



DEPARTMENT OF HEALTH AND SOCIAL SECURITY

Alexander Fleming House, Elephant & Castle, London SE1 6BY

Telephone 01-407 5522

From the Minister for Health

Wyn Roberts, Esq MP
Gwydyr House
Whitehall
LONDON SW1

27 September 1985

Dear Wyn

PHARMACY CONTRACT

You may have heard already from your officials that the Law Officers have advised that our existing primary powers - in the NHS Act 1977 as amended in 1980 - are inadequate for the safe introduction in full of the new pharmacy contract negotiated earlier this summer. The regulations needed to implement the new scheme for limiting entry to the NHS pharmacy contract are almost certainly outside our primary powers.

As you know, one London pharmacy chain - Underwoods - has threatened litigation if we go ahead under our existing powers. We had earlier been advised that these powers were sufficient, but in the present situation I have no option but to inform the representatives of community pharmacists within England and Wales that we cannot go ahead with the new contract until suitable powers are available - and this means primary legislation. I intend to do this next Monday afternoon.

This decision is bound to cause disappointment and a good deal of annoyance as well but I believe it best to put the pharmacy leaders quickly in the picture. I shall at the same time confirm the Government's commitment to the contract offer, even though full implementation has had to be deferred. I enclose a copy of the press release prepared for issue after Monday's meeting.

I am sending copies of this letter and its enclosure to the Chief Secretary, John Mackay (Scotland) Richard Needham (N Ireland); and also for information to No 10, to Willie Whitelaw's office and to Sir Robert Armstrong.

ENC

CONFIDENTIAL

Sarah Bateman
for BARNEY HAYHOE
[Approved by the Minister
and signed in his absence]

**PRESS
RELEASE**

Alexander Fleming House
Elephant and Castle
London SE1 6BY

Telephone 01-407 5522

85/268

30 September 1985

NEW CONTRACT FOR NHS COMMUNITY PHARMACISTS

Barney Hayhoe, Minister for Health, today informed the Pharmaceutical Services Negotiating Committee, that while the Government stood by the offer made during the summer of a new contract for NHS community pharmacists in England and Wales, Ministers had reluctantly decided, in the light of the latest legal advice, that the new contract could not be introduced in full at this stage without new powers in main legislation. He added that the DHSS had looked again at whether its present legal powers are sufficient to introduce the contract in the light of recent judgments concerning Government power to make regulations under Acts of Parliament.

The Minister said: "I much regret not being able to go ahead with the proposed contract which I believe would provide a sound basis for the future development of NHS community pharmacy. Its early introduction would benefit the profession, the taxpayer and the patient. But further discussion and consultation are now needed on how best to proceed in these new circumstances."

NOTE TO EDITORS

Agreement on a new NHS contract for retail pharmacists in England and Wales was reached in the summer between the Government and the Pharmaceutical Services Negotiating Committee. The new contract provides for more regular cost enquiries, a simpler payment with incentive to efficient practice, and improved support for essential small pharmacies in sparsely populated areas. It also includes a scheme for giving NHS family practitioner committees the power to give new NHS pharmacy contracts only where this is necessary or desirable for patient services.

Pharmacy, Leath DHSS;





From the Parliamentary Under Secretary of State
for Corporate and Consumer Affairs

Michael Howard QC MP

Barney Hayhoe Esq MP
Minister for Health
Department of Health and Social Security
Alexander Fleming House
Elephant and Castle
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SE1 6BY

DEPARTMENT OF TRADE AND INDUSTRY

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cc Ms Mothersill
Mr Kerin
Mr Luce
Dr Wills
Ms Moodie
Mr Duncan

74 October 1985

NHS CONTRACT FOR PHARMACIES

Alex Fletcher wrote to Kenneth Clarke on 7 August about representations from Underwoods concerning the new NHS contract for pharmacies.

I have received a further letter from Underwoods seeking my support for an alternative mechanism based on price-related incentives, which I understand they have put to you.

I am aware that you have been giving a lot of consideration to the proposed new contract over the past few days; and I have thought it right in the circumstances to do no more than note this in my reply to Underwoods (copy attached).

Nevertheless, your postponement of implementation of the new contract does offer a breathing space for further thought. I should add at this point that I share Alex's concern about the competition aspects of this policy. It seems to me that the aspect of your proposals which is most difficult to defend, and which has attracted most public criticism, is the power to control new entry to the NHS pharmaceutical list through a vetting system operated by local committees. I appreciate that there are difficulties over alternative mechanisms; but I hope that you will look carefully to see whether there is some way of removing that element from the proposals as they stand. If this could be achieved, any primary legislation which might be needed to introduce a new contract would, I believe, face a much easier passage.

MH4ACX



I am copying this letter to David Young, in view of his responsibilities for small firms; and to John MacGregor, in view of Peter Rees's previous involvement.

Yours ever
Michael

MICHAEL HOWARD

MH4ACX

DEPARTMENT OF TRADE AND INDUSTRY

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08 OCT 1985

Minister of State, Under Secretary of State
and Consul General
Michael Howard QC MP

H Woolf Esq MPS
Founder and Former Chairman
Underwoods (Cash Chemists) Ltd
Head Office
60 Kings Road
LONDON
SW3 4UD

4 October 1985

Dear Mr Woolf,

Thank you for your letter of 5 September about the new NHS contract for pharmacies.

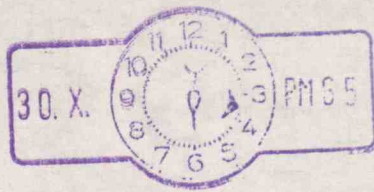
As Alex Fletcher explained in his letter to you of 7 August, it is difficult to apply the normal principles of competition policy to the supply of NHS pharmaceutical services, where many of the normal market mechanisms necessary for effective competition do not operate. Nevertheless, Alex indicated his interest in the possibility of introducing more competition into this sector in the longer term, and I very much share his concern. Meanwhile, as you may know, the DHSS have been re-considering some of the implications of the proposed new contract, and in the light of these it has been decided not to proceed immediately with it. This will allow further time for consultation, and for consideration of possible improvements.

Yours sincerely

Michael Howard

MICHAEL HOWARD

JABACW



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COPY FOR INFORMATION

John J MacKay Esq MP
Minister for Health & Social Work
Scottish Office
New St Andrew's House
EDINBURGH
EH1 3SX

MBA

17 October 1985

Can request if required.

I have seen copies of the recent correspondence on pharmacy contract between you and Barney Hayhoe.

We in Northern Ireland are currently in the process of amending our primary legislation to confer a regulation making power, in line with that which exists in England and Wales, and which we thought would permit us to apply appropriate restrictions on entry to the pharmaceutical list.

It is clearly important that the powers which we seek do not fall short of those which will ultimately apply in the rest of the UK. I would ask therefore that the close liaison between officials envisaged in your letter of 4 October 1985 be extended to include Northern Ireland.

If we can be kept informed of progress in your search for a suitable amendment for Scotland we will endeavour to adjust our own amendment accordingly so that we too can be in a position to implement the proposed new contract arrangements at an early date.

x I am copying this letter to the recipients of yours. x

RICHARD NEEDHAM

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CC 1/2

FROM THE MINISTER FOR HEALTH AND SOCIAL WORK



SCOTTISH OFFICE
NEW ST. ANDREW'S HOUSE
EDINBURGH EH1 3SX

Barney Hayhoe Esq MP
Minister for Health
Department of Health and
Social Security
Alexander Fleming House
Elephant and Castle
LONDON SE1 6BY

NBSM

4 October 1985

Dear Minister,

PHARMACY CONTRACT

WITH TF?

I refer to my letter of 30 September and wish to update you on a significant development which could have possible implications from the statutory position in Scotland.

When I met representatives from the PGC(S) yesterday, they indicated they had obtained legal advice that a suitable revision to the Law Reform (Miscellaneous Provisions) (Scotland) Bill could be drafted, within the time limits available for the Bill's remaining Parliamentary timetable, to enable sections 27 and 28 of the NHS (Scotland) Act 1977 (as amended) to be further amended to provide for all aspects of the proposed new contract arrangements.

Moreover, approaches on their behalf had already been made to a Noble Lord (possibly I suspect to the Independent Lord, Lord Thomson of Monifieth who is closely involved with pharmaceutical matters in Scotland) who has confirmed that he is prepared to, if necessary, move a suitable amendment at the Report Stage of the Bill. Both you and I have already provided reassurances to the profession's representatives of the Government's commitment to the proposed new contract arrangements and indicated that they would be introduced at the earliest possible date after revised statutory powers were obtained. The representatives of Scottish community pharmacists are confidently expected by the Chairman and officials of the PGC(S) to support, at the meeting next Wednesday 9 October, the acceptance of the package of new contract proposals offered to them in June this year. If the profession is thus firmly committed as a body to the new contract proposals, the assurances the Government has given on speediest possible progress could have potentially damaging repercussions if there was any suspicion that the Government was backpedalling on moves to obtain the necessary legal powers. In these circumstances I am making every effort to investigate the possibility of a suitable amendment for Scotland being provided for by means of the Law Reform Bill and my officials will be keeping you informed of developments. Given the amount of work which has gone into the development of the new contract proposals I would not wish them to fall flat at this late stage particularly if this could be seen to be undermining the authority of the PGC(S) which represents community pharmacists on remuneration

matters and with which the Department has, on the whole, a well established working relationship. The last development I would welcome at present would be fragmentation of the profession into smaller groups each seeking to represent their particular interests in remuneration negotiations.

I appreciate the course of action I am investigating in Scotland cannot alter the current impasse in England and Wales. If my attempts to make progress in Scotland by means of the Law Reform Bill are unsuccessful my officials will review with yours the scope for early amending legislation by means of some legislative vehicles which serve the needs of both our Departments.

Copies of this letter go to Chief Secretary, Wyn Roberts and Richard Needham. Also for information to No 10, Willie Whitelaw's Office and Sir Robert Armstrong.

Yours sincerely,

T. Teale

for JOHN J MacKAY

(approved by the Minister
& signed in his absence)

NATIONAL HEALTH

NHS EXPENDITURE

PT 5

