2014/126/pdfs/nisr_20140126_en.pdf