



**PUBLIC PETITION NO.**

**PE01492**

**Name of petitioner**

Mr Alan Kennedy

**Petition title**

Co-location of GP Practices and Community Pharmacies

**Petition summary**

Calling on the Scottish Parliament to urge the Scottish Government to:

- Ensure that, within the scope of the NHS (Pharmaceutical Services) (Scotland) Regulations 2009 as amended by SSI/2011/32, co-located community pharmacies and GP practices are permitted and encouraged where patients affected by recent pharmacy applications have expressed the wish to have this facility and suitable space exists to allow this service to operate;
- Review the impact of new pharmacy applications, particularly in rural areas, to establish whether guidance to NHS boards or further amendments to the legislation are necessary.

**Action taken to resolve issues of concern before submitting the petition**

In 2011 Pitcairn Practice, Balmullo, in NE Fife lost the right to continue its dispensing service because a pharmacy had opened in Leuchars, 2 miles away. Patients lost the highly regarded and valued one stop dispensing service and are now required to travel for fulfilment of their pharmaceutical needs at a pharmacist of choice.

For the last 4 years I and many patients in my GP neighbourhood have sought to have approval for a pharmacy to be co-located within our GP surgery at Balmullo where suitable space exists following the compulsory ending of GP dispensing. A Fife pharmacist and the Pitcairn Practice GPs are in total agreement over how this can be done yet interpretation of current legislation is such that pharmacies outwith my community are being protected from competition at the expense of co-locating a pharmacy within the existing GP practice.

NHS Fife has consulted patients on numerous occasions and the overwhelming response at packed community meetings and to NHS Fife surveys has been overwhelmingly in favour of the co-located independent pharmacy and GP practice.

Despite this, the applications to provide this service have twice failed to be approved. In each case protests from pharmacists not in the neighbourhood area of the practice have overcome any Health Board desire to meet patient needs.

In trying to find a sensible solution to my community problem I have learned that Balmullo is far from being the only example where communities suffer because of the way the current regulations are applied. Tarves, Killin, Millport, Orkney, Whitlawburn Drymen, Carstairs, Methven and now Benbecula and N. Uist are all instances where

the current interpretation and application of pharmacy Control of Entry legislation has caused or is now causing concern.

Regarding Millport the community's MSP has even called for restoration of GP dispensing so dire has been the effect of an unwanted pharmacy being allowed to open.

It is now clear that the interpretation of current pharmacy legislation is totally at odds with the concept of patient choice and patient needs and is in fact seriously damaging rural NHS services not only in Balmullo but also in other areas of Scotland currently experiencing similar circumstances such as Whitlawburn, Millport and Pitmedden. Whilst this petition deals only with community pharmacy matters it is a fact that in virtually all cases where a predatory pharmacy application has not been welcomed by a community it is almost certain to raise ongoing serious concern with regard to local NHS services and how legislation is being applied. We have seen instances of this in Killin, Orkney, Methven, Carstairs and now N Uist.

I have raised my concerns with my local MSP, Roderick Campbell. He shares my views but is unable to get any satisfactory explanation as to the failure of NHS Fife to properly consider patient input on Area Health Board surveys which have shown overwhelming support for the Balmullo application. Patients in other communities such as Whitlawburn, Tarves, Millport, Drymen Methven and others have also raised their concerns with their MSPs that their views are not being given sufficient weight in the legislative processes associated with pharmacy applications whether for community or other pharmacies. I am made aware they receive the standard reply that it is 'down to Area Health Boards to decide such matters'.

I and my MSP have both contacted the Minister for Health and Wellbeing, Alex Neil, MSP, to point out that patients across Scotland as well as in my own community are not being listened to. I have asked in particular that full weight should be given to the factor of overwhelming local community support for applications for a community pharmacy and especially for those collocated in a GP practice. I asked that further guidance on this be forthcoming to achieve this. His response, as in all other similar correspondence between communities across Scotland and the NHS on this subject, has been to state the matter is one for NHS Boards.

In my regular contact with patients in many of the other locations mentioned above I have seen copies of correspondence between patients and various Area Health Boards and Scottish Government Ministers and their civil servants. In each case where a community pharmacy has been denied, the reason has always been that to allow this may jeopardise other existing pharmacies **even though they are not located within the community neighbourhood**. It is clear that pharmacies are being protected regardless of patient choice.

Using FOI facilities I have researched Scottish pharmacies dispensing income for every pharmacy in Scotland for the year 2010 /2011. This research has lead me and others to believe that such a protectionist policy is both commercially unhealthy, anti-competitive and unfair on patients.

The 2012 Barber Wilson Review of NHS Pharmaceutical Care in Scotland, para 50, recommends that 'people should have access to pharmaceutical care **wherever they live**'. It also states that applications under the current "control of entry" system have caused 'considerable concerns for local communities'. An understatement if there ever was one.

I believe I have now exhausted all action I, as a patient, can take with regard to trying to bring about new government guidance on community supported Pharmacy Applications and therefore this petition is the only route open to me to seek fresh government guidance on this matter. I strongly believe, as do many others across Scotland that steps now need to be taken to ensure that patients are being listened to regarding their views on how the NHS should respond when they indicate approval for a community pharmacy.

## Petition background information

In Jan 2010 Lomond Pharmacy applied to open a branch of their existing Falkland pharmacy within the available GP surgery at Balmullo. This joint proposal between the GP and the Pharmacist would have led to the ideal situation providing close co-operation and a one stop service for patients.

Balmullo patients packed community hall to hear about the application from both the local GPs and the pharmacist involved. The proposal won overwhelming support. It was noted that the pharmacist, who had pushed through the Leuchars village pharmacy application and who was known to be planning to oppose the Lomond application, failed to attend.

The pharmacy application by Lomond was refused by Fife Pharmacy Practices Committee (PPC), and this was also turned down on appeal by the National Appeals Panel (NAP). Recorded submissions supporting the proposal resulting from a survey of patients by NHS Fife and involving hundreds of responses from the local patients and their Community Council were again not accepted as a key component of the decision process by either body.

A second application was made in the summer of 2012. This application was first approved by NHS Fife PPC then appealed by some local pharmacists who were clearly protecting profits earned from dispensing. Again the local community overwhelmingly supported the proposal under the NHS Fife consultation process. The NAP ruled that certain parts of the PPC decision process were not followed and referred it back for these points to be addressed. **It did not seek a review of the vote decision simply an explanation supporting it.** The same NHS Fife PPC members then decided to revisit the application, and proceeded to a vote which again was tied 1-1 with the Chair having the casting vote. The Chair, for no publicly disclosed reason, then decided to reverse the previous decision and the approval for the pharmacy was overturned.

This reversed decision has been greeted with dismay by Balmullo patients as well as their MSP, Roderick Campbell.

The Pharmacy (Scotland) Regulations were subject to an extensive review in 2010. Some changes were made, amongst them compulsory public consultation. The fact that certain pharmacists know patient choice is not a determining factor of consequence in the current decision process means they can use this to object to any patient input. In every case I have experience of, patients and the public, including their local MSPs, have overwhelmingly backed the co-community approved application. Yet almost every community pharmacy application case falls on the 'legal test'. This has been a feature of the pharmacy approval legislation for the last 20 years and in the view of many patients who follow its application is now totally unfit for purpose.

The 'test' requires PPCs to consider:-

- The boundaries of the neighbourhood applicable to the application. Usually all parties agree on this.
- Consider and agree whether the current provision of NHS pharmaceutical services in that neighbourhood is adequate and;
- If the current provision is not adequate, consider and agree whether it is necessary or desirable to approve the application.

This 'test' is the key to what is so wrong with the present position. Put quite simply the overwhelming support by patients for their own local community pharmacy is simply not considered as a key factor by PPCs who seem more concerned by arguments from opposing pharmacists concerning their profit levels. The patients' expressed wishes to have a local community one stop service. Is not considered as a justifiable need. Despite the fact that round journeys outwith the Balmullo neighbourhood of over 3 hours to collect prescription have been reported to me.

So why are pharmacists outwith the GP surgery area defending their prescription income so strongly?

I would quote from a recently retired dispensing doctor who said :-

*“Are you aware that the gross profit from the retail pharmacy figures would be about **30-35% i.e., one third**. The profit figure of one third applies to small pharmacies. If we were to look at the large chains there would be bulk buying and profit margins even higher perhaps 40-50%.*

*A large pharmacy might employ 2 or 3 pharmacists and a few lower paid dispensers/shop assistants. The figures relate only to health service income and do not include private sales of sun glasses and vitamin pills etc.*

*This means that a pharmacy outlet with a health service annual payment of £2m would have £700k to cover wages rates heating and lighting. A pharmacist can be hired for £40k I think but with holiday pay and national insurance etc. cost to the shop would be around £50-60k.”*

I have looked at income figures for 2010/2011 for all Scottish Pharmacies using FOI data. I have no reason to disagree with this doctor's comments as he spent many years operating a dispensing service. It explains why some pharmacists make such ever more frantic efforts to retain their income. It begs the question of whether pharmacies really are under threat as they make out. A few may be but overall there seems to be plenty profit for all.

Whilst local MSPs unflinching support the case for community pharmacies co located with GPs there is a unwillingness at both ministerial level and particularly within their civil service departments to bring about change which will satisfy patient needs. Change can bring some much needed healthy competition into the pharmacy business as well as improving patient NHS services.

Patients all round Scotland who have been affected by such applications no longer have any faith in the Scottish Control of Entry legislation or those who are carrying out its provisions. It is all very well saying that these matters must be left to Area Health Boards but when the latter consistently fail their communities in this regard it requires some serious rethinking on the part of Government policy makers.

Dispensing GPs rightly have their place in certain rural areas but equally, where an option arises to provide, on a mutually agreed basis, co-located GP practices and independent pharmacies which have been welcomed by local communities, it should be encouraged. This is a model of best practice which benefits all parties and in particular patients, since travel is avoided and close on-site co-operation between surgery and pharmacy is inevitably a huge benefit for all parties. Yet both PPC and NAP committees take no cognisance of this fact.

Notably in Millport the community's attempt to introduce a community pharmacy was not even considered by the authorities on the grounds they had already received a separate pharmacy application. Again a commercial pharmacy, which was opposed by virtually all the islanders, was allowed. The 3 GPs resigned and now Ayrshire and Arran Health Board are paying out more than £780,000 pa to provide locums as no GP is willing to take on the practice without dispensing income. Even Kenneth Gibson, their local MSP is publicly calling for reinstatement of GP dispensing there. In addition over 400 islanders are refusing to use the pharmacist and seek prescription medicines on the mainland. This is a good example of how application of current legislation has resulted in serious patient anger and disenchantment with services imposed upon them. It illustrates that communities forced to have a pharmacy where there was none before can also be disadvantaged when common sense dictates that approval should never have been given as it inevitably leads to ongoing problems which any reasonable and competent health board should have foreseen.

However Millport is not the only example. In Pitmedden, Aberdeenshire, patients applied to set up a community pharmacy to offset the disadvantages that were incurred when a commercial pharmacy opened in Tarves forcing GP dispensing to end. This community-backed pharmacy was not permitted since other established pharmacists outwith the neighbourhood objected. Again it is a policy of 'protect the pharmacist' against any preferences for local patients having a say in what they want.

In Whitlawburn in Lanarkshire patients seeking to support the opening of a community pharmacy are facing a barrage of opposition from pharmacists outwith the area who are not prepared to accept competition to their established pharmacies.

All the differing cases are interlinked in that they illustrate that current pharmacy legislation is flawed with regard to the needs of the patient.

Patient choice is supposed to be a cornerstone of our Scottish NHS Service. Until that factor is recognised in the case of pharmacy applications we will continue to see communities disrupted and adversely affected by the failure to listen to patients and provide them with the choices which they have so strongly sought. Commercial profit considerations within the pharmaceutical industry should not hold back development of a community 'one stop GP and Pharmacy service' or for that matter an independent community pharmacy in an area **where patients want it**.

Many rural patients see this as ideal choice to support them and their families. Unless this is done, more rural GP surgeries with plenty spare rooms to rent or lease to a community pharmacy, as in Millport or Balmullo, will become unviable in rural areas. There is evidence to show that some 50 or 60 are at risk right now as predatory pharmacists use FOI to determine where to apply next.

In 2001 the Office for Fair Trading recommended that the Scottish Executive remove entry restrictions that limit the number and location of community pharmacies quoting restricted consumer choice, convenience and reduced incentives for competition. The Scottish Executive chose to reject this on the grounds that it could result in a loss of service in rural areas. It would appear that in some cases so far this rejection has been found wanting since rural areas are at greater risk than ever before.

I ask that the Petitions Committee draws the attention of the Scottish Government to the detrimental effects of recent rural pharmacy applications and seeks its assurance that all necessary steps will be taken to review current legislation with a view to encouraging and promoting applications where a community's patients, GPs and Pharmacists are united in developing this one stop service but face objections from pharmacies located out with the recognised GP neighbourhood.

#### Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/PE01492>

#### Related information for petition

**Do you wish your petition to be hosted on the Parliament's website to collect signatures online?**

**YES**

**How many signatures have you collected so far?**

1

**Closing date for collecting signatures online**

31 / 10 / 2013

**Comments to stimulate online discussion**

Patient preferences are being ignored in rural communities regarding applications for co located community pharmacies and GP practices. The legislation is so framed as to ignore patient views and is heavily weighted towards commercial security for pharmacists rather than freedom of choice for a one stop service within the community.